

PERSEREC



Management Report 01-2
January 2002

**Cleared DoD Employees At Risk - Report 1
Policy Options for
Removing Barriers to Seeking Help**

**Suzanne Wood
Lynn F. Fischer**
Defense Personnel Security Research Center

Approved for Public Distribution:
Distribution Unlimited.

Defense Personnel Security Research Center
99 Pacific Street, Suite 455-E
Monterey, California 93940-2497

**Cleared DoD Employees at Risk
Report 1
Policy Options for
Removing Barriers to Seeking Help**

Suzanne Wood
Lynn F. Fischer
Defense Personnel Security Research Center

Released by
James A. Riedel
Director

Defense Personnel Security Research Center
99 Pacific Street, Suite 455-E
Monterey, California 93940-2497

Preface

In the wake of an alarming number of espionage cases involving cleared U.S. employees in the early-to-mid 1980s, the DoD Security Review Commission under the chairmanship of General Richard G. Stilwell, USA (Ret.) recommended that a personnel security research center be set up. In 1986 the Defense Personnel Security Research Center (PERSEREC) was established. The center was charged with producing data-based information for policymakers to facilitate making informed decisions on personnel security policy, with the ultimate aim of reducing the likelihood of people committing espionage.

People are drawn to espionage for a variety of complex and interconnected reasons, many of which entail unresolved personal problems. Professional help—from programs and services provided by the government—may prevent personal problems becoming so acute that individuals are driven to desperate acts. Although most individuals have problems at various times in their working lives, they do not commit espionage. Troubles are resolved in one way or another: through counseling from family, friends or professionals or through the passage of time and changing circumstances. Those who eventually do commit espionage often wish they could have prevented it. For example, one convicted spy now serving a life sentence in Fort Leavenworth poignantly described how receiving counseling might have stopped him in his tracks. *“If somebody had said something to me and put a block [counseling] in front of me...that would have been enough to stop the process at least for a while, to give me time to think and breathe. I would have been out of the picture, for a minute anyway. And that might have been the minute to change me.”* If government employees know about the various counseling programs and can appeal to these programs for help, this “block” may prevent them from crossing the line.

To this end, PERSEREC undertook a study of the relationship between DoD personnel security policy and federally mandated employee assistance programs (EAP) for civilians and counseling/referral services for military personnel. The goal was to identify any barriers that prevent cleared DoD employees from using these programs.

The purpose of this short report, *Cleared DoD Employees at Risk, Report 1, Policy Options for Removing Barriers to Seeking Help*, is to present basic background information and a series of recommendations concerning a problem of growing importance to the DoD: How does DoD encourage people to deal with their personal problems while at the same time maintaining personnel security requirements for people who have access to classified information? This report, designed for the policymaker, answers three questions:

- What is the problem?
- Why does this problem need to be addressed now?
- What can policymakers do about the problem?

A separate report—*Cleared DoD Employees at Risk, Report 2, A Study of Barriers to Seeking Help*—is for the reader requiring more detailed information. It documents the research, presents findings and conclusions, and includes in appendices copious background information on—among other things—various aspects of the EAP movement, military counseling/referral programs, and DoD personnel security policies and programs.

James A. Riedel
Director

What Is the Problem?

Many cleared individuals in DoD are not using government-sponsored EAPs or the military counseling services because they fear their security clearance status will be jeopardized. They consult private counselors, or do not seek help at all.

We interviewed 146 individuals—professionals in the DoD personnel security system, counselors and administrators in government-sponsored EAPs and military counseling/referral services, and rank-and-file people in the field who may use these programs. These discussions highlight the fact that, despite policy being in place to provide appropriate counseling for troubled individuals with clearances in the DoD system, many people are reluctant to use these services because they are afraid their clearances will be adversely affected. The following material summarizes themes that emerged during the course of discussions to define the problem.

Inherent contradictions. While conducting a DoD-wide study of continuing evaluation several years ago, PERSEREC researchers found inherent contradictions in policy and practice between then relatively new employee assistance programs and security programs. Interviewees in the current study, unprompted, spoke of the same problem. Government policymakers operating in different arenas have—unwittingly—set up a conflict between their intent to protect national security and their obvious desire to help government’s civilian and military employees address personal problems. The traditional emphasis was on protecting security, in a total risk-avoidance environment, by simply catching and weeding out troubled individuals—this under the assumption that employees with unresolved personal problems are at risk of becoming spies. However, since the end of the Cold War, the government has moved to a more risk-management stance, mandating programs to help troubled employees rather than dismiss them from employment for problems that would formerly have been considered inimical to security. A new, more humane “cure-‘em” policy has been superimposed on the “catch-‘em” philosophy, and this is causing a contradiction because directives and regulations mandating some programs are often in conflict with others that have different goals.

The inherent conflict was apparent even in 1987 when DoD Directive 5200.2-R was written. The directive “encouraged” heads of all components “...to develop programs designed to counsel employees in sensitive positions who are experiencing problems in their private lives...” Yet the same document required that supervisors report matters of personnel security concern (undefined) so that “...the appropriate authority can take timely corrective action to protect the interests of national security as well as to provide any necessary help to the individual concerned to correct any personal problem which may have a bearing upon the individual’s continued eligibility for access.” It is perfectly reasonable for individuals to infer from these influential and conflicting regulatory provisions that an attempt on their part to address “any personal problem” would pose a real threat to their security clearance eligibility.

Many people mistrust the government. Policies are in place (E.O. 12968 and the 5200.2-R) that promote EAPs and military counseling services for troubled DoD employees. The cleared person is expected to “recognize and avoid the kind of personal behavior that would result in rendering one ineligible for continued assignment in a position of trust.” Yet our research shows that people do not always believe that by seeking help for such a “personal behavior” they will remain safe from investigation by Security. Many DoD employees have the strong impression that if they seek help from government counseling services their clearance status will be called into question. As a result, they consult private counselors (or no counselor at all), thus bypassing the very system put in place by the government to help them.

Tension between security requirements and basic privacy rights. This is especially a problem for civilians who expect their private problems to remain private (see the Privacy Act of 1974). EAP providers may promise confidentiality. However, employees are required, if seeking security clearances, to give permission in writing for disclosure of various records to DoD investigators. One apparent perception is that any current file can be linked back to people via computers and elaborate data-mining connections.

Catch 22 between SF-86¹ reporting requirements and Security’s need to know. Related to confidentiality, people understand that in their 5-year periodic reinvestigation, they must respond to the questions on SF-86 on drugs, alcohol, mental health, and other kinds of counseling. They are faced with the moral dilemma of admitting the counseling and thus opening themselves to Security scrutiny, or lying. At the same time, Security cannot give any assurances of confidentiality. Hence, individuals feel they are at a distinct disadvantage in either case.

Security’s message is not unequivocal. Brochures on EAP often include a sentence: “In general, information from the EAP may be released only with your prior permission.” The words *in general* give rise to serious concern about what exactly will be released and under what circumstances. Thus, an assurance such as “Participation in the EAP will not jeopardize your job or career” sounds questionable to many employees.

Not taking care of problems can have negative consequences.

Problems get out of control. Concerned for their security status, many people delay facing their problems and allow situations to become overwhelming. If and when they do seek help, “they are often near the end of their tether, near meltdown,” as one interviewee described it. As a result, consequences adverse to security are more likely.

The cost of not helping people. The economic costs of having personnel in the federal system stumble are large. These people generally have no thought of committing espionage and merely need support for temporary problems. Employee assistance programs were designed to help unhappy, distressed, disturbed people who need

¹ The Standard Form 86, *Questionnaire for National Security Positions*, is required to be filled out by anyone applying for a security clearance.

somewhere to turn before problems grow to insurmountable levels. Employees in supportive work environments who are not distracted by personal problems such as drugs, alcohol, financial, emotional, and family issues are less likely to be diverted from their job and thus more likely to adequately safeguard national interests. People must be encouraged to solve their problems before they begin to look for risky shortcuts, which end up being expensive for the country.

Increasing security risks. By not giving people unqualified assurance that they can seek help for problems without jeopardizing their security clearances, we are potentially increasing the pool of individuals who might compromise classified information, damage or endanger critical assets, or commit espionage or other desperate acts. Better to have problems out in the open and being addressed rather than escalating to crisis proportions.

Why Does This Problem Need To Be Addressed Now?

The times have changed. The regulatory, social and economic environments of the new century require re-examination of aspects of the personnel security system.

Changes in policy direction derived from the mandate in E.O. 12968. The recent (1995) E.O. 12968 stated that "...heads of agencies granting access to classified information shall establish a program for employees...to educate employees about individual responsibilities...and inform employees about guidance and assistance available concerning issues that may affect their eligibility to access to classified information, including sources of assistance for employees who have questions or concerns about financial matters, mental health, or substance abuse." Thus, E.O. 12968 offered a lifeline to employees with personal problems. Apparently, not everyone in DoD is aware of this new policy and the 5200.2-R has not adequately incorporated the new EAP mandate provided in E.O. 12968 into its policy guidance. Thus, DoD has a programmatic and public relations problem that must be addressed immediately.

Economic considerations. As the cost of recruiting, vetting, and training new employees increases, so much larger is the economic loss when cleared employees falter because of personal problems. Common sense decrees that it is much more cost-effective to help employees solve their personal problems than to acquire replacements. Particularly for military personnel, DoD would prefer to retain its cleared employees in whom it has made substantial investments than to begin the cycle of recruitment and vetting all over again. In the current economy, recruitment is much more difficult and the training investment increasingly high because DoD systems are becoming more and more technical.

Recent social trends have intensified personal stress levels. DoD employees are not immune from the issues that make social life in the larger population increasingly problematic. Additional strains arise for DoD employees. For example, recent years have seen massive downsizing in the military that has affected both military and civilian DoD

jobs. This has led to lowered morale among civilian workers because they fear their jobs will be eliminated or downgraded. On the military side, suicide rates at a much higher level than in the general population brought about new programs designed to decrease resistance to seeking professional assistance. Domestic violence among military personnel was recently seen as a serious enough problem that the Defense Task Force on Domestic Violence was set up last year, with the goal to establish DoD communities that are “safer, more wholesome...and provide a quality of life...that is free of fear.”²

For the military population, DoD continues to be concerned about improving the overall quality of life so that individuals will be attracted to the military and remain there for the duration of their enlistment. The 2001 Cohen report makes repeated references to reducing attrition.³ Given the difficulty in recruiting high-quality individuals, it is in the interest of DoD to retain trained people, assisting them to overcome personal problems as they occur.

What Can Policymakers Do About the Problem?

We offer recommendations in three areas: policy and practice, a pilot study, and security education and awareness.

Policy and Practice in the Personnel Security System

Recommendation 1. Provide explicit clarification in 5200.2-R to bring DoD policy into harmony with E.O. 12968 by removing barriers to seeking assistance from a government-sponsored EAP or other counseling provider.

Discussion. Many DoD employees believe that they cannot consult EAPs and counseling services without jeopardizing their clearance status. The problem is often a matter of perception. Assurances must be codified so that educators can point for proof to a paragraph that would be added to the 5200.2-R (to 9-101[b] Management Responsibility, p. IX-1). Such a paragraph, the precise wording of which would be drafted by appropriate policymakers, would state that participation in an EAP would be considered only as positive evidence of reliability and willingness to fulfill personnel security responsibilities.

The regulation should also include a provision for the future implementation of safe harbor programs by components that would provide employees conditional immunity from adverse adjudicative action while they are successfully undergoing treatment or rehabilitation via government-sponsored counseling programs. The regulation would include reference to a series of strict conditions under which safe harbor might be offered under a component program.

² Cover letter to the initial report of the Defense Task Force on Domestic Violence, February 28, 2001.

³ Cohen, William S. (2001) Annual Report to the President and the Congress. Quality of Life and Personnel (Chapter 10), p. 166.

We recommend an additional amendment to 5200.2-R (Section 2, Security Education; 9-201, Initial Briefings) that directs the security educator to advise cleared employees of the conditional immunity from adverse action offered to employees who seek to address their problems through a government-sponsored EAP, counseling, or treatment program.

Recommendation 2. In advance of, or in lieu of, the implementation of Recommendation 1, issue a policy letter to each of the components advising that participation by any cleared employee in an EAP or treatment program (either by self-referral or by management direction), given the absence of additional information of an adverse nature, will not be grounds for an adverse adjudicative action.

Discussion. Such advice to security practitioners in the field will be strengthened if it includes a statement that “the act of seeking counseling or treatment will be considered as positive evidence that individuals are willing to address their problems, thus demonstrating that employees or service members are conscientiously living up to their security responsibilities.” Given the language of the current policy or adjudicative guidelines, a declaration of this type would not represent a policy change but a clarification or elaboration of existing policy that in reality is consistent with prevailing adjudicative practice.

We recommend that this assurance should not apply to those who seek treatment or counseling in the private sector without initial screening, counseling, and referral through a government-sponsored EAP program. Use of a common point of initial evaluation and referral should be encouraged since, while individual confidentiality is protected by EAP administrators, aggregate data related to participation in government-sponsored programs can provide valuable information to commanders and executives about organization climate, local vulnerabilities, and health conditions.

Recommendation 3. Include in the forthcoming revised adjudicative guidelines statements that participation in an EAP or military counseling program is an important mitigating factor and, given the absence of additional adverse information, would not be the basis for revocation or suspension of access.

Discussion. A statement regarding protection from adverse action was included in the January 1987 DoD 5200.2-R as applied to self-referral for treatment for alcohol abuse, assuming that there were “no precipitating factors such as...arrests or incidents.” It is not clear why this language was dropped from the 1997 DoD guidelines. During the next few years the current guidelines will be updated, and changes will be implemented based on judicial and legislative developments since 1997. It would be appropriate to include language that is consonant with guidance in E.O. 12968 on the importance of providing information on employee assistance. The wording of the 1987 guideline may in fact serve as the model for a more general assurance regarding types of treatment or counseling for all problems that might have security implications, not just alcohol. This would obviously apply to people applying for a clearance and to those already holding one. The language might read:

“If an individual’s problem that is of security concern surfaces only as a result of self-referral to an employee assistance or counseling service and there have been no precipitating factors such as arrests, adverse behavior, or evidence of impaired judgment, action will not be taken to deny, suspend or revoke security clearances solely on the basis of self-referral for counseling or treatment.”

Recommendation 4. Modify printed guidance on the SF-86 (Items 21 and 25) to remove the disincentive to voluntarily seek assistance for a problem that may be of security concern.

Discussion. The language of Item 21 (Your Medical Record) or Item 25 (Your Use of Alcohol) stands as an obvious impediment to anyone who might be considering even an initial inquiry to an EAP for possible referral. While people may trust the pledge of confidentiality provided by a counselor, as honest people they acknowledge at the time of the next periodic reinvestigation an obligation to report seeking assistance. Security officers advise them that they must do this. Thus, many employees who have held a clearance for several years are aware of this fact and will defer seeking help rather than, as they see it, jeopardizing their clearance status.

One option is to specifically exempt as reportable initial counseling or evaluation by an EAP professional (which often includes up to six sessions at no cost to a civilian employee.) The guidance for Item 21 would then read:

“If you received counseling from a professional employee assistance counselor *under a government-sponsored program*, you may answer no to this question and you do not have to report it during a background investigation.”

Similarly, the guidance for Item 25 would include this statement:

“If your counseling was limited to an initial evaluation for possible alcohol dependency by a professional employee assistance counselor under a government-sponsored program, you may answer no to this question and do not have to report it during a background investigation.”

This guidance would require employees to report mental health treatment or rehabilitation for alcohol abuse only when they enter into a long-term relationship with a therapist or other health care provider. Only problems that require long-term treatment should be counted as *mental health treatment or rehabilitation*.

Another option that would not modify the reporting guidance as it stands would simply add the following statements to the guidance for Items 21 and 25 to confirm the positive effect of self-initiated actions to deal with personal problems.

For Item 21: “Your voluntary self-referral to a government-sponsored employee assistance program or military counseling program for the purpose of mental health

counseling will be considered positive evidence of your reliability and willingness to fulfill your personnel security responsibilities and will not adversely affect your clearance status.”

For Item 25: “Your voluntary self-referral to a government-sponsored employee assistance program or military counseling program for the purpose of seeking help to combat alcohol dependency will be considered positive evidence of your reliability and willingness to fulfill your personnel security responsibilities and will not adversely affect your clearance status.”

Recommendation 5. Identify a single point of contact within the DoD for oversight, policy development, and coordination of employee assistance programs for the civilian DoD workforce regardless of whether employees hold clearances.

Discussion. There is no one office within DoD that oversees and coordinates the EAP program within DoD. The Office of the Secretary of Defense (Health Affairs) has a directive, DoDD 1010.10 on health promotion, that charges the components with establishing health promotion plans and programs. It deals with many matters usually covered by EAPs, but does not expressly mention EAPs *per se*. The establishment of EAP programs is at present the responsibility of the components.

It would be preferable to have one DoD office that is responsible for oversight and coordination of the EAP programs within DoD. With this, greater accuracy might be achieved in tracking utilization rates among the Defense components. It would allow better coordination of policies on confidentiality, more uniform compliance with legislative requirements, and standardized policy on collaborative programs with security offices.

Pilot Study

Recommendation 6. Establish a pilot study to evaluate the feasibility of a comprehensive safe-harbor program.

Discussion: We recommend a controlled test of a safe-harbor program in one large organization or command. While the details of this research design need not be enumerated here, the test program would apply to both clearance and access that are in question for any security reason, not just drugs. Nonnegotiable conditions would be set up so that no “unqualified” people can use the program as a shelter. The program would require that employees have freely self-referred to a government EAP, counseling or assistance program, or have agreed to enter such a program of treatment, rehabilitation, or counseling based on a management referral. It would also assume that to preserve their clearance status individuals comply with the treatment program, agree to regular monitoring, not relapse after the program, and have no pending overt problems prior to entry.

Any pilot program of this type would require close coordination between EAP administrators and security managers at the installation level and with the adjudication

facility. Participants would agree to the disclosure of their participation and subsequent progress to the CAF. The pilot study might be conducted over a 1- to 2-year period in which before-and-after indicators would be recorded and compared. By conducting a pilot program employing a risk-management methodology, we will be able to weigh the relative benefits of a comprehensive safe-harbor policy over the status quo.

Critics of safe-harbor proposals have cautioned that leaving vulnerable personnel in positions of trust while in rehabilitation presents an unacceptable risk. However, this must be weighed against the greater danger posed by people in dire need of counseling or treatment who are fearful of the security consequences of seeking such help. To have such people under the umbrella of a protective program would mean that (1) they have been identified, (2) they are getting help, (3) they are being monitored, and (4) DoD has a good chance of retaining an otherwise valued employee. Better this, surely, than not knowing who in the workplace has serious, untreated problems while still having access to classified information.

Security Education and Awareness

Enhanced security awareness and training for cleared employees and supervisors would help break down barriers to seeking assistance, especially for problems relating to the adjudicative criteria. Part of the difficulty in getting troubled employees to come forward for help is the perceived lack of clarity in the personnel security system itself and the unknown risks people might face about revealing personal problems to anyone, even an EAP counselor. We should be able to spell out just how the system works and how decisions are made about personal clearances and access.

Recommendation 7. Develop a prototype brochure on “You and Your Clearance” that explains frankly the security benefits and ramifications of seeking help for problems. This brochure may be passed out at the time people receive their clearance.

Discussion. Few awareness products were found that focus on the clearance process, self-reporting responsibilities, and the impact of seeking assistance on an individual’s clearance or access status. People should be informed more frequently and effectively of how the system works in practice. Specifically, both civilian and military personnel with problems should know that if they make a genuine effort to resolve a personal problem—and especially if they voluntarily seek assistance in the early stages of the problem—they will not lose their clearances for this reason alone. In fact, it will count in their favor.

Recommendation 8. Through DoD and component policy documents, require that security professionals who provide initial indoctrination and refresher briefings to cleared personnel include information about employee assistance and counseling programs, to include new guidance as suggested by Recommendations 2 and 3.

Discussion. Information about EAPs or counseling services is generally not included in security briefings or in initial indoctrination by most security briefers.

Personnel do receive EAP security education briefings and other media from EAP administrators, but the connection between the two programs is rarely made.

Since this topic is a security issue, it is more properly addressed in a security awareness briefing. To advise cleared employees about EAPs is clearly mandated in Executive Order 12968 and in DoD Directive 5200.2-R. We recommend that component policy personnel remind security managers in military components and civilian agencies of this briefing requirement.

Recommendation 9. Develop an exportable training module for supervisors and administrators on how to respond to warning signs and refer at-risk cleared employees to EAP/counseling programs.

Discussion. From our discussions with respondents in this study, it is apparent that employees, including first-line supervisors, remain very much in doubt about their responsibilities and security obligations with respect to advising the people they supervise about employee assistance. Given the large size and wide dispersion of this target audience, an exportable module in CD-ROM format would be a suitable vehicle for delivering this type of training. This product might be modeled after the Customizable Employee's Guide to Security Responsibilities that is intended for use for all cleared personnel (Defense Personnel Security Research Center, 2000).⁴

In summary, PERSEREC suggests that DoD begin acting on the above recommendations. An initial strategy might be to bring together a group of personnel security professionals in a workshop to discuss implementation of the above recommendations. PERSEREC could be instrumental in organizing such a workshop.

⁴ The Guide also includes advice on the referral of at-risk employees to EAPs by supervisors.