

**Security Clearance:
I Messed Up, Now What?
Jon L. Roberts, J.D., Ph.D.**

So you have a security clearance and are happily conducting all matter of great research and services to the government on a classified project. However, after a hardy night of celebrating the incoming New Year you drive home having consumed, perhaps a few too many alcoholic beverages. You are stopped by the local law enforcement who promptly arrests you, and because the alcohol was talking and not you, you tussle with the officer and wind up in the slammer for several days, charged with assaulting a police officer, and driving while under the influence. Oh well, happens to everyone you say? While this might be a common occurrence, it has a dramatic impact on your security clearance if you don't report it.

Many people would not report such an incident being embarrassed by the incident itself and, perhaps years hence, only have a casual remembrance of that incident. Further such an incident may have caused a behavior change in you where you no longer drink and drive.

However, when it comes time to fill out an update for your security clearance, which occurs generally every 5 years, if you do not mention such an incident feeling that it is best to let sleeping dogs lie, you have not only committed a felony violation of a particular statute, but have also greatly endangered your security clearance and your potential livelihood.

The natural question is "if I report the incident, will I not lose my security clearance?"

The answer is "No" if you take the appropriate steps to report the incident and involve yourself in remedial action that will be perceived to be a so-called "mitigating circumstance" for the behavior involved. The worst possible situation would be to not report the incident, to take no action, and to subsequently not list that incident on your security clearance update form.

All is not lost. The government is looking for honest people, not necessarily "good" people. Thus, there is an allowance in the eyes of the security clearance adjudication folks that individuals may in fact break the law from time to time. This, however, does not mean that the individual is a security risk if certain actions are taken. In the case of our hapless inebriated New Year's Eve celebrator - if the person takes action to go to classes that relate to driving under the influence, perhaps seeks the assistance of a substance abuse counselor to either become involved in abatement of substance abuse, or to obtain guidance from such a substance abuse counselor that this was indeed an isolated even and that by taking appropriate responsibility for your actions the likelihood event being repeated is slim, such actions can be reported, together with the security update form, so that mitigating circumstances associated with the infraction are met.

What does this all mean? What it means is that if you take the correct action, remedial training/counseling, and accurately report the information on your next security clearance update form, you will qualify for many of

the mitigating circumstances which would cause the infraction to not be an issue on your security clearance. Those mitigating factors are: 1) that you are honest about your behavior; 2) took steps to see that the behavior did not reoccur; 3) not that the behavior was an isolated incident; 4) and has not reoccurred since the initial occurrence, and other factors about which we can advise you. In short, the best solution is to report the incident, as you are required to do, and to subsequently deal with the incident according to the appropriate security clearance regulations on your next update form.

By following the steps above, the likelihood that your security clearance will go away as a result of a minor breach of law is greatly diminished and you can continue your successful career dealing with classified projects.

Good Luck!

e-mail us at info@globe-ip.com.

Copyright 1998-1999 Roberts Abokhair & Mardula, LLC

This article may be freely distributed only in its entirety and provided that this copyright notice is not removed. It may not be sold for profit or incorporated in commercial documents without written permission of the copyright holder reachable at 11800 Sunrise Valley Drive, Suite 1000, Reston, VA 20191 or at info@globe-ip.com.