

**STATEMENT OF  
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**BEFORE THE  
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM  
U.S. HOUSE OF REPRESENTATIVES**

**June 6, 2012**

Thank you, Chairman Issa and Ranking Member Cummings, for this opportunity to come before the committee and share with you the security measures the U.S. Department of Labor has taken and is taking to ensure the integrity of the process by which important national economic data are released by the department to the American people.

Last year, the department entered into a memorandum of understanding with Sandia National Laboratories to conduct a thorough assessment of the department's print/wire service media lock-up facility. Sandia is a government-owned, contractor-operated entity widely recognized as a national leader in preventing technological surprise, anticipating threats, and providing innovative, science-based system engineering solutions.

Effective July 6, 2012, with the release of the June 2012 Employment Situation Report, the department will institute new and additional safeguards based on Sandia's recommendations to ensure that sensitive economic data are not prematurely released.

Let me state emphatically: At the U.S. Department of Labor, we take our security responsibilities seriously. We also value the critical role the press can play in disseminating information to the public. In an age of rapid technological change, we believe it is prudent to regularly review our security protocols, processes and procedures, and make any changes necessary to ensure a secure and level playing field in the transmission of key economic data to the public.

**THE "LOCK-UP"**

The Office of Management and Budget's Statistical Policy Directive No. 3 permits – but does not require or recommend – pre-release access to the news media of principal federal economic indicators. Should an agency elect to provide pre-release, OMB requires it to establish security protocols necessary to ensure there is no premature dissemination of the data prior to their designated release time.

The department provides press lock-ups solely for the purpose of serving the general public by facilitating the news media's ability to read, review, analyze and ask questions about the data as they prepare news stories explaining the economic reports. We believe the press lock-ups are important because they facilitate good journalism and a more enlightened public debate about key economic indicators.

The department uses a press lock-up to release all Principal Federal Economic Indicators produced by the Bureau of Labor Statistics, as well as an Unemployment Insurance Weekly Claims report produced by the Employment and Training Administration. Specifically, these include:

- the Employment Situation Report (BLS),
- the Consumer Price Index (BLS),
- Real Earnings (BLS),
- the Employment Cost Index (BLS),
- the Producer Price Index (BLS),
- Productivity and Costs (BLS),
- U.S. Import and Export Indexes (BLS), and
- Unemployment Insurance Weekly Claims (ETA).

Currently, the department's Office of Public Affairs maintains separate lock-up facilities for print/wire service and broadcast journalists at its headquarters at the Frances Perkins Building in Washington. Participating reporters are given the data on a strictly embargoed basis at 8 a.m. and then have 30 minutes to examine the data and prepare their stories for 8:30 a.m. dissemination.

The department's first lock-ups, which began in the mid-1980s, took place in Office of Public Affairs work space. Reporters would congregate in an office in our first floor suite at DOL headquarters; the door was shut, and a subject matter expert handed out paper copies of the report. At 8:30, the reporters would use department-provided landline phones to call stories into their newsrooms.

In 1988, a special facility was constructed at DOL headquarters to hold the press lock-ups. Within a few years, news organizations began installing their own computers to transmit their stories. In the beginning, there were no equipment restrictions. By 1992, the department required that each computer either be connected to a switch that toggled between on and off, or that the computer be disconnected from the wall outlet until a signal was given to re-connect.

Between 2001 and 2002, the department took steps toward implementing additional data security controls in response to public speculation that movement in the markets prior to 8:30 a.m. was the result of leaks of the numbers in the department's reports. A master wall switch was installed to allow the department centralized control over transmission. The switch was connected to each privately owned computer in the room via a department-provided standardized device known as a "black box." Additionally, the

department installed an atomic wall clock synchronized to the Naval Observatory Master Clock to ensure that transmission happened at exactly 8:30. The department also invested in insulation shielding for the walls of the room to block wireless communication to the outside world, but it is important to note that this measure is not effective against today's more advanced wireless technologies.

During these years, news organizations also installed their own data lines at the department's headquarters. Some used dial-up modems; others had connections with faster speeds. As a way of leveling the playing field, the department flipped the master switch a full minute before the end of the embargo to allow all systems to warm up. This was called "the honor minute."

Parallel to this arrangement, automation in trading became more prevalent and we began to hear directly from traders eager to know which news organizations had pre-release access to the numbers, especially the monthly Employment Situation Report. At the same time, many of the organizations in the lock-ups sought to increase the speed of their lines and expressed worries that the black boxes attached to their computers might be infinitesimally slower than those attached to their competitors' equipment. It is important to note that the "black box" speeds were identical. Although transmission during the "honor minute" — the time between 8:29 and 8:30 a.m., when connectivity had been enabled — was prohibited, department staff observed precluded activities such as pushing keyboard buttons, speaking into telephones and sending instant messages.

As a result, the "honor minute" was abolished in June 2008; from that point forward, the master switch was flipped at 8:30 a.m. precisely. At that time, the department also implemented additional security upgrades: News organizations were required to provide dedicated computers for their use in the room, ending their ability to bring portable computers on the day of a lock-up. They were required, for the first time, to ensure that their computers were free of wireless technologies. And they were required to deposit all handheld electronic devices, such as cell phones and BlackBerries, into a container at the front of the room. Reporters were also required to log off their computers before leaving the room so as to prevent remote changes to their computers while the room was unoccupied.

Finally, a practice of escorting television reporters from the room seven minutes before the end of the embargo to reach their outdoor posts for live reports at 8:30 was discontinued. On an interim basis, TV journalists were moved to a secure room closer to the reporting patio. Later, in the spring of 2010, a second lock-up facility was built adjacent to the outside patio, allowing TV personnel to exit just two minutes before 8:30. This adjacent room allowed secure access directly from the facility onto the reporting patio, avoiding potential interaction with passers-by. Under this updated protocol, while in this separate lock-up room dedicated solely to them, the TV news reporters are given a code word or phrase to accommodate sound checks. However, they may not otherwise speak to or interact with anyone between 8:28 and 8:30. Two security guards ensure that both the indoor and outdoor areas are clear. The department also installed two additional atomic clocks — one indoor, one outdoor — for the television lock-up.

Collectively and over time, these measures addressed some of the security concerns with the lock-up. But by 2011, more than a decade had passed since the department had undertaken a holistic and thorough review of its policies, procedures and protocols regarding press lock-up security.

## **SECURITY CHALLENGES**

By 2011, technology and financial trading based on BLS data had taken quantum leaps forward. A comprehensive security review relative to this new reality was overdue.

We understand that there is intense competition among media outlets to provide information to investors and the general public. We also know that the competition now extends to providing the raw data to subscribers trading on it through algorithms, which is not the purpose of the lock-ups. However, we believe it is possible to balance our agency's commitment to contribute to an informed public debate with an equally strong commitment to prevent the premature release of economic data. As such, the department recently announced new security protocols that will give participating news organizations the continued opportunity to write and deliver their stories in a secure lock-up environment, while taking additional precautions to prevent unauthorized data transmission before the embargo is lifted.

Due to the rapid technological advances of recent years, news organizations continuously have installed increasingly more complex computer configurations in the print lock-up room, as well as sought to increase the speed of their data lines. Accordingly, a steady flow of contractors and other visitors are in and out of both DOL's lock-up facility and our telephone closets to make technological modifications. It has become increasingly challenging to ensure that the technical work performed on behalf of news organizations complies with our data security policy or to ensure that news organizations cannot – and have not – intentionally or accidentally bypassed security controls intended to prevent outside communication of embargoed economic data prior to the authorized release time.

Over the years, there have been different types of violations of security protocols, technological and otherwise. For example:

- A news organization installed a fiber optic line through one of the department's fiber optic hook ups, located in a DOL phone closet, despite having been told repeatedly that use of fiber optic cable was not allowed.
- A news organization asked to disconnect and replace the "black box" supplied by DOL to disable Internet activity during the embargo period. While we explicitly denied this request, it was later discovered that the news organization had ignored this directive and replaced the "black box" without permission.

- Numerous media organizations failed to comply with DOL's requirement that they inventory and label their data lines located in the lock-up facility.
- On two separate occasions, a wire service inadvertently transmitted sensitive employment and productivity data to its subscribers during the embargo period. The problem was related to a computer cable connection.
- A lock-up participant was sanctioned for retrieving his BlackBerry from a storage container and using it during the embargo period. Following that incident, the containers used to hold electronics were replaced with lockboxes.
- A reporter had his credentials temporarily revoked for using a mobile device to take a photograph during the lock-up.
- Participating media organizations have contacted the department frequently to voice concerns that competitors may have gained unfair advantage in speed of transmission or have surreptitiously broken embargoes.

The rapid speed at which markets can integrate information has strengthened the financial incentive to violate the terms of pre-release access for the purpose of providing non-public data to paid subscribers. This reality violates a core principal of the federal statistical system of releasing data to the general public in a manner that prevents unauthorized dissemination or use. Algorithmic trading introduces new security variables into a lock-up system not originally designed to guard against market-moving disruptions that could be caused by the release of government data to certain traders just seconds before the rest of the general public. A few years ago, a few seconds here or there would not have had much of an impact. Today, fractions of a second can equate to millions or even billions of dollars in market movements.

## **THE DEPARTMENT'S RESPONSE**

In April of 2011, the department entered into a memorandum of understanding with Sandia National Laboratories to identify potential vulnerabilities in our press lock-up facility, provide mitigation options for vulnerabilities identified, and assist in mitigation verification regarding any changes we decided to make to the lock-up. Sandia provided the department a report and series of recommendations in August of last year.

DOL has focused on three proposals to enhance security in the print lock-up, based on these recommendations:

- Replace the variety of privately-owned equipment with standardized equipment that will significantly reduce the possibility of data leaks;
- Secure standardized phone/data lines that are under departmental control and physically off-limits to news organizations; and

- Require that reporters' electronic devices and personal effects be stored in lockers outside of the lock-up facility.

In addition, the department re-evaluated its criteria for granting press credentials to the lock-up facilities (print and TV), consistent with one of Sandia's recommendations, and began the credentialing process anew. The department announced publicly on April 10 that the issuance of new credentials, to be effective July 6, would be based on whether organizations are primarily journalistic enterprises and publish or broadcast time-sensitive summaries and analysis of department data that is likely to contribute significantly to public understanding through the dissemination of original news, analysis and/or opinion to a broad public audience.

The requests and decisions on credentials were handled by a committee of career employees. Neither editorial nor political viewpoints were considered in making credentialing decisions.

Concurrently, I instituted additional internal rules regarding Office of Public Affairs personnel who staff the lock ups. Of particular note is that non-career federal employees are no longer permitted to staff the lock-ups. As a result, even though I am responsible for the security and management of the lock-ups, I am not allowed in the lock-up rooms when we release data.

## **GOING FORWARD**

My principles for conducting a secure lock-up are straightforward: The lock-up must serve the public interest. The public interest is served by the widest possible distribution of important economic data. The public interest is served when data are accurate, unbiased and disseminated in a non-political way. That is why in the case of principal federal economic indicators such as the monthly jobs numbers, OMB Statistical Policy Directive No. 3 does not permit any administration official to comment on the figures until at least one hour after they are made public.

On April 10, I sent a letter to news media organizations that were currently credentialed for the lock-up, notifying them of the changes that would be made over the coming months. Simultaneously, my office widely disseminated a notice to all media organizations inviting interested outlets to request press lock-up credentials. I also hosted a conference call with interested media on April 16 and posted the recording of the call, along with a transcript, on our website.

The department's plan to implement reforms based on Sandia's recommendations prompted concern on the part of some news organizations that are credentialed for the lock-up. In particular, a few organizations expressed concern that the plan would not permit the use of their private, individual high-speed data lines, their customized publishing software and their personal computers and other hardware.

To learn more about the concerns of news organizations, we met with news organizations on May 15. That session led to an agreement that DOL and the news organizations should bring their technical experts together for discussions about possible ways to accommodate the concerns of news organizations while continuing to mitigate security risks. Three such meetings were held, on May 23, May 30 and June 1.

These meetings have been productive and I am encouraged by the progress we have made toward a solution that addresses the department's security mandates, as well as the media organizations' business and journalistic goals.

The news organizations and DOL share the same goal of informing the public as quickly as possible. In that regard, I am also pleased to report to the committee that DOL will amplify its announcement of the key indicators we release. Currently, for example, the Employment Situation data are posted at about 8:30 a.m. on the BLS website and a few minutes later on the DOL website. Starting July 6, links to this all-important data will be posted at 8:30 on the DOL website and through social media. These postings will be "just the facts" links to the BLS report; there will be no commentary. These announcements by DOL, combined with news media accounts, will help ensure that current economic data are made immediately available to the public and will help inform decisions in the private, nonprofit and public sectors in the United States and worldwide.

As technology continues to change at a rapid pace, the department is committed to making continuing adjustments to secure and protect the integrity of our government's key economic indicators. Thank you again for the opportunity to testify today. I would be pleased to answer any questions you may have.

## Biographical Sketch

CARL FILLICHIO

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Carl Fillichio serves as U.S. Secretary of Labor Hilda Solis' senior advisor for public affairs and communications. He oversees the department's media and public relations efforts, internal communications, new media, audio visual production, graphic design, editorial services, web development and the DOL National Contact Center.

Prior to coming to the Labor Department Fillichio was a senior vice president at Lehman Brothers where he promoted the firm's thought leadership in talent management, diversity recruitment, and philanthropic initiatives.

Previously, he served for seven years as the Vice President for Public Engagement at the Council for Excellence in Government, a national non-partisan think tank that worked to improve government performance and citizen participation, understanding and trust in government. In this role Fillichio convened thought leaders, Members of Congress, journalists, and community members to examine a wide range of public policy issues. Working alongside the newly formed Department of Homeland Security, he led a national initiative to capture public perceptions of safety and emergency preparedness. He also directed the Council's efforts on attracting the best and brightest to public service and served as program committee chair of the annual Excellence in Government Conference.

For his work, he was named in 2004 to Utne Magazine's list of the "Radical Middle: 10 Americans Reshaping the Future of American Politics."

This is not Fillichio's first "tour of service" at the US Department of Labor: He was Deputy Assistant Secretary for Public Affairs during the Clinton Administration.