



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



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 24-02214

Appearances

For Government: John Renahan, Esq. Department Counsel
For Applicant: *Pro se*

09/29/2025

Decision

GLENDON, John Bayard, Administrative Judge:

Applicant has not mitigated the security concerns raised under Guidelines J (criminal conduct) and E (personal conduct). National security eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted a Questionnaire for National Security Positions on May 2, 2024 (Questionnaire). On January 30, 2025, the Defense Counterintelligence and Security Agency (DCSA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline J. The action was taken under Executive Order 10865, *Safeguarding Classified Information Within Industry* (February 20, 1960), as amended; Department of Defense (DoD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within DoD after June 8, 2017.

Applicant responded to the SOR allegations on February 19, 2025, (Answer) and

attached one document (Answer Attachment). He requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). Department Counsel was prepared to proceed on June 2, 2025. The case was assigned to me on June 3, 2025. DOHA sent Applicant a Notice of Hearing on June 26, 2025, scheduling the case to be heard via Microsoft Teams video teleconference on July 11, 2025.

I convened the hearing as scheduled. Department Counsel offered four documents marked as Government Exhibits (GE) 1 through 4. Applicant testified but did not offer any documentary evidence aside from the Answer Attachment. The record closed on July 11, 2025. All exhibits and the Answer Attachment are admitted into the record without objection. DOHA received the transcript of the hearing (Tr.) on July 18, 2025. (Tr. at 11-12.)

Procedural Issue

At the conclusion of Applicant's testimony, Department Counsel moved to amend the SOR by adding two allegations under Guideline E. The amendments read as follows:

2.a. Information as set forth under paragraph 1.a., above.

2.b. You falsified material facts in a September 22, 2023, self-report you provided to your Security Officer when you denied threatening your wife's life or telling others you would kill her, and when you said that you had called her father in order to de-escalate your conflict with her. In truth, you threatened her life, told others you would kill her, and called her father in order to convey a threat to her.

(Tr. at 66-67.)

I granted Department Counsel's motion. I then advised Applicant that I would grant him time following the close of the hearing if he believed he needed additional time to review the transcript and provide a written response to the new allegations. He declined my offer to take time to consider his response, and he elected to proceed by submitting an oral response. He denied the two new allegations. With respect to the second allegation, he denied any intent to falsify information in the self-report (Self-Report). (Tr. at 68-70.)

Findings of Fact

Applicant is 38 years old. He married in 2016, and he and his wife have one minor child. He received a bachelor's degree in 2009. He enlisted in the U.S. Army in February 2017 and was honorably discharged in August 2020. He held a security clearance while he was a soldier the Army. He has been employed by U.S. Government contractors since October 2021. He has worked for his current contractor as a specialist since August 2023. He submitted the Questionnaire in 2024 in connection with his

current employment following his submission of a report (the Self-Report) detailing an arrest. (Tr. at 4, 10, 16-19, 27; GE 1 at 5, 11-15, 20, 24, 35-36.)

The Government alleged in the SOR, as amended, that Applicant is ineligible for a security clearance due to his criminal conduct and personal conduct. I find the following facts as set forth in the pleadings, developed at the hearing, and detailed in the documentary record.

Paragraph 1, Guideline J (Criminal Conduct)

Under this guideline, the Government alleged that Applicant was arrested in 2023 and charged with Criminal Threats.

SOR ¶ 1.a. 2023 Arrest and Charges. On the morning of September 14, 2023, Applicant had a dispute with his wife (wife or the Wife). She left the home and called the police. She reported that the argument arose out of her finding evidence of Applicant's involvement in an extramarital affair with a woman. She told the police that he threatened to kill her by "beating her to a pulp." She advised that he had beaten her on six prior occasions in the last two years, and she feared he was serious and would kill her. (GE 2 at 14.)

The police investigated the incident. The investigators interviewed Applicant's father-in-law (FIL). He told the police that Applicant had called him earlier that day after Applicant's argument with his wife and told him to tell the Wife not to disrespect him or he was going to kill her that evening. FIL also advised the police that he understood that Applicant had a firearm in his house. The police then interviewed the Wife's brother-in-law (BIL). He advised that Applicant had sent him a text message the same day telling him to advise his wife and her family that, "I don't bluff. I f...ed [redacted] her up once, and I will do it again. I go from 0 to 100 real quick." The police also interviewed Applicant. He commented to the investigator that he told his wife if she kept "pushing him," he was going to "beat her ass." (GE 2 at 14-15.)

Based upon its investigation, the police presented its report (Police Report) to a state judge who issued an emergency protective order (EPO) requiring that Applicant stay away from his wife and their daughter. The police served the EPO on Applicant and arrested him. They also removed Applicant's firearm and several boxes of ammunition. Applicant was held overnight until he posted a \$5,000 bond the following morning. The police then submitted their investigation to the district attorney (DA) for further action. Subsequently, the DA filed a formal complaint against Applicant charging him with Criminal Threats, a felony. (Tr. at 29; GE 2 at 8, 15-16.)

Applicant pleaded "nolo" to the charge on the advice of his attorney. At a hearing on April 15, 2024, the court ordered Applicant to complete a 12-week anger management course and not commit any crimes for six months. In addition, the "Criminal Protective Order," which extended the EPO, was terminated. When the case

came before the court for disposition on October 16, 2024, the prosecutor moved for a “Dismissal - Before Trial.” The court noted that this was a “Conditional Dismissal.” Applicant was allowed to change his plea to not guilty. (Answer Attachment; Tr. at 23-24, 26.)

In the Questionnaire, Applicant described the precipitating argument with his wife. He said that he was cleaning their home after picking up his father at the airport and dropping him at a relative’s house. He asked his wife to help him clean their house in preparation for his father’s visit. He wrote, “she got mad” and that led to an argument. She called the police and claimed that he was threatening her life. She also told the police he had “committed domestic violence against her six times” in the past. (GE 1 at 32-33.)

In the Answer, Applicant “denied the criminal charge and “the accusation” against him. He noted that the charge was dismissed on October 16, 2024, and attached the Court Minute Order for the hearing. (Answer; Answer Attachment.)

At the DOHA hearing, Applicant expanded on his version of the events precipitating his arrest. He testified that his wife was mistaken about the telephone call she saw on his phone. He claimed the call she saw was actually made to his father, not to a woman. He denied having an extramarital affair. He argued that she may have believed he was having an affair because, “she had a stigma with [a view of] people in the Army” that soldiers have extramarital affairs. Also, he believes she did not recognize his father’s phone number on his phone’s call list. He admitted that he told his wife he would “beat her to a pulp.” He made the comment in the presence of his two-year-old daughter. He claimed that this was just “banter” that he learned while serving in the Army. He had no intention of ever hitting her. He also said that he did not recall any time before this incident when he hit her. He does not recall admitting to the police that he told his wife he would “beat her ass” if she kept “pushing him.” (Tr. at 28, 31-35, 43-44, 57.)

Applicant admitted that his wife might have viewed his comments to her as a serious threat. She knew that he served in the Army Special Forces. He said she was right to be fearful of him because of his military training. He owns multiple weapons, and if he wanted to kill someone, “it would not be that hard.” He commented that he has had two combat deployments as a Special Forces soldier and that experience “desensitizes you” to a lot of things. Nevertheless, he claimed he had no intention of going through with what he said to his wife. (Tr. at 10, 34-36, 52-53, 57.)

Applicant admitted that he sent a text to BIL that morning. He said he wrote to BIL to get Applicant’s wife out of their house so he could clean up before his father arrived. He wanted the house to be clean so that his father had a favorable impression of him and his home on his first visit. He described himself as “OCD” when it comes to cleaning his house. He commented that the expression “0 to 100 real quick” was an expression he had heard. He denied that he told FIL over the phone that he intended to

kill his wife that evening, though he admitted he “might have” told him that he would “beat her ass.” Applicant said that he spoke to FIL in FIL’s native language. He does not believe that that language has an expression similar to “beat her ass.” (Tr. at 34-35.) He claimed that FIL lied to the police or misinterpreted what he said to him. Applicant claimed further that he never asked FIL to convey a threat. He called hoping that FIL could “de-escalate” the situation because his wife was not listening to him. He wanted FIL to convince Wife to help Applicant clean their house for his father’s visit. (Tr. at 28-29, 31, 34-35, 39-42, 46.)

Paragraph 2, Guideline E (Personal Conduct)

The facts relevant to the amended allegations of the SOR are as follows:

On September 22, 2023, eight days after his arrest, and seven days after his release from custody on bond, Applicant sent an email to his security officer that he titled “Self-Report.” In the Self-Report, Applicant described the incident as beginning with an argument with his wife in which, “things were said (i.e. you’re so lazy, you smell, no one can put up with you except me, etc.)” He then wrote, “At no time did I threaten her life, get close to her, or put my hands on her. . . . Not once did I state I was going to kill her. My two-year old daughter [name redacted] was present.” Applicant then wrote:

During the argument, I called her father to talk to her to descale the situation. He was unable to talk to her but called her sister [name redacted] and [BIL] to come to my house. When they arrived BIL helped me clean the house. [her sister] said some things but as I was cleaning, I did not pay any attention to it.

Applicant further wrote in the Self-Report that his wife had left the house with “my daughter” and “texted me later that evening to leave the house or she would call the police on me. I said to her that it was my home and she can call them.” He commented further that, “At around 2100, 2 officers from the [city name redacted] PD came, questioned me, and arrested me.” He continued that he “was booked for a felony criminal threat that same night but released the following morning 9/15/23 on a \$5,000 bond.” (GE 4.) In its Amendment to the SOR, the Government alleged that Applicant intentionally provided false and misleading information in the Self-Report regarding the incident with his wife on September 14, 2023, and the aftermath.

Applicant testified that in looking back in time, his “verbiage” in the Self-Report “could have been different.” He also acknowledged that the language he used in his descriptions of the incident and following events in the Questionnaire and the Self-Report email to his security manager were not fully forthcoming. He emphasized that it was never his intent to act on his comments to his wife. He also claimed he had no intent “to hide anything” when he submitted the Self-Report. (Tr. at 48, 50, 75.)

Mitigation

Applicant did not live in the family home until the protective order was terminated in April 2024. He acknowledged that it is a serious issue when a woman reports her husband to police and accuses him of abuse. He also cited his civilian and military work “in the security world” and how important his work is to the military service members. He commented, “it’s life and death for a lot of them.” He commented that he takes his work “very seriously.” Applicant also claims he sent the Police Report of its investigation to his security manager. (Tr. at 22, 70, 76.)

Policies

When evaluating an applicant's suitability for national security eligibility, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines (AG) list potentially disqualifying conditions and mitigating conditions, which are to be used in evaluating an applicant's national security eligibility.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in AG ¶ 2 describing the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. The entire process is a conscientious scrutiny of applicable guidelines in the context of a number of variables known as the whole-person concept. The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires, “Any doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. I have not drawn inferences based on mere speculation or conjecture.

Directive ¶ E3.1.14 requires the Government to present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, “The applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel, and has the ultimate burden of persuasion as to obtaining a favorable clearance decision.”

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants national security eligibility. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible

extrapolation as to potential, rather than actual, risk of compromise of classified or sensitive information. Finally, as emphasized in Section 7 of Executive Order 10865, “Any determination under this order adverse to an applicant shall be a determination in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See also Executive Order 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information.)

Analysis

Paragraph 1, Guideline J (Criminal Conduct)

The security concern under this guideline is set out in AG ¶ 30 as follows:

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 describes four conditions that could raise security concerns. The following condition have possible application to the facts of this case and may be disqualifying:

(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.

Based upon its investigation of Applicant, the police determined that they had probable cause to arrest Applicant, and the prosecutor determined that he or she had probable cause to file a criminal complaint against Applicant. This is sufficient to support application of the above potentially disqualifying condition. Accordingly, the burden shifts to Applicant to rebut, extenuate, or mitigate the security concerns raised by his criminal conduct.

AG ¶ 32 sets out four mitigating conditions under Guideline J. The following two conditions have possible application to the facts in this case:

(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; 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.

Neither mitigating condition has been established. Only two years have passed since Applicant's criminal conduct. Based upon the facts of this case, it is not possible to conclude that a similar incident is unlikely to recur in the future. Also, Applicant's conduct casts serious doubt about his reliability, trustworthiness, and good judgment. Moreover, there is little evidence of a successful rehabilitation. The anger-management course that Applicant completed was court-mandated and a necessary step for Applicant to be able to escape a conviction and punishment for his crime. Applicant has not provided any information from his employer regarding his employment record, nor has he provided evidence of any constructive community involvement. Significantly, Applicant has denied the most serious allegations presented against him by his wife and her family, the FIL and the BIL. He has not taken responsibility for his conduct or expressed any remorse. His position has simply been that he never intended to take any violent action against his wife. Under the circumstances presented, including my assessment of Applicant's demeanor and his attitude about his military service, his defense to the criminal charge lacks any credibility. Moreover, his claim of lack of intent offers little or no evidence of rehabilitation.

Paragraph 2, Guideline E (Personal Conduct)

The security concerns relating to the guideline for personal conduct are set out in AG ¶ 15, which states:

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 or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes.

AG ¶ 16 describes the following two conditions that may raise security concerns and potentially be disqualifying in this case:

(b) deliberately providing false or misleading information, or concealing or omitting information, concerning relevant facts to an employer, investigator, security official, competent medical or mental health professional involved in making a recommendation relevant to a national security eligibility determination, or other official government representative; and

(c) credible adverse information in several adjudicative issue areas that is not sufficient for an adverse determination under any other single guideline, but which, when considered as a whole, supports a whole-person assessment of questionable judgment, untrustworthiness, lack of candor, unwillingness to comply with rules and regulations, or other

characteristics indicating that the individual may not properly safeguard classified or sensitive information.

As discussed above, the cross-allegation in paragraph 2.a of the SOR amendment of the information set forth in paragraph 1.a is sufficient for an adverse determination under Guideline J. Accordingly, the allegation in paragraph 2.a does not raise separate security concerns under AG ¶ 16(c).

However, the allegations set forth in paragraph 2.b of the amendment raises serious security concerns under AG ¶ 16(c). The Police Report established that Applicant misrepresented relevant facts in his Self-Report to his employer's security official by denying that he had threatened his wife's life or that he advised FIL that he would kill his wife. He also misrepresented in the Self-Report that he did not call the FIL to convey a threat. At the hearing, Applicant admitted that the "verbiage" in the Self Report was not fully accurate. The Self-Report prompted the security official to have Applicant submit the Questionnaire for adjudication of his national security eligibility. AG ¶ 16 (b) is established. Accordingly, the burden shifts to Applicant to rebut, extenuate, or mitigate the security concerns raised by his criminal conduct.

AG ¶ 17 sets forth the mitigating conditions under Guideline E. The following two conditions have possible application to the facts in this case:

- (a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts; and
- (c) the offense is so minor, or so much time has passed, or the behavior is so frequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment.

Neither mitigating condition has been established by the facts in this case. Applicant made no attempt to correct the factual misstatements in the Self-Report. His misleading report to his security manager was not a minor offense. Under all of the circumstances of this matter, it is likely that Applicant would submit a misleading report in the future if his future employment was at risk if he reported the truth. His actions cast doubt on his reliability, trustworthiness and good judgment.

Whole-Person Concept

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

(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 national security eligibility must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

I considered the above whole-person factors and the potentially disqualifying and mitigating conditions in light of all pertinent facts and circumstances surrounding this case. I have given consideration to Applicant's military service. The lack of information from his employer, however, is concerning. Applicant's treatment of his wife and her family is odious. His claim that he merely wanted to clean his house for his father's visit is simply bizarre. His lack of remorse for terrorizing his wife and her family significantly undercuts his claim that he had no intention hitting her. Overall, the record evidence leaves me with serious questions and doubts as to Applicant's suitability for national security eligibility and a security clearance.

Formal Findings

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

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

Conclusion

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant Applicant national security eligibility. Eligibility for access to classified information is denied.

JOHN BAYARD GLENDON
Administrative Judge