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Trends. Section 1071 of the Fiscal Year 2001 Defense Authorization Act: But Is It Good for National Security?

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In the United States (US), legislation pertaining to personnel security issues for individuals with security clearances is intended to minimize security violations including espionage. However, sometimes the legislation dictates procedures that seem to contradict that intent.

For example, the essence of Section 1071 of the Fiscal Year 2001 Defense Authorization Act stipulates that the US Department of Defense may not grant or renew a security clearance for a person (1) convicted of a crime and sentenced to imprisonment for a term longer than one year, (2) who is an unlawful user of a controlled substance, (3) who is mentally incompetent, and (4) who has been discharged or dismissed from the Armed Forces under dishonorable conditions. At issue in this article are criteria (1) and (2) pertaining to renewal of security clearances.

Both criteria--if followed--necessarily lead to the US Government (USG) losing people who may have been trained at heavy expense, have contributed much of a sensitive nature to USG security, and have special and highly valuable skills. The criteria also necessarily reinforce an asymmetry within the security community in that the many interagency committees and projects would be staffed with individuals who may or may not comply. This makes little security sense because committee and project members often would be entrusted with basically the same sensitive information. The criteria also necessarily create security vulnerabilities among individuals currently working with security clearances who realize that "the handwriting is on the wall" and that they will soon lose their clearances, not for misbehavior, but because of a new policy. In essence, a self-fulfilling prophecy would be created.

Most importantly, the criteria are not based on linkages with security behavior validated through reason and empirical data. Who's to say that an individual with a conviction and sentence over 1 year is more or less a security risk? Or that the risk should necessarily apply to the unlawful use of drugs? Unfortunately, there seems to be an unfortunate conflation of personal and professional standards of right and wrong with the only thing that should matter to personnel security and counterintelligence experts--viz., the probability of security consonant behavior and of security violations. Here's an example wherein a quest for the right can lead to the wrong. (See Conference report on H.R. 5408, Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001: Excerpts on Secrecy and Security Policy. Federation of American Scientists. <http://www.fas.org/sgp/congress/2000/default.html#1071>; Cramer, R. E., Manning-Ryan, B., Johnson, L. M., & Barbo, E. (2000). Sex differences in subjective distress to violations of trust: Extending an evolutionary perspective. *Basic and Applied Social Psychology*, 22, 101-109; Harm, N. J., & Phillips, S. D. (2001). You can't go home again: Women and criminal recidivism. *Journal of Offender Rehabilitation*, 32, 3-21; McCarthy, B., & Hagan, J. (2001). When crime pays: Capital, competence, and criminal success. *Social Forces*, 79, 1035-1059; Turnley, W. H., & Feldman, D. C. (1999). The impact of psychological contract violations on exit, voice, loyalty, and neglect. *Human Relations*, 52, 895-922.) (Keywords: 2001 Defense Authorization Act, Security Clearances.)