

# The Psychiatrist in the Security Clearance Process

By Brian Crowley, MD, DLFAPA

Psychiatrists are asked to participate in the security clearance process in either of two ways. First, treating psychiatrists are occasionally asked to give a professional opinion as to whether or not a patient, or former patient, is suitable for a security clearance. The doctor will receive a call or a fax from a federal investigator, usually asking to meet briefly with the doctor, and stating he has a release signed by the patient. Typically only one question is asked:

## Questionnaire for National Security Positions

Does the person under investigation have a condition that could impair his or her judgment, reliability, or ability to properly safeguard classified national security information?

Yes       No

If so, describe the nature of the condition and the extent and duration of the impairment or treatment. \_\_\_\_\_

What is the prognosis? \_\_\_\_\_

Dates of treatment? \_\_\_\_\_ Doctor's Signature \_\_\_\_\_

If the treating doctor answers that question “No,” that ends the inquiry and supports the patient on his way to obtain (or retain) his clearance. On occasion a psychiatrist refuses to give any reply to this question. That refusal often leads to a prolonged delay in adjudication, during which the patient/employee stays in limbo until the system makes a referral for a current evaluation by another psychiatrist or clinical psychologist. This delay, often lengthy, is a profound disservice to an individual who is able, eager, and competent to work and to safeguard classified information.

I think we should answer this question for our patients when asked. Yes, we want to be sure the patient has consented to our giving this opinion, but he/she almost invariably has done so in writing, while looking for a new job, or for advancement in an existing position. Most of the time these are folks who have been working with us in treatment, sincerely trying to improve the quality of their lives and/or reduce symptoms. They are, in my experience, most often earnest, sincere people with a high degree of dedication and patriotism. With a current patient, I make a point always to discuss the inquiry I have received, and my proposed reply, with her/him before I meet with the investigator. (Frequently my patient has told me to expect such an inquiry, and we have already discussed it.)

On the other hand, if I am asked about a patient I saw once or twice, eight years ago, with dubious treatment commitment and a then-unstable condition, I say I do not know his/her current status and suggest a more current evaluation. While the form asks for a “yes” or “no” answer, there is absolutely no barrier to writing a brief explanation.

If a colleague will not answer that question about a patient he knows well out of fear his answer might prove wrong and he will experience some backlash, he should critique himself for excessive timidity and/or lack of knowledge of how strongly the law supports a doctor using his best judgment in the service of his patients and the community.

If uncertain how to handle a given inquiry, consultation with an experienced colleague is a very good idea, as it is with other challenging practice situations.

In the second scenario, a psychiatrist is asked to perform an independent psychiatric evaluation for an individual he has not met, addressing the issue of eligibility to obtain or to hold a security clearance. The evaluation may be requested either by a government agency or by an individual; in the latter case, he/she is usually represented by an attorney. Such an evaluation should be performed by a psychiatrist with considerable experience working at the interface of psychiatry and the law. While this is a forensic psychiatric procedure, in my view it does not require that the psychiatrist has taken a forensic fellowship – when I started working at the psychiatry/law interface there were no such fellowships – but it does take one who has deep knowledge and appreciation for how the law undergirds all psychiatric practice.

The doctor gathers all relevant information to understand the problems and issues presented, reviews the materials, sees the individual (I recommend twice) in the office for personal evaluation, consults with appropriate parties as indicated, and writes a good report. The report need not be long but should be thoughtful, well-crafted, succinct, readable and interesting. In my experience, an 87-page forensic psychiatry report is almost always inferior to one that is five-pages long. If the written report does not resolve the matter, a hearing will likely be scheduled to decide the case. These hearings are usually held in a standard administrative hearing format with attorneys for both sides present. Evidence is introduced, including expert as well as lay witnesses, and the hearing is presided over by an administrative law judge who makes a written ruling. It has been my experience that the individual regularly receives a fair consideration in such a hearing, with ample opportunity to show eligibility to hold a clearance, and where problem conditions are identified and mitigated.

In the federal government, the standard is the Adjudicative Guidelines for Determining Eligibility for Access to Classified Information. The Guidelines, promulgated by The White House, have been in use since the 1950s and revised periodically through successive administrations. I find them clear, sensible, and nuanced – facilitating a quality evaluation and report. The guidelines are more concerned with behavior than with formal diagnosis, and speak of “behavior that casts doubt on an individual’s judgment, reliability, or trustworthiness.” “Conditions that could raise a security concern and may be disqualifying” are balanced against “conditions that could mitigate security concerns” in making the judgment to grant or deny a security clearance.

Importantly, the Guidelines provide explicitly that “No negative inference concerning the standards in this Guideline may be raised solely on the basis of seeking mental health counseling.” This helps reduce the fear of some that being in treatment is hazardous to their job health. In my long career I have found that this fear has not proven realistic. In fact, it is just the reverse: leaving symptoms of mental disorder unattended to and untreated is hazardous to the person’s standing at work as well as to the rest of his or her functioning in life. Employers generally would rather have an employee who is productive and stable with ongoing treatment rather than an undiagnosed or untreated bundle of behavioral dysfunction.

No specific mental health diagnoses, or behaviors, are listed in the Guidelines as automatically disqualifying. An individual is not deemed a security risk if that person has a psychological or behavioral problem and that condition can be mitigated if “the identified condition is readily controllable with treatment, and the individual has demonstrated ongoing and consistent compliance with the treatment plan,” or there is “a recent opinion by a duly qualified mental health professional employed by, or acceptable to and approved by the U.S. Government, that an individual’s previous condition is under control or in remission, and has a low probability of recurrence or exacerbation.”

A number of my patients and former patients have gone on to serve with great credit and satisfaction in significant jobs, after negotiating the security clearance process. On the forensic (evaluative) side, it continues to be interesting, challenging yet rewarding work to conduct these evaluations and to participate in the adjudication process, including the administrative hearings.