



**DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 23-02609

**Appearances**

For Government: Karen A.C. Moreno-Sayles, Esq., Department Counsel

For Applicant: *Pro se*

06/25/2025

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**Decision**

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HARVEY, Mark, Administrative Judge:

Guideline E (personal conduct) security concerns are refuted. Guideline J (criminal conduct) security concerns are not mitigated. Eligibility for access to classified information is denied.

**Statement of the Case**

On January 9, 2023, and July 1, 2024, Applicant completed and signed Questionnaires for National Security Positions or security clearance applications (SCA). (Government Exhibits (GE) 1; GE 2) On November 26, 2024, the Defense Counterintelligence and Security Agency (DCSA) issued a statement of reasons (SOR) to Applicant under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry*, February 20, 1960; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), January 2, 1992; and Security Executive Agent Directive 4, establishing in Appendix A the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), effective June 8, 2017. (Hearing Exhibit (HE) 2)

The SOR detailed reasons why the DCSA did not find under the Directive that it is clearly consistent with the interests of national security to grant or continue a security clearance for Applicant and recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked. Specifically, the SOR set forth security concerns arising under Guidelines J and E. (HE 2) On December 21, 2024, Applicant provided her response to the SOR and requested a hearing. (HE 3) On February 14, 2025, Department Counsel was ready to proceed.

On March 3, 2025, Applicant's case was assigned to me. On March 7, 2025, the Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing, setting the hearing for April 24, 2025. (HE 1) The hearing was held as scheduled.

Department Counsel offered nine exhibits into evidence. (Transcript (Tr.) 17; GE 1-GE 9) Applicant objected to the admissibility of GE 3, Applicant's Office of Personnel Management (OPM) interview, and Department Counsel withdrew her submission of GE 3. (Tr. 18) Applicant objected to the admissibility of GE 9, a 2016 Air Force investigative report because it was not relevant to SOR ¶ 2.a, the 2024 SCA in issue, and she was never arrested. (Tr. 19-21) The March 2016 offense was more than seven years before she completed the 2004 SCA. (AE C) "Police reports, which are admissible both as an official record under Directive ¶ E3.1.20 and as a public record under Federal Rule of Evidence 803(8), are presumed to be reliable by virtue of the government agency's duty for accuracy and the high probability that it has satisfied that duty." ISCR Case No. 22-02391 at 4 (App. Bd. Oct. 17, 2023) (citing ISCR Case No. 15-02859 at 3 (App. Bd. Jun. 23, 2017); ISCR Case No. 16-03603 at 4 (App. Bd. May 29, 2019)). The 2016 police report supports SOR ¶ 1.b and is relevant to show a pattern of abuse of Applicant's son under the whole-person concept. I overruled Applicant's objections to admissibility of GE 9. (Tr. 20)

There were no other objections, and I admitted GEs 1, 2, and 4-9. (Tr. 20-22) Applicant offered eight exhibits into evidence, and all of her exhibits were admitted without objection. (Tr. 23-26; Applicant Exhibits (AE) A-AE H) On May 5, 2025, DOHA received a transcript of the hearing. No post-hearing documents were received. (Tr. 59)

Some details were excluded to protect Applicant's right to privacy. Specific information is available in the cited exhibits and transcript.

## **Findings of Fact**

In Applicant's SOR response, she denied all the SOR allegations. (HE 3) She also provided extenuating and mitigating information. (*Id.*) Her admissions are accepted as findings of fact.

Applicant is 32 years old, and a DOD contractor has employed her for 10 months as an inspector for aircraft. (Tr. 6, 8) In 2012, she graduated from high school, and she has not attended college. (Tr. 6-7) She has never married. (Tr. 7) She has a 10-year-old son (S). (Tr. 7) S's father is in the Navy, and S is currently living with him. (Tr. 30) S's father "pretty much dictates when" Applicant can talk to or see S. (Tr. 31)

Applicant served in the Navy from 2013 to 2022. (Tr. 33; AE G) She received a general discharge under honorable conditions for misconduct. She was a petty officer second class (E-5) when she left the Navy. (Tr. 9) Her specialty was aviation machinist mate. (Tr. 9) She has numerous relatives who served in the military. (Tr. 27)

### Criminal Conduct

SOR ¶ 1.b alleges in about March 2016, Applicant was investigated for assault and battery of an individual under 16 years old and child neglect.

In about March 2016, the Navy had recently transferred S's father to Hawaii. (Tr. 40) Applicant was suffering from postpartum depression, and she was feeling overwhelmed. (Tr. 40) She took her infant son to a pediatric clinic for a physical. While at the clinic, S started screaming, and she slapped S. There was a handprint on his cheek and two scratch marks from her nails. (GE 9) The Air Force police cited her for assault and battery on a child under the age of 16. (GE 9) She said she hit S in reaction to being over stressed. (Tr. 41) She did not receive any disciplinary action from her command. After the incident, she went to family therapy for about nine months and learned coping mechanisms. (Tr. 41-42) Around 2020, S was having behavior issues in class, and she took S to a doctor. S was diagnosed with Attention-Deficit/Hyperactivity Disorder (ADHD), and S possibly had underlying anger issues. (Tr. 45) S was prescribed medication to treat his ADHD. (Tr. 45)

In about August 2021, Applicant was under pressure and stress from the Navy for giving a higher priority to caring for S than her Navy duties. (Tr. 45-46) It was a Sunday night, and she became angry with S, who was six years old, for not settling down to go to bed. (Tr. 46) She said she spanked S with her hand. (Tr. 47) The next day when he was at school, the school nurse reported her to Child Protective Services (CPS) for the bruises on S's thighs and hips. (Tr. 46-47) S told the school nurse that Applicant spanked him with the metal part of a belt because he couldn't remember his prayer, and there were marks on him that looked like they were in various stages of healing. (Tr. 48; GE 7) Applicant locked S outside for about five minutes, and he received multiple insect bites. (GE 7)

In August 2021, Applicant told a Child Protection Investigator and school resource officer the following:

[S]he spanked [S] on 08/15/2021, with five or six strikes from a ruler that could have resulted in bruising to his left thigh. [Applicant] had noticed the bruises on [S's] buttocks but did not know where they came from. [S told Applicant] it was from falling, and [Applicant] suspected an accidental cause from bicycling. (GE 7)

On August 16, 2021, Applicant's son was evaluated by the Child Protection Team (CPT). The county sheriff's report states:

[S] disclosed to CPT that his mother spanked him with a belt. [S] also disclosed that his mother put her hand on his neck and he could not breathe until she let go. [S] disclosed that sometimes his mother bangs his head on the wall. [S] disclosed that his mother locks him outside at night. [S] was observed to have multiple, deep contusions and areas of patterned ecchymosis with swelling and tenderness of his buttocks and thighs. Some of the contused areas appeared older, in different healing stages suggestive of at least two different incidents of trauma. CPT impression was "Extensive patterned bruises of bilateral thighs and buttocks consistent with egregious physical abuse of a six-year-old male child. [S] was subjected to significant, prolonged, blunt force trauma by a belt, possibly with holes or studs or similar object." (GE 7)

Applicant denied that she hit S with a belt. (Tr. 48.) She admitted that she was the source of some of the bruises on S's buttocks, which resulted from her spanking S. (Tr. 47) She spanked S for not listening to her and "being unruly." (Tr. 47) She did not accept responsibility for causing bruises of varied ages on S and argued that the report should not be accepted as true because the CPS representative was not qualified to provide a medical opinion. (Tr. 48-49) She denied that she told a CPS representative that she hit S five or six strikes with a ruler. (Tr. 49) The CPS reported that Applicant locked S outside for several minutes. (Tr. 49) She denied that she locked S outside. (Tr. 49)

SOR ¶ 1.a alleges in about August 2021, Applicant was arrested and charged with cruelty toward child - abuse child without great bodily harm. She pleaded guilty and her adjudication of guilt was withheld pending completion of two (2) years of probation.

Applicant admitted she was arrested and charged with the offense in SOR ¶ 1.a, which is a felony. (Tr. 49) She pleaded guilty and received deferred adjudication pending completion of two years of probation in July of 2022. (Tr. 35, 49-50)

Applicant's pretrial agreement states:

I hereby enter my plea of guilty because I am guilty. Before entering such plea of guilty, I was advised of the nature of all the charges against me, the statutory offenses included within such charges, the range of maximum allowable punishments for each charge, all the possible defenses to each charge, and all circumstances in mitigation of such charges. I have been advised of all other facts essential to a full and complete understanding of all offenses with which I have been charged, and of all offenses to which I am entering this plea. I have been advised of all direct consequences of the sentence to be imposed. (GE 4 at 1)

During probation, Applicant attended anger management once a week for 10 weeks, an anger and violence prevention program once a week for 26 weeks, and family

and group therapy once a week for ten weeks. (Tr. 36) During her probation period, CPS viewed her as a threat to S and refused to allow her to contact S. (Tr. 38) In July of 2023, Applicant's probation was terminated, and the charge was dismissed. (Tr. 35, 38; GE 8) She attends physical therapy for back pain. (Tr. 39) She went to about five sessions of mental-health therapy after the charge was dismissed. (Tr. 39) She was unemployed at that time and could not afford additional sessions. (Tr. 39) Because of her successful completion of probation, she does not have a conviction. (AE H)

## Personal Conduct

In Applicant's January 9, 2023 SCA, she reported her 2021 arrest, charge, and probation described in SOR ¶ 1.a. (Tr. 55; GE 1 at 25) She lost her sponsorship for a security clearance and her employment after completion of this SCA. (Tr. 56) Her loss of employment may not have been connected to the information she provided in her 2023 SCA.

SOR ¶ 2.a alleges that Applicant falsified material facts on her July 1, 2024 SCA in Section 22 – Police Record, which states:

For this section report information regardless of whether the record in your case has been sealed, expunged, or otherwise stricken from the court record, or the charge was dismissed . . . Have any of the following happened? (If "Yes" you will be asked to provide details for each offense that pertains to the actions that are identified below.) . . . In the last seven (7) years have you been arrested by any police officer, sheriff, marshal, or any other type of law enforcement official? In the last seven (7) years have you been charged, convicted, or sentenced of a crime in any court? (Include all qualifying charges, convictions or sentences in any Federal, state, local, military, or non-U.S. court, even if previously listed on this form).

Applicant answered no and failed to disclose her arrest and charge as set forth in SOR ¶ 1.a, *supra*. She said under state law and regulations, she did not have to report the 2021 arrest and charges. (Tr. 58-59) She did not provide any state law or regulations indicating arrests and charges did not need to be reported on an SCA. She further explained her answer as follows:

That was actually a misunderstanding under my part. I was also rushing through [the 2024 SCA], because me and the security manager, we were going back and forth with the emails, and him telling me that I needed to readjust the security clearance questionnaire. So after about the fifth time of having to redo it, instead of trying to provide all the documentation, which I couldn't do while I was at work, because all the documentation was there, I actually answered no to that. And even with the arrest, it wasn't pointed out to me until later, especially after all of this, I do admit that I made a mistake in answering no to that. I thought after the adjudication was done and over with, that I didn't have to report it because it's no longer -- I'm listed as a non-convict. . . . (Tr. 56-57)

Applicant stated in her 2024 SCA that she was administratively discharged from the Navy for committing a “severe” offense. She said she was accused “of child cruelty/child abuse in the civilian sector . . . . Separated before final findings were found in July.” (GE 2 at 20)

## **Character Evidence**

Applicant’s mother described her as a loving mother who did not use excessive physical punishment to discipline S. (AE D) She described Applicant’s positive background, generosity, athleticism in high school, and dedication to the Navy and S. *Id.*

A leading petty officer praised Applicant for her integrity and “attention to detail and insistence on doing things correctly [which] often set her at odds with other members of the work center and in my opinion her composure and carriage under these circumstances was always cool and professional.” (AE E) A petty officer first class and Applicant’s supervisor when she was in the Navy described her as diligent, a “go getter,” professional, honest, and an asset to the Navy. (AE F)

## **Policies**

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information.” *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicant’s eligibility for access to classified information “only upon a finding that it is clearly consistent with the national interest to do so.” Exec. Or. 10865.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge’s overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information. Clearance decisions must be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See Exec. Or. 10865 § 7. Thus, nothing in this decision should be construed to suggest that it is based, in whole or

in part, on any express or implied determination about applicant's allegiance, loyalty, or patriotism. It is merely an indication the applicant has not met the strict guidelines the President, Secretary of Defense, and DNI have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. "Substantial evidence" is "more than a scintilla but less than a preponderance." See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). "The Directive presumes there is a nexus or rational connection between proven conduct under any of the Guidelines and an applicant's security eligibility. Direct or objective evidence of nexus is not required." ISCR Case No. 18-02581 at 4 (App. Bd. Jan. 14, 2020) (citing ISCR Case No. 15-08385 at 4 (App. Bd. May 23, 2018)).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his [or her] security clearance." ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). "[S]ecurity clearance determinations should err, if they must, on the side of denials." *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

## Analysis

### Personal Conduct

AG ¶ 15 explains why personal conduct is a security concern stating:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness and ability to protect classified information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process. . . .

AG ¶ 16 provides one personal conduct condition that could raise a security concern and may be disqualifying in relation to her provision of inaccurate information on her SCA:

(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine national security eligibility or trustworthiness, or award fiduciary responsibilities.

Applicant failed to disclose on her July 1, 2024 SCA in response to questions about arrests and charges that in August 2021 she was arrested and charged with cruelty toward child - abuse child without great bodily harm, a felony. She knew her answers were incorrect at the time she provided them. She worked with her security officer on completion of her SCA, and she had difficulty completing her SCA. However, she disclosed her offense on her 2023 SCA and in her discussion of her general discharge from the Navy in her July 1, 2024 SCA.

“Applicant’s statements about [her] intent and state of mind when [she] executed [her] Security Clearance Application were relevant evidence, but they [are] not binding on the Administrative Judge.” ISCR Case No. 04-09488 at 2 (App. Bd. Nov. 29, 2006) (citation omitted). In ADP Case No. 17-03932 at 3 (App. Bd. Feb. 14, 2019), the Appeal Board recognized the importance of circumstantial evidence of intent in falsification cases:

When evaluating the deliberate nature of an alleged falsification, a Judge should consider the applicant’s *mens rea* in light of the entirety of the record evidence. See, e.g., ADP Case No. 15-07979 at 5 (App. Bd. May 30, 2017). As a practical matter, a finding regarding an applicant’s intent or state of mind may not always be based on an applicant’s statements, but rather may rely on circumstantial evidence. *Id.*

Applicant’s decision not to disclose negative information on her SCA about her arrest and charge in response to questions about arrests and charges were not made with intent to deceive. She disclosed her criminal conduct in connection with her discharge from the Navy. She has refuted the allegation that she intentionally falsified her 2024 SCA with intent to deceive.

## Criminal Conduct

AG ¶ 30 describes the security concern about criminal conduct, “Criminal activity creates doubt about a person’s judgment, reliability, and trustworthiness. By its very nature, it calls into question a person’s ability or willingness to comply with laws, rules, and regulations.”

AG ¶ 31 provides one criminal conduct condition that could raise a security concern and may be disqualifying in this case:

(b) evidence (including, but not limited to, a credible allegation, an admission, and matters of official record) of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted.

AG ¶¶ 31(a) is established. Discussion of the disqualifying conditions is in the mitigating section *infra*.

AG ¶ 32 lists four conditions that could mitigate criminal conduct security concerns:

- (a) so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;
- (b) the individual was pressured or coerced into committing the act and those pressures are no longer present in the person's life;
- (c) no reliable evidence to support that the individual committed the offense; and
- (d) there is evidence of successful rehabilitation; including, but not limited to, the passage of time without recurrence of criminal activity, restitution, compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement.

In ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013), the DOHA Appeal Board explained Applicant's responsibility for proving the applicability of mitigating conditions as follows:

Once a concern arises regarding an Applicant's security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). After the Government presents evidence raising security concerns, the burden shifts to the applicant to rebut or mitigate those concerns. See Directive ¶ E3.1.15. The standard applicable in security clearance decisions is that articulated in *Egan, supra*. "Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security." Directive, Enclosure 2 ¶ 2(b).

In 2016, Applicant slapped S hard enough to leave a handprint on his face, and she scratched him with her fingernail. S was about one year old when he received this slap. The Air Force police cited her for assault and battery upon a child under the age of 16. Her command's failure to pursue disciplinary action does not justify a conclusion that she did not commit the conduct in question. See ISCR Case No. 22-00761 at 8 (App. Bd. May 27, 2025) (citing ISCR Case No. 18-02018 at 4 (App. Bd. Nov. 4, 2021)). She admitted that she hit S, and I find that Applicant committed this criminal offense.

In August 2021, Applicant was charged with cruelty toward child - abuse child without great bodily harm, a felony. She pleaded guilty and her adjudication of guilt was withheld pending completion of two (2) years of probation. I find that Applicant committed this criminal offense.

On August 16, 2021, Applicant's son was evaluated by the CPT. The county sheriff's report states:

[S] disclosed to CPT that his mother spanked him with a belt. [S] also disclosed that his mother put her hand on his neck and he could not breathe until she let go. [S] disclosed that sometimes his mother bangs his head on the wall. [S] disclosed that his mother locks him outside at night. [S] was observed to have multiple, deep contusions and areas of patterned ecchymosis with swelling and tenderness of his buttocks and thighs. Some of the contused areas appeared older, in different healing stages suggestive of at least two different incidents of trauma. CPT impression was "Extensive patterned bruises of bilateral thighs and buttocks consistent with egregious physical abuse of a six-year-old male child. [S] was subjected to significant, prolonged, blunt force trauma by a belt, possibly with holes or studs or similar object." (GE 7)

I find that S truthfully related to CPT what his mother did to him, and that information is accurately reflected in the county sheriff's report. The CPT descriptions or observations of the injuries S sustained corroborate S's statements.

Applicant provided some important mitigating information. During probation, Applicant attended anger management once a week for 10 weeks, an anger and violence prevention program once a week for 26 weeks, and family and group therapy once a week for ten weeks. In July of 2023, Applicant's probation was terminated, and the charge was dismissed. She went to about five sessions of mental-health therapy after the charge was dismissed.

The evidence against mitigation is more persuasive. Applicant was not truthful at her hearing. She minimized the aggravated nature of her beating of S in 2021. She falsely denied that she struck S with a ruler or belt. She said she only used her hand to spank him. She falsely denied that she locked him outside where he was bitten by insects. "When an applicant is unwilling or unable to accept responsibility for his [or her] own actions, such a failure is evidence that detracts from a finding of reform and rehabilitation." ISCR Case No. 20-01699 at 5 (App. Bd. Oct. 12, 2022) (citing ISCR Case 21-00321 at 3 (App. Bd. Sep. 8, 2022)). Applicant's failure to truthfully and candidly accept responsibility for her conduct at her hearing shows a lack of rehabilitation. Criminal conduct security concerns are not mitigated.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an Applicant's eligibility for a security clearance by considering the totality of the Applicant's conduct and all the circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

- (1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable

participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. I have incorporated my comments under Guidelines E and J in my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under those guidelines, but some warrant additional comment.

Applicant is 32 years old, and a DOD contractor has employed her for 10 months as an inspector for aircraft. In 2012, she graduated from high school, and she has not attended college. She served in the Navy from 2013 to 2022. She received a general discharge under honorable conditions for misconduct. She was a petty officer second class (E-5) when she left the Navy. Her specialty was aviation machinist mate. She has numerous relatives who served in the military. She presented three character statements. They support approval of her access to classified information. She received counseling and therapy to address her anger issues and physical abuse of S.

The factors weighing against granting her security clearance are more substantial than the mitigating circumstances. Applicant deliberately minimized her abuse of S at her hearing. She committed criminal offenses in 2016 and 2021. Her criminal conduct is discussed in more detail in the analysis section, *supra*.

It is well settled that once a concern arises regarding an applicant's security clearance eligibility, there is a strong presumption against the grant or renewal of a security clearance. See *Dorfmont*, 913 F. 2d at 1401. I have carefully applied the law, as set forth in *Egan*, Exec. Or. 10865, the Directive, and the AGs, to the facts and circumstances in the context of the whole person. Personal conduct security concerns are refuted; however, criminal conduct security concerns are not mitigated.

## **Formal Findings**

Formal findings For or Against Applicant on the allegations set forth in the SOR, as required by Section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline J: Subparagraphs 1.a and 1.b:	AGAINST APPLICANT Against Applicant
Paragraph 2, Guideline E: Subparagraph 2.a:	FOR APPLICANT For Applicant

## **Conclusion**

Considering all of the circumstances presented by the record in this case, it is not clearly consistent with national security to grant or continue Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

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MARK HARVEY  
Administrative Judge