HUMAN RESOURCES

3.4 Employee Benefits and Programs

EMPLOYEE ASSISTANCE PROGRAM

A. Proponent: Human Resources Division, (202) 353-8338, Fax (202) 307-9461.

B. Purpose: This directive establishes policies and procedures for the Employee Assistance Program.

C. Authority: Executive Order 12564; DOJ Order 1792.1B; 42 USC 290dd-1, 290ee-1; 5 CFR 792; 5 USC 7901; 5 USC 3301; 5 USC 7901; 5 USC 7904; 5 USC 7361; 5 USC 7362, 44 USC 3101. References: PL 91-616, Title II, Section 201 (c)(2): PL 92-255 Title IV, Section 413 (2)(b) and FPM 732 Sub-Chapter 2-2-2(4).

D. Policy: It is the policy of the USMS to assist its employees in maintaining satisfactory job performance by providing appropriate Employee Assistance Program (EAP) services to employees and their family members. The USMS EAP provides professional, confidential assistance to help employees restore or maintain their performance at a satisfactory level. Services are available through the Employee Assistance Program at no cost to the employee for dealing with the impact of medical conditions and medical-behavioral problems, including alcohol abuse, drug abuse, generic mental health problems, marital and family distress, job stress and financial problems that could significantly impair job performance.

1. **Job Performance:** Employees with job-performance and/or conduct problems are responsible for restoring their performance/conduct to an acceptable level whether or not they utilize the EAP.

2. **Job Security:** Employees who request assistance from the EAP will not have their job security and/or promotional opportunities jeopardized except as is limited by public laws relating to sensitive positions.

3. **Critical Incident Response:** The USMS will respond to critical incidents that could impact USMS employees and their families in order to assist employees in maintaining high job-performance levels. See USMS Directive 2.4, *Peer Support Program and Critical Incident Response Team*.

E. Procedures: The USMS retains a nationwide Employee Assistance Program as its general EAP contractor. The services provided include professional consultation, diagnostic and referral counseling. Benefits and telephone numbers for the services may be obtained by calling the EAP. Employees may obtain professional assistance through the EAP by self-referral, management referral, medical referral or other support service referral.

1. **Self-referral:** Employees or family members who desire assistance with a work-related and/or personal problem may call EAP staff or a contractor for a telephone consultation or individual appointment. All communication between employees or family members and the EAP staff is confidential. As a practical matter, an employee may want to advise the supervisor that he or she is accessing EAP services, especially if extensive or recurring sick leave or other leave is required to attend counseling sessions during duty hours or to enter a hospital for treatment. Upon notifying management, the employee may request an excused absence to attend six EAP counseling/assessment sessions per fiscal year. Managers should record EAP visits as regular work hours on time and attendance sheets to protect confidentiality.

2. **Management Referral:** After becoming aware of a personal or family problem that is affecting an

employee's conduct or work performance, a manager should make the necessary referral to the Employee Assistance Program, who will in turn refer the employee to professional, licensed counselors for diagnosis and treatment. The EAP policy should be used in conjunction with management's right to take disciplinary or adverse actions based upon an employee's job performance. However, when appropriate, management may take into consideration an employee's use of program services and hold off on final disciplinary action until the employee has had a reasonable amount of time to address issues of concern and resolve performance problem.

a. **Basis for Management Referral:** A manager may refer an employee to the EAP as a result of documented unsatisfactory or deteriorating work performance and/or behavior or conduct that indicates the presence of a personal problem.

b. **Procedure for Management Referral:** When a manager suspects a problem, he or she should follow these steps:

(1) Document all specific instances when an employee's work performance and/or conduct fails to meet performance or other appropriate standards.

(2) Contact the Employee Assistance Program to discuss referring the employee to the EAP.

(3) Conduct a corrective interview with the employee when unsatisfactory job performance warrants action. If misconduct is involved, it may be necessary to refer the matter to the Office of Internal Affairs. The manager should remind the employee about the EAP, provide the EAP phone number and recommend that the employee call the program within a certain time frame. The manager may also write a letter referring the employee to the EAP. The EAP Administrator will talk in confidence with the employee. If the employee agrees to enter the program, final disciplinary action may, at the discretion of management, be postponed until the employee has had a reasonable amount of time (generally several months) to become rehabilitated, either through hospitalization or other professional treatment. If the employee refuses to enter the EAP or denies there is a problem, the manager may proceed with disciplinary and/or other appropriate action.

(4) If there is no change in work performance, management may contact the EAP to discuss the situation and to explore other options.

(5) If an employee enters the EAP, the manager may grant him or her administrative leave, sick leave, annual leave, LWOP or a combination of these. Decisions to grant advanced sick leave or LWOP will be made in accordance with USMS policy.

(6) After making a referral, a manager should continue to document the problem if it persists.

(7) If an employee does not improve his or her job performance after entering the EAP, the manager, in consultation with superiors and the appropriate offices, must decide on appropriate corrective action.

c. **Law Enforcement Duties:** If an employee is unable to perform law enforcement duties, he or she should be relieved of any weapons and credentials and, when appropriate, assigned administrative duties, district or division workload permitting. The U.S. Marshal or Assistant Director may take this step. The EAP Administrator is available for consultation on these matters.

3. **Medical Referral:** The basis for a medical referral to the EAP should be either the identification of physical symptoms or disorders that are commonly associated with emotional-behavioral problems, or a request from the employee for advice or assistance with a personal or emotional-behavioral problem he or she or a family member is experiencing.

a. Based on required USMS medical exams, medical personnel who have diagnosed an employee's physical symptoms and disorders associated with underlying emotional problems will discuss those findings with the employee. The employee will be advised of the EAP and, if appropriate, a referral will be made. The medical staff should advise the employee that the referral is part of a prescribed treatment plan and will be included in his or her medical records. The employee's decision to accept assistance through the EAP is voluntary.

b. The employee should be advised that the same high standards of confidentiality accorded other medical procedures apply to the EAP. A report will not be made to the employee's supervisor about a referral unless the employee provides written consent.

c. If an employee is unable to perform law enforcement duties, he or she should be relieved of any weapons and credentials and, when appropriate, assigned administrative duties, district or division workload permitting. The U.S. Marshal or Assistant Director should take this step after consulting with the Medical Program.

4. **Other Support Service Program Referral:** Personnel within Equal Employment Opportunity, Affirmative Action, Employee Relations and Alternative Dispute Resolution programs, through the course of their duties, occasionally become aware of emotional and/or behavioral problems of employees. The identification of a personal or emotional-behavioral problem by these personnel is a basis for referring the employee to EAP. The following steps are suggested for support service program referrals to the EAP:

a. Advise the employee (orally, in writing or both) of the existence of EAP services and provide the name and telephone number of the EAP Administrator and the contractor counseling services.

b. Advise the requesting manager that the EAP can provide consultation and guidance in managing employees with personal and emotional-behavioral problems.

c. All EAP referrals are considered self-referrals unless the supervisor reports a work-performance or attendance problem.

d. If an employee is unable to perform law enforcement duties, he or she should be relieved of any weapons and credentials and, when appropriate, assigned administrative duties, district or division workload permitting. The U.S. Marshal or Assistant Director should take this step after consulting with the EAP Administrator.

5. **Confidentiality:** A key provision of the EAP is the confidentiality afforded to employees who choose to enter the program or are referred to the program by management. If an employee "self-refers," no information will be released to anyone unless the individual indicates the possibility of any type of domestic abuse or other criminal conduct, or if failure to release information would be life threatening. EAP counselors are required to report cases of child abuse, elder abuse and spousal abuse where required by state law; however, only information that is necessary to ensure the safety of all involved parties may be released. With self-referrals, EAP staff responding to phone or other inquiries regarding an employee's former or current EAP status must state that they can neither confirm nor deny an employee's participation in the EAP without an EAP-executed release. In management referrals, the EAP Administrator will acknowledge whether or not the referred employee contacted the EAP; no additional information will be released without the employee's written permission. Information shared between the USMS EAP staff and the USMS EAP contractor staff is not considered a disclosure and does not require a release. The EAP staff will encourage the employee to release information that may assist in the resolution of the problem, such as the employee's participation in the program, program reports from a licensed therapist, and necessary information to permit the supervisor to grant leave for counseling or treatment.

a. The EAP records of employees referred for assistance will be preserved with the same confidentiality as all other medical records. Information concerning a participant's status with the EAP may not be divulged without the express written consent of the employee or

as otherwise permitted by law. Records or notes of those voluntarily seeking assistance are privileged and will not be referred to or made a part of an employee's official personnel folder. While employee's substance abuse records may be part of the EAP's filing system, such records must be handled in accordance with 42 CFR 2 and the requirements of 42 USC 290ee-3. EAP counseling records of employees with alcoholism will be preserved in accordance with the requirements of 42 USC 290dd-2.

b. **Management officials who release information concerning an employee in the EAP to a third party without the employee's permission are subject to possible criminal penalties or fines and discipline.**

c. An employee may have a representative present at meetings with management officials related to the EAP.

6. **Disciplinary Procedures:** The EAP supplements, but does not replace, existing procedures for dealing with problem employees.

a. An employee's understanding that he or she may be subject to discipline for unsatisfactory job performance unless the problem is identified and corrected provides motivation to utilize the program and improve performance. The USMS may apply disciplinary procedures appropriate to the conduct while referring the employee to the EAP.

b. Referral assistance will not affect the processing of a disciplinary action, including removal, for the employee's misconduct or criminal activities if the nature of the offense and the nature of the employee's duties warrant that action.

7. **Health Insurance:** The Federal Employee Health Benefits Program may provide financial assistance to employees who are enrolled in one of its plans and seeking treatment for health problems. Employees are encouraged to check with individual carriers to ensure adequate coverage for themselves and their families.

8. **Disability Retirement:** An employee who participates in the EAP may still receive disability retirement benefits if his or her condition warrants it. Information regarding eligibility requirements and filing procedures may be obtained from the Retirement and Benefits Branch, HRD.

9. **Critical Incident Stress Situations:** This refers to any event an employee experiences on or off the job that is outside the realm of normal human experience and that could produce significant emotional, behavioral, or physical reactions. Special support and educational services have been established under the EAP to deal with potential reactions to critical incident stress situations. See USMS Directive 2.4, *Peer Support Program and Critical Incident Response Team*.

F. Responsibilities

1. EAP Program Administrator

a. Develops and maintains a list of local community resources for the referral of employees seeking assistance.

b. Refers employees to appropriate treatment.

c. Ensures that all necessary training for supervisors and counselors is provided.

d. Monitors and evaluates the EAP.

e. Maintains necessary records and filing reports.

f. Adheres to confidentiality requirements.

DEATH AND DISABILITY

A. **Proponent:** Human Resources Division, (202) 307-5250.

B. **General:** The "Death and Disability in the Service" handbook is designed as a guide to management when confronted with critical incidents. The Service will respond to critical incidents which could impact our employees and their family members. For this reason, special support and education services have been established under the Employee Assistance Program (EAP) to deal with these potential reactions.

1. A "Critical Incident" is any event we experience on or off the job that is outside the realm of normal human experience and that could be expected to produce significant emotional and/or physical reactions. These stressful events may generate intense stress reactions which briefly interfere with a person's coping mechanisms. Additional considerations need to be made for the emotional well-being of personnel and their families involved in these critical incidents.

2. The Marshals Service has organized a handbook for management's use to respond to critical incident problems. The handbook contains the Critical Incident Response policy, preplanning checklists and specific information to assist management in addressing these urgent events when the Employee Assistance Branch may be unavailable (i.e., holiday, off duty hours, etc.).

PROTOCOLS REGARDING OFFICERS/AGENTS KILLED IN THE LINE OF DUTY

A. **Purpose:** This policy directive outlines U.S. Marshals Service (USMS) policy and procedures for line-of-duty deaths of federal, state or local law enforcement officers and agents.

B. **Policy:** Attendance at a funeral for a deceased federal, state or local law enforcement officer is not normally considered official business. Accordingly, the USMS may not pay an employee's travel expenses to attend the funeral, nor may a USMS employee use a Government-owned vehicle (GOV) to attend the funeral. If a USMS employee chooses to attend the funeral, he or she must use annual leave. Additionally, appropriated funds may not be used to purchase expressions of sympathy.

C. **Death of a Federal Law Enforcement Officer**

1. When a federal law enforcement officer or agent dies in the line of duty, the U.S. Marshal in the district where the death occurred shall notify the Director's office as soon as practical. When the Director of the USMS (or the Deputy Director, in the Director's absence) specifically determines that there are circumstances relating to significant USMS activities that justify the designation of an employee as an **official agency representative** to attend a funeral, that employee may be reimbursed travel expenses from USMS funds, may use the GOV to attend the funeral, and is not required to use annual leave to attend the funeral.

2. The USMS will ensure that the Service is represented by a senior official(s) at any public memorial or funeral service held in honor of the deceased, and that written condolences are conveyed to the agency which has lost the officer. At the direction of the Director, the Service shall also provide an appropriate expression of sympathy.

D. **Death of State or Local Law Enforcement Officer:** In the case of a state or local law enforcement line-of-duty death, the U.S. Marshal for the district where the death occurs shall notify the Director's office as soon as practical of the death. The Marshal will determine whether the Director or Deputy Director wishes to direct the USMS response. If not, the Marshal or Chief Deputy in the Marshal's absence, may take such responsive action as the Director or Deputy Director could take under this directive (e.g., designate USMS personnel to attend, send an appropriate expression of sympathy, etc.)

E. **Responsibilities**

1. **Office of the Deputy Director**

a. Determines if an expression of sympathy (e.g., floral arrangement) is appropriate and, if so, arranges for it to be delivered to site of the memorial or funeral service.

b. Arranges for condolence correspondence.

c. Determines if the Director's schedule will permit attendance at the memorial or funeral service.

d. Decides how many headquarters employees should represent the USMS at the memorial or funeral service.

e. Designates a U.S. Marshal or Assistant Director to represent the agency at the memorial or funeral service if the Director, Deputy Director or Associate Director cannot attend.

f. Determines whether the USMS will be represented in the funeral or service by a marked vehicle and approves district requests to use USMS marked vehicles.

2. **Executive Services/Office of Public Affairs**

a. After obtaining the necessary information from the agency that lost the officer or agent, drafts a condolence letter from the Director to the head of the agency and one to the family if appropriate, then arranges for mailing or personal delivery.

b. If appropriate, drafts message to district offices and headquarters divisions regarding the USMS response to the death, including agency representation at ceremonies. The memo should include instructions for wearing memorial black ribbons, memorial badges, etc.

c. Provide support when requested by the Director and Deputy Director.