



**U.S. Department of Justice
Office of the Inspector General
Evaluation and Inspections Division**

Reference Checking in the Department of Justice

January 2013

I-2013-002

EXECUTIVE DIGEST

INTRODUCTION

The Office of the Inspector General conducted this review to assess whether and how Department of Justice (Department) components contact job applicants' references to evaluate their past performance when making hiring decisions, and whether component policies exist to guide reference check practices. This report is intended to provide component hiring officials and human resource policy makers with practical information to help them select the most qualified, capable job applicants.¹

The U.S. Office of Personnel Management (OPM) defines reference checking as an objective evaluation of an applicant's past job performance based on information collected from key individuals – including supervisors, coworkers, and subordinates – who have known and worked with the applicant.² Reference checks are conducted to verify the accuracy of information the applicant provides, better predict an applicant's job success, and provide information about the applicant's professional reputation and accomplishments.³ Reference checking allows hiring officials to make a more informed hiring decision, avoid the cost of hiring an employee who does not perform well or remains in the position for only a short time, and ensure the applicant is a good organizational fit for the position. Because reference checks are used to guide a hiring decision, they are conducted before selecting an applicant and making a conditional job offer.

No government-wide requirements exist for reference checking as a part of the hiring process for federal applicants. However, OPM and the Merit Systems Protection Board (MSPB) encourage federal agencies to check applicant references for every hiring action. The Department requires reference checking only for new career attorney applicants. The Department has delegated to its components the authority to set reference checking policies for other occupations.

¹ We use the term “hiring officials” to describe any individuals having input into the hiring process, regardless of whether they make the final hiring selection. We use the term “applicants” to describe all individuals who submit an application.

² OPM, *Assessment Decision Guide* (undated), 33.

³ OPM, *Reference Checking* (undated).

Because there is no requirement that hiring officials conduct, document, or retain records of reference checks for all employees, we did not attempt to identify the number of individuals in the Department who were reference checked or those who were not hired as a result of reference checking. Consequently, we are unable to comment on the actual prevalence of reference checking across the Department in this report. Rather, we identify the components that provided written reference check policies, guidance, questions, or described practices to us during our review. We also present information about reference check practices developed through a telephone survey we conducted of component hiring officials and interviews with human resource, security, and hiring managers.

RESULTS IN BRIEF

For non-law enforcement positions, reference check policies for new hires were inconsistent across the Department during our review period of February through September 2011.⁴ Only 3 of the 39 components whose policies we reviewed provided their hiring officials with clear, written reference check guidance that included position-specific questions for officials to ask references and addressed documentation requirements for reference checks. Nine components had general written policies or related guidance (such as tip sheets) for conducting reference checks on new employees, but this guidance was not always position-specific and did not always address documentation requirements. Thirteen components provided only a reference check questionnaire or form, but did not provide any additional written policy or guidance about when to use it. The remaining 14 components had no written policies, guidance, or forms.

For law enforcement positions, policies and practices were generally consistent in that there were no policies requiring reference checks for new law enforcement applicants, and hiring managers told us that they did not conduct reference checks when hiring these new staff. Notably, the two largest components – the Federal Bureau of Investigation and the Federal Bureau of Prisons, which made 63 percent of the Department’s fiscal year 2010 hiring actions in all job series within our scope – did not conduct reference checks for most new employees. Instead, components used methods other than reference checking to

⁴ In this report, we define law enforcement positions as those in the 1811 Criminal Investigation Occupational Series, which includes special agents (criminal investigators) and deputy U.S. marshals. Deputy U.S. marshals hired under the 0082 Deputy U.S. Marshal Series are also included in our definition. We do not include correctional officers in the 007 job series in the definition of law enforcement.

assess the skills and aptitudes of new applicants for law enforcement positions, such as background investigations; performance assessments of applicants during training at a federal law enforcement training center; polygraph examinations; logic, cognitive, and behavior tests; panel interviews; medical examinations; drug tests; and fitness tests. While these methods may demonstrate the applicant's abilities and suitability for employment and eligibility for national security access, they do not replace a reference check, which provides valuable performance information directly from prior employers and others who have worked with the applicant.

Reference check practices varied considerably within components. Hiring officials who hired new applicants into non-law enforcement positions told us they generally conducted reference checks and described the benefits they believed conducting the checks provided. As recommended by OPM and MSPB, most hiring officials who conducted reference checks were managers, and those managers contacted professional references (individuals who have worked with the applicant). In addition to contacting references provided by the applicant, hiring officials followed OPM and MSPB recommendations to contact additional references not provided by the applicant and generally contacted all references by telephone. However, we found that hiring officials generally did not conduct reference checks at the most useful point in the hiring process, did not obtain applicants' permission before contacting additional references, and did not document reference checks using a standard form, as OPM and MSPB recommend.

Further, some components mistakenly conducted vouchering – a type of suitability determination – in lieu of a reference check.⁵ In addition, not all components were aware of, or were following, an Office of Attorney Recruitment and Management (OARM) requirement to conduct both reference checks and vouchering for attorney hires. Finally, hiring officials we interviewed who reported that they usually conducted reference checks were often uncertain of their component's reference check expectations and allowable practices. Specifically, they

⁵ Vouchering is conducted in the Department using a form with standard questions (for example, questions involving the applicant's trustworthiness, honesty, reliability, and loyalty to the United States) corresponding to some of the suitability factors in 5 C.F.R. part 731 (see Appendix I). In contrast, reference checking is an objective evaluation of an applicant's past job performance based on information collected from key individuals who have known and worked with the applicant. Because they are used to guide a hiring decision, reference checks are conducted before selecting an applicant and making a conditional job offer, while suitability determinations are typically conducted after the agency has selected an applicant and made a conditional job offer.

were generally uncertain whether reference checking was required and for which positions; what questions they could ask during a reference check; and how they should document and retain reference check information. Those hiring officials expressed a need for flexible reference check guidance, including recommended questions and best practices.

Clear guidance and more certainty among hiring officials about their component's expectations with regard to reference checks are needed.⁶ Currently, hiring officials may not be asking questions in a manner that elicits the most useful or descriptive response, or hiring officials may be asking irrelevant or inappropriate questions of references. We believe these conditions diminish the effectiveness of reference checking and can contribute to unknowingly hiring a poor performer or an unqualified applicant.

Further, we believe a cursory check of an applicant's suitability for federal service, such as vouchering, cannot serve as a substitute for a reference check because vouchering does not verify the applicant's duties in past positions or evaluate an applicant's past performance. Understanding the differences between the purposes of a suitability determination, such as vouchering, and reference checking is critical to ensuring an applicant is thoroughly screened for both suitability and capability.

RECOMMENDATIONS

We make six recommendations to the Justice Management Division to improve selection of the most qualified job applicants across the Department:

1. Issue guidance to Department component heads, Executive Officers, and Human Resources Officers clarifying the purposes of, and distinctions between, suitability determinations (such as vouchering) and reference checking, including differences in topics covered, who conducts the checks, the sources contacted, and when in the hiring process each occurs;

⁶ A working group within the Attorney General's Advisory Council for Savings and Efficiencies (SAVE Council) has drafted an Employment Reference Questionnaire for hiring officials intended for Department-wide use when contacting applicants' references. In May 2012, the Justice Management Division published the questionnaire in the Federal Register and requested comments by July 2, 2012.

-
2. Reiterate components' obligation to follow OARM Memorandum 2010-3, which requires both reference checking and vouchering using Form OBD-236 for attorney applicants;
 3. Justice Management Division Human Resources/ Administration office (JMD HR) develop and issue Department-wide guidance on the use of reference checks;
 4. JMD HR assist components to update or issue comprehensive reference check guidance that meets their unique hiring needs;
 5. Create a central location on the Department's intranet where general reference check guidance for components and hiring managers is posted and regularly updated, including guidance from OPM and MSPB, as well as Department best practices and sample reference check questions; and
 6. Provide periodic training on reference checks, or include it as a part of broader human resource training.

TABLE OF CONTENTS

| | |
|--|-----|
| BACKGROUND | 1 |
| PURPOSE, SCOPE, AND METHODOLOGY OF THE OIG REVIEW | 10 |
| RESULTS OF THE REVIEW..... | 15 |
| PART I: DEPARTMENT REFERENCE CHECK POLICIES AND GUIDANCE | 15 |
| PART II: REFERENCE CHECK PRACTICES AND RELATED FEDERAL GOVERNMENT RECOMMENDATIONS..... | 30 |
| CONCLUSION AND RECOMMENDATIONS..... | 59 |
| APPENDIX I: FORM OBD-236 | 61 |
| APPENDIX II: OPM- AND MSPB-RECOMMENDED PRACTICES FOR COMPILING AND ASKING REFERENCE CHECK QUESTIONS..... | 64 |
| APPENDIX III: OIG DATA REQUEST AND COMPONENTS IN REVIEW SCOPE..... | 69 |
| APPENDIX IV: COMPONENT AND HIRING OFFICIAL SAMPLE FOR TELEPHONE SURVEY | 72 |
| APPENDIX V: OIG TELEPHONE SURVEY INSTRUMENT..... | 76 |
| APPENDIX VI: SELECTED TELEPHONE SURVEY RESPONSE RESULTS..... | 91 |
| APPENDIX VII: REFERENCE CHECK QUESTIONS | 106 |
| APPENDIX VIII: JUSTICE MANAGEMENT DIVISION RESPONSE TO DRAFT REPORT | 110 |
| APPENDIX IX: OIG ANALYSIS OF JUSTICE MANAGEMENT DIVISION RESPONSE | 113 |

BACKGROUND

Reference checking is one of several assessment methods used by hiring officials to select the most qualified job applicants.⁷ The U.S. Office of Personnel Management (OPM) defines reference checking as an objective evaluation of an applicant’s past job performance based on information collected from key individuals – including supervisors, coworkers, and subordinates – who have known and worked with the applicant.⁸ This information is typically collected during structured, probing telephone discussions between the prospective employer and those key individuals. Because reference checking is meant to guide a hiring decision for each pool of applicants, it is to be conducted prior to selecting a final applicant, extending a conditional job offer, or initiating a background investigation. Although OPM encourages federal agencies to conduct reference checks and offers guidance, and although the Department of Justice (Department) requires reference checks for new career attorney applicants, neither OPM nor the Department requires reference checking as part of the hiring process for all federal or Department applicants.

The Office of the Inspector General (OIG) conducted this review to assess whether and how Department components contacted applicants’ references to evaluate their past job performance when making hiring decisions. The review objectives were to determine: (1) the extent to which component hiring officials checked applicants’ references, (2) whether policies existed to guide reference checking, and (3) the practices and specific reference check questions cited by component hiring officials as most effective. This report is intended to provide hiring officials and human resource policy makers with practical information and recommendations to ensure the most qualified job applicants are selected.

⁷ We use the term “hiring officials” to describe any individuals having input into the hiring process, regardless of whether they make the final hiring selection. We use the term “applicants” to describe all individuals who submit an application. Some agencies use the term “candidates” to describe a narrower pool of applicants identified for further employment consideration and screening, which may include reference checking. For consistency in this report, we use the term “applicants” broadly and use the term “candidates” where we quote an agency’s policy or other reference.

⁸ OPM, *Assessment Decision Guide* (undated), 33.

Purpose and Benefits of Reference Checks

Reference checking serves several important purposes in the hiring process, according to OPM and the U.S. Merit Systems Protection Board (MSPB).⁹ First, it is used “to verify the accuracy of information already provided by job applicants” on their résumés and in interviews. Second, it is used to better “predict applicants’ job success by comparing their experience to the competencies required by the position.”¹⁰ Both OPM and MSPB noted that reference checking relies on the “behavior consistency principle” that past performance (in this case, an applicant’s past job performance) is the most reliable predictor of future behavior. Third, reference checking can reveal “information about applicants that may not be identified through other selection procedures,” such as their professional reputation among colleagues, clients, supervisors, or subordinates, and a more accurate picture of the applicant’s accomplishments that is, as MSPB noted, undistorted by a “self-serving bias.”

Both OPM and MSPB encourage federal agencies to conduct reference checks, citing a number of benefits. For example, MSPB noted that conducting reference checks allows hiring officials to make more informed hiring decisions and avoid the cost of a “bad hire.” In addition,

⁹ In 2005, MSPB published an advisory report, *Reference Checking in Federal Hiring: Making the Call*, which offers recommendations and best practices on reference checking. MSPB has statutory authority to conduct objective, non-partisan studies that assess federal merit systems policies, operations, and practices.

MSPB’s report made nine recommendations to hiring officials, agencies, reference providers, and OPM. MSPB recommended that hiring officials: “(1) conduct reference checks for each hiring decision; (2) develop and follow a thoughtful reference checking strategy that is an integral part of the hiring process; and (3) use a consistent reference checking process that treats all applicants fairly, obtains valid and useful information, and follows legal guidelines.” MSPB recommended that agencies: “(4) require applicants to provide appropriate professional references and make applicants responsible for ensuring that they can be contacted; (5) review and possibly revise their formal systems of records so that supervisors may review past performance information when providing references; (6) require job applicants to complete the Declaration for Federal Employment (OF-306) form early in the application process; and (7) increase standardization of and training in effective reference checking techniques.” MSPB recommended that OPM: “(8) develop guidelines to help agency personnel follow appropriate procedures for checking and providing references.” MSPB recommended supervisors and other employees: “(9) provide candid and appropriate reference information.”

¹⁰ OPM defines a competency as “a measurable pattern of knowledge, skills, abilities, behaviors, and other characteristics that an individual needs to perform work roles or occupational functions successfully.” *Assessment Decision Guide* (undated), 4.

MSPB noted that reference checks improve an agency's ability to match the job to the applicant to ensure that the applicant will be successful in the position, a concept often referred to as "organizational fit." Reference checks also allow hiring officials to retrieve more information about the applicant's experience, which can help identify future training needs. Further, simply notifying applicants that the hiring process includes a reference check communicates the agency's expectations for integrity and accountability. MSPB cited other benefits to agencies, including demonstrating fairness and equal treatment of all job applicants, maintaining employee morale by making sound hiring decisions, and bolstering the public's trust that civil servants take hiring seriously.

Department Policy on Reference Checking

There is no Department-wide published policy on reference checking, except with respect to attorney hiring. However, a Department-wide council established by the Attorney General in 2010 is currently developing a questionnaire for reference checking, and as described later in this report, some components have established their own protocols or internal guidance for how to conduct reference checks for attorney and other applicants.

Required Reference Checking for Department Attorneys. The Justice Management Division's (JMD) Office of Attorney Recruitment and Management (OARM) is responsible for making suitability determinations for career attorney applicants across the Department.¹¹ OARM has required hiring components to conduct both reference checking and vouchering for all new career attorney applicants since at least 1989.¹² The requirement includes both attorney applicants new to the Department and those already employed with another Department component. OARM reiterated this requirement in an April 13, 2010, memorandum from the OARM Director to the heads of all Department offices, boards, bureaus, and divisions.¹³ The memorandum, known as

¹¹ Under 28 C.F.R. §§ 0.15 and 0.19 (2011), the Attorney General's general hiring authority may be delegated to the Deputy and Associate Attorneys General, who may re-delegate career attorney hiring authority to the Director of OARM.

¹² Vouchering is a type of suitability determination that seeks to verify an applicant's basic employment history, reliability, and loyalty in an effort to determine an applicant's overall suitability for federal service. We discuss vouchering more fully later in this section.

¹³ Louis DeFalaise, Director, OARM, memorandum to Heads of Offices, Boards, Bureaus, and Divisions; Executive Officers and Attorney Recruitment Coordinators of Offices, Boards, Bureaus and Divisions; United States Attorneys; Director of the

(Cont'd.)

OARM Memorandum 2010-3, charges the hiring manager or selecting official with ensuring that a “thorough reference check” – which must address performance and conduct – is completed on each applicant before making a tentative employment offer. OARM Memorandum 2010-3 also reminds components that the requirement to conduct reference checks is separate from other checks to determine an applicant’s overall suitability, such as vouchering.

SAVE Council Employment Reference Questionnaire. A working group within the Attorney General’s Advisory Council for Savings and Efficiencies (SAVE Council) has drafted an Employment Reference Questionnaire for hiring officials Department-wide to use when contacting applicants’ references.¹⁴ The questionnaire instructions state that it is intended for use prior to extending a conditional job offer or initiating a background investigation. Questions range from subjective assessments of the applicant’s work performance (“How would you assess the candidate’s work performance?”) to suitability-related questions (“Do you have any reason to question the candidate’s loyalty to the United States?”).¹⁵ The questionnaire is intended to serve as a mandatory but baseline form for Department-wide use with applicants in all job series. Accompanying instructions provide hiring officials the option of creating additional questions relevant to the position advertised. The questionnaire was in the draft stage during our fieldwork and was awaiting approval from JMD for Department-wide use. In May 2012, JMD published the questionnaire in the Federal Register and requested comments by July 2, 2012.

Working group members told us that they believed the questionnaire could improve the overall efficiency of the hiring process and save the Department time and money. They explained that the intent of the form was to discover detrimental issues related to an applicant’s performance that would not be uncovered due to agencies’ reciprocity agreements for employees who already hold a security

Executive Office of United States Attorneys; and Bureau General Counsel, Reference Check Requirements for Attorney Hires, OARM Memorandum 2010-3 (April 13, 2010).

¹⁴ The Attorney General established the SAVE Council in 2010 to identify cost-savings measures within the Department to improve its efficiency. The Council identified the streamlining of suitability determinations as a potential cost-savings measure and convened an interagency working group in January 2011 led by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) in coordination with the United States Marshals Service (USMS) to examine the issue.

¹⁵ These questions were based on a March 2011 draft of the form, which had not been approved for use as of July 2012.

clearance.¹⁶ Additionally, by instructing hiring officials to forward the completed questionnaire to their component’s security office, working group members hoped to reduce duplication of effort between hiring officials and security personnel conducting background investigations.

Reference Checking and Suitability Determination

Reference checking differs from other hiring assessments used to screen job applicants by: (1) overall purpose, (2) the topics covered, (3) when in the hiring process it occurs, (4) who conducts the checks, and (5) the sources contacted. Below we define suitability determinations – including vouchering and background investigations – and explain how reference checking differs from those assessments.

Suitability Determinations. The term “suitability” has a specific meaning in federal hiring. OPM defines suitability as “a set of criteria by which the character and conduct of applicants and employees are assessed to assure that their Federal employment will protect the integrity and promote the efficiency of the Federal service.”¹⁷ Whereas reference checks measure applicants’ job-related skills and qualifications to determine their organizational fit and ability to perform the job, suitability determinations measure applicants’ character traits and past conduct to determine whether they will be able to carry out the duties of a federal job with “integrity, efficiency, and effectiveness.”¹⁸

The criteria for making suitability determinations for federal employment are in 5 C.F.R. part 731, which directs agencies to base their determinations on one or more of eight specific factors – including misconduct, criminal or dishonest conduct, intentional false statements, alcohol abuse, and illegal drug use.¹⁹ Part 731 also requires agencies to

¹⁶ Under § 3001(d) of the *Intelligence Reform and Terrorism Prevention Act of 2004*, Pub. L. No. 108-458, 118 Stat. 3638 (2004), background investigations and determinations completed by an authorized investigative agency or authorized adjudicative agency must be accepted by all agencies and be transferable to any other authorized investigative agency. Section 3001(d)(4) of the Act prohibits authorized agencies from conducting an investigation if a current investigation or clearance of equal level already exists or has been granted by another authorized adjudicative agency.

¹⁷ OPM, *End-to-End Hiring Initiative* (undated), 39.

¹⁸ OPM, *Delegated Examining Operations Handbook: A Guide for Federal Agency Examining Officers* (May 2007), 89.

¹⁹ The eight specific suitability factors in 5 C.F.R. § 731.202 (2009) are: “(1) misconduct or negligence in employment; (2) criminal or dishonest conduct;

(Cont’d.)

consider seven additional factors when making suitability determinations, including the nature, seriousness, and recentness of the negative conduct.²⁰ All applicants entering “covered positions” are required to undergo a suitability determination.²¹

Suitability determinations differ from reference checking in several key ways beyond purpose and scope. First, the timing of a suitability determination distinguishes it from a reference check. Because suitability determinations are not used to guide selection decisions as reference checks are, they occur after an applicant’s references have been checked and the agency has extended a conditional job offer. Second, unlike reference checks – which ask individuals who have worked with the applicant (professional references) to describe the applicant’s job-related skills – suitability determinations may entail verifying an applicant’s basic residence, education, employment, and criminal history. Agency officials conducting a suitability determination contact sources beyond the applicant’s professional references, which could include the applicant’s personal acquaintances, neighbors, roommates, and relatives. Finally, suitability determinations are typically conducted by human resource personnel or security staff rather than a hiring official with knowledge of the required job competencies.

Vouchering. One type of suitability determination, vouchering, seeks to determine an applicant’s overall suitability for federal service.

(3) material, intentional false statement, or deception or fraud in examination or appointment; (4) refusal to furnish testimony as required by § 504; (5) alcohol abuse, without evidence of substantial rehabilitation, of a nature and duration that suggests that the applicant or appointee would be prevented from performing the duties of the position in question, or would constitute a direct threat to the property or safety of the applicant or appointee or others; (6) illegal use of narcotics, drugs, or other controlled substances without evidence of substantial rehabilitation; (7) knowing and willful engagement in acts or activities designed to overthrow the U.S. government by force; and (8) any statutory or regulatory bar which prevents the lawful employment of the person involved in the position in question.”

²⁰ The seven additional suitability considerations in 5 C.F.R. § 731.202 (2009) are: (1) the nature of the position for which the person is applying or in which the person is employed, (2) the nature and seriousness of the conduct, (3) the circumstances surrounding the conduct, (4) the recentness of the conduct, (5) the age of the person involved at the time of the conduct, (6) contributing societal conditions, and (7) the absence or presence of rehabilitation or efforts toward rehabilitation.

²¹ 5 C.F.R. § 731.101(b) (2011) defines a covered position as “a position in the competitive service, a position in the excepted service where the incumbent can be noncompetitively converted to the competitive service, and a career appointment to a position in the Senior Executive Service.”

Vouchering is conducted using a form with standard questions corresponding to some of the suitability factors in 5 C.F.R. part 731. The form is used to record comments and responses from applicants' references for a specified time period (typically the past 3 years). In the Department, a standard form – the Form OBD-236, Inquiry Regarding Suitability of Applicant (voucher form) – is commonly used. OARM's April 13, 2010, memorandum contained a slightly different version of this form for attorney applicants. Both the Department's and OARM's voucher forms contain eight standard questions and require the individual conducting the inquiry to sign the form. (See Appendix I for the Department's and OARM's voucher forms.) The forms also require respondents to state their relationship to the applicant and years of the relation.

Background Investigations. OPM requires applicants seeking employment in the civil service to undergo an investigation – commonly referred to as a security or “background investigation” – to establish their suitability for employment. A background investigation occurs after the hiring agency has checked an applicant's references and often after, or concurrent with, a basic suitability determination and conditional job offer.²² A background investigation seeks information about an applicant's employment, criminal, and personal history to evaluate “behavioral reliability, integrity, and personal adjustment” and determine whether there are any “historical facts that would interfere with an applicant's ability to perform the job, including violations of statutes, regulations, or laws.”²³ As described above, agency officials verify information about the applicant from sources beyond the applicant's professional references. In cases where a waiver has been granted, the background investigation may not be initiated until after the employee has entered on duty.²⁴

OPM and MSPB Recommended Reference Check Practices

OPM and MSPB guidance on reference checking includes who should conduct the checks, which references to contact, how many

²² OPM's requirement stems from the authority delegated by the President of the United States under 5 U.S.C. §§ 1104 and 3301 and Executive Order 10577.

²³ OPM, *Assessment Decision Guide* (undated), 45.

²⁴ Federal regulations permit agencies to grant waivers from the background investigation requirements for a limited period of time, allowing new applicants to begin working while their investigations are still in progress. However, the Federal Bureau of Investigation (FBI) requires a fully adjudicated background investigation before any applicant begins work.

references should be contacted, how they should be done, how long to spend on reference checking, and when they should occur.²⁵ In addition, the agencies provide guidance on whether to obtain prior applicant permission, how to document and retain the information, how to incorporate reference checking into the hiring process, and how to ask the questions.²⁶ Although the guidance is applicable to all federal positions, regardless of agency, reference checking itself is not mandatory in the Department except for new career attorney applicants.

Specifically, OPM and MSPB advise:

- Have hiring managers familiar with the specific job competencies or the person who will supervise the new employee, not human resource personnel, conduct reference checks.²⁷
- Contact recent supervisors (the MSPB-described “gold standard”) and other professional references, rather than personal references. When applicants request that their current supervisors not be contacted, OPM recommends seeking other references and asking again once a tentative offer has been extended.
- Contact additional individuals suggested by the applicant’s original references (additional references).
- Contact at least three references. Determine whether the results are consistent, and then check additional references if necessary to resolve incongruities.
- Use the telephone rather than written inquiries.
- Spend about 20 minutes on each reference or a few hours total.

²⁵ Most of the OPM recommendations we cite here are listed in OPM’s publication, *Reference Checking* (undated).

²⁶ Appendix II contains more detailed OPM and MSPB recommendations on how to compile and ask reference check questions.

²⁷ MSPB’s guidance stresses that those making hiring decisions should conduct the reference check. While OPM’s guidance overall favors the individual making the hiring decision be the reference checker (also referred to as the “selecting official” or hiring manager), it also allows for a human resource specialist to carry out this responsibility if the specialist is trained to do so.

-
- Conduct reference checks near the end of the hiring process, when a few top applicants remain in the pool, but before a conditional job offer is made.
 - Obtain applicants' permission before contacting references (for both applicant supplied and additional references), and inform references when applicants have given their permission.
 - Document reference checks using a standard form.
 - Ensure reference check materials are “stored and retained according to agency policy.”²⁸
 - Create standard operating procedures to incorporate reference checking into the hiring process.
 - Ask specific, job-related, open-ended questions linked to the position's required competencies.²⁹ Ask the same set of minimum questions of all references for each applicant and each vacancy announcement.

²⁸ OPM, *Reference Checking* (undated).

The General Records Schedules, issued by the Archivist of the United States to provide disposition authorization for records common to several or all federal agencies, do not address reference checks. There is also no agency-specific schedule approved by the Archivist that provides disposition authorization for reference checks.

²⁹ According to MSPB, requesting information about an applicant's past job performance is legal, and reference checkers generally have a “qualified immunity” against charges of invasion of privacy provided their inquiries are job-related. Components may vet recommended questions through JMD's (Human Resources) Labor and Employment Law Group.

PURPOSE, SCOPE, AND METHODOLOGY OF THE OIG REVIEW

Purpose

The Office of the Inspector General conducted this review to assess whether and how components contacted job applicants' references to evaluate their past performance when making hiring decisions. We examined the extent to which component hiring officials checked applicants' references, whether policies exist to guide reference checking, and the reference check practices and specific questions cited by component hiring officials as most effective. This report is intended to provide component hiring officials with practical information to help them select the most qualified, capable job applicants. The reference check practices we highlight in this report are those that component hiring officials told us are useful and which conform to benchmarks and models suggested by OPM and MSPB.

Scope

Our review included 39 components that we determined had hired full-time employees nationwide during fiscal year (FY) 2010 within the competitive or excepted services or in any non-executive job series.³⁰ The components are listed in Appendix III. We also collected information on Department reference check practices for attorney and special agent applicants because of the high level of visibility, responsibility, and potential for security risk associated with those positions in the Department.

³⁰ Competitive service positions, defined in 5 U.S.C. § 2102, are subject to the civil service laws passed by Congress to ensure that applicants and employees receive fair and equal treatment in the hiring process. According to OPM, most federal civilian positions are part of the competitive civil service, which requires that all applicants compete with each other in open competition. A basic principle of federal employment and the competitive service is that all candidates must meet the qualification requirements before they are hired. Competitive service jobs must be posted on usajobs.gov (OPM's federal jobs website) whenever agencies are looking for applicants from the general public or outside their own agency.

Excepted service positions, defined in 5 U.S.C. § 2103, are civil service positions that are not in the competitive service or the Senior Executive Service and are not required to be publicly advertised on usajobs.gov. According to OPM, some agencies – known as excepted service agencies – have their own hiring system and qualification requirements for filling internal vacancies because they are not subject to the same laws. Some federal agencies, such as the FBI and the Central Intelligence Agency, comprise only excepted service positions. Other agencies may have both types of positions.

We did not include in our review: (1) employees hired into the Senior Executive Service; (2) political appointees; (3) temporary, part-time employees; (4) internal hires within the same division of a component; or (5) Federal Bureau of Prisons (BOP) correctional officers.³¹ We also did not review component determinations of an employee's basic qualifications.

We conducted our fieldwork from February through September 2011.

Methodology

Document Review

We acquired publicly available guidance on reference checking from two federal sources outside the Department: OPM and MSPB. We also interviewed staff from both agencies associated with the published guidance. Non-binding recommendations and advisory reports from both agencies helped establish the benchmarks, models, and best practices cited in this report.

Except for OARM's guidance concerning new career attorney applicants, there are no Department regulations addressing reference checking. To identify reference check practices across the Department and instances in which the practices either conform to or differ from benchmarks and models suggested by OPM and MSPB, we reviewed and analyzed 39 components' reference checking policies, documents, and the practices they described to us.³² These documents included tip

³¹ In this report, the term "internal hires" includes employees from within the same division of the same component who are hired into lateral positions (at the same grade level) and promotions (at a higher grade level). Because hiring officials typically know those applicants already, there may be less value to conducting some reference checks. We did, however, include employees hired into lateral positions (lateral transfers) and promotions (merit promotions) in other divisions of the same component, the Department, and outside the Department. In addition, to avoid the appearance of a conflict, we excluded the OIG's reference check procedures from this review.

Another OIG report addressed hiring and screening of correctional officers found that references are not checked for correctional officers. See U.S. Department of Justice Office of the Inspector General, *Enhanced Screening of BOP Correctional Officer Candidates Could Reduce Likelihood of Misconduct*, Evaluation and Inspections Report I-2011-002 (September 2011).

³² Because not all of the 39 components have a clearly designated liaison office from which we could obtain the policies, documents, and described practices in our
(Cont'd.)

sheets, question lists, and standard operating procedures. We obtained this information through components' responses to a Department-wide OIG data request. We asked components to provide copies of reference checking policies, guidance, questionnaires, and forms, and to answer written questions about their practices. Appendix III describes the data request and the responding components.

Interviews and Telephone Survey

We first interviewed component hiring officials, human resource managers, and security and suitability staff to understand reference check practices and guidance. We also considered areas of concern related to reference checking that those personnel identified.

We then administered a telephone survey of selected component hiring officials from the 17 largest components. The purpose of the survey was to determine what processes components use to check references and what they find useful in the process. After selecting a random sample of FY 2010 hiring actions processed by those 17 components, we requested contact information for the associated hiring officials from the components' human resource offices. We asked hiring officials two initial screening questions – whether they participated in the hiring or selection of the new employee in the hiring action we had selected and whether they personally conducted reference checks for that employee. If they responded that they did not personally conduct the reference check, but another hiring official in the component did, then we contacted the other hiring official. Hiring officials from all 17 components told us that their components conducted reference checks, whether it was the individual we first contacted or the person to whom they referred us.

In total, we surveyed 88 hiring officials from the 17 components with the highest numbers of occupied positions during FY 2010.³³ According to National Finance Center data provided by JMD, these

data request, we obtained these from components' headquarters and human resource offices in most instances.

³³ The 17 components, in descending order by total number of occupied positions during FY 2010, were the: (1) BOP non-correctional officer personnel; (2) FBI; (3) United States Attorneys' Offices; (4) Drug Enforcement Administration (DEA); (5) U.S. Marshals Service (USMS); (6) ATF; (7) Executive Office for Immigration Review (EOIR); (8) Civil Division; (9) U.S. Trustee Program; (10) JMD; (11) Criminal Division; (12) Antitrust Division; (13) Civil Rights Division; (14) Office of Justice Programs; (15) Environment and Natural Resources Division; (16) Tax Division; and (17) National Security Division.

17 components represented 83 percent of the Department’s occupied positions during FY 2010.³⁴ The 88 hiring officials we interviewed had participated in the hiring of at least one new employee in FY 2010 and reported having firsthand experience checking references. We caution that these 88 hiring officials are not representative of the entire Department and do not constitute a statistically significant sample. We describe our sampling methodology further in Appendix IV. Appendix V includes a copy of the telephone survey instrument we used, and Appendix VI presents selected survey results beyond those we discuss in this report.

To determine the number of hiring actions in FY 2010, we analyzed National Finance Center data for employees listed as occupying a position in FY 2010. Each personnel action for Department employees is assigned a “nature of action” code, defined by OPM as “the specific personnel action used to create or change a civilian personnel record.”³⁵

Because the nature of action codes include a wide range of personnel actions other than hiring a new employee (for example, step increases in pay), we eliminated those codes that did not correspond to hiring actions. We also eliminated the codes that corresponded to types of hiring actions that were not within our scope: (1) employees hired into the Senior Executive Service; (2) political appointees; (3) temporary, part-time employees; (4) internal hires within the same division of a component; (5) BOP correctional officers; and (6) OIG employees.

Data Analysis

We identified the components that provided written reference check policies, guidance, or questions, or described practices indicating that they generally check references. We analyzed components’ reference check policies, standard operating procedures, and descriptions of their reference check practices, and created a database of this information. We created a separate database of hiring officials’ responses to the questions in our telephone survey.

We analyzed components’ responses to our data request and hiring officials’ responses to ascertain: (1) the extent to which components have

³⁴ This percentage is based on the FY 2010 occupied positions after we excluded: (1) employees hired into the Senior Executive Service; (2) political appointees; (3) temporary, part-time employees; (4) internal hires within the same division of a component; (5) BOP correctional officers; and (6) OIG employees.

³⁵ OPM, *The Guide to Personnel Data Standards* (Update 58, August 10, 2007), 246.

written guidance on reference checking, (2) the content and scope of the guidance, (3) the frequency of reference checking, (4) the types of references contacted, (5) who makes the reference calls, (6) methods for contacting references, (7) at what point in the hiring process reference checks are conducted, and (8) the types of information sought during a reference check. We examined reference check practices and questions that hiring officials identified as useful. We also describe where components' policies or practices differ for applicants by job series (such as attorneys and criminal investigators).

Data and Methodology Limitations

Because there is no Department requirement that hiring officials conduct, document, or retain records of reference checks other than OARM's guidance concerning new career attorney applicants, we did not attempt to identify the number of individuals in the Department that were and were not reference checked in FY 2010 or other years. Nor could we identify all individuals who were not hired as a specific result of reference checking. Consequently, we do not comment on the actual prevalence of reference checking across the Department in this report.

We emphasize that our methodology was not designed to provide a statistically significant conclusion. We based our analysis of components' responses to our inquiries primarily on the information each component self-reported to the OIG. In some cases, we omitted from our analysis components that submitted incomplete information or whose responses were unclear. In addition, variations in reference check practices within components made it difficult to measure the extent to which policies are followed in practice.

Rather than commenting on the prevalence of reference checking, in Part I of the report, we identify the components that provided written reference check policies, guidance, questions, or described reference check practices. We also describe where these components' policies or practices differed for applicants by job series (such as attorneys and criminal investigators). However, these general descriptions do not account for variations in reference check practices within components, nor do they definitively indicate that references are or are not consistently checked.

In Part II we present information about reference check practices from our telephone survey of 88 component hiring officials from the 17 largest components to determine what processes components use to check references when they do so and what they find useful in the process.

RESULTS OF THE REVIEW

PART I: DEPARTMENT REFERENCE CHECK POLICIES AND GUIDANCE

In the absence of Department-level reference check policies, guidance varied among components. For non-law enforcement positions, reference check policies for new hires were inconsistent across the Department. Our review of components' policies for non-law enforcement hires found only 3 of the 39 components in our review scope provided their hiring officials with clear written reference checking guidance that included position-specific questions and addressed documentation of reference checks. For law enforcement positions, there were no policies requiring reference checks for new law enforcement applicants, and hiring managers told us that they did not conduct reference checks when hiring these new staff. Instead, components used other methods to assess the skills and aptitudes of new applicants for law enforcement positions. In addition, the two largest components, which made 63 percent of the hiring actions within our scope, did not conduct reference checks for most of their new employees.

No Department policies addressed reference checking for all new hires.

Although extensive information about the Department's hiring process is posted on the Department's intranet (DOJNet), as of July 2012, no policies specifically addressed reference checking for all new hires across the Department.³⁶ The JMD Director of Human Resources attributed the lack of Department reference checking guidance for general schedule employees, in part, to the fact that applicant selection and other human resource activities are not currently centralized functions in the Department, but rather have been delegated to the

³⁶ The only exception was OARM's April 13, 2010, memorandum requiring reference checking and vouchering for new career attorney applicants. That memorandum has been available on DOJNet since April 2010, according to OARM. As of July 2012, we found that this memorandum was still available on DOJNet. In addition, DOJNet's new Diversity section contained links to some reference checking guidance and sample questionnaires.

components. The Director also attributed the lack of Department-wide reference check guidance to a need for questions that are validated by research psychologists at OPM or elsewhere.³⁷ The Director stated that some components had worked with OPM to develop their own validated questions. However, there was no list of approved or suggested questions to use during employment reference checks across the Department during the period of the OIG’s review.

Reference check policies for assessing the job skills of potential new hires in non-law enforcement positions were inconsistent across the Department.

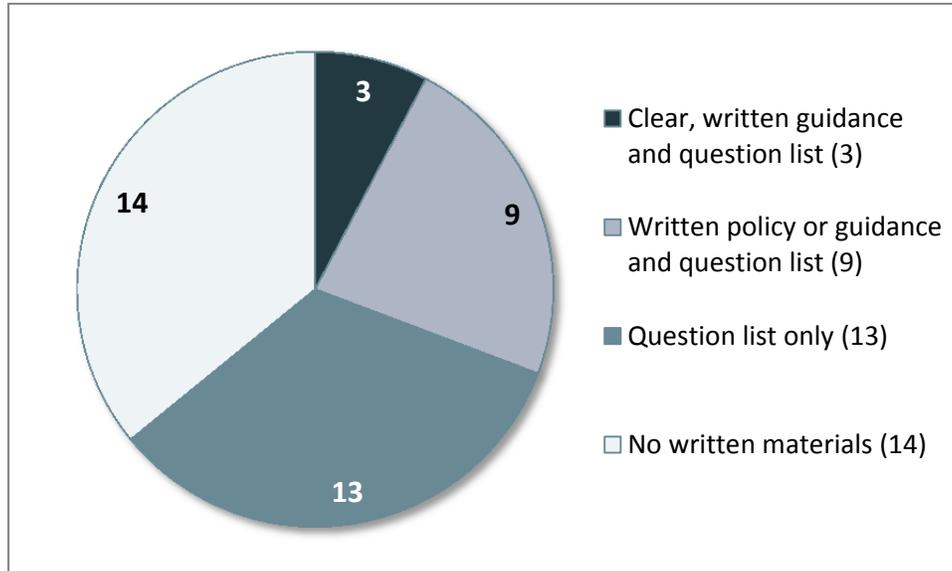
Components’ reference check policies for new applicants were inconsistent across the Department. In response to our Department-wide data request (described in Appendix III), 39 components provided a variety of written materials and descriptions of their reference check practices. Their submissions ranged from clear and comprehensive written policies to e-mail descriptions of reference check practices without accompanying written policies or other material.

Of the 39 components, only 25 (64 percent) provided some form of written material – policies, guidance, tip or fact sheets, or questionnaires – that prescribed or suggested reference check practices, or provided specific reference check questions. Of these, only three provided clear, written reference check guidance that included both position-specific reference check questions for officials to ask references and addressed documentation requirements for reference checks. Nine components had general written policies or related guidance (such as tip sheets) with specific reference check questions for conducting reference checks on new employees, but this guidance was not always position-specific and did not always address documentation requirements. Thirteen components provided a reference check questionnaire or form, but did not provide any additional written policy or guidance about when to use the guidance or form. These 13 components also described their informal protocols for checking references. The remaining 14 components had no written policies, guidance, or forms, but verbally

³⁷ The term “validity” in this context means that the responses to questions about past performance are effective predictors of future behavior. According to OPM officials we interviewed, validation is part of an agency’s overall hiring process. OPM psychologists might analyze an agency’s reference check questions to determine how well they predict an applicant’s job performance (predictive validation) or what competencies are critical to a job and to what extent applicant selection assessments measure those competencies (content validation). OPM performs this function on a fee-for-service basis.

described informal protocols for checking references. Figure 1 shows the types of reference check materials the 39 components provided.

Figure 1: Types of Written Reference Check Materials Provided by 39 Components



Note: We counted each component's response once for this analysis even though some components specified that their reference check materials did not pertain to all position types.

Source: Component responses to the OIG's Department-wide data request.

Our review of component policies found only three components provided their hiring officials with clear written reference check guidance.

Of the 25 components that submitted copies of their written guidance to us, we found that only 3 provided hiring officials with clear, written guidance that: (1) included position-specific reference check questions that corresponded to the position's required competencies, and (2) explained how to document reference checks and results. Including this information is consistent with OPM's and MSPB's recommendations for effective reference check practices.

The remaining components' submissions met just one of the two criteria above:

1. Nine components had general written policies or related guidance for conducting reference checks on at least some new employees, including attorneys, and listed specific reference check questions. Seven of the nine components specified that the policy or guidance they provided applied to one or more position types.

-
2. Thirteen components had only a reference check questionnaire or form and did not provide any additional written policy or guidance about when to use it. These 13 components also described their informal protocols for checking references. Eleven of them responded to the specific questions in our data request with information indicating that they checked references. The other two components (the BOP and the Office of Legal Counsel) provided a reference check questionnaire and described their reference check practices, but we do not consider them to be among those components that regularly check references.³⁸

Of the 14 components that submitted no written guidance, 11 explicitly stated they provided no written guidance to hiring officials. Three others did not state that, but provided no policies, guidance, or forms in response to our request. However, all 14 components described their informal protocols for checking references. Ten components indicated that they checked references, while the other four – the Federal Bureau of Investigation (FBI), U.S. National Central Bureau of Interpol (Interpol), JMD, and Office of Information Policy – described informal protocols for checking references, but we do not consider them to be among those components that regularly check references.³⁹

Managers in law enforcement components consistently told us that they did not conduct reference checks when hiring new staff in law enforcement positions.

Most of the Department’s new hires into law enforcement and correctional officer positions were not reference checked during the hiring process. With some exceptions described elsewhere in this report, the Department’s four primary law enforcement components – the

³⁸ The BOP reported that it does not regularly check references for most positions (we discuss the exceptions in Part II), and the Office of Legal Counsel indicated it conducts reference checks but submitted only a voucher form, which we do not consider to be a reference check document.

³⁹ The FBI reported that it does not regularly check references for most positions (we discuss the exceptions in Part II). Information submitted by Interpol and JMD was not sufficiently clear to make a determination that they regularly conduct reference checks. The Office of Information Policy indicated that it conducts reference checks, but it submitted only a voucher form, which we do not consider to be a reference check document. Additionally, although the Consolidated Executive Office – a JMD component – provides human resource and other support services to certain Department offices, including the Office of Information Policy, it does not conduct reference checks for any Department offices.

Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), the Drug Enforcement Administration (DEA), the FBI, and the United States Marshals Service (USMS) – and the BOP did not check references of applicants to law enforcement and correctional officer positions.⁴⁰ Collectively, the hiring of applicants into the criminal investigator, deputy U.S. marshal, and correctional officer job series in these five components accounted for 38 percent of the Department’s total FY 2010 hiring actions within our scope (Table 1).⁴¹

Table 1: FY 2010 Hiring Actions of Criminal Investigators, Correctional Officers, and Deputy U.S. Marshals

| Component | Hiring Actions in Each Job Series | | | Total |
|---|-----------------------------------|---------------------------------|---------------------------------|--------------|
| | Criminal Investigators GS-1811 | Correctional Officers GS-007 | Deputy U.S. Marshals GS-0082 | |
| ATF | 96 | 0 | 0 | 96 |
| DEA | 225 | 0 | 0 | 225 |
| FBI | 717 | 0 | 0 | 717 |
| USMS | 207 | 0 | 522 | 729 |
| BOP | 0 | 2,090 | 0 | 2,090 |
| Total | 1,245 | 2,090 | 522 | 3,857 |
| Percentage of Department Hiring Actions (N=10,182) | 12% | 21% | 5% | 38% |

Notes: We determined there were 10,182 hiring actions based on National Finance Center data for employees listed as occupying a position in FY 2010. We further describe our method of determining hiring actions in the Methodology section of this report and in Appendix IV.

Source: National Finance Center.

⁴⁰ In this report, we define law enforcement positions as those in the 1811 Criminal Investigation Occupational Series, which includes special agents (criminal investigators) and deputy U.S. marshals. Deputy U.S. marshals hired under the 0082 Deputy U.S. Marshal Occupational Series are also included in our definition. We do not include correctional officers in the 007 job series in the definition of law enforcement.

⁴¹ During our fieldwork, the USMS’s Office of Security Policy had drafted a policy directive addressing reference checks for non-deputy U.S. marshal applicants. Although USMS security staff encouraged hiring officials to conduct reference checks for those applicants, under the new policy reference checks would only be required for applicants when a waiver of the pre-employment background investigation is requested. As of July 2012, the USMS reported that the policy was under review by its Office of General Counsel. The FBI’s Human Resources Division had drafted a similar policy for its non-law enforcement applicants that was under review in July 2012 (discussed below).

Law enforcement components did not check references of new applicants for special agent and deputy U.S. marshal positions for several reasons.

To determine why references of new law enforcement applicants were not being checked, we spoke with human resource and security officials at the FBI and the USMS. The primary reason cited by FBI officials for not conducting reference checks in the past for new special agent applicants was the FBI requirement that all applicants receive a fully adjudicated background investigation, which includes FBI contact with applicants' references, prior to beginning work. Other reasons cited by FBI officials were: (1) concern over contacting applicants' current supervisors early in the application process; (2) the large number of applicants and their references that would need to be checked; and (3) the additional required assessments unique to special agent applicants, such as cognitive ability and situational judgment tests.

Additionally, FBI officials told us that it may be impractical for supervisors of new law enforcement applicants to check references because these applicants are not hired by the immediate office at which they will work. These applicants sign mobility agreements in which they consent to be relocated to a geographical location suited to the needs of the component when they are hired.

Human resource officials we interviewed from the USMS described some of the same reasons for not checking law enforcement applicant references as did FBI officials. In addition to their reliance on background investigations, USMS officials told us that the large number of new law enforcement applicants could make reference checking infeasible. USMS officials described large pools of deputy U.S. marshal applicants, noting that the relatively small number of human resource staff responsible for processing them could not check applicants' references without creating delays in the hiring and appointment process.

In FY 2011, ATF began reference checking new special agents and non-law enforcement industry operations investigators on a limited basis.

ATF reported that in FY 2011, it began checking references for its entry-level special agent and non-law enforcement industry operations investigator applicants on a limited basis. ATF began with a small group of entry-level agents and planned to begin reference checking industry operations investigator applicants during the next vacancy announcement, but ATF officials stated that the process slowed due to a hiring freeze. As of July 2012, ATF had not formalized the process into a written policy but had resumed checking references for entry-level

special agents and industry operations investigators. ATF planned to begin crafting a policy after collecting information from the first 24 new hires. ATF was using a standard set of reference check questions for both special agents and industry operations investigators.

According to ATF officials, the reference checks were an attempt to improve the hiring process and “weed out” problems with an applicant before initiating a background investigation. ATF officials told us the change would allow them to potentially save money on background investigations by identifying detrimental issues earlier in the hiring process. These officials also intended the reference checks to reduce employee turnover and improve hiring officials’ hiring choices. ATF officials also believed it would be beneficial to conduct reference checks on applicants who already possessed a valid security clearance and who would not ultimately receive a background investigation due to reciprocity agreements with other agencies.

ATF, the DEA, and the USMS reported they checked references for merit promotion and internal law enforcement applicants, but the FBI did not.

Although ATF, the DEA, and the USMS did not generally check references for new law enforcement applicants not currently employed by the government, they reported that they did check references for merit promotion and internal applicants for law enforcement positions. ATF officials stated that ATF also checked references of merit promotion applicants transferring from another agency, such as from the DEA or the FBI. In addition, as of April 2011, ATF’s Merit Promotion Board was discussing requiring reference checks for agents transferring within ATF, although ATF reported in July 2012 that due to the hiring freeze, no new agents outside ATF have been hired. According to human resource officials and managers from ATF, the DEA, and the USMS, these reference checks were conducted informally, were done by telephone, and did not generally require the use of standard forms or include required questions.

FBI officials told us that Human Resources Division officials routinely call all GS-14 and GS-15 special agent applicants’ past supervisors to briefly verify the achievements listed on their applications. The applicants’ achievements are recited verbatim and responses are limited to “yes,” “no,” or “don’t know.”⁴² We note that this is the last step in a lengthy application/verification process the FBI has

⁴² FBI, *Special Agent Mid-Level Management System (SAMMS) Policy Implementation Guide* (2011), 66.

established to ensure the applicant’s competency submissions are accurate, and that this process meets several strategies MSPB has suggested for reference checking (see Appendix II). However, MSPB also notes that reference checking should be “more than a formality” and emphasizes reference checking requires “[s]killful probing and comparing of information” to ensure that reference checking “produces more than a superficial evaluation” of the applicant.⁴³ Similarly, OPM emphasizes the importance of “prob[ing] for more detailed information when clarification is needed” during a reference check.⁴⁴ Based on these guidelines, we conclude that the FBI’s verifications, while valuable, do not meet the definition or full purpose of a reference check.

Table 2 provides an overview of reference checking procedures employed by all four law enforcement components for both new and merit promotion applicants to law enforcement positions.

⁴³ MSPB, *Reference Checking in Federal Hiring: Making the Call* (2005), i, iv.

⁴⁴ OPM, *Assessment Decision Guide* (undated), 33.

Table 2: Reference Checking for Law Enforcement Applicants

| | ATF | DEA | FBI | USMS |
|-------------------------|--|--|--|--|
| New hires | YES – In FY 2011 ATF implemented new procedures to reference check entry-level special agents. | NO – Had no reference check requirement for new special agents. | NO – Had no reference check requirement for new special agents. | NO – Had no reference check requirement for new deputy U.S. marshals. |
| Merit promotions | YES – Although not required and no standardized form was used, ATF managers called each other informally to discuss special agent applicants. This also occurred for applicants transferring to ATF from another agency, such as from the DEA or the FBI. | YES – Although not required and no standardized form was used, DEA managers called each other informally to discuss special agent applicants. | NO – For promotions into GS-14 and 15 positions, staff verified special agent applicants’ achievements by contacting their supervisors and reading verbatim what the special agents stated on their applications for verification. However, FBI officials told us this was <i>not</i> considered a reference check. | YES – Although not required and no standardized form was used, the USMS reported the U.S. Marshal in the hiring district can informally contact a deputy U.S. marshal applicant’s supervisor or someone else in the applicant’s workplace to discuss the applicant. |

Source: Human resource officials from ATF, the DEA, the FBI, and the USMS.

Law enforcement components used methods other than reference checking to assess the skills and aptitudes of new law enforcement applicants.

Although they did not always conduct reference checks, ATF, the DEA, the FBI, and the USMS used other methods that helped them evaluate the skills and aptitudes of new law enforcement applicants.⁴⁵ For example, the FBI special agent screening process entails two distinct phases of specialized testing consisting of logic, cognitive, and behavior

⁴⁵ While a separate evaluation of the special agent hiring process at each Department law enforcement component was not within the scope of this review, we describe the general process that the FBI uses. ATF, the DEA, and the USMS use variations of this process.

tests (Phase I); and a panel interview and written tests to measure competencies (Phase II).⁴⁶ The panel interviewers do not receive the applicants' résumés or applications, nor do they contact any outside references. Applicants who pass through those phases receive a conditional job offer and complete an SF-86, Questionnaire for National Security Positions. Final screening elements entail a background investigation, a polygraph, a medical and drug test, and a physical fitness test. Applicants who pass all of these elements are sent to the FBI Academy for 16 weeks of training.

The FBI conducts a full field investigation at the Top Secret level on all applicants, including special agents. Background investigations include interviews of associates, references, and past and current employers and neighbors. Interviewers are required to collect information on a variety of topics, including character, reputation, loyalty, ability, and suitability. Interviewees are asked if they recommend the applicant for employment. However, although background investigations cover some of the performance-related subjects typically discussed during a reference check, FBI security officials acknowledged that the purpose of the background investigation is to determine applicants' suitability for FBI employment and eligibility for access to national security information, not solely to evaluate past job performance. Background investigations also commence after the FBI has extended a conditional job offer and thus could not be used to guide a hiring decision as a reference check is intended to do.

While background investigations and the other screening methods described above may demonstrate the applicant's abilities and suitability for national security access, they do not replace a reference check. Reference checks provide valuable performance information directly from prior employers and others who have worked with the applicant.

⁴⁶ FBI officials also told us about two additional elements – a “meet and greet” with the local field office and a Headquarters Review Board, where the FBI selects the best applicants based on its current needs.

DEA officials described additional checks for new special agent applicants, including employment verification supervisory interviews, conducted prior to a conditional job offer with applicants' last or current supervisor, to determine their current employment standing. For new special agent applicants already in law enforcement positions, the DEA reported conducting additional checks through existing databases such as the National Crime Information Center.

The 2 largest components, which accounted for 63 percent of the Department's 10,182 FY 2010 hiring actions within our scope, did not conduct reference checks for most new applicants.

The Department's two largest components – the BOP and the FBI – reported that they did not regularly check references for most new applicants, whether to law enforcement or non-law enforcement positions. Combined, the BOP and FBI accounted for 63 percent of the Department's total hiring actions, in all job series, during FY 2010.⁴⁷ Both the BOP and FBI reported that they conducted reference checks of applicants already working within the component (the BOP) or applying for merit promotion (the FBI), with certain exceptions.⁴⁸

As discussed further below, the BOP has not required reference checks for new applicants, including correctional officers, since 2006. However, component officials reported conducting the checks for new chaplain applicants and for applicants already employed by the BOP. The FBI has never required reference checks for new applicants, including special agents, although FBI managers who hire new attorney applicants reported that they conducted the checks, and FBI policy does require reference checking for merit promotion applicants for positions other than attorneys and agents (described below). As of January 2012, the FBI reported that it had drafted a reference checking policy for non-law enforcement applicants. In September 2012, the FBI reported that its External Recruitment and Hiring Policy Implementation Guide will require reference checks for all external non-law enforcement selections and its Human Resources Division had drafted a reference check guide.

⁴⁷ To determine the 10,182 hiring actions, we eliminated from the National Finance Center database the types of hiring actions that were not within our scope: (1) employees hired into the Senior Executive Service; (2) political appointees; (3) temporary, part-time employees; (4) internal hires within the same division of a component; (5) BOP correctional officers; and (6) OIG employees. We explain our methodology further in Appendix IV.

⁴⁸ Under 5 C.F.R. part 335, federal agencies may promote certain types of employees provided they have developed a program designed to ensure a systematic selection method for promotion according to merit. Agency merit promotion programs must adhere to five requirements set forth in 5 C.F.R. § 335.103, including that each agency must establish merit promotion procedures that are available in writing to candidates.

The BOP discontinued its reference checking policy for all new applicants in 2006, but still checked references of some internal applicants.

Although the BOP reported that it checked references for new chaplain applicants, security and human resource officials said that the BOP discontinued its general reference checking policy for new applicants in 2006. According to BOP officials, before 2006, reference checks had been conducted by a contractor. Over time, human resource officials noticed the checks did not produce enough useful information, due in large part to employers refusing to provide requested information beyond confirming applicants' employment dates. Consequently, the BOP concluded that the checks were not worth the time and effort spent to conduct them and withdrew the requirement. BOP officials stated, however, that discontinuation of the policy did not prohibit the practice of checking references of new applicants and suggested these checks may still occur. However, they were unsure as to the extent of the practice across the BOP.

BOP human resource officials told us that reference checking did occur for applicants already employed by the BOP. Although they were unable to quantify the extent to which this internal reference checking was practiced throughout the BOP, the officials said it was common and that many reference check forms were submitted to their office. In our telephone survey, wardens in each of the 10 institutions we contacted indicated that references were checked at least "sometimes" for internal applicants.

The FBI has never had a reference checking policy for new applicants, although it requires reference checking for certain merit promotion applicants.

FBI security and human resource officials we interviewed told us that the FBI had never required reference checks in the past for new applicants and that reference checking was infrequently conducted. FBI field office managers said that reference checks were sometimes performed, and the two FBI hiring officials we contacted for the telephone survey reported checking references of new applicants. As described below, the FBI has drafted a new reference check policy for non-law enforcement applicants, but that policy was not yet final.

FBI Merit Promotion Applicants. The FBI's written guidance on applicants for merit promotions directs hiring officials to conduct reference checks with applicants' knowledge and approval. According to the guidance, "selecting officials should contact current or former supervisors to obtain important information on the candidate's job

performance, functional knowledge and abilities, technical skills and potential for increased responsibility.”⁴⁹ According to the FBI, it also ensures that its onboard non-law enforcement applicants applying to FBI’s merit promotion vacancy announcements possess a “Successful” performance rating. The guidance applies to all FBI employees except special agents, attorneys, and those in the Senior Executive Service.⁵⁰

New FBI Attorney Applicants. Managers within the FBI’s Offices of General Counsel and Professional Responsibility reported conducting reference checks for new attorney applicants in accordance with OARM requirements. Those officials told us that although there were no regulations or guidelines addressing reference checks, the deputies or unit chiefs in the division with the vacancy checked an applicant’s references by telephone. We found that questions on reference checking forms used by the Office of General Counsel inquired about applicants’ character, work performance, ability to handle stress, and career goals. The reference check practices for new FBI attorney applicants appeared to mirror OPM’s and MSPB’s recommendations.

New FBI Policy Requiring Reference Checks. FBI human resource managers told us that because of the FBI’s participation in the SAVE Council initiative, the FBI was considering requiring new applicant reference checks for non-law enforcement applicants prior to making a conditional job offer. The impetus for the change, according to FBI officials, was to ensure that applicants are screened for technical competency prior to expending funds on background investigations. FBI officials we interviewed supported the change, citing a need for hiring officials to conduct reference checks to make more informed hiring decisions. For example, an FBI security manager described several instances of hiring officials asking the security office if they could rescind a conditional job offer because they had changed their minds about hiring an applicant after discovering during the background investigation process that the applicant was not suitable for the job.

⁴⁹ FBI, *Merit Promotion and Placement Plan* (October 22, 2008), 9. In September 2012, the FBI reported that this document was being revised to include a provision for mandatory reference checks for all internal non-law enforcement selections. The FBI also reported that: (1) its External Recruitment and Hiring Policy Implementation Guide will require hiring managers to conduct reference checks for all external non-law enforcement selections and (2) its Human Resources Division drafted an Applicant Technical Reference Check Guide that will supplement both documents during the selection phase.

⁵⁰ The FBI’s *Merit Promotion and Placement Plan* also excludes employees in the Executive Level or Senior Level.

Later in our fieldwork, the FBI began drafting a reference check policy that it planned to implement in 2012.⁵¹ As of July 2012, an FBI human resource manager told us that the reference check policy had been drafted, stakeholder feedback had been received, and the policy was undergoing an executive review. The FBI planned to complete the reference check policy by the end of 2012, pending review by its Corporate Policy Office.

Conclusion

Although the majority of components submitted materials or described practices indicating that they conducted reference checks, reference checking was inconsistent among the components, and very few components required the practice in written policy. We believe inconsistency in component policies and practices increases the risk that components are not uniformly and thoroughly screening applicants. It also increases the risk that hiring officials may not collect all information from references that may be useful in a hiring decision, that information from references of similarly qualified applicants applying for the same position may not be collected consistently, and that hiring officials may not bother to check references. Consequently, components may unknowingly hire individuals who cannot perform the job well or whose talents and interests do not support the component's mission and culture.

The primary law enforcement components of the Department – ATF, the DEA, the FBI, and the USMS – employed a wide range of assessment and verification methods, rather than reference checking, to evaluate the skills and aptitudes of new applicants to law enforcement positions. These methods included a background investigation and up to 16 weeks of training at a federal law enforcement training center. However, background investigations meant to determine applicants' suitability for employment and eligibility to hold a security clearance do not provide information about applicants' work skills and aptitudes in time to inform a hiring decision. Three of the four law enforcement components had made or planned changes to their reference checking processes by the end of our review period: ATF began reference checking new entry-level special agents in FY 2011, and its Merit Promotion Board was discussing requiring reference checks for agents transferring within ATF. The FBI and the USMS had each drafted policies addressing reference checks for non-law enforcement applicants; the FBI's policy

⁵¹ We did not review the FBI's draft reference checking policy because it was not completed during our fieldwork.

would require the checks prior to commencing a background investigation, whereas the USMS's policy would only require the checks when a waiver of the required pre-employment background investigation is requested.

Finally, the BOP's and the FBI's lack of policies requiring reference checks for most new hiring actions allowed managers to make hiring decisions without a complete picture of an applicant's qualifications, including the applicant's performance history and organizational fit. Specifically, hiring managers who did not check references lacked the benefit of pre-selection input from references who knew the applicant. That input includes situational examples of an applicant's performance and behavior described by former managers, and verification of the job-related claims an applicant made on a résumé or in an interview. We believe that decisions to hire new employees would benefit from incorporating reference checking into the hiring process, as OPM and MSPB recommend.

PART II: REFERENCE CHECK PRACTICES AND RELATED FEDERAL GOVERNMENT RECOMMENDATIONS

Reference check practices varied considerably within components. Hiring officials we interviewed who told us they generally conducted reference checks for new applicants into non-law enforcement positions described the benefits they believed conducting the checks provided. As is recommended by OPM and MSPB, most hiring officials who conducted reference checks were managers who contacted professional references, contacted references in addition to those provided by the applicant, and contacted references by telephone. However, we found that these hiring officials generally did not conduct reference checks at the most useful point in the hiring process, did not ask position-specific questions, and did not obtain applicants' permission before contacting additional references. Further, some components erroneously conducted vouchering in lieu of a reference check. Finally, although hiring officials we interviewed reported that they usually conducted reference checks, they were often uncertain of their component's reference checking expectations and allowable practices.

In total, 33 of the 39 components we reviewed (85 percent) indicated that they generally check references. Of the remaining six components, two (the BOP and the FBI) responded that they did not regularly check references for most new applicants, with the exceptions we discussed above. Two other components (the Office of Legal Counsel and the Office of Information Policy) reported that they conducted reference checks but submitted only a voucher form to us, which is not a reference check. Information provided by the two remaining components (JMD and Interpol) was insufficiently clear for us to determine whether they regularly conducted reference checks. Of the 33 components that indicated that they generally check references, just 7 (21 percent) specifically required that reference checks be conducted for at least some position types.⁵²

⁵² The seven components that required reference checks were the Civil Rights Division, EOIR, National Security Division, OARM, Office of Public Affairs, Tax Division, and the U.S. Trustee Program. OARM differed from the other components in that its requirement for attorney reference checking was Department-wide. Of the seven components, five specified the checks were required for attorneys. Others specified

(Cont'd.)

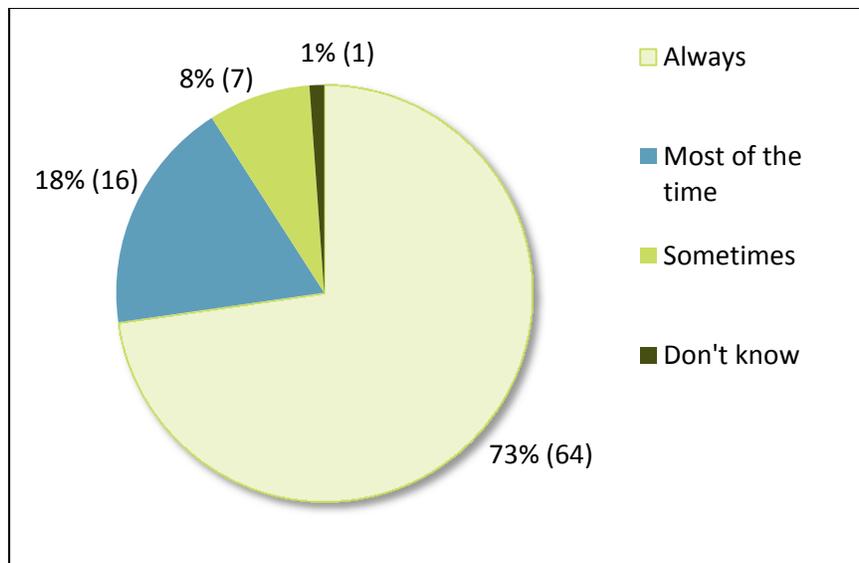
Hiring officials who reference checked new non-law enforcement applicants told us they believed their components benefited from the practice.

To determine Department hiring officials' reference checking practices and perceptions, we surveyed 88 hiring officials who conducted reference checks for applicants to non-law enforcement positions. These officials said they viewed the practice as an important, useful part of their hiring process. This was so regardless of whether their own component had an explicit requirement that they conduct reference checks, which only seven components did.

Hiring officials reported conducting reference checks regularly.

Eighty hiring officials (91 percent) responded that their office checked references "always" or "most of the time" when making a hiring decision. All but one of the hiring officials told us their office at least "sometimes" checked references. Figure 2 shows a distribution of the regularity with which hiring officials reported their office checked references.

Figure 2: Reference Checking Among Hiring Officials We Surveyed



Source: Telephone survey.

non-attorney staff; temporary, term, career-conditional, and student appointments; staff, interns, and volunteers; and one component did not specify a position type.

Hiring officials viewed reference checking as an important part of the hiring process and described the benefits they believed the checks provided.

Component hiring officials told us they believed that reference checking was a critical part of the hiring process because it provided a more complete picture of an applicant's ability to perform the job and likely fit within the organization. Officials related instances in which information collected through reference checks had helped them make more informed hiring decisions. Overall, hiring officials found reference checking to be neither more nor less effective than other performance assessment tools such as interviews, work evaluations, or writing samples.

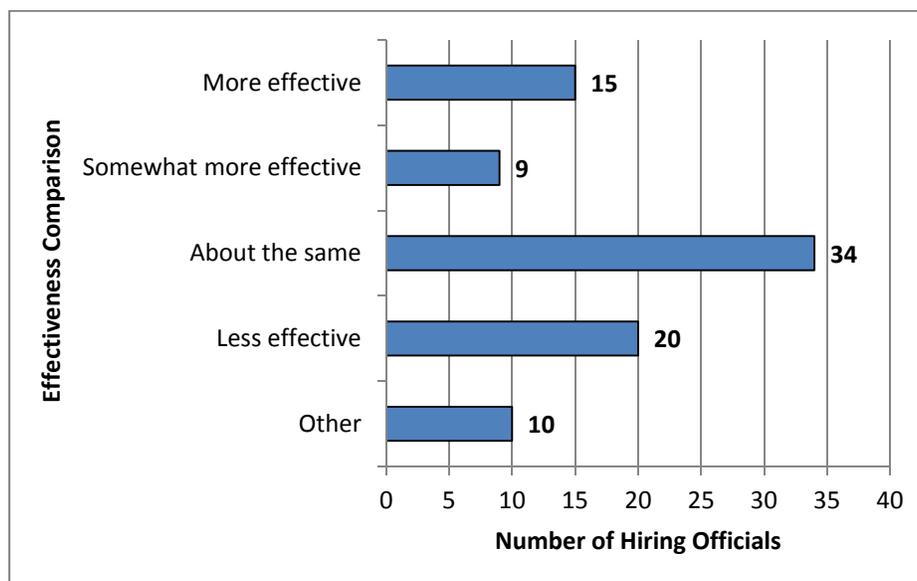
Hiring officials said reference checks have helped them make more discerning hiring decisions because they provided information beyond what the applicants themselves submitted or represented. For example, reference checks have revealed where applicants appeared to have exaggerated their accomplishments or qualifications. Hiring officials cited instances of receiving information from a reference that contradicted what the applicant provided. Some also identified cases where the applicant lacked the needed job qualifications or where the reference described poor performance. Hiring officials cited all of these as reasons for re-considering or not selecting the applicant. Another hiring official spoke of using reference checks as a means of moving an applicant to (or from) the top of a list of best qualified applicants.

Some hiring officials we interviewed also stressed the importance of "organizational fit" – the alignment of the applicant's interests, character, work performance, and career goals with the office where the applicant will work – and explained how they used reference checking to ascertain this. For example, one hiring official said, "You wouldn't hire an applicant who enjoys litigation and working in court when the position they are being considered for simply requires writing." In another case illustrating the importance of an applicant's character aligning with office needs, a hiring official noted the importance of attorney applicants being highly regarded by judges before whom they appeared – information the hiring official could only determine from speaking with those references.

The majority – 89 percent – of hiring officials we interviewed found reference checking "very effective" or "somewhat effective" in making an informed hiring decision. Three percent of the hiring officials said reference checking was "not very effective." The remaining 8 percent fell into an "other" category whose responses varied from "critical" to "marginally effective."

Additionally, when asked about the effectiveness of reference checking compared with other assessment tools in the hiring process, 39 percent of the 88 hiring officials found reference checking to be “about the same” as other assessment tools used to select the best applicant. About the same percentage of hiring officials found reference checking “more or somewhat more effective” than other assessment tools (27 percent) as those who found it “less effective” (23 percent). Figure 3 shows how hiring officials ranked reference checking compared to other hiring assessment tools such as interviews, performance evaluations, or writing samples.

Figure 3: Hiring Officials’ Perceptions of Reference Checking Effectiveness Compared with Other Hiring Assessment Tools



Note: Responses in the “other” category were those that did not answer the question. For example, hiring officials said reference checking was an important part of the process but did not rank it compared to other tools or responded that it depended on the reference and the information provided.

Source: Telephone survey.

Although component hiring officials told us that they checked applicants’ references regularly and that they viewed reference checking as an important part of the hiring process, some of the reference check practices they described following were inconsistent with OPM’s and MSPB’s recommended practices. Below, we first describe the consistencies, then the inconsistencies.

As recommended by OPM and MSPB, most hiring officials who conducted reference checks were managers who contacted professional references, contacted references in addition to those provided by the applicant, and contacted references by telephone.

Our survey of 88 hiring officials from the 17 largest components found that components' practices for reference checking were consistent with many practices recommended by OPM and MSPB.⁵³ Specifically, we found consistency with regard to who should conduct reference checks; the type and number of references that should be contacted; how references should be contacted; and how much time hiring officials should spend checking references. We describe below how components and hiring officials employed reference check practices recommended by OPM and MSPB.⁵⁴ We also describe additional reference check practices that the hiring officials cited as useful.

Components and hiring officials indicated that individuals who most often conducted reference checks were also involved in the hiring process.

Components and hiring officials both indicated that supervisors, managers, and hiring officials – not human resource personnel – generally conducted reference checks, as OPM and MSPB recommend. MSPB's guidance states that reference checking should not be delegated to administrative assistants, less experienced employees, or human resource personnel, unless they are familiar with the job and work environment. Several components' policies explicitly delegated responsibility for conducting reference checks to hiring officials and other employees involved in the hiring process.⁵⁵

The majority of component officials responding to our data request on behalf of their components told us that hiring officials or others involved in applicant selection were the individuals who conducted

⁵³ We based our analysis on the reference checking practices described in component policies, components' responses to questions in our data request, and in telephone interviews with hiring managers.

⁵⁴ The Background section of this report describes each practice recommended by OPM and MSPB more fully.

⁵⁵ MSPB's guidance stresses that those making hiring decisions should conduct the reference check. While OPM's guidance overall favors the individual making the hiring decision be the reference checker (also referred to as the selecting official or hiring manager), it also allows for a human resource specialist to carry out this responsibility if the specialist is trained to do so.

reference checks. Specifically, 20 components (51 percent) identified the hiring manager or selecting official as the person conducting reference checks, and 14 components (36 percent) identified supervisors or managers as doing so.⁵⁶ Only seven components (18 percent) identified administrative or human resource staff as conducting reference checks, though it was unclear whether the administrative staff referred to were checking references of other administrative employee applicants or were doing so for applicants to unrelated job series. Figure 4 shows the position types of employees that components identified as their reference checkers.

Figure 4: Employees Conducting Reference Checks by Position Type



Note: The number of components in the chart exceeds 39 because some components mentioned more than one position type in their responses.

Source: Component responses to the OIG’s Department-wide data request.

Five components explicitly addressed the delegation of reference checking responsibilities in their policies and responses. We believe that having such procedures in place can help components better conduct reference checks by widening the pool of known reference checkers; by making the reference checking process more efficient, particularly when the hiring official is unavailable or busy with other priorities; and by identifying who to train and make familiar with reference checking guidelines.

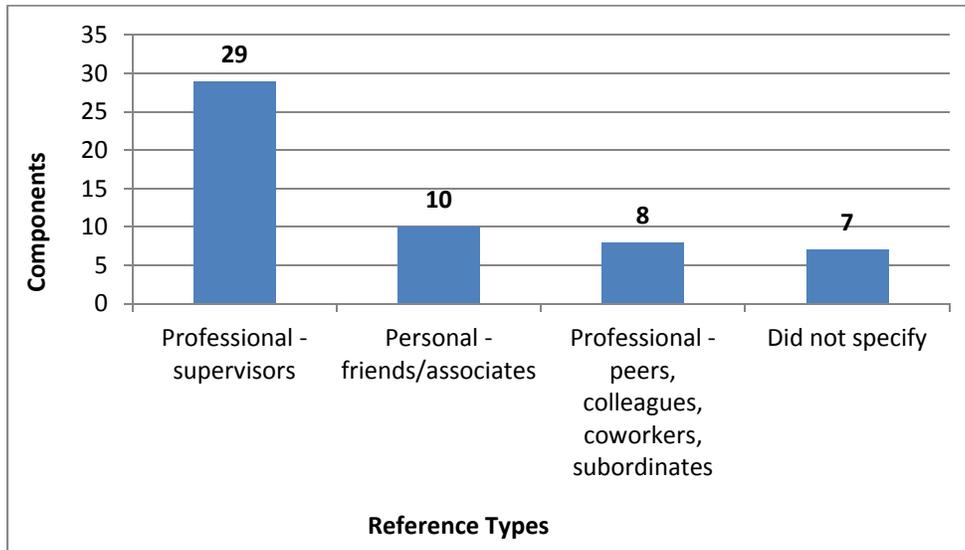
⁵⁶ Some components mentioned more than one type of individual who conducted reference checks.

Components and hiring officials contacted professional references.

Component and hiring official practices generally mirrored OPM and MSPB recommendations that hiring officials contact professional references, particularly recent supervisors, which are the MSPB-described “gold standard” of references. Several components also provided guidance to hiring officials on what to do when a supervisor reference cannot be contacted.

A clear majority of components relied on supervisor reference checks. Nearly three-quarters of components (29 of 39) reported contacting applicants’ supervisors as references. Of those 29 components, 15 (52 percent) reported that they also contacted other types of references, such as colleagues or personal references.⁵⁷ The remaining components cited personal references such as friends and associates or did not specify a reference type. Figure 5 shows the types of references that components reported they contacted.

Figure 5: Types of References Checked by Components



Note: The number of components in the chart exceeds 39 because some components listed more than one type of reference.

Source: Component responses to the OIG’s Department-wide data request.

⁵⁷ Three components employing attorneys also listed “clients” (the Executive Office for United States Attorneys (EOUSA) and the Environment and Natural Resources Division) and “judges and opposing counsel” (the Criminal Division) as potential references.

MSPB suggests seeking a mix of immediate and second-level supervisors, peers, former coworkers, and subordinates (if applicable) as supplements or, if necessary, substitutes for the supervisory perspective. According to MSPB, contacting references who define a wide range of professional relationships with the applicant can help hiring officials better understand the applicant's overall performance and behavior on the job from the perspective of, for example, the applicant's subordinates and supervisors. One MSPB researcher we interviewed likened this approach to "360-degree assessments," which he said some reference checking has begun to resemble.⁵⁸ According to the MSPB researcher, awareness of the availability and utility of contacting different types of professional references, and when to do so, can enhance the value of reference checks.

When applicants request that their current supervisors not be contacted, OPM recommends seeking other references and asking again once a tentative offer has been extended. Similarly, MSPB encourages hiring officials not to settle for information from fewer references and not to be deterred from completing reference checks by unreachable references or time constraints. In their reference check guidance, two components included direction for hiring officials to take when an applicant's supervisor cannot be contacted or is unwilling to provide information, an applicant refuses to provide a supervisor's name, or the supervisor is unavailable. We believe this guidance could prove beneficial to other components as well.

Hiring officials reported checking a variety of different references – including supervisors, colleagues, academic contacts, and personal character references. Almost half (45 percent) of the hiring officials we interviewed reported that their office had asked applicants to provide professional references that included supervisors and colleagues. Another 19 percent of hiring officials stated that their offices had asked applicants to provide a combination of personal, professional, and academic references. The remaining 36 percent did not know or did not specify the types of references their offices had asked references to provide.⁵⁹ When we asked hiring officials which types of references they

⁵⁸ Typically associated with performance appraisals, 360-degree assessments go beyond input from supervisors to include input from peers, customers, subordinates, and others. OPM, Performance Management Practitioner Series, *360-Degree Assessment: An Overview*, Performance Management and Incentive Awards Division (1997), 1.

⁵⁹ The information we requested from components and hiring officials about the types of references contacted differed. Whereas we asked components to describe only
(Cont'd.)

considered to be most useful, they named supervisors, professional references, recent references, and individuals who receive work products from the applicant.

Hiring officials requested and contacted references in addition to those provided by the applicant.

In addition to contacting the references that applicants provided, component hiring officials frequently asked references for the names of additional references and then contacted those individuals for information on the applicant, a practice encouraged by MSPB. MSPB recommends that hiring officials ask references at the end of the reference check discussion for more contacts, when the questions are fresh in their mind and they can best determine who else could answer them well. Further, about two-thirds of the hiring officials we interviewed contacted individuals they personally knew at the applicant's organization to inquire about applicants.

Fifty-six of the hiring officials we interviewed (64 percent) told us that they requested names of additional references at least "sometimes." All but 3 of the 56 said they then contacted those references at least "sometimes," although few obtained the applicant's prior permission, as discussed in the next section.⁶⁰ Hiring officials from at least three components regularly requested references in addition to those provided by applicants or had guidance encouraging reference checkers to do so. This practice increases the possibility of discovering useful information from references because information is collected from the individuals who can best evaluate applicants' workplace performance and behavior.

The reasons hiring officials cited for requesting additional references included:

- the applicant's supervisor is not familiar with the applicant's daily work,
- the applicant's supervisor or listed reference is unreachable,
- the reference cannot verify information that the applicant provided,
- the reference the applicant provided is not a supervisor,

which references were typically contacted, we asked hiring officials what types and how many references their offices asked applicants to provide, whether their offices typically contacted all references an applicant provided, and if not, which reference types they considered to be most valid.

⁶⁰ Of the remaining three hiring officials, one told us that he did not contact these additional references, and two did not answer the question.

-
- a reference volunteers an additional name,
 - to obtain additional information, and
 - to reconcile contradictory information.

Another common reference checking practice among component hiring officials was contacting individuals they personally knew at the applicants' current or former workplace to seek a reference. Fifty-nine of the hiring officials we interviewed (67 percent) told us they were "very likely" or "somewhat likely" to contact someone they personally knew for a reference on the applicant. Some hiring officials told us that their supervisors encouraged them to do this, particularly in small career fields or jurisdictions where applicants and contacts are likely to know each other. However, as discussed in the next section, few of those hiring officials followed MSPB's and OPM's recommendation to seek applicants' permission before making these contacts.

Half (59 percent) said calling someone they personally knew at an applicant's current or former workplace was reliable or effective in obtaining information about the applicant's performance. Some commented that information given by people they personally knew was often more reliable than that from individuals the applicant had furnished as references because the officials knew and trusted the contact's judgment. Others added that the reliability and effectiveness of the reference depends on how well the reference knew the person and how closely that person worked with the applicant. Some specifically told us that contacting someone they knew for a reference was a positive experience that yielded useful information.

Due to the frequency of this practice among component hiring officials, we asked these officials whether they considered the information they receive from their personal contacts to be off the record. Two-thirds of the 59 officials who said they were likely to contact individuals they personally knew for a reference (39, or 66 percent) responded that they would not consider their reference check conversation with a personal contact about an applicant to be off the record, whereas 20 of the 59 (34 percent) said they would.

Despite the frequency of hiring officials using personal contacts as references and the benefits perceived by those who do so, we did not find any written component reference checking guidance that addressed this issue. Although MSPB encourages hiring officials to contact multiple references – including those not provided by the applicant – neither MSPB nor OPM discusses using hiring officials' personal contacts as references.

The number of references hiring officials contacted for each applicant varied.

Hiring officials told us that the number of references they contacted depended on factors such as the number of references provided by the applicant and what the references first contacted by the hiring official said about the applicant. Generally, practices described to us by hiring officials were consistent with OPM and MSPB recommendations to contact at least three references, and more if responses are inconsistent or references cannot be reached.

Of the 88 hiring officials we surveyed, 35 (40 percent) told us that they contacted all references provided by an applicant, whereas 22 (25 percent) said they did not contact all references. Of the 22 officials who stated they did not contact all the references provided by an applicant, most (18 officials, or 82 percent) told us they considered current and former supervisors to be the most useful. Five other hiring officials cited references who received work products from the applicant and recent references as being the most useful.⁶¹

Of the remaining 31 hiring officials we surveyed, 29 told us that the number of references contacted depended on specific circumstances, and the other 2 hiring officials did not know whether all references were contacted. Ten officials said they based the number of references they contacted on the nature of information provided by the references. If a hiring official received positive information about the applicant in the first two reference calls, the official might choose not to call any others. In contrast, if a hiring official received negative or conflicting information, the official might want to contact other references to verify or dispute the information.

Components and hiring officials believed the telephone was the most reliable method to contact references.

Most components – 31 of 39 (79 percent) – reported the telephone as the “most reliable method” for reference checking, as OPM and MSPB recommend. Three components (8 percent) identified use of both the telephone and e-mail as most reliable. The remaining five components did not specify. Hiring officials’ responses were similar to components’ in that most – 55 of 88 (63 percent) – identified the telephone as their primary means of contacting references. Using the telephone to contact

⁶¹ The number of reasons given exceeds the number of hiring officials who did not contact all references because one hiring official commented on two topics.

references allowed hiring officials to establish a rapport with the reference provider and engage in a conversation so that they could question and probe when more information or clarification was needed.

About one-third of the hiring officials we interviewed (31 officials, or 35 percent) told us they at least “sometimes” used methods other than the telephone to contact references. They told us they used e-mail to make initial contact with a reference and set up a telephone conversation, to contact a reference if they have not been reachable by telephone, and to ask follow-up questions.⁶² Face-to-face meetings were used if the reference was in close proximity, such as in the same building. Three hiring officials we interviewed said that they preferred to conduct reference check conversations in face-to-face meetings.⁶³

Hiring officials typically spent about 20 minutes on a reference call and a few hours in total conducting reference checks.

Component hiring officials’ practices were generally consistent with OPM and MSPB recommendations to spend about 20 minutes on a reference check or a few hours for all reference checks. Hiring officials we interviewed told us that conducting individual reference checks took from 5 to 45 minutes and that the total time for contacting all references for an applicant did not exceed 4 workdays. Some hiring officials commented that the most time-consuming part of reference checking was actually making contact with a reference.

However, some hiring officials told us they spent only 5 minutes on each reference check, which may not be sufficient time for the officials to probe for detailed information and examples about an applicant’s performance or abilities. Hallmarks of a thorough reference check include asking probing, open-ended questions and requesting clarification and follow-up where needed, according to OPM and MSPB.

⁶² In its 2005 report, MSPB acknowledged the increased role of e-mail in reference checking but cautioned that relying on e-mail alone reduces the value of reference checking because it prevents a truly interactive conversation.

⁶³ Although MSPB does not discuss face-to-face reference check conversations, it mentions videoconferencing as potentially holding promise for useful reference checking since hiring officials can observe non-verbal cues.

Hiring officials generally did not follow OPM and MSPB guidance on when to conduct reference checks in the hiring process, on obtaining applicants' permission before contacting additional references, and on documenting reference checks.

While the practices described previously were consistent with OPM and MSPB recommendations, the practices described below were inconsistent with practices recommended by OPM and MSPB. We found inconsistencies regarding when in the hiring process references are checked, whether applicants' permission is obtained before contacting references not provided by the applicant, and whether reference checks are documented using a standard form.

Reference checks were generally not conducted at the recommended point in the hiring process.

Reference checks of applicants were not generally being done during the "opportune" time recommended by OPM and MSPB, which is near the end of the hiring process when a few top applicants remain in the pool but before a conditional job offer has been made. MSPB notes, "If reference checking is done too early, it may seem more fair to applicants, but can become prohibitive in terms of resources. If it is done too late, the results may not actually inform a hiring decision."⁶⁴ MSPB specifically cautions against checking references for only the final applicant because the goal of reference checking is to verify information provided by the applicant, collect additional information from references, and use that information in the hiring decision.

Less than one-third of the component responses indicated they checked references within the time frame recommended by OPM and MSPB. Of the 33 components that regularly conducted reference checks and described when they conducted the checks, 25 checked references between the conclusion of applicant interviews and selecting a final, successful applicant for at least one position type.⁶⁵ Of these 25

⁶⁴ MSPB, *Reference Checking in Federal Hiring: Making the Call* (2005), 27.

⁶⁵ For this analysis, we excluded 6 of the 39 components in our review scope based on their responses. Three components responded that they did not generally check new applicants' references (the BOP, FBI, and Office of Legal Counsel, which submitted only a vouchering form). Information provided by three other components was not sufficiently clear to make a determination that reference checking was definitively conducted (JMD, the U.S. National Central Bureau of Interpol, and Office of Information and Privacy).

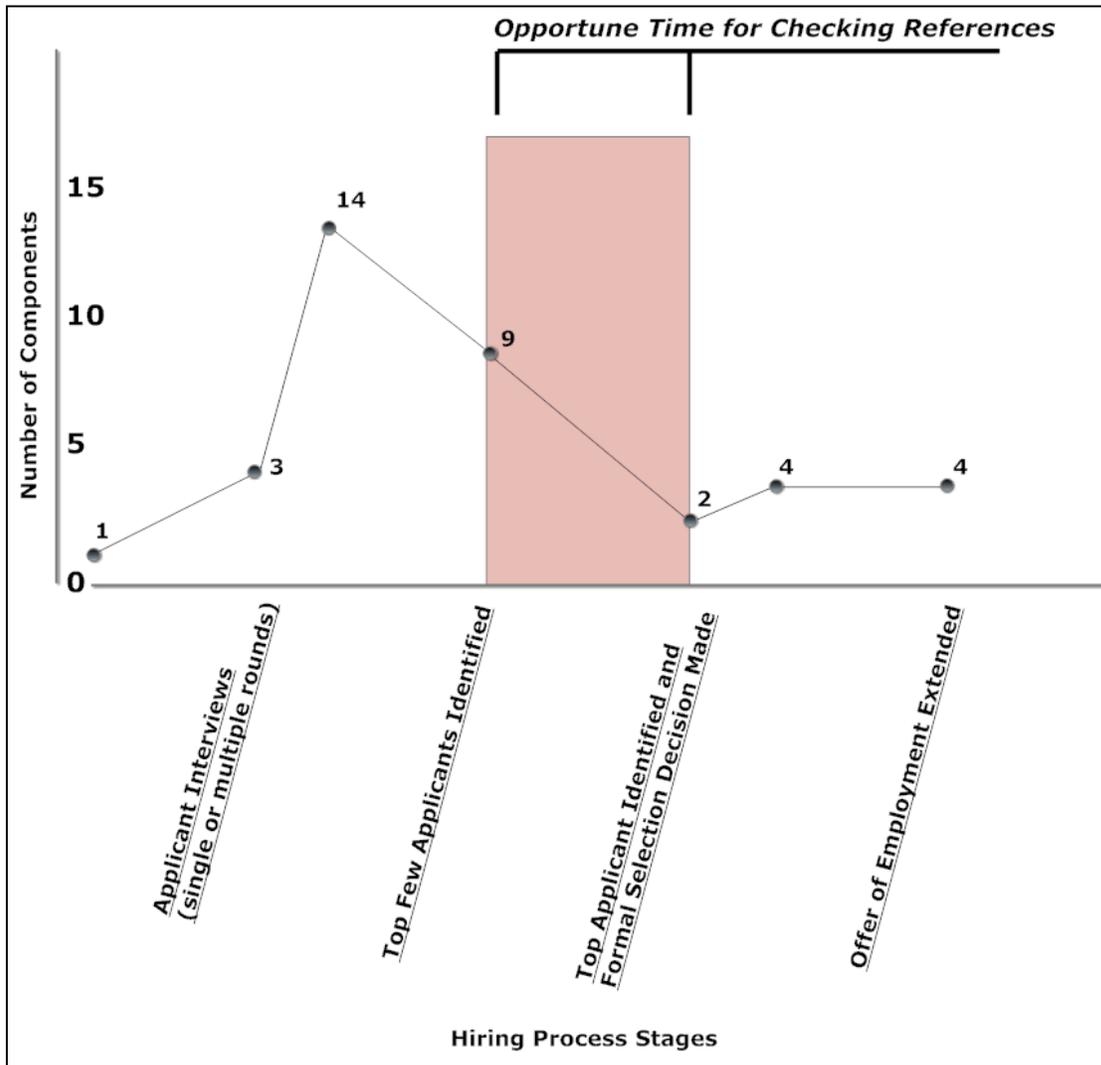
We included four components on the timeline in Figure 6 twice based on their responses. Three components – the Civil Rights Division, the Office of Justice

(Cont'd.)

components, only 11 stated they conducted the checks in the narrower time frame recommended by OPM and MSPB. Figure 6 below shows the approximate distribution of components that checked references both within and outside the opportune time.

Programs, and the Office of Public Affairs – provided different responses for different position types. A fourth component – EOUSA – noted two different points in the hiring process where reference checking was performed. Where components provided the same answers for multiple position types (such as attorneys and support staff), we included them on the timeline once.

Figure 6: Approximate Reference Check Timing



Notes: We determined reference check timing based on components’ responses to our data request question, “Briefly describe your agency’s process for checking applicant references, to include: At what point during the hiring process are references contacted?” We placed the components on a general hiring timeline in relation to the point in the hiring process that MSPB and OPM encourage reference checking.

These results are based only on components’ self-reporting and variation likely occurs within each component. We placed into the “opportune time” category only those components that explicitly indicated references are checked not only after interviews but after narrowing applicants down to the few top or prior to making a selection.

Source: 33 component responses to the OIG’s Department-wide data request.

Like the components, less than one-third of the 88 hiring officials (26, or 30 percent) we surveyed indicated they checked references within the time frame recommended by OPM and MSPB. Twenty-one other hiring officials (24 percent) told us they checked references between

completing applicants' interviews and selecting a final, successful applicant (no position types were specified). The 41 remaining hiring officials stated they conducted reference checks earlier or later in the hiring process. Among the 41 officials, 16 checked references only for the final applicant, and 21 said that they checked references only for internal applicants, that they checked references before the hiring official's supervisor approved the applicant, or that the stage in which they checked references varied.

Few hiring officials obtained applicants' permission to contact additional references.

Both OPM and MSPB recommend that hiring officials ask applicants for permission before contacting any reference, including references not provided by the applicant (additional references). MSPB specifically recommends obtaining permission from applicants before contacting additional references whose names were furnished by the original references. It further recommends that hiring officials inform references that the applicant has granted permission. Although most hiring officials said they obtained applicants' permission before contacting applicant-supplied references, few officials obtained applicants' permission before contacting additional references. Hiring officials said they obtained permission to contact the applicant-supplied references either by asking the applicant during the hiring process or through posting notice of this practice in the position vacancy announcement; both methods are consistent with the recommended practices. OPM recommends obtaining an applicant's prior permission through the job application itself, orally during the interview, or through use of the OF-306 (Declaration of Federal Employment). MSPB states that applicants grant "implied permission" to check references when they apply for a job and that the signed OF-306 strengthens the legal status of their permission, if signed early enough in the selection process.

Most hiring officials reported obtaining applicants' permission to contact the references they provided using one of two methods. Fifty hiring officials (57 percent) told us that they notified applicants during or after the interview that their references would be contacted. Twelve other officials (14 percent) told us that applicants were notified in the vacancy announcement that their references would be checked.⁶⁶ One official told us he notified the applicant once a conditional job offer was made,

⁶⁶ Some officials explained that they were not always responsible for posting the vacancy announcement and therefore were uncertain whether or when applicants completed the OF-306.

and the remaining officials said they orally notified the applicant at other points during the hiring process.

Although 56 (64 percent) of the component hiring officials told us they requested names of additional references “at least sometimes,” only 15 (27 percent) also followed OPM’s and MSPB’s guidance to obtain the applicant’s prior permission. Most hiring officials (34, or 61 percent) explicitly said they did not obtain prior permission.⁶⁷

While we did not specifically ask components to report whether they requested permission from applicants prior to reference checking or informed references that permission had been granted by applicants, seven of the components’ written reference check policies or forms included such guidance. Of the seven components, four required that applicant permission be obtained before contacting applicant-supplied references. Reference check materials submitted by two of those components also required obtaining applicant permission before contacting additional references. The remaining three components’ materials generally encouraged (but did not require) hiring officials to obtain applicants’ prior permission.⁶⁸ None of the seven components’ materials mentioned informing references that applicants had given permission for references to be contacted, as MSPB suggests they do.

Hiring officials did not consistently document reference checks by using a standard form, but did so in other ways.

To increase standardization and effective reference check practice, MSPB recommends that each reference check be documented using a form with questions and spaces for answers. MSPB recommends the form include the time and date of each discussion, who conducted it, and other information relevant to the hiring process. However, this practice was not occurring consistently among the components.⁶⁹ Further, OPM recommends that reference check records be “stored and retained according to agency policy” although neither OPM nor MSPB provide

⁶⁷ Of the remaining seven hiring officials, four said they would “sometimes” obtain the applicant’s prior permission, and three did not answer the question.

⁶⁸ One component recommended obtaining written consent from applicants before contacting their references to relieve the current or former employer of any liability in providing information during a reference check.

⁶⁹ We previously reported that 36 percent of the components (14 of 39 components) did not submit any written reference check guidance, forms, or questionnaires, and 64 percent of hiring officials reported not having a written set of reference check questions on a form.

advice on where or for how long reference checking information should be retained because the decision is agency-specific. Few components provided written guidance on documenting reference checks or retaining reference check records, and most hiring officials we interviewed reported that they documented reference check information in various ways and retained the information for varying periods of time.

Although hiring officials generally stated they were documenting reference checks, they also stated that they were uncertain of component expectations and had very little written guidance to follow. Of the 88 hiring officials we interviewed, 77 (88 percent) reported they documented reference checks. Of the remaining 11 officials, 5 stated that they did not document checks, and 6 stated that they only sometimes documented information obtained during a reference check. Circumstances in which the six hiring officials sometimes did not document reference checks included when the information provided was anecdotal, communication with the reference was very brief, the information was consistently positive, or documentation was not required.

Seventy-three hiring officials (82 percent) stated that they retained the information they gathered during a reference check in some manner and for varying periods of time. The records were stored either in hiring officials' own files, their office's personnel files, or were sent to the human resource office for storage. Many (44 percent or 39 officials) did not know how long reference checking records should be kept. The period of retention varied among hiring officials who reported maintaining reference check records; a period of 1 to 3 years was most commonly cited.⁷⁰

Regarding requirements for documenting and retaining reference check records, seven components' written guidance (18 percent) addressed the documentation of reference checks. Another 27 components (69 percent) described reference check documentation in their responses to our data request, but documentation of checks was not addressed in the policies they provided. Seven components made no mention of documenting reference checks in either their policies or in their responses.⁷¹ Regarding the retention of reference check records,

⁷⁰ Some hiring officials told us that they sent the notes, completed forms, or summaries from reference checks they conducted to a headquarters or human resource location.

⁷¹ In our data request we asked components, "Are questionnaires, forms, or worksheets used by your agency retained? If so, by whom and for how long?"

(Cont'd.)

only 1 component explicitly addressed procedures for retaining reference check information, while 22 (56 percent) provided descriptions of document retention procedures. Sixteen components did not address the retention of reference check documents in their responses. Among components that did address retaining reference check records, the retention period ranged from less than 1 year to the time of the employee's departure.⁷²

Conclusion

We surveyed component hiring officials who checked applicants' references and found they conducted the checks even though not required to do so because they perceived reference checking to be important in determining whether an individual was a strong applicant and a good fit for the organization. They also stated that uncovering derogatory or contradicting information as part of a reference check could prevent the hiring of an applicant who cannot perform the job and who will place a burden on office resources.

Reference check practices varied considerably, mirroring the practices recommended by OPM and MSPB in some areas, but not in other areas. Practices were generally consistent with recommendations by OPM and MSPB that reference checks be conducted by officials making the hiring decisions, that hiring officials contact at least three professional references, that hiring officials use the telephone to check references, and that they spend about 20 minutes on each reference check. However, reference checks were often not conducted at the most useful point in the hiring process, applicants' permission was not always obtained prior to contacting references not provided by the applicant, and results of reference checks were not documented using a standard form, all of which OPM and MSPB recommend be done.⁷³

Components responded to the question by describing whether they documented reference checks. We assessed how components addressed documentation and retention (whether in a written policy, a description, or not addressed) and what retention time, if any, components listed.

⁷² Two components kept the information less than 1 year, and another two kept it at least 1 year. Four components kept the information for 2 to 3 years. Two components kept reference check information for more than 3 years. Four components retained reference check information until the employee left the agency.

⁷³ OPM does not specify how reference checks are to be documented (such as using a standard form); it defers to agency human resource offices.

Some components conducted vouchering in lieu of a reference check.

We found that some components' practices substituted vouchering in place of a reference check for both attorney and non-attorney applicants.⁷⁴ Further, few hiring officials we interviewed could differentiate between vouchering and reference checking. OARM policy requires that both vouchering and reference checking be conducted for new career attorney applicants, but few components indicated that they did so.

Some components and hiring officials did not distinguish between vouchering and reference checking, which have different purposes.

In response to our request for components to provide the form they use for reference checking, two components indicated that they conducted reference checks but submitted only Form OBD-236 (voucher form), indicating that at least those two components believed that the voucher form served the purpose of a reference check.⁷⁵ Some components used the terms "vouchering" and "reference checking" synonymously in their responses, while other components submitted the voucher form in conjunction with reference checking materials, suggesting they recognized some distinction between the two checks.

Similarly, when we asked hiring officials to differentiate between vouchering and reference checking, few correctly identified the difference and some referred to Form OBD-236 when asked what form they used for reference checking. Only 15 of the 88 hiring officials we surveyed (17 percent) correctly identified vouchering as a process to evaluate the suitability of an applicant for federal employment, while reference checking is a process that verifies duties in past positions and collects information on an applicant's past performance. Four hiring officials told us that reference checking and vouchering were one and the same, and five told us they used the same form for both. Two hiring officials told us

⁷⁴ Vouchering is a type of suitability determination that seeks to verify an applicant's basic residence, education, employment, and criminal history in an effort to determine an applicant's overall suitability for federal service. Unlike reference checking, vouchering is typically conducted after selecting an applicant and making a conditional job offer.

⁷⁵ The two components (the Offices of Legal Counsel and Information Policy) were among the six that we excluded from our analysis of components that reported regularly conducting reference checks.

that they used a question on the voucher form, “Is there anything else you would like to add?” as a reference check question.

Few components indicated that they followed OARM’s requirement to conduct both vouchering and reference checks for attorney applicants.

Few components indicated that they were aware of and followed OARM’s requirement to conduct both vouchering and reference checking on new career attorney applicants. We asked that components responding to our data request “include any information related to your agency’s [component] assessment of applicant suitability that either complements or is done in lieu of reference checking (e.g., suitability or security questionnaires for applicants’ references).” We also requested that components submit any reference check materials that differ by position or category of position (such as attorneys or investigators).

Only 10 of the 39 components (26 percent) indicated in their responses to our data request that they followed OARM’s requirement for attorney hires. Of the 10, only 4 cited or provided OARM’s April 13, 2010, memorandum establishing the requirement, including OARM itself. The remaining 29 components (74 percent) did not indicate whether they followed OARM’s requirement.⁷⁶

While most components did not specifically mention OARM’s requirement, those with large numbers of attorneys described reference check practices for attorney positions. Fifteen components (38 percent) indicated in their responses that their reference checking procedures for attorney applicants differed from procedures for applicants in other job series. In addition, while most components (24 components, or 62 percent) indicated that they conducted reference checks before a conditional job offer was extended, as OARM Memorandum 2010-3 requires, the remaining components did not specify when they checked references.

Only five components (13 percent) either clearly distinguished between their use of Form OBD-236 for vouchering and reference checking, or described attorney reference checks in enough detail to make it apparent that their reference checking and vouchering were distinct processes. The remaining 34 components did not clearly delineate between reference checks and vouchering and did not distinguish the two in their submissions to the OIG.

⁷⁶ All 39 components have attorney positions, and 27 of the 39 components (69 percent) hired attorneys in FY 2010, according to National Finance Center data.

We concluded that vouchering was occurring in place of, not in conjunction with, reference checking at some components for both attorney and non-attorney applicants. We believe that the factors contributing to this occurrence were the general absence of clear, written reference check guidance available to component hiring officials; confusion over the purpose of vouchering and reference checking; and uncertainty about reference check expectations overall, as discussed in the next section.

The SAVE Council questionnaire proposes combining both performance and suitability questions in a single form.

The SAVE Council's draft Employment Reference Questionnaire combines suitability and performance questions in an attempt to improve the overall efficiency of the hiring process and save the Department time and money. SAVE Council working group members told us the questionnaire would aid in disclosing an applicant's performance problems that would not otherwise be uncovered due to agencies' reciprocity agreements.⁷⁷ They explained that uncovering questionable behavior or performance information could help prevent components from spending money to begin, and possibly complete, a background investigation on an applicant they ultimately would not want to have hired. Members also told us that the questionnaire would hold hiring officials accountable for hiring quality applicants and make the hiring process more efficient. As of July 2012, the questionnaire had been published for comment in the Federal Register.

Conclusion and Recommendations

Some components erroneously used vouchering, a suitability determination, in place of reference checking, and few hiring officials we interviewed could explain the difference between determinations of applicants' suitability, and reference checking. Although we did not find inadequate reference check practices that directly led to poor hiring decisions, we believe the misconception that vouchering is a substitute for reference checking increases the risk that components will make a poor hiring decision. A cursory check of an applicant's suitability for

⁷⁷ Pursuant to § 3001(d) of the *Intelligence Reform and Terrorism Prevention Act of 2004*, Pub. L. No. 108-458 (2004), background investigations and determinations completed by an authorized investigative agency or authorized adjudicative agency must be accepted by all agencies and be transferable to any other authorized investigative agency. Section 3001(d)(4) of the Act prohibits authorized agencies from conducting an investigation if a current investigation or clearance of equal level already exists or has been granted by another authorized adjudicative agency.

federal service cannot serve as a substitute for a reference check to verify the applicant's duties in past positions and evaluate an applicant's past performance. Understanding the differences between the purposes of vouchering and reference checking is critical to ensuring an applicant is thoroughly screened for both suitability and capability.

We believe components could conduct better reference checks and make more informed hiring decisions if the Department clarified that reference checking differs from vouchering and other suitability determinations by: (1) overall purpose, (2) the topics covered, (3) timing in the hiring process, (4) who conducts the checks, and (5) the sources contacted. Reaffirming use of Form OBD-236 as a voucher form for the Department's screening of applicants' suitability and establishing reference checks as a distinct practice would help clarify the differences, even if the two are conducted during the same reference contacts.

Some components are also unaware of OARM's requirement that both reference checks and vouchering be conducted for all new career attorney applicants. Reiterating components' obligation to follow OARM Memorandum 2010-3, which establishes this requirement, would ensure that components are aware of their obligation to conduct reference checks and vouchering during the attorney hiring process.

To improve the Department's ability to select the most qualified job applicants we recommend that JMD:

1. Issue guidance to Department component heads, Executive Officers, and Human Resources Officers clarifying the purposes of, and distinctions between, suitability determinations (such as vouchering) and reference checking, including differences in topics covered, who conducts the checks, the sources contacted, and when in the hiring process each occurs.
2. Reiterate components' obligation to follow OARM Memorandum 2010-3, which requires both reference checking and vouchering using Form OBD-236 for attorney applicants.

Hiring officials reported they were often uncertain of their component's reference checking expectations and allowable practices.

Hiring officials we surveyed were uncertain of their agencies' expectations for reference checking, including whether checking references was required. The hiring officials commonly expressed

uncertainty about what questions they could ask a reference. More than half of the hiring officials we interviewed were not aware of or did not have guidelines addressing what could and could not be asked during a reference check. Hiring officials also expressed strong interest in receiving reference checking guidance and described elements of information they would find useful in that guidance.

Hiring officials were unsure whether their component required reference checking.

Of the 88 hiring officials we surveyed, 36 (41 percent) did not know whether their component formally required reference checking by a policy or procedure. Twenty-three hiring officials (26 percent) told us they believed reference checking was not required at all. Among the remaining 29 hiring officials, 15 (17 percent) believed their component required reference checking. Fourteen (16 percent) gave responses that fell into other categories, including that reference checking was not required but was nonetheless an accepted practice, that it was required only for certain positions, and that it was required in their office but not component-wide.

Over half of the hiring officials we interviewed reported lacking clear guidance in the form of reference check questions.

The majority of hiring officials we surveyed – 64 percent (56 officials) – told us their office did not have a set of written reference check questions. Further, when we asked the 32 hiring officials whose offices did have written questions whether the questions were tailored to a specific position, 72 percent (23 officials) said they were standard and only 25 percent (8 officials) described them as position-specific (4 of the 8 also had standard questions).⁷⁸

Although 64 percent of the components provided some form of written reference check materials, 53 percent (47 officials) of the hiring officials we interviewed stated they had not been provided or were not aware of any component guidance regarding what questions they could or could not ask of references. While the 88 hiring officials who participated in our survey were not representative of the entire Department, these findings demonstrate that at least some hiring officials were unaware of existing guidance from their agencies. For example, two hiring officials from the same component each told us in separate interviews that it would be useful to have reference check

⁷⁸ One hiring official did not know what type of questions his agency used.

guidance from their component addressing what questions could and could not be asked. They were unaware that their component had already developed this guidance – which included sample reference check questions – and had posted it on the component’s intranet. Some hiring officials commented that they used their own set of questions and were unaware of what questions others in their component used. These examples suggest a need for components with published reference check questions to re-circulate them to their hiring officials regularly.

Hiring officials reported being unclear about whether they could ask references questions on many topics due to legal or privacy concerns and consequently avoided the topics, including specific questions that

OPM and MSPB recommend that hiring officials ask.⁷⁹ For example, more than half of the hiring officials we interviewed (55 or 63 percent) said they did not ask references direct questions about whether an applicant had performed or behaved poorly on the job. Instead, two-thirds of the hiring officials said they attempted to elicit answers about poor performance or behavior

Unclear Reference Check Topics

Hiring officials reported being unclear if they could ask applicants’ references about topics such as: (1) leave usage, (2) military service, (3) specific behavior problems, (4) whether the applicant received poor evaluations, (5) whether there were problems that would affect the applicant’s ability to perform the job, (6) whether there had been specific problems between the applicant and his or her co-workers, and (7) whether the applicant had ever been fired. Additional topics are listed in Appendix VI.

through indirect, open-ended questions. Yet, MSPB encourages agencies to ask directly about poor behavior and to probe for specific examples of performance. MSPB discusses a common misconception – that discussing performance or job-related behavior of an employee is not legal. MSPB advises reference checkers that this misconception is false because reference checkers have a general “qualified immunity” from invasion of privacy charges provided they ask job-related questions.

Hiring officials also expressed strong interest in receiving reference check guidance, including 23 hiring officials (26 percent) who specifically stated that they would like to see a list of questions that could and could not be asked during a reference check. Hiring officials expressed this interest despite 99 percent of them stating that they were “somewhat” or

⁷⁹ None of the topics about which hiring officials said they were unclear due to legal or privacy concerns were on MSPB’s inappropriate or forbidden topic list (that is, gender (including pregnancy), race, color, religion, national origin, age, and sexual orientation). However, hiring officials cited questions about an applicant’s marital status, children, and disability – topics that appear on some components’ lists of questions to avoid.

“very” comfortable with their knowledge of what questions they could and could not legally ask during a reference check. However, many hiring officials – including those who participated in the telephone survey and those we interviewed separately – told us that a fear of litigation added to the uncertainty over what can be asked and shared during a reference check, and often inhibited the amount of information a reference provided. Concerns over the privacy and confidentiality of information disclosed during a reference check has also caused confusion among hiring officials and, as many hiring officials explained, led to references not being forthcoming in their responses. Appendix VI lists other problems with the reference check process that hiring officials identified.

Hiring officials identified information they would like to see appear in reference checking guidance.

Hiring officials identified specific elements of information they would like to see appear in reference checking guidance. Some specified that the guidance should be issued from the Department, while others preferred that each component issue its own guidance. Hiring officials we interviewed recommended most often that any reference checking guidance issued at the Department-level:

- be flexible so components may tailor it to their specific needs,
- include a list of sample reference check questions,
- include a list of questions that may and may not be asked, and
- provide for reference check training.

Hiring officials also suggested that reference checking guidance, whether issued by the Department or a component:

- include a list of reference checking best practices,
- advise hiring officials how to respond when they are contacted as a reference,
- explain the component’s suitability screening process, including when it occurs and what it entails,⁸⁰
- name the offices or individuals to whom hiring officials should report derogatory information provided by a reference, and
- name the offices or individuals to whom hiring officials should address questions and seek additional guidance.

⁸⁰ Some hiring officials told us managers were not always aware of what questions were asked during background investigations and vouchering, and might omit a question or topic during reference checking because they assumed it would be covered during suitability screening.

Hiring officials' responses about how candid they were when asked questions as a reference illustrate the importance of asking carefully formulated questions. When we asked hiring officials what level of detail they provided when answering questions as a reference, most said they would answer the questions they were asked but would provide details or specific information only if they were asked directly. The quality of the applicant's performance and the reference's willingness to provide truthful information about the applicant are also factors affecting how truthful and forthcoming references are likely to be. When we asked hiring officials how they would provide references for a poor performer whom they would like to see leave the office, almost half (47 percent) said they would either be honest or would answer only the questions they were asked.

In Appendix VII we provide a list of reference check questions that component hiring officials cited as useful, as well as questions suggested by OPM and MSPB. OPM and MSPB recommend that reference check questions be tailored for each position-specific vacancy announcement. OPM officials we interviewed recommended that agencies work with their supporting Office of General Counsel to ensure the legality of each question.

Hiring officials were unsure of the protocols for documenting and retaining reference check records.

Hiring officials we interviewed were uncertain of their agencies' expectations for documenting reference check information and retaining the records. Almost half of the hiring officials we interviewed (42 percent) were uncertain whether their component had any policy or guidance on documenting reference checks. Twenty-three percent (20 officials) told us their office did have policies for the documentation of reference checks.

Hiring officials were also uncertain where and for how long reference check documentation should be stored. There was further confusion among officials about whether (and where) to retain reference check documentation on applicants whom they do not select. Almost half of hiring officials (44 percent) told us that they did not know how long reference check records should be retained.

Conclusion and Recommendations

Hiring officials we interviewed were uncertain of their agencies' reference check expectations and allowable practices, including whether reference checking is required and for which positions; what questions

they could ask during a reference check; and how they should document and retain reference check information. Further, within components that did provide reference check guidance, some hiring officials we interviewed were unaware of the guidance.

Some hiring officials told us they were reluctant to ask key questions that would be permitted or that are recommended by OPM or MSPB (such as asking directly about poor behavior) because they were unsure whether the questions were appropriate. Although we did not find inadequate reference check practices that directly led to poor hiring decisions, clear component-level guidance and improved certainty among hiring officials about their component's expectations would be beneficial. Currently, hiring officials may not be asking questions in a manner that elicits the most useful or descriptive response, and hiring officials may be asking irrelevant or inappropriate questions of references. These conditions diminish the effectiveness of reference checking and can increase the risk of unknowingly hiring a poor performer or an unqualified applicant.

We believe that JMD, as the Department's proponent for human resource policy, should create a central location on DOJNet where reference check guidance for components and hiring managers is posted and regularly updated. JMD should include reference check guidance from OPM and MSPB, as well as a list of Department best practices that includes sample reference check questions. In addition, based on the comments and suggestions of component hiring officials and the benchmarks recommended by OPM and MSPB, JMD should assist components to update or issue their own comprehensive reference check guidance that addresses the following:

- whether the component requires reference checking;
- how reference checking differs from vouchering and other determinations of applicants' suitability;
- who within the component should conduct reference checks;
- how the checks should be conducted (telephone, e-mail, in person);
- when in the hiring process reference checks should occur;
- which type of references should be contacted (those provided by applicants, those provided by references, personal contacts);
- whether applicants' prior permission should be obtained before contacting all reference types;
- what form or questionnaire should be used in conducting reference checks;
- what questions should be asked for each type of position;
- what questions and topics may and may not generally be asked;

-
- how and where to document the results of reference checks;
 - how long to retain reference check records;
 - what hiring managers should say (and not say) when they are contacted as a reference;
 - how hiring officials should handle and report derogatory conduct information provided by a reference; and
 - to whom hiring officials should address their reference check questions and seek additional guidance as needed.

In addition, to maintain hiring officials' knowledge of reference check techniques and to exchange ideas, JMD should provide periodic training on reference checks, perhaps as part of a broader human resource effort addressing hiring.⁸¹

To improve the Department's ability to select the most qualified job applicants, we recommend that the Justice Management Division:

3. Justice Management Division Human Resources/ Administration office (JMD HR) develop and issue Department-wide guidance on the use of reference checks.
4. JMD HR assist components to update or issue comprehensive reference check guidance that meets their unique hiring needs.
5. Create a central location on the Department's intranet where general reference check guidance for components and hiring managers is posted and regularly updated, including guidance from OPM and MSPB, as well as Department best practices and sample reference check questions.
6. Provide periodic training on reference checks, or include it as a part of broader human resource training.

⁸¹ Increased training in effective reference checking techniques was one of MSPB's recommendations in its 2005 report.

CONCLUSION AND RECOMMENDATIONS

Although OPM and MSPB encourage federal agencies to check applicant references for every hiring action, reference checking is not uniformly required by the federal government or by Department regulation or directive. While the majority of the components we reviewed submitted materials or described practices indicating that they conducted reference checks, very few had written policies requiring reference checking. We found that reference check practices varied among components, and not all of the practices were consistent with recommendations from OPM and MSPB. We believe that these inconsistencies create risk that components are not uniformly and thoroughly screening applicants, and that some hiring officials are not collecting information useful in hiring decisions or are simply not bothering to check references. Consequently, components may unknowingly hire individuals who cannot perform a job well or whose talents and interests do not support the component's mission and culture.

We also found that reference checking was more commonly done for non-law enforcement positions and for internal transfers. Many of the new employees the Department hired into law enforcement and correctional officer positions were not reference checked. Notably, ATF, the DEA, the FBI, the USMS, and the BOP had no policies requiring reference checks for new criminal investigators, deputy U.S. marshals, or correctional officers. These components reported that they generally did not check references for those applicants and relied on other methods to evaluate skill and aptitude. Collectively, these five components' hiring for those job series accounted for 38 percent of the Department's total hiring actions within our scope during FY 2010.

Additionally, some components erroneously used a suitability determination (vouchering) in place of a reference check, and few hiring officials we interviewed could explain the difference between determinations of applicants' suitability and reference checking. We believe the misconception that vouchering is a substitute for reference checking increases the risk that components could make a poor hiring decision. Further, not all components were aware of, or were following, OARM's requirement to conduct both reference checks and vouchering for attorney hires.

Finally, hiring officials were generally uncertain of their agencies' reference checking expectations and allowable practices. Component hiring officials we interviewed expressed a need for flexible reference

check guidance, including recommended questions and best practices. Yet the Department has no central source for reference check guidance or training.

To improve the Department's ability to select the most qualified job applicants, we recommend that the Justice Management Division:

1. Issue guidance to Department component heads, Executive Officers, and Human Resources Officers clarifying the purposes of and distinctions between suitability determinations (vouchering) and reference checking, including differences in topics covered, who conducts the checks, the sources contacted, and when in the hiring process each occurs.
2. Reiterate components' obligation to follow OARM Memorandum 2010-3, which requires both reference checking and vouchering using Form OBD-236 for attorney applicants.
3. Justice Management Division Human Resources/ Administration office (JMD HR) develop and issue Department-wide guidance on the use of reference checks.
4. JMD HR assist components to update or issue comprehensive reference check guidance that meets their unique hiring needs.
5. Create a central location on the Department's intranet where general reference check guidance for components and hiring managers is posted and regularly updated, including guidance from OPM and MSPB, as well as Department best practices and sample reference check questions.
6. Provide periodic training on reference checks, or include it as a part of broader human resource training.

APPENDIX I: FORM OBD-236

Below are two versions of the Form OBD-236, the Inquiry Regarding Suitability of Applicant (voucher form).

- Version A is the Department's August 1994 version, which is posted on the Department's intranet.
- Version B is OARM's version of the form. OARM reiterated the requirement to use this form for attorney applicants in an April 13, 2010, memorandum from its Director to the heads of all Department offices, boards, bureaus, and divisions.

Version A

U.S. Department of Justice

Inquiry Regarding Suitability of Applicant

Today's Date:

(Applicant's Name)

Name of individual Questioned:

Relation to Applicant:

Employer
 Co-Worker

Supervisor
 Personal Associate

Years of Relation to Applicant:

From:

To:

1. To your knowledge, is this person reliable, honest, trustworthy and of good character?

YES NO (If no, explain)

2. Do you have any reason to question this person's loyalty to the United States?

YES NO (If yes, explain)

3. Do you know of anything questionable in the applicant's background?

YES NO (If yes, explain)

4. Would you recommend this person for a position of trust in the U.S. Government?

YES NO (If yes, explain)

5. Please furnish any other information you may wish to offer.

(FOR EMPLOYER OR SUPERVISOR ONLY)

6. Reason applicant left (or is leaving) this position?

7. Is this person eligible for rehire?

YES NO (If no, explain)

8. To your knowledge, has this person ever been fired from any job for any reason, or quit a job after being notified that he/she would be fired?

YES NO (If yes, explain)

Inquiry conducted by:

FORM OIG-236
Aug. 94

Version B

APPLICANT'S NAME: _____
PLACE OF EMPLOYMENT: _____
DATES OF EMPLOYMENT: _____
NAME OF INDIVIDUAL QUESTIONED: _____
RELATIONSHIP TO APPLICANT: Employer Supervisor Co-Worker

YEARS OF RELATION TO APPLICANT: From: _____ To: _____

1. To your knowledge, is this person reliable, honest, trustworthy and of good character?
 Yes No (If no, explain) _____

2. Do you have any reason to question this person's loyalty to the U.S.?
 Yes No (If yes, explain) _____

3. Do you know of anything questionable in the applicant's background?
 Yes No (If yes, explain) _____

4. Would you recommend this person for a position of national security in the U.S. Govt.?
 Yes No (If no, explain) _____

5. Please furnish any other information you may wish to offer.

6. Reason applicant left (or is leaving) this position? _____

7. Is this person eligible for rehire? Yes No (If no explain) _____

8. To your knowledge, has this person ever been fired from any job for any reason, or quit a job after being notified that he/she would be fired? Yes No (If yes, explain)

Inquiry conducted by: _____

PRIVACY ACT (The following information should be provided to the person being interviewed concerning this questionnaire.) Under the provisions of the Privacy Act of 1974, the information that you provide can be released to the applicant unless you specifically indicate that you do not want the information released. Please indicate your preference.

This information CAN or CANNOT be released to the applicant.

Printed name and signature of employee conducting this inquiry Date () Telephone

APPENDIX II: OPM- AND MSPB-RECOMMENDED PRACTICES FOR COMPILING AND ASKING REFERENCE CHECK QUESTIONS

This appendix summarizes additional OPM and MSPB guidance to federal managers on how to compile and ask reference check questions.⁸² Appendix VII includes the specific questions suggested by OPM and MSPB, and those cited as useful by component hiring officials.

1. Ensure each question addresses a specific need identified in the agency's reference checking strategy (MSPB).

- a. MSPB advises reference checkers to know the reason for asking each question and the type of information it intends to elicit.
- b. MSPB suggests incorporating into the questions one or two examples of both useful responses that answer the question and inadequate responses that would require further questioning.
- c. Another strategy for creating targeted questions is to begin with the rating schedule or structured interview questions that will be used in the hiring process. Because those questions are linked to job competencies needed for

Reference Checking Strategy

Before developing reference check questions, MSPB encourages agencies to develop a reference checking strategy, which may include a subset of five strategies:

1. "Checking the validity of information obtained from job applications or interviews to determine if the applicant has been dishonest.
2. Checking whether an applicant has fabricated or exaggerated self-reported information to determine whether conclusions drawn from this information are accurate.
3. Clarifying developmental needs of applicants to determine what post-hire training or development opportunities to provide.
4. Discovering inappropriate behavior patterns of applicants to maintain a safe and efficient workplace, and to protect the employer from charges of negligent hiring.
5. Assessing competencies that have not been otherwise adequately assessed earlier in the hiring process."

– MSPB, *Reference Checking in Federal Hiring: Making the Call* (2005), 26.

⁸² Summary compiled from the following sources: OPM, *Assessment Decision Guide*, "Personnel Assessment and Selection Resource Center," <http://apps.opm.gov/ADT/content.aspx> (accessed September 24, 2012); OPM, *Reference Checking* (undated); OPM, *End-to-End Hiring Initiative* (undated); MSPB, *Reference Checking in Federal Hiring: Making the Call* (2005).

the position, responses can be compared directly with information provided by applicants.

2. Begin with basic, verifying questions (such as dates of employment or relationship to the applicant) and then move to in-depth questions (OPM, MSPB).

- a. Sequence: MSPB provides a general sequence for ordering questions that follows the pace at which rapport is established during reference check discussions. The sequence reflects reference checking specialists' recommendations, survey questionnaires, and other types of interviews and matches the strategies listed above:
 - i. Begin with fact-oriented questions that verify résumé material or training and experience claims.
 - ii. Progress to a more evaluative discussion of the applicant's past performance and competencies.
 - iii. Address the applicant's developmental needs.
 - iv. Discuss sensitive information such as potentially inappropriate workplace behavior later in the interview.
- b. Verification: MSPB recommends devoting "a question or two" early in the reference checking interview to assess the reference provider's credibility as a source of job-related information about the applicant. Specifically, reference checkers should:
 - i. Ask for the reference provider's job title and employer.
 - ii. Ask the reference provider to describe the applicant's responsibilities in the former job.
 - iii. Ensure the nature of the relationship to the applicant is work-related and matches information on the résumé.
- c. Discovering inappropriate behavior: MSPB advises reference checkers to pursue this strategy "with greater subtlety" but to ask directly about problem behaviors. MSPB states that it is necessary to listen closely to responses and probe when reference providers seem reluctant to talk.

3. Create a standard set of questions tailored to the position or vacancy announcement to be filled (MSPB, OPM).

- a. OPM directs reference checkers to develop questions relevant and specific to the position under consideration. OPM recommends adding structure to the reference checking process – which it states can greatly enhance its validity and usefulness – by basing questions on the required competencies

and tasks for the position and asking applicants the same set of questions.

- b. Similarly, MSPB advises against adopting a “rigidly standardized” set of questions, instead recommending that agencies use a standard set of tailored questions for each vacancy announcement. This will produce comparable information from each reference and allow hiring officials to better compare applicants. MSPB noted that effective reference checkers will customize some questions based on the applicant’s résumé and create follow-up questions based on the specific discussion.

4. Ensure most questions are open-ended (MSPB, OPM).

- a. Asking open-ended questions will prompt references to be more descriptive and provide more than just yes or no responses.

5. Ensure all questions are job-related and common to all applicants (MSPB, OPM).

- a. Focus the discussion on particular job-related information common to all job applicants to ensure fairness and comparison between applicants.
- b. Legitimate question topics include performance in past jobs, work habits, job-related competencies, and appropriateness of past on-the-job behavior. MSPB cautions that it is a prohibited personnel practice to discriminate based on the personal conduct of an employee or applicant, unless the conduct would adversely affect on-the-job performance.⁸³

6. Focus questions on work behavior that the reference is likely to have directly observed (MSPB, OPM).

- a. MSPB cautions that only the applicant’s professional references will be able to provide information on the applicant’s job-related performance. Supervisors (past and present) are considered by MSPB to be the “gold standard” of reference providers. Personal references may be biased by their relationship with the applicant and their characterizations may not accurately reflect the applicant’s true job performance.

⁸³ MSPB cites 5 U.S.C. § 2302(b)(10).

-
-
- b. MSPB urges agencies to clearly communicate their expectations to applicants about minimum qualifications of acceptable references they provide (that references must be able to describe the applicant’s job behavior and performance).

7. Ask follow-up, probing questions and request specific examples that show how the applicant has demonstrated each relevant skill (MSPB).

- a. Each evaluative statement that the reference provides should be supported by at least one example to prevent misunderstanding and to encourage fairness and accuracy. MSPB found that often a general probing question such as, “Can you tell me more about that?” or “Can you give me an example?” will produce the additional information.
- b. When discussing an applicant’s performance appraisal, probe for specific examples of the behavior described rather than relying on summary evaluations such as “outstanding” or “excellent.”⁸⁴ Probing for the basis of these evaluations is necessary, MSPB states, so this behavior can be matched to the standards or expectations of a different job.
- c. When asking follow-up questions, MSPB cautions against leading the reference provider by suggesting a possible answer; the reference checker should only guide the discussion.

8. Ensure questions are “legally defensible” and avoid inappropriate topics (MSPB).

- a. MSPB states that reference checkers can meet high professional standards within legal boundaries while requesting and obtaining information about job applicants without fear of legal consequences.⁸⁵

⁸⁴ MSPB cautioned that performance appraisals’ greatest value in a reference check is as a memory aid to a former supervisor who is describing an applicant’s behavior as observed on the job.

⁸⁵ MSPB, citing 5 U.S.C. §§1302, 3301, states, “Past and potential employers have generally been granted a ‘qualified immunity’ to discuss the employment-related performance and behavior of employees with each other. This immunity means that employment-related questions about an applicant’s behavior may, as a general rule, be asked and answered with minimal risk of legal liability so long as an applicant’s rights are not knowingly violated.” MSPB, *Reference Checking in Federal Hiring: Making the* (Cont’d.)

-
-
- b. In addition to asking about the applicant’s personal conduct, forbidden topics include gender (including pregnancy), race, color, religion, national origin, age, and sexual orientation.⁸⁶
 - c. Although MSPB encourages open-ended discussions with reference providers, it cautions agencies to avoid casual conversations, which could easily “stray into questionable territory.”
 - d. MSPB advises agencies to redirect discussions of inappropriate topics with reference providers where necessary. “Tactfully discouraging” the topic can be accomplished by simply ignoring it or asking a job-related question to redirect the conversation.

9. Clarify any inconsistent or unclear job-related information provided by the reference (MSPB, OPM).

- a. Asking more specific questions is sometimes necessary, MSPB advises. If the information a reference provides is vague (such as generalizations), the reference checker should determine whether it is supported by “detailed and verifiable evidence.”
- b. When inconsistent information is received from multiple reference providers, call one reference provider back to clarify the information.
- c. When information from a reference differs from what the applicant said, OPM advises that it may be beneficial to allow the applicant an opportunity to clarify.

10. Consider time constraints and limit the number of questions (MSPB, OPM).

- a. OPM advises agencies to consider how long it will take the references to answer the questions and to keep the list of questions to “a manageable number.”
- b. MSPB states that because reference checking is focused, it can be conducted quickly and should be “feasible and efficient.”

Call (2005), 16. Components may vet recommended questions through JMD’s (Human Resources) Labor and Employment Law Group.

⁸⁶ MSPB cites the *Equal Employment Opportunity Act of 1972* and the Uniform Guidelines on Employee Selection Procedures of 1978.

APPENDIX III: OIG DATA REQUEST AND COMPONENTS IN REVIEW SCOPE

Our review included 39 components that we determined had hired full-time employees nationwide during FY 2010 within the competitive or excepted services or in any non-executive job series. Below, we describe our methodology in more detail and list the components we analyzed.⁸⁷

Initial Data Request

To identify reference check practices across the Department, we sent a data request to 45 components, including smaller offices, boards, and divisions, some of which are identified as Senior Management Offices (SMO) and Department Leadership Offices.⁸⁸ We asked components to provide copies of any (1) hiring policies, standard operating procedures, or other informal reference checking-related guidance applicable to any aspect of the hiring process followed during FY 2010 and FY 2011, and (2) questionnaires, forms, or worksheets used when contacting applicants' references. We also asked components to answer the following written questions:

- Who typically conducts the reference check?
- At what point during the hiring process are references contacted?
- Which references are typically contacted?

⁸⁷ Components, offices, boards, and divisions may be counted differently depending on whether they are organized under (or report to) a larger component. For example, OARM falls under JMD for administrative and budget support but reports to the Office of the Deputy Attorney General. We counted components separately where: (1) the larger component reported that its subordinate offices or those it supports should have separate reference checking procedures, such as the Consolidated Executive Office; (2) the components' intranet, webpage, or organizational chart described the office as independent; or (3) our designated component liaison list reflected that the component operates independently.

⁸⁸ SMOs include the following headquarters components: the Professional Responsibility Advisory Office and the Offices of Dispute Resolution, Information Policy, Intergovernmental and Public Liaison, Legal Policy, Legislative Affairs, the Pardon Attorney, Privacy and Civil Liberties, Professional Responsibility, and Public Affairs. Department Leadership Offices include the Offices of the Attorney General, Deputy Attorney General, and Associate Attorney General. We counted these offices separately because staff from the Consolidated Executive Office – a JMD component that provides human resource and other support services for these offices – told us they do not conduct reference checks for applicants to SMOs and Department Leadership Offices; hiring officials from those offices would conduct their own reference checks.

-
- What reference checking method do you find to be most reliable? Why?
 - Are questionnaires, forms, or worksheets used by your agency [component] retained? If so, by whom and for how long?

Components' Responses

We conducted our analysis on the responses of 39 of the 45 components that we initially contacted:⁸⁹

- Access to Justice;
- Antitrust Division;
- Bureau of Alcohol, Tobacco, Firearms and Explosives;
- Civil Division;
- Civil Rights Division;
- Community Relations Service;
- Criminal Division;
- Drug Enforcement Administration;
- Environment and Natural Resources Division;
- Executive Office for Immigration Review;
- Executive Office for United States Attorneys;⁹⁰
- Federal Bureau of Investigation;
- Federal Bureau of Prisons;⁹¹
- Foreign Claims Settlement Commission;

⁸⁹ We excluded 6 of the 45 components that we initially contacted from our analysis of reference checking policies and procedures based on their responses. The six components either did not provide a response that addressed the information we requested, reported that they hired only employees who were excluded from our review scope, or did not have independent hiring authority. The six components and reasons for exclusion are as follows: (1) the Executive Office for Organized Crime Drug Enforcement Task Forces did not provide any response; (2) the Office of Community Oriented Policing Services responded that JMD, which it uses for its human resources function, would handle its response; (3) UNICOR did not provide a response, but the BOP indicated that its reference checking procedures also apply to UNICOR; (4) the Office of the Associate Attorney General responded that it hires only political appointees and does not have independent hiring authority; (5) the Office of Tribal Justice responded that it has hired only detailees and receives its human resources services from EOUSA; and (6) the Office of Privacy and Civil Liberties responded that it has used only internal hires to staff its office.

⁹⁰ EOUSA is the administrative arm of the U.S. Attorneys' Offices. In order to efficiently identify and contact hiring officials in the U.S. Attorneys' Offices, we sent our data request to EOUSA.

⁹¹ The BOP includes the Federal Prison System, UNICOR/Federal Prison Industries, and the National Institute of Corrections.

-
- Justice Management Division;
 - National Drug Intelligence Center;
 - National Security Division;
 - Office of Attorney Recruitment and Management;
 - Office of Dispute Resolution;
 - Office of Information Policy;
 - Office of Intergovernmental and Public Liaison;
 - Office of Justice Programs;
 - Office of Legal Counsel;
 - Office of Legal Policy;
 - Office of Legislative Affairs;
 - Office of Professional Responsibility;
 - Office of Public Affairs;
 - Office of the Attorney General;
 - Office of the Deputy Attorney General;
 - Office of the Federal Detention Trustee;
 - Office of the Pardon Attorney;
 - Office of the Solicitor General;
 - Office on Violence Against Women;
 - Professional Responsibility Advisory Office;
 - Tax Division;
 - U.S. Marshals Service;
 - U.S. National Central Bureau of Interpol;
 - U.S. Parole Commission; and
 - U.S. Trustee Program.⁹²

⁹² The U.S. Trustee Program includes the regional U.S. Trustee Offices and the Executive Office for U.S. Trustees.

APPENDIX IV: COMPONENT AND HIRING OFFICIAL SAMPLE FOR TELEPHONE SURVEY

We conducted a telephone survey of 88 hiring officials from the Department's 17 largest components regarding their reference checking processes. We discuss how we obtained our sample of hiring officials in the sections below.

Positions Occupied in Each Component

To determine the Department's largest components, we identified the total number of positions occupied within each component during FY 2010. According to National Finance Center data provided by the Justice Management Division, 41 components accounted for 133,076 occupied positions that year.⁹³ Of the 133,076 occupied positions, 110,415 were within our scope.⁹⁴

The largest 17 components accounted for 83 percent of the Department's total occupied positions during FY 2010. Table 3 shows the number and percentage of those positions.

⁹³ There are 41 components instead of 45 because the National Finance Center categorizes certain offices under larger components. Whereas we counted Access to Justice, OARM, Office of Dispute Resolution, and Office of Tribal Justice as separate components, the National Finance Center categorized them as part of the larger components under which they fall.

⁹⁴ The 133,076 positions represent the total universe of occupied positions in the Department in FY 2010. However, our review scope did not include: (1) employees hired into the Senior Executive Service; (2) political appointees; (3) temporary, part-time employees; (4) internal hires within the same division of a component; (5) OIG employees; or (6) BOP correctional officers. When we excluded those employees, there were 110,415 occupied positions in the Department in FY 2010 that were within our scope.

Table 3: Occupied “In-Scope” Positions, by Component, FY 2010

| Component | | Number of Occupied Positions Within the OIG’s Scope | Percentage of DOJ’s Total Occupied Positions (N=133,076) |
|--------------------------------|---|--|---|
| 1. | Federal Bureau of Investigation | 38,738 | 29.11% |
| 2. | Federal Bureau of Prisons ^a | 22,284 | 16.75% |
| 3. | United States Attorneys’ Offices ^b | 14,594 | 10.97% |
| 4. | Drug Enforcement Administration | 10,824 | 8.13% |
| 5. | U.S. Marshals Service | 6,306 | 4.74% |
| Top 5 Component Totals | | 92,746 | 69.69% |
| 6. | Bureau of Alcohol, Tobacco, Firearms and Explosives | 5,881 | 4.42% |
| 7. | Executive Office for Immigration Review | 1,824 | 1.37% |
| 8. | Civil Division | 1,768 | 1.33% |
| 9. | U.S. Trustee Program | 1,442 | 1.08% |
| 10. | Justice Management Division | 1,222 | 0.92% |
| Top 10 Component Totals | | 104,883 | 78.81% |
| 11. | Criminal Division | 982 | 0.74% |
| 12. | Antitrust Division | 955 | 0.72% |
| 13. | Civil Rights Division | 915 | 0.69% |
| 14. | Office of Justice Programs | 821 | 0.62% |
| 15. | Environment and Natural Resources Division | 796 | 0.60% |
| 16. | Tax Division | 717 | 0.54% |
| 17. | National Security Division ^c | 346 | 0.26% |
| 17-Component Total | | 110,415 | 82.97% |

^a The BOP includes the Federal Prison System, UNICOR/Federal Prison Industries, and the National Institute of Corrections.

^b The U.S. Attorneys’ Offices category includes U.S. Attorneys’ district offices as well as the Executive Office for U.S. Attorneys.

^c We did not include the OIG in this review. Instead, we selected the next largest component, the National Security Division.

Source: National Finance Center.

Hiring Actions

We selected a random sample of 104 hiring actions from the 7,731 hiring actions taken in FY 2010 by the 17 largest components that fell

within our scope.⁹⁵ We then asked human resource officials from those 17 components to provide names of the hiring officials associated with the randomly selected hiring actions.⁹⁶ We determined the number of hiring officials to interview from each component by the percentage of occupied positions within our scope in each component during FY 2010. The number of positions occupied in components we examined constituted 83 percent of the total positions occupied within the Department during FY 2010. We interviewed 88 hiring officials associated with the hiring actions for our telephone survey. Table 4 shows the number of hiring officials we interviewed from each of the 17 components, in descending order.

⁹⁵ There were 10,182 hiring actions in FY 2010 across the Department that were within our scope. Of those, 7,731 occurred within the 17 largest components. To determine the number of hiring actions in FY 2010, we analyzed National Finance Center data for employees listed as occupying a position in FY 2010. Each personnel action for Department employees is assigned a nature of action code, defined by OPM as “the specific personnel action used to create or change a civilian personnel record.” OPM, *The Guide to Personnel Data Standards* (Update 58, August 10, 2007), 246. Because nature of action codes include a wide range of personnel actions beyond hiring a new employee (for example, step increases), we eliminated those that were not hiring actions. We then eliminated the types of hiring actions that were not within our scope: (1) employees hired into the Senior Executive Service; (2) political appointees; (3) temporary, part-time employees; (4) internal hires within the same division of a component; (5) BOP correctional officers; and (6) OIG employees.

⁹⁶ We excluded hiring managers for special agents, honors attorneys, and industry operations investigators employed at ATF from the sample because ATF reported not conducting reference checks for those job series during FY 2010. Also, when necessary, we provided to human resource officials a second random sample of 104 hiring actions from which to identify alternate hiring officials.

**Table 4: Number of Hiring Officials Interviewed
for Telephone Survey**

| Component | | Number of Hiring Officials Interviewed |
|------------------|---|---|
| 1. | Federal Bureau of Prisons | 10 |
| 2. | Drug Enforcement Administration | 8 |
| 3. | Executive Office for United States Attorneys ^a | 8 |
| 4. | United States Marshals Service | 8 |
| 5. | Bureau of Alcohol, Tobacco, Firearms and Explosives | 7 |
| 6. | Civil Division | 6 |
| 7. | Executive Office of Immigration Review | 5 |
| 8. | Justice Management Division | 5 |
| 9. | U.S. Trustee Program ^b | 5 |
| 10. | Antitrust Division | 4 |
| 11. | Criminal Division | 4 |
| 12. | Civil Rights Division | 4 |
| 13. | Tax Division | 4 |
| 14. | Environment and Natural Resources Division | 3 |
| 15. | National Security Division | 3 |
| 16. | Federal Bureau of Investigation ^c | 2 |
| 17. | Office of Justice Programs | 2 |
| Total | | 88 |

^a The Executive Office for United States Attorneys is the administrative arm of the USAOs. To efficiently identify and contact hiring officials in the USAOs, we sent our data request to EOUSA.

^b We contacted the U.S. Trustee Program directly to identify hiring officials within the program, the U.S. Trustee Offices, and the Executive Office for U.S. Trustees.

^c We interviewed only two FBI hiring officials because the FBI does not require reference checks for new applicants, as discussed previously in this report.

Source: National Finance Center and OIG.

APPENDIX V: OIG TELEPHONE SURVEY INSTRUMENT

OIG Review of Reference Checking (A-2011-001): Interview with Hiring Managers

| | |
|-----------------------|-----------------------|
| | Record _____ of _____ |
| Hiring Official Name: | |
| Component/Sub-office: | |
| Phone number: | |
| OIG Interviewer: | Today's Date: _____ |

Opening Script

You have been randomly selected to participate in the OIG's review of the Department of Justice's reference checking procedures. You were randomly selected to be interviewed because you were identified as having been the hiring or selecting official for at least one hiring action in the Department in FY 2010. Our review is focused on reference check practices for recently hired permanent, career, non-SES employees nationwide.

The purpose of this interview is to gather information about your immediate office's typical reference checking practices and to gain your candid perspective as a hiring official about the reference checking process. Reference checking is not a required practice, thus we are not seeking to examine compliance, but to identify the standard practices of Department components. You will not be identified personally in the report. Instead, the information you provide will be combined with that of other hiring officials for reporting purposes.

Our final product will be a publicly available OIG report outlining our findings and any recommendations to improve the reference checking process. The interview should take less than 60 minutes to complete.

Do you have any questions before we begin?

Verification

OIG → Fill in new employee name and position from sample prior to call.

1. Did you participate in the hiring or selection for at least (this) one employee in FY 2010?

Employee: _____
 Position: _____ Grade: _____

- a. Were you the hiring or selecting official? *[Circle response]*.

2. If you did not personally conduct the reference checks, do you know who did? (Name and phone number)

→ *If no to Question 1, end interview here.*

→ *If yes, continue to Background.*

Background

Some of the questions on this survey have multiple choice responses which I will read aloud. Questions without multiple choice responses are asking you to provide descriptive responses, opinions or examples.

3. What is your position title?

4. How long have you been a hiring or selecting official in the federal government? (overall experience)

[READ RESPONSES]:

- Less than 1 year
- 1 to 5 years
- Longer than 5 years [_____ years]

5. About how many employees total have you hired, or assisted in hiring, since you have been in this office?

6. In addition to the specific hiring action we first discussed, what other type of positions have you hired for in your immediate office (e.g., administrative, analyst, investigator, attorney)?

7. Does your office's practice for conducting reference checks vary among candidates for different job series? (e.g., 1811s versus attorneys versus competitive service positions)?

[READ RESPONSES]:

- Yes, the practice varies by job series
- No, the practice does not vary
- Sometimes the practice varies _____
- Other _____

[If yes], please respond to the following questions for all types of job series for which your office hires and, to the extent you are aware of it, note where the process varies between job series.

Reference Checking Process

For the next set of questions, we are inquiring about your immediate office's general practices for contacting candidates' references for the purpose of selecting the best candidate. References include supervisors (past and present), peers, colleagues, associates, and friends.

We are not inquiring about your agency's Human Resources or Personnel Security staff's mechanisms for screening candidates for federal service, including suitability determinations that are separate from reference checks.

DIG → Enter information from components' reference check policies & practices PRIOR TO CALL.

SOP or guidance: Yes No

Differences by job series: Yes No

Who conducts reference check: _____

When is it done: _____

Which references are contacted: _____

Preferred method: _____

Form: Yes No

Records kept: Yes No

Time period: _____

Other information: _____

8. How often does your office conduct reference checks?

(READ RESPONSES):

Always

Most of the time

Sometimes

Rarely

Never

a. [If never or rarely, why?] (Skip to Question 40)

9. When during the hiring process does your office begin contacting references?

(READ RESPONSES):

Before narrowing the list to top candidates

After narrowing the list to top candidates

After identifying one top candidate

After the candidate's interview(s)

After a conditional job offer is made

Upon completion of a background/security clearance

Other _____

10. In addition to or in conjunction with reference checking, does your office also contact past employers to verify applicants' security and suitability-related information, sometimes referred to as "vouchering"¹?

¹ Our understanding is that some DOJ components use vouchering to refer to a process for verifying security and suitability related information but not necessarily job competencies.

[READ RESPONSES]:

- Yes, in addition to reference checking
- Yes, in conjunction with reference checking
- No, do not perform vouchering *[If no, skip to question 12]*
- Other _____

a. *[If yes, in addition to]:* When during the hiring process do you conduct vouchering?

[READ RESPONSES]:

- Before narrowing the list to top candidates
- After narrowing the list to top candidates
- After identifying one top candidate
- After the candidate's interview(s)
- After a conditional job offer is made
- Upon completion of a background/security clearance
- Other _____

11. How do the reference check questions differ from those asked during vouchering?

The following questions use the term "reference checking" to refer to the process that occurs before a hiring decision is made. Please respond to the following questions based on your experience with this part of the hiring process.

12. Do you use means other than the telephone to conduct reference checks?

[READ RESPONSES]:

- Yes
- No
- Sometimes

a. *[If yes or sometimes]:* What method do you typically use, and why?

[READ RESPONSES + Check all that apply]:

- Email
- Mailed letter
- Written form for reference to complete
- Letter of recommendation
- Other _____

Why? _____

13. About how long does it take for you individually to conduct all reference checks for each candidate, including the time you spend documenting the conversations?

14. Is reference checking formally required by a written policy or procedure?

[READ RESPONSES]:

- Yes
- No
- Don't know
- Other (specify)

15. Have you, as a hiring official, ever delegated the responsibility to conduct reference checks to someone else?

[READ RESPONSES]:

- Yes
- No

a. If so, to whom do you or have you delegated this to and why:

[READ RESPONSES]

- Another hiring official in your office _____
- Admin staff member in your office _____
- HR representative _____
- Security representative _____
- Other _____

Notification

16. At what point during the hiring process are applicants made aware that their references may be checked?

[READ RESPONSES]

- I don't know
- During advertisement of the vacancy (stated in the vacancy announcement)
- During the interview
- After the interview(s)
- When a conditional job offer is made
- During the background investigation process
- Upon completion of a background investigation
- Other _____
- Applicants are not notified that their references may be checked.

a. **[If not notified]** If your office does not notify applicants, why not?

b. **[If not answered above]** If your office notifies applicants that their references may be checked, are there any other methods it uses to do so?

[READ RESPONSES]

- Stated in the vacancy announcement
- Through the use of the Form OF-306 waiver²

² The Form OF-306 or Declaration of Federal Employment contains a privacy waiver for allowing reference checking. MSPB, *Reference Checking in Federal Hiring: Making the Call* (2005), p. 17 noted that it's a common practice for applicants to receive this form after the hiring process has ended.

- Another explicit (written) statement _____
- Verbally notifies candidate
- Other _____

c. What do you do if an applicant has stated on their application that they do not want their current supervisor contacted?

Types and Numbers of References Contacted

17. **What types** of references does your office ask applicants to provide?

[READ RESPONSES – Select all that apply]:

- Professional → Supervisors (past or present)
- Professional → Peers, colleagues, subordinates, or other co-workers (past or present)
- Personal or character references → Friends, associates
- Other _____
- Type of reference not specified.
- Don't know

18. **How many** of each of those reference types does your office ask applicants to provide?

- Professional → Supervisors (past or present) [Insert #] _____
- Professional → Peers, colleagues, subordinates, or other co-workers (past or present) [Insert #] _____
- Personal or character references → Friends, associates [Insert #] _____
- Other _____
- Number of reference not specified
- Don't know

19. **How far back** does your office require applicants to provide references for?

[READ RESPONSES]:

- Most recent position only
- Last two positions
- Last three positions
- For positions held up to X number of years back _____
- A range (between __ and __ years)
- Not specified
- Other _____
- Don't know

20. Does your office typically contact all references provided by the candidate?

[READ RESPONSES]:

- Yes
- No
- Depends _____

a. **[If no]** Which types of references do you consider to be most valid? (professional/supervisory, personal)

b. When speaking to a candidate's reference, do you ever request or accept names of additional references who know the candidate?

[READ RESPONSES]:

- Yes
- No
- Sometimes _____

i. [If yes or sometimes] Do you then contact those additional references?

[READ RESPONSES]:

- Yes
- No
- Sometimes _____

ii. [If yes or sometimes] Do you obtain the candidate's permission before contacting the additional references?

[READ RESPONSES]:

- Yes
- No
- Sometimes _____

21. When conducting reference checks, if you personally knew someone at the candidate's current or last place of employment, how likely would you be to contact that person for information on the candidate?

[READ RESPONSES]:

- Very likely
- Somewhat likely
- Not likely
- Other _____

a. Compared to references provided by the candidate, how effective do you believe contacting these other references is in providing more reliable information about a candidate's performance?

b. In this scenario, would you consider your conversation to be "off the record"?

[READ RESPONSES]:

- Yes
- No

22. Does your office check publicly available social media sites (e.g., Facebook) as part of the reference checking or hiring process?

[READ RESPONSES]:

- Yes
- No
- Sometimes
- Don't know

- a. *[If yes or sometimes]* How informative do you find this information when making your hiring decision?
-

Documentation and Record Retention

23. Do you document the results of candidate reference contacts?

[READ RESPONSES]:

- Yes
 No
 Sometimes

- a. *[If no]* Why not?
-

- b. *[If sometimes]* Under what circumstances would you not document the results?
-

- c. *[If yes]* How do you document the reference check results?

[READ RESPONSES + Select all that apply]:

- Keep handwritten notes from your conversations with references.
 Keep a completed reference check form.
 Other _____

- d. Where is this information stored?

[READ RESPONSES]:

- Personnel files (Human Resources)
 Personnel files (your immediate office)
 Your own files
 Other _____
 Don't know

- e. Are the procedures for documenting the results of reference checks addressed in an office policy or in other applicable guidance?

[READ RESPONSES]:

- Yes
 No
 Don't know

- f. For how long are the records kept?

[READ RESPONSES]:

- 1 year or less
 1 to 3 years
 Over 3 years
 Other _____
 Don't know

g. Are records retained for reference checks conducted on candidates who you do not hire?

[READ RESPONSES]:

- Yes
- No
- Don't know

Reference Checking Questions

24. What types of information are you looking for when checking references?

a. How does the type of information you are looking for vary among types of positions? (e.g., 1811s, attorneys, paralegals, analysts)?

25. *[If not answered above]* What types of questions do you ask to elicit the information you are seeking? [Describe]

26. Which questions have you found elicit the most useful information from a reference? [Describe]

27. Are the same questions asked of each reference contacted for each candidate?

[READ RESPONSES]

- Yes
- No
- Sometimes
- Other _____

28. Not counting the form you use for suitability, does your office use a questionnaire or provide a set of required written questions for you to use when contacting references?

[READ RESPONSES]

- Yes
- No
- a. *[If yes]* Do you use one standardized list of questions for all positions, OR are questions tailored to the type of position being filled?

Standardized list of questions (Skip to #28b).

Position-Tailored questions

i. [If position-tailored questions are used]:

How do the position-tailored question sets differ from each other?

[READ RESPONSES]

- They are specific to the job competencies/position requirements
- Other _____

b. [If you use standardized or position-tailored questions]

Do you ever omit the reference check or skip questions based on your knowledge of the candidate's qualifications or past performance? (e.g., "Qualifications" = the content of the candidate's resume –such as technical skills for an IT position. "Performance" = information from other parties about the candidate)

[OPEN ENDED]

i. [If yes to either] Under what circumstances has this occurred?

[OPEN ENDED]

29. Do you ask your own set of additional questions that are not part of your office's typical questions?

[READ RESPONSES]

- Yes
- No
- Sometimes
- Other _____

a. [If yes] What would be an example?

30. Do you ask any direct questions about whether the candidate has performed or behaved poorly on the job?

[READ RESPONSES]

- Yes

[If yes] What question(s) do you ask?

- No

[If no] Why not?

31. How likely are you to you ask questions about the candidate's personal affiliations and conduct off the job?

[READ RESPONSES]

- Very likely
- Somewhat likely
- Not likely
- Other _____

a. *[If likely]* What would be an example of that type of question? _____

32. Have you ever encountered any serious inconsistencies between information provided by a candidate on the resume or in an interview, and a reference that would lead you to question the integrity of the candidate? *[READ RESPONSES]*

- Yes
- No
- Don't recall

a. *[If yes]* How do these inconsistencies affect your hiring decision, if at all?

Training

33. How comfortable are you that you know what you can and cannot legally ask when conducting reference checks? *[READ RESPONSES]*

- Very comfortable
- Somewhat comfortable
- Not very comfortable
- Not at all comfortable

a. What questions, if any, would you like to ask of references, but believe you cannot ask due to legal or privacy concerns³? (e.g., those that seem to fall into a "gray area")

b. If your agency has issued guidelines concerning what you cannot ask when calling a reference, what are the guidelines?

- Don't have guidelines
- Not aware of any guidelines

34. Has everyone in your office who is responsible for conducting reference checks received training or instruction?

- Yes *[Describe from whom]* _____
- No
- Don't know

³ According to the MSPB report, *Reference Checking in Federal Hiring: Making the Call*, privacy concerns are an issue when a hiring official asks questions that stray away from job-related questions. (Page ii)

- a. *[If no]* Do you believe it would be useful for your office or the Department to offer training on reference checking?
- Yes
 - No
 - Don't know
- Skip to question 35.
- b. *[If yes]* Did the training or instruction include clear guidelines pertaining to what may and may not be asked of references?
- Yes
 - No
 - Don't recall
- c. Did the training or instruction address how to determine job competencies specific to the position being filled in your office?
- Yes
 - No
 - Don't recall

Purpose and Benefits of Reference Checking

35. Overall, how effective do you consider reference checking to be at eliciting the type of information you need to make an informed hiring decision?

[READ RESPONSES]

- Very effective
- Somewhat effective
- Not very effective
- Not effective at all
- Other _____

36. How effective do you consider reference checking to be at obtaining information specifically about a candidate's prior job performance?

[READ RESPONSES]

- Very effective
- Somewhat effective
- Not very effective
- Not effective at all
- Other _____

37. Overall, how effective do you consider reference checking to be, compared to other evaluation tools and assessments used throughout the hiring process to select the best candidate? (e.g., performance evaluations, writing samples, interviews, etc.)

[READ RESPONSES]

- More effective

- Somewhat more effective
- About the same
- Less effective
- Other _____

38. Can you relate any specific examples of where your office did not check references, but in retrospect might have benefitted from doing so? (Please describe).

39. Can you relate any specific examples of where your office decided against hiring someone because of information acquired in a reference check? (Please describe).

When You Are Contacted as a Reference

These questions refer to occasions when you are called as a reference for an employee who currently or formerly worked for you but has applied to another position.

40. What level of detail do you provide when asked about a former or current employee's performance?

a. How do you respond to questions pertaining to an employee of yours whom you have found to be a poor performer and whom you would like to see leave your office?

41. What specific questions can those who contact you for a reference ask to elicit the most candid responses from you about a former or current employee's behavior and performance?

a. Is there anything else the caller can do or say to elicit the most candid response from you about a former or current employee's behavior and performance?

42. To what extent are you inhibited by concerns that your responses are not considered confidential and may be provided to the candidate??

[READ RESPONSES]

- Very inhibited
- Somewhat inhibited
- Not very inhibited
- Not inhibited at all
- Other _____

43. Have you personally ever faced a negligent hiring claim (an allegation that an employer knew or reasonably should have known that an employee they hired was unfit for the job) against you?

- Yes
- No

a. *[If yes]* What impact, if any, did the claim have on the way you conduct reference checks?

44. Have you ever been prohibited from responding openly to a reference call you received because of a clean record settlement involving your current or former employee?⁴

- Yes
- No

a. *[If yes]* What was the impact, if any, that this claim had on the information you provide during reference checks?

Conclusion

The last few questions pertain to your overall views on the reference checking process, including any areas we did not cover or on which you would like to comment further.

45. Based on your experience with reference checking, can you point to any problems with the reference check process or areas that seem to need department-level guidance or direction?

- Yes (specify) _____
- No

46. Have you, or others in your office, used any reference checking-related best practices from another organization?

- Yes (specify) _____
- No
- Don't know

47. At this time there are no Department-wide requirements or guidance on reference checking. How effective would you find department-wide requirements or guidance on reference checking?

[READ RESPONSES]

- Very effective
- Somewhat effective
- Not very effective
- Not effective at all
- Other _____

⁴ The Merit Systems Protection Board defines a clean record settlement agreement as an employee's official employment record that has been altered in a manner favorable to the employee as a result of a settlement agreement with the employer.

a. *(If not effective)* Why?

b. What would you like or not like to see in such guidance?

48. Is there anything else you would like to add about the reference checking process?

Yes (specify) _____

No

Thank you very much for your time. That concludes our interview.

As I stated earlier, your responses will be combined with information from other hiring officials and reported only in the aggregate. If we need to come back to you to clarify or to follow up on an item, we may contact you again.

Thanks again!

END.

APPENDIX VI: SELECTED TELEPHONE SURVEY RESPONSE RESULTS

This appendix describes selected component hiring officials' responses to the OIG's telephone survey about reference checking practices. While we discuss many of the hiring officials' responses in the report body, this appendix provides additional responses not covered elsewhere in the report. We interviewed 88 hiring officials from the Department's 17 largest components.⁹⁷ The purpose of the survey was to determine the processes components use to check applicants' references and what they find useful about reference checking in the hiring process.

Hiring Official Demographics

Years of Experience

A majority (53 officials) of the hiring officials we interviewed had more than 5 years of experience as a hiring official; only 1 hiring official had less than 1 year of hiring experience. The 53 hiring officials with more than 5 years of experience had an average of 13 years' experience in hiring.

Number of Employees Hired by Interviewees

Hiring officials hired a median of 11 employees in the offices in which they currently served. Hiring officials hired for a variety of job series, but some officials only hired for operational or support staff positions.⁹⁸

Effectiveness of Reference Checking

We asked hiring officials about the overall effectiveness of reference checking and the effect it has had on hiring decisions.

⁹⁷ Appendix III lists the components represented in the telephone survey sample and describes our methodology for drawing the sample.

⁹⁸ Operational staff are those employees who perform work directly related to the mission of the agency. Support staff include administrative officers, human resource personnel, and other staff who assist with agency operations.

Did Not Check References but Should Have

We asked hiring officials if they could identify instances where their office did not check applicants' references, but in retrospect might have benefitted from doing so. Table 5 shows hiring officials' responses.

Table 5: Instances Where References Were Not Checked But Should Have Been

| Response | Number of Responses | Percentage |
|-----------------|----------------------------|-------------------|
| Yes | 8 | 9% |
| No | 79 | 90% |
| Unsure | 1 | 1% |
| Total | 88 | 100% |

Source: Telephone survey.

Hiring officials who said they did not check references reported having negative experiences with the employees they hired. Four of the eight hiring officials who described instances of hiring an applicant without checking references said that the person they hired was eventually fired. One official told us that the individual was reassigned. Another hiring official said that the individual hired was a "disaster." In another case, the individual hired had relatives in the hiring office, which affected coworkers' perceptions of him. The remaining official told us that his office found out "surprises" about the individual hired.

Did Not Hire an Applicant Based on Reference Check Information

We asked hiring officials for examples of their office deciding against hiring an applicant because of information uncovered during a reference check. Table 6 shows hiring officials' responses.

Table 6: Instances Where Applicants Were Not Hired Because of Reference Check Information

| Response | Number of Responses | Percentage |
|-----------------|----------------------------|-------------------|
| Yes | 34 | 39% |
| No | 41 | 47% |
| Don't recall | 10 | 11% |
| Don't know | 1 | 1% |
| Cannot provide | 1 | 1% |
| Miscellaneous | 1 | 1% |
| Total | 88 | 100% |

Source: Telephone survey.

The list below describes some examples provided by the 34 hiring officials who reported encountering information during a reference check that led to a decision not to hire an applicant:

- Applicant was rated below average on a reference check form;
- Applicant exaggerated accomplishments on a résumé;
- Reference said the applicant does not have the skills to do the job;
- Received conflicting information from the applicant and the reference;
- Received “mixed reviews” from supervisors;
- References revealed a credentialing problem;
- Applicant claimed they left the job voluntarily when they did not;
- Reference described issues with applicant taking direction;
- Applicant applied for a position in which he or she has no experience;
- Performance appraisal was not satisfactory;
- Behavior of an applicant, such as the applicant would move frequently;
- Reference said they would not hire the person back;
- Applicants were applying for a higher grade but reference stated the applicant was not up to the performance level;
- Reference said hiring official might want to look at other applicants; and
- For internal hires, an investigation determined that the applicant was not truthful.

Hiring officials described many instances in which information uncovered in a reference check led to a decision not to hire the person. In the few instances where reference checking was omitted and there were problems later, the individual hired was fired or reassigned. Several hiring officials we interviewed acknowledged that removing an individual from a position in the federal government is time consuming and costly.

Inconsistencies in Information

We asked hiring officials if they have ever encountered any serious inconsistencies between information provided by an applicant on a résumé or in an interview, or a reference that led the hiring official to question the integrity of the applicant. Table 7 shows hiring officials’ responses.

Table 7: Inconsistencies Encountered During a Reference Check

| Response | Number of Responses | Percentage |
|-----------------|----------------------------|-------------------|
| Yes | 30 | 34% |
| No | 52 | 59% |
| Don't recall | 6 | 7% |
| Total | 88 | 100% |

Source: Telephone survey.

Many of the 30 hiring officials who reported having encountered inconsistencies during a reference check told us that uncovering inconsistent information would lead to a desire to obtain more information before a hiring decision is made, at the very least, or an unwillingness to hire the applicant, at most.

Types of Information Sought and Questions Asked During a Reference Check

We asked hiring officials about the types of information they seek during a reference check. Table 8 lists hiring officials' most common responses.

Table 8: Most Common Types of Information Sought During a Reference Check

| Information Type | Description of Information | Number of Responses |
|--------------------------|---|----------------------------|
| Skills and abilities | Applicant skills and abilities pertaining to what they will need to succeed in the position | 40 |
| Work ethic | Applicant's work ethic | 37 |
| Interpersonal skills | Ability to get along with others | 34 |
| Reliability | Whether the applicant is reliable | 19 |
| Performance on the job | Applicant success in their current position; degree of supervision needed; performance rating | 18 |
| Writing skills | Writing skills | 14 |
| Oral communication skill | Ability to effectively communicate orally | 13 |
| Time and attendance | Timeliness | 13 |
| Verification | Verification of past employment and accomplishments | 13 |
| Character | Applicant's character | 12 |
| Attitude | Applicant's attitude - Is the person pleasant to be around? Do they approach work with a positive attitude? | 11 |
| Honesty | Whether the applicant is honest | 9 |
| Rehire | Whether the reference would rehire the person at their current position | 9 |
| Organizational fit | Whether the applicant will fit in at the new component | 6 |
| Ability to handle stress | How an applicant handles stress or works under pressure | 6 |
| Experience | What experience the applicant has | 6 |
| Discipline | Have there been any disciplinary incidents or misconduct at past places of employment | 6 |
| Strengths and weaknesses | Applicant's strengths and weaknesses | 5 |
| Embarrassing information | Anything from the applicant's past that would be embarrassing or harmful to the organization | 5 |
| Initiative | Shows initiative | 5 |
| | Total | 281 |

Note: The total number of responses to this question is greater than the total number of hiring officials interviewed because hiring officials' responses covered more than one topic.

Source: Telephone survey.

Variation of Reference Check Questions by Position

We asked hiring officials if the information they seek during a reference check varies by the type of position for which the applicant applied. Table 9 lists hiring officials' responses.

Table 9: Variation of Reference Check Questions by Position

| Description | Number of Responses |
|--|----------------------------|
| Reference check questions will vary by position depending on the skill required for the position and performance expectations of the individual. | 35 |
| Does not vary by position. | 32 |
| Official only hires for one job series so does not know if the questions vary. | 9 |
| Miscellaneous: Similar questions, it varies, not too much variation, and varies slightly. | 6 |
| Some questions in the reference check are the same and some are different for different positions | 2 |
| Don't know | 2 |
| Not applicable | 2 |
| Total | 88 |

Source: Telephone survey.

Standardization of Reference Check Questions

We asked hiring officials if they asked their own set of reference check questions in addition to those that their office uses. Table 10 lists hiring officials' responses.

Table 10: Hiring Officials Who Ask an Additional Set of Questions

| Response | Number of Responses | Percentage (N=32) | Percentage (N=88) |
|-----------------|----------------------------|--------------------------|--------------------------|
| Yes | 6 | 19% | 7% |
| No | 21 | 66% | 24% |
| Other | 5 | 16% | 6% |
| Total | 32 | 100% | 36% |

Notes: Only hiring officials who responded that their office had a standard or position-tailored set of reference checking questions were asked this question.

Percentages do not sum because of rounding.

^a “Other” responses included hiring officials who said they ask follow-up questions depending on a reference’s response and they try to keep the questions consistent for each reference.

^b Additional response categories, “sometimes,” “don’t know,” and “blank” had zero responses.

Source: Telephone survey.

Questions about Poor Performance or Behavior

Direct Questions

We asked hiring officials if they asked references direct questions about whether an applicant has performed or behaved poorly on the job (we asked about both topics in the same question). Table 11 and the narrative below show hiring officials’ responses to that question.

Table 11: Hiring Officials Who Ask Direct Questions about Poor Performance or Behavior

| Response | Number of Responses | Percentage (N=88) |
|-----------------|----------------------------|--------------------------|
| Yes | 33 | 38% |
| No | 55 | 63% |
| Total | 88 | 100% |

Note: Percentages do not add to 100 because of rounding.

Source: Telephone survey.

Indirect Questions

Two-thirds of the hiring officials we interviewed told us that they did not ask direct questions about poor performance or behavior, but rather elicited answers through indirect questions. Some of the topics hiring officials said they used to determine the answers were:

- ability to handle stress;
- timely arrival to work each day and handling multiple assignments;
- questionable events in their background;
- ethical behavior;
- team work;
- responsibility;
- dependability;
- whether the reference has any reservations about the applicant;
- what the reference would change about an applicant;
- how the reference would rate the applicant;
- whether the reference would hire the person again;
- strengths and weaknesses; and
- “What do you think about this person?”

Hiring Officials’ Comfort Level with Legal Limitations on Reference Check Questions

We asked hiring officials whether they were comfortable in their knowledge of what can and cannot be legally asked when conducting reference checks. Table 12 shows hiring officials’ responses.

Table 12: Comfort Level Asking Reference Check Questions

| Comfort Level | Number of Responses | Percentage |
|------------------------|----------------------------|-------------------|
| Very comfortable | 55 | 63% |
| Somewhat comfortable | 32 | 36% |
| Not very comfortable | 1 | 1% |
| Not at all comfortable | 0 | 0% |
| Total | 88 | 100% |

Source: Telephone survey.

Unclear Topics

We asked hiring officials to provide examples of questions they would like to ask during a reference check, but believe that they cannot ask due to legal or privacy concerns. The list below shows hiring officials’ responses:

- Applicant’s reliability in coming to work;
- How the applicant spends his or her time at work;

-
- Whether the applicant has had any discrimination complaints brought against them and whether the applicant can handle diversity;
 - Whether there have been any problems that would affect the applicant's ability to perform the job;
 - Whether there have been any behavior issues (if the applicant has behaved poorly);
 - Whether the applicant can work on a Saturday or Sunday;
 - Whether the applicant has had poor evaluations;
 - Applicant's leave usage, including sick leave, and time and attendance;
 - Applicant's appearance;
 - Questions of an employee who is married to an applicant;
 - Applicant's marital status and whether he or she has children;
 - Applicant's military service;
 - Whether the applicant has any physical problems that would prevent him or her from doing the job;
 - Why the applicant is leaving his or her current position, especially for a lateral transfer;
 - How the applicant interacts with others;
 - Whether there have been specific problems between the applicant and coworkers;
 - Whether the applicant is taking any medication;
 - Applicant's personal affiliations;
 - Whether the applicant has ever been fired; and
 - If the applicant has a disability, what type.

Contact with Current Supervisor

We asked hiring officials what they do when applicants state on their applications that they do not want their current supervisors contacted. Table 13 describes some of the most common hiring official responses.

Table 13: Most Common Actions if Applicant Does Not Want References Contacted

| Category Definition | Number of Responses |
|---|----------------------------|
| Will ask if the supervisor can be contacted only if the applicant is in serious consideration for the position | 23 |
| Never encountered the scenario | 20 |
| Will not contact the supervisor if the applicant indicates that they do not want the supervisor contacted | 20 |
| Hiring official would ask why an applicant indicated that they did not want their supervisor contacted | 15 |
| If the applicant does not want the supervisor contacted, the hiring official will ask for other references | 9 |
| Hiring official will contact the applicant's supervisor even if the applicant noted that they did not want the supervisor contacted | 6 |
| Total | 93 |

Note: The number of responses is greater than the number of hiring officials interviewed because hiring officials' responses covered more than one topic.

Source: Telephone survey.

Training

We asked hiring officials if all the employees in their organization who are responsible for conducting reference checks have received training or instruction on how to carry out the task. Training ranged from informal training by the head of the hiring official's section providing verbal guidance to formal training from human resource staff. Table 14 describes hiring officials' responses.

Table 14: Whether Office Received Reference Checking Training

| Response | Number of Responses | Percentage (N=88) |
|-----------------|----------------------------|--------------------------|
| Yes | 47 | 53% |
| No | 23 | 26% |
| Don't know | 18 | 20% |
| Total | 88 | 100% |

Note: Percentages do not add to 100 because of rounding.

Source: Telephone survey.

We asked the 41 hiring officials who did not receive reference check training or did not know whether they received the training whether such training would be useful. Table 15 shows hiring officials' responses.

Table 15: Whether Reference Check Training Would be Useful

| Response | Number of Responses | Percentage (N=41) |
|-----------------|----------------------------|--------------------------|
| Yes | 32 | 78% |
| No | 3 | 7% |
| Don't know | 2 | 5% |
| Blank | 4 | 10% |
| Total | 41 | 100% |

Source: Telephone survey.

We asked the 47 hiring officials who received reference check training if the training included material on what can and cannot be asked during a reference check. Table 16 shows hiring officials' responses.

Table 16: Whether Training Included Guidance on Permissible Questions

| Response | Number of Responses | Percentage (N=47) |
|-----------------|----------------------------|--------------------------|
| Yes | 33 | 70% |
| No | 5 | 11% |
| Don't recall | 7 | 15% |
| Not sure | 1 | 2% |
| Blank | 1 | 2% |
| Total | 47 | 100% |

Source: Telephone survey.

We also asked the 47 hiring officials who received reference check training if the training included guidance on how to identify job competencies. Table 17 shows hiring officials' responses.

Table 17: Whether Training Addressed How to Identify Job Competencies

| Response | Number of Responses | Percentage (N=47) |
|-----------------|----------------------------|--------------------------|
| Yes | 13 | 28% |
| No | 26 | 55% |
| Don't recall | 7 | 15% |
| Not sure | 1 | 2% |
| Total | 47 | 100% |

Source: Telephone survey.

Other Issues in Reference Checking

Social Media Usage in Reference Checking

We asked hiring officials if they check publicly available social media sites, such as Facebook, as part of the reference checking process. Table 18 shows hiring officials' responses.

Table 18: Social Media Usage in Reference Checking

| Response | Number of Responses | Percentage (N=88) |
|-----------------|----------------------------|--------------------------|
| Yes | 8 | 9% |
| No | 69 | 78% |
| Sometimes | 5 | 6% |
| Don't know | 6 | 7% |
| Total | 88 | 100% |

Source: Telephone survey.

Of the 13 officials who reported they checked social media sites at least sometimes, 7 hiring officials told us that the practice was not very informative or helpful. Only three hiring officials told us that checking social media sites was effective or informative. The remaining three respondents who checked social media sites did not comment on the effectiveness of the practice.

Negligent Hiring Claims

We asked hiring officials if they had ever had a negligent hiring claim against them and, if so, whether the claim affected the way they conduct reference checks.⁹⁹ Table 19 shows the responses.

Table 19: Involvement in a Negligent Hiring Claim

| Response | Number of Responses | Percentage |
|--|----------------------------|-------------------|
| Involvement in a negligent hiring claim | 2 | 2% |
| No involvement in a negligent hiring claim | 86 | 98% |
| Total | 88 | 100% |

Source: Telephone survey.

⁹⁹ MSPB defines a negligent hiring claim as an allegation that an employer knew or reasonably should have known that an employee it hired was unfit for the job.

The two hiring officials who reported having a claim brought against them said the claim had no impact on the way they conduct reference checks.

When Hiring Officials Are Contacted as References

Because Department hiring officials are themselves likely to be contacted for a reference, we asked them to describe how they respond to questions from other reference checkers. We collected this information in part based on the common misconception, noted by MSPB, among reference providers that discussing performance or job-related behavior of an employee is not legal.

Level of Detail Provided by Hiring Officials

We asked what level of detail hiring officials would provide if they were called for a reference in general. Table 20 shows the responses.

Table 20: Level of Detail Provided by Hiring Officials When Called as a Reference (in General)

| Response | Number of Responses |
|---|----------------------------|
| Would only answer the questions they are asked | 24 |
| Would be honest about an applicant's performance | 15 |
| Has not been asked for a reference or does not recall the level of detail provided | 12 |
| Depends on the type of performer the applicant was (if outstanding, would provide more detail) | 11 |
| Only gives facts about the applicant (dates of employment, job duties) and does not volunteer information | 10 |
| Provides a great amount of detail | 8 |
| Provides a fair amount of detail | 6 |
| Only responds to questions on a standard form | 4 |
| Provides answers to questions based on the applicant's performance rating | 2 |
| Depends on the questions asked | 2 |
| Depends on the applicant's experience | 1 |
| Total | 96 |

Note: The number of responses is greater than the number of hiring officials interviewed because hiring officials' responses covered more than one topic.

Source: Telephone survey.

We also asked what level of detail hiring officials would provide if they were called for a reference on a poor performer whom they would

like to see leave their office. Unlike the responses given in the previous question regarding references in general, hiring officials responded most frequently that they would be honest about a poor performer. Table 21 shows the responses.

Table 21: Level of Detail Provided by Hiring Officials When Contacted as a Reference (for a Poor Performer)

| Response | Number of Responses |
|--|----------------------------|
| Would be honest about a poor performer | 38 |
| Has not encountered this scenario | 23 |
| Would only answer the questions they are asked | 7 |
| Would be fair in answering the question and would give positives and negatives | 6 |
| Would answer the questions carefully | 5 |
| Will not provide negative information or will focus on positives | 5 |
| Would defer answering the question or ask not to comment | 2 |
| Depends - if it comes from a federal agency, might answer the question but if it comes from a non-federal agency, might not. | 1 |
| Would be neutral or dishonest in answering the question | 1 |
| Would respond that they would not rehire the applicant. | 1 |
| Would rate the applicant in terms of where they fall compared to other employees | 1 |
| Would be very specific | 1 |
| Would keep responses brief | 1 |
| Total | 92 |

Note: The number of responses is greater than the number of hiring officials interviewed because hiring officials' responses covered more than one topic.

Source: Telephone survey.

Inhibited by Privacy or Confidentiality Concerns

We asked hiring officials if they felt inhibited by concerns that their responses would not be considered confidential and might be provided to the applicant. Table 22 shows hiring officials' responses.

Table 22: Inhibited by Lack of Confidentiality

| Response | Number of Responses | Percentage |
|----------------------|----------------------------|-------------------|
| Very inhibited | 2 | 2% |
| Somewhat inhibited | 20 | 23% |
| Not very inhibited | 14 | 16% |
| Not inhibited at all | 46 | 52% |
| Other | 6 | 7% |
| Total | 88 | 100% |

Source: Telephone survey.

Of the hiring officials who responded with “other,” two stated they had never encountered the situation; one noted that he would be more reluctant if he were receiving a call from the private sector; one told us that he would feel more comfortable if the person calling was someone he knew; one official told us that he would contact his office’s human resource department if he had a question about responding; and one hiring official was unsure.

Problems with the Reference Checking Process

We asked hiring officials to identify problems with the reference checking process. More than half of the hiring officials (56 percent) identified problems. Table 23 describes the problems most commonly identified.

Table 23: Most Commonly Identified Problems with the Reference Check Process

| Description of Problem | Number of Responses |
|---|----------------------------|
| Inadequate guidance – A lack of clear guidance on the reference check process. | 20 |
| List of reference check questions that can and cannot be asked is not available – No list of questions that can and cannot be asked during a reference check. Many of these officials specified a need for a brief, one-page set of questions. | 16 |
| Honesty – Whether references were being honest in the information they gave about applicants. Hiring officials were particularly concerned about current supervisors, whose incentive to help a poor performer find other employment might discourage an honest assessment of an applicant’s skills. | 10 |
| Training – Insufficient training in the reference checking process. | 10 |

Source: Telephone survey.

APPENDIX VII: REFERENCE CHECK QUESTIONS

This appendix provides a consolidated listing of potential reference check questions suggested by OPM and MSPB for hiring official use, as well as questions identified as useful by component hiring officials and managers that we interviewed in the Department.¹⁰⁰

Table 24 lists all of these potential reference check questions, in logical groupings, along with each question's respective source. The specific questions that were recommended by Department hiring officials throughout the course of this review are source coded "INT" in Table 24. Primarily, these respond to the set of questions that were part of the telephone survey and are listed directly below:¹⁰¹

- "What types of questions do you ask to elicit the information you are seeking?" (telephone survey question 25)
- "Which questions have you found elicit the most useful information from a reference?" (telephone survey question 26)
- "Do you ask your own set of additional questions that are not part of your office's typical questions? If yes, what would be an example?" (telephone survey questions 29 and 29a)
- "What specific questions can those who contact you for a reference ask to elicit the most candid responses from you about a former or current employee's behavior and performance? Is there anything else the caller can do or say to elicit the most candid response from you about a former or current employee's behavior and performance?" (telephone survey questions 41 and 41a)

We present the questions in the sequence recommended by MSPB (described in Appendix II) and organized by category. For brevity and consistency, we combined similar questions and adopted common terminology and tense.¹⁰² Components should coordinate the reference

¹⁰⁰ OPM and MSPB sources: OPM, *Reference Checking* (undated), and MSPB, *Reference Checking in Federal Hiring: Making the Call* (2005).

¹⁰¹ Appendix V contains the telephone survey instrument.

¹⁰² The 88 component hiring officials who participated in our telephone survey and the officials we interviewed verbally stated the questions, therefore not all questions reflect exact wording. We also adjusted some of the questions to reflect the open-ended
(Cont'd.)

check questions they select for use by their hiring officials with their supporting Offices of General Counsel. In addition, in *Reference Checking*, OPM reminded hiring officials that while checking references it is possible that the applicant may view a situation, interaction, or goal accomplishment differently than a reference and that some discrepancies may emerge as a result. OPM advised that if hiring officials receive information from a reference that differs from what the applicant said, it may be beneficial to allow the applicant an opportunity to clarify.

Table 24: Selected Reference Check Questions Recommended by Hiring Officials

| Questions | Source |
|---|----------|
| 1st – Verification Questions | |
| <i>MSPB recommended that a reference check begin with fact-oriented questions to verify information that the applicant provided on a résumé or during interviews, including training and experience claims.</i> | |
| What is your name, job title, and employer? | MSPB |
| In what capacity did you work with the applicant (peer, supervisor)? | OPM |
| How long did you work with the applicant and how long ago? | MSPB |
| Did the applicant hold a leadership position? | INT |
| Describe the applicant’s role and the duties performed. | OPM, INT |
| Describe the applicant’s proficiency and knowledge in <i>[subject area]</i> . | INT |
| What kind of work-related training, certificates, education, or other qualifications does the applicant have? <i>[Compare to résumé.]</i> | OPM, INT |
| Was the applicant recommended for an individual award? Why or why not? | INT |
| 2nd – Performance and Competency Questions | |
| <i>After the fact-oriented, verification questions, MSPB recommended that the reference check interview progress to a more evaluative discussion of the applicant’s past performance and competencies.</i> | |
| <i>[Describe job title, vacant position, and responsibilities.]</i> Would you find the applicant suitable to perform in this position? Why or why not? ^a | INT |
| <i>[Describe job title, vacant position, and responsibilities.]</i> Do you think the applicant would be a good fit for the position/organization? | INT |
| <i>[Describe job title, vacant position, and responsibilities.]</i> How does the work the applicant did relate to this work <i>[vacant position]</i> ? | INT |
| Do you think the applicant has <i>[trait needed for position]</i> ? Why or why not? | INT |
| How well did the applicant know the work? | OPM |
| How well did the applicant perform the job? | OPM |

style recommended by MSPB and OPM. Word changes primarily entailed using “applicant” in lieu of “candidate” for consistency, “this person,” and “his/her.” We list all questions in past tense.

| | |
|---|----------|
| How well did the applicant manage the workload? | OPM |
| How well did the applicant meet deadlines? | INT |
| How did the applicant react to criticism? Provide an example. | INT |
| To what extent was the applicant organized? | INT |
| How much supervision did the applicant require? | INT |
| Describe the applicant's analytical ability <i>[or other ability needed]</i> . | INT |
| What type of judgment did the applicant show? | INT |
| What motivated the applicant? | INT |
| Describe the applicant's skills in the following areas: <i>[position competencies]</i> (writing, research, advocacy, problem solving, etc.). | INT |
| How would you rank the applicant's performance against his or her peers? | INT |
| How flexible was the applicant? | INT |
| What kind of product did the applicant produce? | INT |
| <i>[For attorneys]</i> Would you have enough faith in the applicant to represent you or your spouse in litigation? Why or why not? | INT |
| <i>[For supervisors]</i> How did the applicant motivate people? | INT |
| <i>[For supervisors]</i> How did the applicant interact with subordinates? | INT |
| <i>[For supervisors]</i> How would you describe the applicant's leadership style? | INT |
| <i>[Describe performance evaluation applicant submitted.]</i> How well does the last performance evaluation capture the applicant's performance? Provide an example. ^b | INT |
| How would you describe the applicant's relationships with co-workers, subordinates, and supervisors? | OPM, INT |
| How did the applicant engage with senior management? | INT |
| How well does the applicant communicate? | INT |
| How well did the applicant fit into the office or organization? | INT |
| Can the applicant articulate technical information at the right level (such as making a complicated topic easy to understand)? | INT |
| To what extent was the applicant passionate about his or her work? | INT |
| Describe the applicant's work ethic. | INT |
| How quickly did the applicant learn? | INT |
| To what extent was the applicant a team player? | INT |
| How would you rate the applicant's honesty and integrity? | INT |
| To what extent did you find the applicant dependable? | INT |
| How well did the applicant handle stress? A crisis? | INT |

| | |
|--|----------|
| 3rd – Developmental Needs Questions | |
| <i>After a discussion of the applicant’s performance and competencies, MSPB recommended that the reference check discussion address the applicant’s developmental needs.</i> | |
| What were the applicant’s strengths? | OPM |
| What were the applicant’s weaknesses or areas for improvement? | OPM, INT |
| 4th – Sensitive Questions | |
| <i>MSPB recommended that a discussion of sensitive information, such as potentially inappropriate workplace behavior, take place late in the reference check interview.</i> | |
| Why is the applicant leaving the position? | INT |
| Has the applicant’s performance or behavior ever been poor? Please provide an example. | INT |
| Do you have any reservations about the applicant? If so, what are they? | INT |
| Has there been any concern about the integrity of the applicant? If so, please provide an example. | INT |
| Has the applicant been at fault in any confrontations that were counterproductive to the organization? If so, please provide an example. | INT |
| 5th – Closing Comments and Catch-all Questions | |
| <i>The following questions represent the types of questions found at the end of many Department reference checking questionnaires.</i> | |
| What is your overall assessment of the applicant? | INT |
| <i>[Describe job title, vacant position, and responsibilities.]</i> Would you recommend the applicant for this position? Why or why not? | OPM, INT |
| Was the applicant a valued employee? | INT |
| Is the applicant eligible for re-hire in your organization? ^c | OPM |
| Would you re-hire the applicant? Why or why not? | INT |
| Is there anything else [job-related] you would like to share about the applicant? | INT |

^a OPM cautioned that questions asking references to make a “judgment call” of how well the applicant will do in the new position are less reliable than questions designed to verify an applicant’s past work behavior and experiences.

^b MSPB cautioned that when asking about performance appraisals, hiring officials should probe for specific examples of behavior in lieu of relying on summary evaluations such as “outstanding” or “excellent.” MSPB cited the greatest value of performance appraisals as being a memory aid to a former supervisor who is describing an applicant’s behavior as observed on the job.

^c Several hiring officials told us this question, which appears on the Form OBD-236, is confusing to them and to references. A more useful question, according to hiring officials, is the next one: “Would you re-hire this person? Why or why not?”

Sources: OPM and MSPB resources and responses from component hiring officials we interviewed (INT).

APPENDIX VIII: JUSTICE MANAGEMENT DIVISION RESPONSE TO DRAFT REPORT



U.S. Department of Justice

DEC 20 2012

(Washington, D.C. 20530)

MEMORANDUM FOR JASON HIGLEY
ACTING ASSISTANT INSPECTOR GENERAL
FOR EVALUATION AND INSPECTIONS

From: Mari Barr Santangelo 
Deputy Assistant Attorney General
for Human Resources and Administration

Subject: Response to the Office of the Inspector General's draft report
"Reference Checking in the Department of Justice"

The Justice Management Division (JMD) has reviewed the Office of the Inspector General's draft report titled "Reference Checking in the Department of Justice". We take the report under advisement and will determine the best approach to address this issue from a Department-wide perspective. We agree that reference checks are an essential and sound management practice. We identified the following comments on the report recommendations:

Recommendation #1: Issue guidance to Department Component Heads, Executive Officers, and Human Resources Officers clarifying the purposes of, and distinctions between, suitability determinations (such as vouchering) and reference checking, including differences in topics covered, who conducts the checks, the sources contacted, and when in the hiring process each occurs.

JMD Human Resources (JMD HR) will issue guidance to Component Heads, Executive Officers, and Human Resources Officers regarding reference checks. The new guidance will clarify suitability determinations (such as vouchering) and reference checking and the most appropriate time to use these processes when making hiring decisions. Any new guidance developed will be in concert with the Office of Personnel Management's established guidance and in partnership with the JMD's Office of General Counsel.

Recommendation #2: Reiterate Components' obligation to follow OARM Memorandum 2010-3, which requires both reference checking and vouchering using form OBD-236 for attorney candidates.

Memorandum for Jason Higley

2

Subject: The Office of the Inspector General's Review of
"Reference Checking in the Department of Justice"

JMD concurs with this recommendation, and will reiterate the Components' obligation to conduct both reference checking and vouchering for attorney candidates, and will take several additional steps to reinforce this requirement. First, the Office of Attorney Recruitment and Management (OARM) currently provides (and will continue to provide) annual interview training for Honors Program interviewers which includes a segment on reference checking. We also understand that the Save Council is preparing an Employment Reference Questionnaire that would combine elements of both vouchering and reference checking. When it is approved for Department-wide use by JMD, JMD HR and OARM will review the Questionnaire and determine if it is appropriate to require that it be submitted to OARM with the pre-employment paperwork for attorney candidates. And third, if a completed background investigation reflects performance issues or concerns at a candidate's previous employer, OARM will follow up with the hiring Component to determine whether reference checks were conducted prior to making a conditional offer, and remind the Component of the requirement that this be done.

Recommendation #3: Develop and issue Department-wide guidance on the use of reference checks.

See response to Recommendation #1.

Recommendation #4: Assist Components to update or issue comprehensive reference check guidance that meets their unique hiring needs.

JMD, as a matter of course, assists Components with myriad HR issues and would provide technical HR advice and, as necessary, direction on this topic as well.

Recommendation #5: Create a central location on the Department's intranet where general reference check guidance for Components and hiring managers is posted and regularly updated, including guidance from OPM and MSPB, as well as Department best practices and sample reference check questions.

JMD does not concur with this recommendation. JMD HR will determine whether or not developing, posting, and updating general reference check guidance, as opposed to official Departmental guidance, is appropriate. JMD HR posts all necessary guidance to either the DOJ Human Resources webpage or DOJNet regularly. These websites serve as a centralized location for all HR memoranda and guidance to employees and Human Resources Officials.

Recommendation #6: Provide periodic training on reference checks, or include it as a part of broader human resource training.

JMD will explore the necessity and type of training on this issue. If we determine such training is necessary, we will determine the priority, methodology and implementation of such. As a matter of course, we use our learning management systems to administer training that is Department-wide in scope.

Memorandum for Jason Higley
Subject: The Office of the Inspector General's Review of
"Reference Checking in the Department of Justice"

3

Thank you for the opportunity to provide this response. Should you have any questions, please contact me at Marie.Santangelo@usdoj.gov or 202-514-5501, or Terence L. Cook, Director, Human Resources at Terence.L.Cook@usdoj.gov or 202-514-4350.

APPENDIX IX: OIG ANALYSIS OF JUSTICE MANAGEMENT DIVISION RESPONSE

The Office of the Inspector General provided a draft of this report to the Justice Management Division for its comment. JMD's response is included in Appendix VIII to this report. The OIG's analysis of JMD's response and the actions necessary to close the recommendations are discussed below. Please provide requested information and documentation by February 1, 2013.

Recommendation 1: Issue guidance to Department component heads, Executive Officers, and Human Resources Officers clarifying the purposes of and distinctions between suitability determinations (vouchering) and reference checking, including differences in topics covered, who conducts the checks, the sources contacted, and when in the hiring process each occurs.

Status: Resolved.

JMD Response: JMD stated that JMD Human Resources (JMD HR) will issue guidance to component heads, Executive Officers, and Human Resources Officers regarding reference checks. The new guidance will clarify suitability determinations (such as vouchering) and reference checking and the most appropriate time to use these processes when making hiring decisions. Any new guidance developed will be in concert with the Office of Personnel Management's established guidance and in partnership with JMD's Office of General Counsel.

OIG Analysis: JMD's response is partially responsive to this recommendation. JMD HR's guidance to component heads, Executive Officers, and Human Resources Officers should include who should conduct the checks and the sources that should be contacted. Please provide the OIG with a copy of this guidance when it is issued to the components.

Recommendation 2: Reiterate components' obligation to follow OARM Memorandum 2010-3, which requires both reference checking and vouchering using Form OBD-236 for attorney applicants.

Status: Resolved.

JMD Response: JMD concurred with this recommendation, stating that it will reiterate the components' obligation to conduct both reference checking and vouchering for attorney candidates, and that it

will take several additional steps to reinforce this requirement. JMD stated that OARM provides (and will continue to provide) annual interview training for Honors Program interviewers that includes a segment on reference checking. Additionally, the SAVE Council has developed an Employment Reference Questionnaire combining elements of reference checking and vouchering. Once the form is approved by JMD, JMD HR and OARM will review the questionnaire and determine if it is appropriate to require that it be submitted to OARM with the pre-employment paperwork for attorney candidates. Lastly, JMD stated that in the event a completed background investigation reflects performance issues or concerns at a candidate's previous employer, OARM will follow up with the hiring component to determine whether reference checks were conducted prior to making a conditional offer and will remind the component of the requirement that reference checks be done.

OIG Analysis: JMD's and OARM's actions are responsive to this recommendation. Please provide the OIG with the FY 2013 training dates for Honors Program interviewers and a copy of the training material that addresses reference checking. Additionally, please provide the OIG a copy of the approved SAVE Council questionnaire and an update on whether JMD HR and OARM decide to include the questionnaire in the required pre-employment paperwork for attorney positions.

Recommendation 3: Develop and issue Department-wide guidance on the use of reference checks.

Status: Resolved.

JMD Response: JMD referred the OIG to its response to Recommendation 1.

OIG Analysis: As with the OIG's analysis of JMD's response to Recommendation 1, please provide the OIG with the specific content of JMD HR's reference check guidance.

Recommendation 4: Assist components to update or issue comprehensive reference check guidance that meets their unique hiring needs.

Status: Resolved.

JMD Response: JMD stated that it routinely assists components with human resource issues and would provide technical advice on reference checking as needed.

OIG Analysis: JMD’s response is partially responsive to this recommendation. While JMD indicated its willingness to assist components with their human resource issues, the response did not specify the affirmative steps that JMD intends to take to assist the components in identifying the new guidance, or updates to existing guidance, that each component may need with respect to reference checking. Please specify the affirmative steps JMD intends to take, including the dates of any regular or previously scheduled forums that JMD intends to use to address the subject of needed additional reference checking guidance with any Department component.

Recommendation 5: Create a central location on the Department’s intranet where general reference check guidance for components and hiring managers is posted and regularly updated, including guidance from OPM and MSPB, as well as Department best practices and sample reference check questions.

Status: Unresolved.

JMD Response: JMD did not concur with this recommendation and distinguished between “general” reference checking guidance and “official” Department guidance. JMD stated that while it will post all official Department guidance, it will determine whether developing, posting, and updating “general” reference check guidance is appropriate. JMD further stated that JMD HR posts all necessary guidance to either the DOJ Human Resources webpage or DOJNet regularly and that these sites serve as the centralized location for all human resource memoranda.

OIG Analysis: JMD’s response is partially responsive to the recommendation. The OIG agrees with JMD that the DOJ Human Resources webpage or DOJNet would be appropriate locations for reference check guidance to be posted. However, JMD should make both “official” Department guidance and useful reference checking guidance from other government sources (such as OPM and MSPB) available to component heads, Executive Officers, and Human Resources Officers, with each category of guidance clearly identified to avoid confusion. Please provide the OIG with a copy of the “official” guidance and the online address where it and links to other useful guidance are posted.

Recommendation 6: Provide periodic training on reference checks, or include it as a part of broader human resource training.

Status: Resolved.

JMD Response: JMD stated that it will explore the necessity and type of training needed on this issue. JMD suggested the learnDOJ training tool as the mechanism for delivering any future training.

OIG Analysis: JMD's response is responsive to this recommendation. The OIG agrees that learnDOJ would be an appropriate mechanism for delivering future training on reference checking. Please provide the OIG with JMD's reference check training materials (or the relevant portions of broader human resource training) and JMD's intended frequency of such training.