



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



In the matter of:	)	
	)	
	)	ISCR Case No. 24-00955
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government:  
Tara Karoian, Esquire, Department Counsel

For Applicant:  
Jeffrey S. Gard, Esquire  
Austin Hiatt, Esquire  
Gard Law Firm, LLC

02/20/2026

**Decision**

ROSS, Wilford H., Administrative Judge:

**Statement of the Case**

On October 2, 2024, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guidelines J (Criminal Conduct), G (Alcohol Consumption), and E (Personal Conduct). The action was taken under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel*

*Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) implemented by the DOD on June 8, 2017.

Applicant responded to the SOR (Answer) on November 27, 2024, and requested a hearing before an administrative judge. Department Counsel was prepared to proceed on June 20, 2025. The case was assigned to me on June 30, 2025. The Defense Office of Hearings and Appeals (DOHA) issued a Notice of Hearing on July 9, 2025. I convened the hearing as scheduled on September 18, 2025. The Government offered Government Exhibits 1 through 9, which were admitted without objection. Applicant offered Applicant Exhibits A through I, which were admitted without objection. Applicant testified on his own behalf and called one additional witness. DOHA received the transcript of the hearing (Tr.) on October 3, 2025. The record closed on September 18, 2025. This decision was delayed when all administrative judges were furloughed from October 1 through November 12, 2025, during a Federal government shutdown due to a lapse in federal funding.

### **Findings of Fact**

Applicant is 46 years old and divorced with two children. He and his now ex-wife were divorced in July 2017. He has both a bachelor's and a master's degree. He has been employed by a defense contractor since 2002 and his current position is manager for a major program. He is applying for national security eligibility in connection with his employment. He held national security eligibility in the past that was revoked by DOHA in 2018. (Government Exhibit 1 at Sections 12, 13A, 17, 18, and 25, Exhibit 5, and Exhibit 6; Applicant Exhibit E; Tr. 21-25; 28-30, 83-84.)

#### **Paragraph 1 (Guideline J, Criminal Conduct)**

The Government alleges in this paragraph that Applicant is ineligible for clearance because he has engaged in criminal conduct that creates doubt about a person's judgment, reliability, and trustworthiness.

1.a. Applicant admitted that he was arrested in approximately October 2022 and charged with Driving Under the Influence of Alcohol Per Se (DUI) and other charges. He was celebrating with work associates and over-indulged. He plead guilty to the charge of DUI and was granted probation before judgment. He was fined, served five days in jail, and was placed on three-year unsupervised probation, originally until May 2026. The probation was terminated early by the court on July 14, 2025. He was also ordered to obtain an alcohol evaluation, which he did and also attended recommended aftercare. (See allegation 2.a, below, for further discussion of treatment.) According to the law of

the state where the incident occurred, successful completion of probation such as that imposed on Applicant is a “final disposition of the matter.” The statute further states, “Discharge of a defendant under this section shall be without judgment of conviction and is not a conviction for the purpose of any disqualification or disability imposed by law because of conviction of a crime.” (Government Exhibit 3 at 4-5, 38-47, 66, Exhibit 7; Applicant Exhibits A, B, C, and H; Tr. 36-39, 71-74.)

1.b. Applicant admitted that he was arrested in about June 2015 and charged with Assault and Battery; Crimes Against Person Harassment – Strike, Kick, or Touch; and Crimes Against Person Harassment – Communicate in Manner Intended to Threaten. This was a verbal incident that involved his now ex-wife. He plead guilty to a municipal charge of Crimes Against Person Harassment – Communicate in Manner Intended to Threaten. His sentence was one year unsupervised probation, and a fine. He also was ordered to obtain a domestic violence evaluation along with an alcohol evaluation. He successfully completed all terms of his sentence, including the evaluations. (Government Exhibit 1 at 27, 29, Exhibit 3 at 4-5, 59-60; Tr. 30-31, 60-63, 75.)

1.c. Applicant admitted that he was arrested in about August 2013 and charged with Disorderly Conduct Hazardous/Physical. Applicant and his now ex-wife were engaging in a consensual sex act in their automobile when they were observed by police. Both of them were arrested because the incident happened in their car. This was an attempt to improve their married life. Applicant was found Not Guilty by the court. (Government Exhibit 3 at 36-37, 59, Exhibit 6 at 38; Tr. 35-36, 58-59.)

1.d. Applicant admitted that he was arrested in about September 2012 and charged with Assault and Battery. This was a minor physical incident that involved his now ex-wife. The charges were dismissed and the record sealed. (Government Exhibit 1 at 36-37, Exhibit 3 at 6-7, 25-26, 59-60; Tr. 33-34, 59.)

1.e. Applicant admitted that he was arrested in about November 2009 and charged with Crimes Against Person Harassment – Strike, Shove, Kick. This was another minor physical incident that involved his now ex-wife. The charges were dismissed and the record sealed. (Government Exhibit 1 at 35-36, Exhibit 3 at 6, 23-24, 53-54; Tr. 33, 44-52.)

1.f. Applicant admitted that he was arrested in about December 2008 and charged with Driving Under the Influence of Alcohol. He plead guilty to the lesser charge of Driving While Ability Impaired. His sentence included fifteen months of supervised probation, alcohol education and therapy, 12 months of monitored sobriety and 24 hours of community service. He successfully completed all terms of his sentence, including therapy. (Government Exhibit 1 at 34-35; Exhibit 3 at 6, 20-22, 54; Tr. 32-33.)

Allegations 1.b, 1.d, and 1.e occurred while Applicant and his ex-wife were married. He admitted this was a toxic relationship and things are much better between them now that they are divorced. There have been no similar incidents since 2015, ten years ago. They successfully have joint custody of their two teenage sons. He is more selective in choosing partners. (Tr. 36, 41, 53-58, 69-70, 77.)

### **Paragraph 2 (Guideline G, Alcohol Consumption)**

The Government alleges in this paragraph that Applicant is ineligible for clearance because he consumes intoxicants to excess.

2.a. Applicant denied that he was court-ordered to obtain alcohol treatment from a specific treatment center (TC One) after his 2022 DUI arrest and that he failed to obtain the treatment. He stated that TC One, which he had used before, was out of business in 2022-2023. He instead obtained an evaluation from a different treatment center (TC Two). The evaluator at TC Two did not find Applicant's alcohol use "substantial enough for diagnosis of alcohol use disorder." The evaluator did recommend additional therapy sessions with another provider. Applicant attended those sessions, as well as other alcohol-abuse prevention classes. Documentation supporting all these statements is contained in Government Exhibit 3 at pages 45-49 and 66. (Applicant Exhibit H; Tr. at 64-66, 68.)

2.b. This allegation states that the information set forth under allegations 1.a., 1.b, and 1.f, are cognizable under this guideline as well. Applicant adopted his responses to these allegations as set forth under paragraph 1, above.

Applicant discussed at length his prior history of alcohol use and how he has changed his pattern of use. He has a clear awareness of the consequences that can come from such activity. As a parent of a teenager who is now driving, he has made sure his son knows the ramifications of drinking. He has severely reduced his drinking. In particular, he has a plan about transportation when he knows alcohol will be involved. (Tr. 40-41, 66-68.)

### **Paragraph 3 (Guideline E: Personal Conduct)**

The Government alleged in this paragraph of the SOR that Appellant is ineligible for clearance because he has engaged in actions that involve questionable judgment, lack of candor, dishonesty, and unwillingness to comply with rules and regulations. Applicant has admitted the sole allegation under Guideline E, which incorporated ¶ 1 of the SOR in its entirety.

## **Mitigation**

A person who is a friend, current co-worker, and former supervisor, of Applicant testified. She has worked with Applicant for about ten years. She is very knowledgeable of all of the allegations in the SOR, as Applicant has discussed them with her. She finds him a trustworthy and reliable friend and colleague. The witness recommended Applicant for a position of trust. (Applicant Exhibit F; Tr. 85-97.)

A government employee who has worked with Applicant for three years on a major program submitted a letter of support. (Applicant Exhibit I.)

A letter of support was also provided by the president of a youth sports league who knows Applicant. Applicant is the coach of one of the teams in the league. The president stated that he was a highly respected coach. (Applicant Exhibit G; Tr. 56.)

## **Policies**

When evaluating an applicant's national security eligibility for a security clearance, 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 concerns relating to the guideline for criminal conduct are set out in AG ¶ 30, which states:

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 two conditions that could raise security concerns and may be disqualifying in this case:

(a) a pattern of minor offenses, any one of which on its own would be unlikely to affect a national security eligibility decision, but which in combination cast doubt on the individual's judgment, reliability, or trustworthiness; and

(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.

Applicant had two alcohol-related arrests for DUI in 2008 and 2022. He also was involved in several incidents involving his ex-wife where the police were called. One of the latter resulted in a conviction in 2015. Both of the above disqualifying conditions have application in this case.

The guideline includes four conditions in AG ¶ 32 that could mitigate the security concerns arising from Applicant's alleged criminal conduct. Two have possible application to the facts of 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.

The two alcohol-related arrests in Applicant's past occurred 14 years apart. He has successfully completed probation for the last arrest three years ago, which by the terms of the statute he was sentenced under did not result in a finding of guilty. In both cases he took and completed alcohol evaluations and recommended aftercare.

During his toxic marriage he and his now ex-wife had several occasions when police were called, resulting in several arrests and one conviction in 2015. The arrest in 2013 (allegation 1.c) involved a consensual sex act and was not an incident of violence at all. The last non-alcohol criminal incident occurred ten years ago. There is considerable evidence of rehabilitation, including an outstanding employment record and his constructive community involvement as a coach. Applicant shows a better knowledge of the impact of his conduct on his clearance. Sufficient mitigation is shown. Paragraph 1 is found for Applicant.

## **Paragraph 2 (Guideline G, Alcohol Consumption)**

The security concerns relating to the guideline for alcohol consumption are set out in AG ¶ 21, which states:

Excessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses, and can raise questions about an individual's reliability and trustworthiness.

AG ¶ 22 describes three conditions that could raise security concerns and may be disqualifying in this case:

(a) alcohol-related incidents away from work, such as driving while under the influence, fighting, child or spouse abuse, disturbing the peace, or other incidents of concern, regardless of the frequency of the individual's alcohol use or whether the individual has been diagnosed with alcohol use disorder;

(c) habitual or binge consumption of alcohol to the point of impaired judgment, regardless of whether the individual is diagnosed with alcohol use disorder; and

(g) failure to follow any court order regarding alcohol education, evaluation, treatment, or abstinence.

The guideline includes three conditions in AG ¶ 23 that could potentially mitigate the security concerns arising from Applicant's alcohol consumption:

(a) so much time has passed, or the behavior was so infrequent, or it happened under such unusual circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or judgment;

(b) the individual acknowledges his or her pattern of maladaptive alcohol use, provides evidence of actions taken to overcome this problem, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations; and

(d) the individual has successfully completed a treatment program along with any required aftercare, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations.

Applicant had two alcohol-related driving arrests in 2008 and 2022, 14 years apart. There is no evidence of other drinking issues. He successfully completed all the requirements of his sentence in both cases. He obtained evaluations as required and took additional aftercare as recommended. As stated under allegation 2.a, above, Applicant could not attend the treatment at TC One because it had gone out of business. He provided evidence to the Government that he had obtained evaluation and treatment from different providers. He has changed his drinking habits, which reduces the possibility of recurrence. Based on the totality of the circumstances, I find that mitigating conditions ¶ 23(a), (b), and (d) apply. Paragraph 2 is found for Applicant.

### **Paragraph 3 (Guideline E: Personal Conduct)**

The security concern under this guideline is set out in AG ¶ 15:

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.

The guideline notes several conditions that could raise security concerns under AG ¶ 16. One is applicable in this case:

(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, unreliability, 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.

The Government alleges in this paragraph that the facts found under Paragraphs 1 and 2, above, are cognizable under this guideline as well. Based on the above factual findings, I find that the quoted disqualifying condition applies.

I considered the following mitigating conditions under ¶ 17 and they apply to the facts of this case:

(c) the offense was so minor, or so much time has passed, or the behavior is so infrequent, 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;

(d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur; and

(e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress.

Applicant has shown that the mitigating conditions apply to his conduct for all the reasons stated under Paragraphs 1 and 2. In particular, he has shown that the alcohol issues have been mitigated by his conduct. He is divorced and he has a good co-parenting arrangement with his ex-wife. Therefore, he has removed one of the main factors leading to his long-past criminal conduct. He is open about his conduct with his co-workers, eliminating any vulnerability to exploitation, manipulation, or duress. This guideline is found for Applicant.

### **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 for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

Applicant is extremely knowledgeable about his security responsibilities. He testified at great length about his management responsibilities and how this situation has changed his way of management. He fully understands and appreciates the impact of his conduct on his security worthiness. (Tr. 78-83.)

I considered the potentially disqualifying and mitigating conditions in light of all pertinent facts and circumstances surrounding this case. Viewing the evidence as a whole, Applicant has mitigated the security concerns of his prior alcohol use, criminal conduct, and related personal conduct.

### **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:	FOR APPLICANT
Subparagraphs 1.a through 1.f:	For Applicant
Paragraph 2, Guideline G:	FOR APPLICANT
Subparagraphs 2.a and 2.b:	For Applicant
Paragraph 3, Guideline E:	FOR APPLICANT
Subparagraph 3.a:	For Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or continue Applicant's national security eligibility for a security clearance. Eligibility for access to classified information is granted.

WILFORD H. ROSS  
Administrative Judge