



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



In the matter of: )  
)  
) ISCR Case No. 25-00403  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Nicole A. Smith, Esq., Department Counsel  
For Applicant: *Pro se*

02/20/2026

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**Decision**

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BORGSTROM, Eric H., Administrative Judge:

Applicant mitigated the sexual behavior, drug involvement, and financial considerations security concerns. He did not mitigate the criminal conduct and personal conduct security concerns. Eligibility for access to classified information is denied.

**Statement of the Case**

On May 7, 2025, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline D (sexual behavior), Guideline F (financial considerations), Guideline H (drug involvement and substance misuse), and Guideline J (criminal conduct). The DCSA acted 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.

In Applicant's June 11, 2025 response to the SOR (Answer), he admitted all of the allegations except SOR ¶ 4.e., which he admitted in part and denied in part. He attached an expungement certificate regarding the incidents in SOR ¶¶ 4.a., 4.b., and 4.c. He

requested a hearing before a Defense Office of Hearings and Appeals (DOHA) administrative judge. (Answer)

On September 17, 2025, the Government amended the SOR (First Amendment) to add four delinquent debts (SOR ¶¶ 2.c.-2.f.). Applicant did not object to this amendment. On October 7, 2025, Applicant admitted all four delinquent accounts and noted potential mitigating circumstances. He did not attach any documentary evidence. (Answer to First Amendment)

I was assigned this case on September 30, 2025. This case 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.

On November 18, 2025, a notice was issued scheduling the hearing for December 18, 2025, by video teleconference. On December 15, 2025, Department Counsel again moved to amend the SOR (Second Amendment), and this motion is discussed *infra*. The hearing proceeded as scheduled. The Government proffered eight evidentiary exhibits, which I admitted as Government Exhibits (GE) 1 through 8, without objection. Applicant and two witnesses testified. Applicant submitted eight exhibits, which I admitted as Applicant Exhibits (AE) A through H, without objection. At Applicant's request, I left the record open until January 20, 2026, to provide him an opportunity to further respond to the Second Amendment to the SOR and to supplement the evidentiary record. DOHA received the hearing transcript (Tr.) on December 29, 2025. On January 20, 2026, Applicant submitted 25 documents, which I admitted as AE I through GG, without objection. The record closed on January 20, 2026.

### **Second Amendment to the SOR**

By email dated December 15, 2025, Department Counsel moved to amend the SOR, pursuant to Paragraph 17 of the Directive, to add an allegation under Guideline E (personal conduct):

5. Guideline E: 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 following will normally result in an unfavorable national security eligibility determination, security clearance action, or cancellation of further processing for national security eligibility. Available information raising this concern shows that:

- a. That information set forth in subparagraphs 1.a.-1.b., 2.a.-2.f., 3.a.-3.e., and 4.a.-4.e.

On December 17, 2025, Applicant requested a continuance of the scheduled hearing to have an opportunity to respond to the amended allegation. By email, I explained that the Guideline E allegation was cross-alleging previously alleged conduct and that I would leave the evidentiary record open until January 20, 2026, to provide him an opportunity to present additional evidence in response to the new allegation. Applicant then withdrew his request for a continuance and confirmed that he was prepared to proceed to hearing. The email exchange is included in the record as Hearing Exhibit III. I granted the motion to amend. At the hearing, Applicant admitted the amended allegation. (Tr. 9-12, 19; AE EE)

### **Findings of Fact**

Applicant is 40 years old. He graduated from high school in 2004 and earned a bachelor's degree from the U.S. Naval Academy in 2009. (Tr. 63) He served on active duty in the U.S. Navy from June 2005 to March 2017, when he was involuntarily separated with a general discharge under honorable conditions, due to misconduct. While serving in the U.S. Navy, he was granted a secret clearance in January 2006 and a top secret clearance with access to sensitive compartmented information (SCI) in April 2009. Applicant was married in February 2012, separated in February 2021, and divorced in May 2024. He has four children, ages 19, 13, 11, and 10. (GE 1; AE F, FF; Tr. 61-66, 111-112)

Following his separation from the U.S. Navy, Applicant worked as a rideshare driver. From August 2018 to October 2020, he was employed full time as a nuclear systems supervisor for a public utility. In October 2020, he was terminated for failing some subject-matter specific exams. He remained unemployed until August 2021. Since August 2021, he has been employed full time with a DOD contractor, currently as a quality assurance inspections manager. (GE 1; AE F, R; Tr. 61-66)

The SOR, as amended, alleges financial considerations security concerns based on six delinquent debts; sexual behavior and criminal conduct security concerns based on two solicitation charges and multiple assault and domestic violence charges; and drug involvement security concerns arising from illegal drug use. The personal conduct allegation cross-alleges the conduct previously alleged under the other four adjudicative guidelines.

#### **Sexual Behavior (SOR ¶¶ 1.a., 1.b., 4.a., 4.f., and 5.a.)**

Applicant admitted that he twice engaged prostitutes while a U.S. Navy officer during two ports of call in about 2011 and 2012. At the time, he held a top secret clearance with SCI access. He testified that he had received security briefings about human trafficking and prostitution prior to these incidents. Neither incident is alleged in the SOR. (Tr. 74-76, 79)

In December 2013, while married with children, he visited a bar with a friend. They met two women and brought them back to a hotel. Between the bar and the hotel,

Applicant learned that they were prostitutes (SOR ¶¶ 1.a., 4.f.). Applicant's friend and one woman left the hotel room, and Applicant remained with the second woman, a prostitute. He testified, "There was a disagreement on payment, and I got upset and angry." He admitted that he grabbed the woman's neck with both hands, choked her, and threw her on the bed. The victim claimed, in the police report, that Applicant pulled her towards the hotel balcony. She also stated to police that she begged for her life several times. Another hotel guest heard the victim screaming and called the police. Applicant was arrested and charged with assault in the third degree (SOR ¶ 4.a.). The victim became unavailable, and the charges were later dismissed. (Answer; GE 2, GE 6, GE 7; Tr. 69-74, 77-81)

Applicant separated from his wife in February 2021. In mid-2021, he was feeling lonely and engaged another prostitute (SOR ¶¶ 1.b., 4.f.). He testified that he paid her approximately \$20. (Answer; GE 2; Tr. 105-106)

### **Financial Considerations (SOR ¶¶ 2.a.-2.f.)**

**SOR ¶ 2.a.** Applicant testified that he received a "nuclear bonus" during his U.S. Navy service, and this bonus required him to serve a certain number of years on active duty. Due to his dismissal from the Navy for misconduct, he did not complete the required term and was required to repay a portion of that bonus. The debt was incurred upon his separation in the approximate amount of \$76,385. During the COVID-19 pandemic this repayment obligation was on hold from May 2020 to about April 2022. In about November 2023, Applicant sought a recharacterization of his Navy separation and/or debt forgiveness. As of January 2024, the debt was affirmed, with the approximate balance of \$107,946. This debt has been placed for collection. Applicant testified that he may have made an unspecified number of \$100 payments, and his December 2025 credit report indicates the most recent payment was in October 2020. There is no evidence of a payment arrangement or any payments since 2020. **This debt is not resolved.** (Answer; GE 3; AE L-N, W, GG; Tr. 143-151, 159)

**SOR ¶ 2.b.** This credit-card account was opened in November 2015, became delinquent in February 2022, and was charged off as of August 2023 in the approximate amount of \$1,977. Applicant's August 2025 credit report continues to list this account as charged off. At the hearing, Applicant admitted that he had not made any payments or payment arrangements on this account. On January 15, 2026, Applicant made a \$165 payment on this account. **This debt is not resolved.** (Answer; GE 3-5; AE L-N, AA, BB; Tr. 151)

**SOR ¶ 2.c.** This credit-card account was placed for collection in about September 2022 in the approximate amount of \$13,063. A judgment was filed in February 2024. Applicant has made monthly \$50 payments from May 2024 to January 2026, and the balance is \$12,763 as of January 2026. **This debt is being resolved.** (Answer to First Amendment; GE 3-5; AE H, L, BB; Tr. 152)

**SOR ¶ 2.d.** This credit-card account was opened in December 2014, became delinquent in September 2022, and charged off in December 2022 in the approximate

amount of \$26,834. Applicant's December 2025 credit report lists this account with the most recent payment made in October 2025 and a balance of \$25,634. Applicant testified that he had been making monthly \$100 payments for 13 months to the creditor for SOR ¶¶ 2.d. and 2.e., and he had believed that \$50 was being applied to each debt; however, he was unable to identify to which account (SOR ¶¶ 2.d. or 2.e.) his payments were applied. After the hearing, he submitted documentary evidence reflecting \$1,400 in payments as of January 2026 applied to SOR ¶ 2.d. **This debt is being resolved.** (Answer to First Amendment; GE 3-5; AE E, L, W, BB; Tr. 152-155)

**SOR ¶ 2.e.** This credit-card account was opened in January 2010, became delinquent in December 2022, and was charged off in January 2023 in the approximate amount of \$26,434. Applicant's December 2025 credit report lists this account as having not been paid since its delinquency and with a balance of \$26,434. After the hearing, Applicant submitted a 2026 budget with anticipated \$100 monthly payments beginning in February 2026 on this account. **This debt is not resolved.** (Answer to First Amendment; GE 3-5; AE J, L, W)

**SOR ¶ 2.f.** This credit-card account was opened in November 2006 and was charged off in May 2022 in the approximate amount of \$17,330. Applicant has made \$50 monthly payments from June 2024 to January 2026, and the balance is \$16,330 as of January 2026. **This debt is being resolved.** (Answer to First Amendment; GE 3-5; AE A, L, BB; Tr. 155-156)

Applicant testified that he incurred several delinquent accounts, which he attributed to his Navy separation, marital separation, and period of unemployment. After his Navy discharge in 2017, Applicant worked as a rideshare driver, and no income taxes were withheld. He accrued approximately \$17,000 in state income tax debt, which he finished paying in June 2024. He also had several accounts become delinquent when he was unemployed and while he navigated divorce proceedings. During his September 2023 security interview, he admitted that he had not initiated any debt-resolution efforts due to his ongoing divorce proceedings and the anticipated assignment of the marital debts. Upon the finalization of his divorce in May 2024, he was required to pay monthly child support (\$1,600) and arrearages. He made payments on an unalleged delinquent account from March 2025 to January 2026. Since August 2025, he has made monthly payments (\$172) to the Internal Revenue Service (IRS) to resolve his under-withheld federal income taxes (\$4,459). (AE A, C, D, F, J, L, X, Y, BB; Tr. 141-145, 155-156, 159-161)

Applicant's annual salary is approximately \$113,500. He also receives approximately \$2,830 in monthly VA disability benefits (90% disability rating as of December 2025). He provided a series of monthly budgets that listed, on average, approximately \$7,900 in income, \$6,800 in expenses, and \$1,000-1,100 in net monthly remainder. He has not participated in any financial counseling. (AE I, J, K, CC; Tr. 140-141, 162)

### **Drug Involvement and Substance Misuse (SOR ¶¶ 3.a.-3.e., 4.g., 5.a.)**

Applicant admitted that he used marijuana once or twice a week from about July to October 2022. He purchased and used marijuana in a state that had legalized recreational marijuana use at the time. Applicant admitted that he purchased and used lysergic acid (LSD) twice between August and October 2022. Applicant admitted that he purchased and used cocaine two or three times between August and October 2022. He had participated in a pre-employment drug screening in August 2021, and he was subject to random drug screening by his employer. (Answer; GE 2; Tr. 61, 115-119, 135-137)

Applicant testified that he was aware that his illegal drug use violated his employer's drugfree workplace policy at the time of his drug involvement. He limited his marijuana use to Friday or Saturday nights in case he was randomly drug-screened at work. At the time of his illegal drug use, he also was aware that marijuana use violated federal drug laws. His marijuana, LSD, and cocaine use were each with different women, with whom he no longer associates. He testified that he considered his use of LSD and cocaine as akin to self-medication. He expressed his intent to abstain from drug involvement in the future. (GE 2; Tr. 61, 118-126)

### **Criminal Conduct (SOR ¶¶ 1, 3, 4.a.-4.e.)**

The SOR alleges criminal conduct security concerns based on Applicant's solicitation of prostitution (SOR ¶ 1), his illegal drug use (SOR ¶ 3), and additional charges (SOR ¶¶ 4.a.-4.e.). As discussed above, Applicant was charged with assault in the third degree for his assault connected with his 2013 solicitation of prostitution (SOR ¶¶ 1.a., 4.a.).

**SOR ¶¶ 4.b. and 4.c.** Following the December 2013 solicitation of prostitution and assault charge, Applicant's wife had been aware that he had engaged the services of prostitutes on multiple occasions. He admitted there was a lot of anger in their relationship, and verbal arguments devolved into physical altercations. At the hearing, Applicant acknowledged that he and his wife had a physically abusive relationship even prior to the December 2014 incident, discussed below, and there were instances when he slapped her, pushed her, or pulled her hair. In October 2014, Applicant's wife contacted his command and stated she felt threatened. A military protective order was issued against Applicant for 10 days. Applicant resided in the Navy barracks for 10 days. He then returned to the marital residence. (GE 7; Tr. 76, 82-85, 90-91)

In December 2014, Applicant and his wife had a verbal altercation that escalated to a physical altercation. Applicant admitted that he struck his wife – who was five or six months pregnant at the time – in the face, pulled her hair, strangled her, kicked her in the stomach, and stomped on her foot while their children were present. Applicant's eight-year-old crying son called police and reported that his father had hit his mother while she was pregnant. Applicant testified that the physical altercation had escalated when his wife sat atop him and grabbed his genitals during an argument. He explained that he struck her to get her off of him and to stop her grabbing. He admitted that pulling his wife's hair

and strangling her “was definitely extreme and out of a lot of anger.” His wife was hospitalized with bruising to her jaw, upper back, and right foot. Applicant was charged with abuse of a family member, a felony offense. In April 2016, the charge was reduced to terroristic threatening, and he pled no contest. Adjudication of the charge was deferred, and he was placed on supervised probation for four years. He was required to attend an anger-management program. He was released from probation in September 2017, and the charge was dismissed in January 2018. The Navy conducted an investigation and issued a letter of counseling for conduct unbecoming an officer, and the Navy locally suspended his access to classified information. Because the incident referenced in SOR ¶ 4.c. is duplicative of that in SOR ¶ 4.b., SOR ¶ 4.c. is found for Applicant. (GE 2, 7; AE S-V; Tr. 76-93, 114)

**SOR ¶ 4.d.** Applicant reconciled with his wife, and their relationship remained “an emotional rollercoaster” from January 2015 to February 2021. He admitted that their verbal arguments continued but his testimony was unclear whether any physical altercations occurred during this period. He did testify that their arguments did not escalate to the level of physical altercation that occurred in the December 2014 incident. (Tr. 93-94)

In February 2021, Applicant had a verbal exchange with his adopted son, who interpreted the exchange as Applicant accusing him of theft or wrongdoing. Applicant’s wife intervened. Applicant and his wife were approximately the same height, and she outweighed him. She pushed Applicant against a wall and grabbed his shirt. Applicant slapped her in the face to have her release his shirt. His wife claimed that she injured her wrist when Applicant pushed her to the ground. Police were contacted, Applicant was charged with simple assault, and a restraining order was placed against Applicant. The temporary restraining order prohibited any contact between Applicant and his wife and adopted son. The amended, permanent restraining order prohibited any contact with his wife but permitted some contact with his son. Applicant and his wife may communicate about family-related topics through an approved application. Applicant pled guilty to the simple assault charge and was fined. (Answer; GE 8; AE O; Tr. 67, 95-99)

**SOR ¶ 4.e.** While the restraining order was in effect, Applicant and his wife separately visited the same bar. Applicant’s wife claimed he called out her name and called her a “bitch.” Her companion told law enforcement that Applicant also got into a verbal altercation with him. During the court hearing and at the security clearance hearing, Applicant denied any comments or communications directed at his wife. Based upon his wife’s complaint and her companion’s report, Applicant was charged with contempt of court for violating the restraining order. Applicant testified that both he and his wife testified at the court hearing, but neither had any witnesses to corroborate their versions of the incident. Applicant testified, at the security clearance hearing, that his wife had been escorted out of the bar, and he denied any communications with either his wife or her companion. Despite Applicant’s denials, the court records reflect that Applicant pled guilty to the contempt of court charge and was placed on probation. (Answer; GE 8; Tr. 100-105)

Applicant testified that his criminal conduct largely stemmed from his toxic relationship with his wife, his anger issues, his undiagnosed mental-health conditions, and his alcohol consumption. He separated from his wife in February 2021 and was homeless for about four or five months. He lived at a veterans homeless shelter and participated in some counseling. He initiated psychotherapy through the Department of Veterans Affairs (VA) in March 2021. He was diagnosed and treated for post-traumatic stress disorder (PTSD), depression, and anxiety. He attended weekly individual psychotherapy from March 2021 to March 2022 and group therapy from June 2022 to September 2022. He testified that he had been suicidal in about early 2021. He regularly participated in medication management for his regulation of his psychiatric medications. He was advised against consuming alcohol while on psychiatric medications, and his alcohol consumption reduced over time but has not ceased. He has not been diagnosed with an alcohol use or substance use disorder. He was both in therapy and taking medication when he used illegal drugs in 2022. He met his current girlfriend in December 2022, and she has been an important part of his support system. He has had no physical altercations with his current girlfriend. He remains in medication management through the VA, and he has reached out to his VA therapist, as needed, once or twice since late 2022. (Answer; GE 2; AE Z, DD; Tr. 61, 73, 118-127, 129-140, 166)

Applicant did not solicit any prostitutes between December 2013 and mid-2021, and he has not done so since. He admitted that he had reported to duty in the Navy while under the influence of alcohol. He has “dramatically” reduced his alcohol consumption, though he does consume alcohol. He has no relationship with his adopted son; however, he has joint custody of his three children and sees them regularly. (Tr. 106, 109, 113, 121-123, 127)

## **Whole Person**

Prior to his general discharge, Applicant was twice awarded the Navy Achievement Medal. He also proffered two performance appraisals spanning August 2022 to August 2024, wherein he was praised as reliable, dependable, and self-driven. He exceeded expectations in both appraisals. (AE G, FF)

Applicant’s coworker and a government client provided letters in support of Applicant’s clearance eligibility. His coworker attested to his professionalism, reliability, judgment, and trustworthiness. His government client noted his maturity, professional development, and attention to detail. (AE P, Q)

Applicant’s immediate supervisor testified on behalf of his clearance eligibility. He considers Applicant to be a “model employee” and a “vital member of the team.” Applicant has had no security violations or disciplinary actions during his current employment. His supervisor was generally aware of Applicant’s criminal conduct, drug involvement, and financial delinquencies, but he could not provide any specifics. (Tr. 34-42)

Applicant’s girlfriend has been in a romantic relationship with him for three years. They have lived together for approximately two years. She was aware of Applicant’s past

illegal drug use, his toxic relationship and criminal incidents with his ex-wife, and his delinquent debts. She was not aware of any drug use or criminal conduct since December 2022, when their relationship began. She confirmed that he rarely consumes alcohol and that no physical altercations have occurred during their relationship. (Tr. 46-58)

## **Policies**

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

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, administrative judges apply the guidelines in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(a), the entire process is a conscientious scrutiny 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 that "[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security."

Under Directive ¶ E3.1.14, the Government must 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." The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

A person who seeks access to sensitive 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 access to sensitive information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard sensitive information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of sensitive information.

Section 7 of EO 10865 provides that adverse decisions shall be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## Analysis

### Guideline D: Sexual Behavior

The security concern for sexual behavior is set out in AG ¶ 12:

Sexual behavior that involves a criminal offense; reflects a lack of judgment or discretion; or may subject the individual to undue influence of coercion, exploitation, or duress. These issues, together or individually, may raise questions about an individual's judgment, reliability, trustworthiness, and ability to protect classified or sensitive information. Sexual behavior includes conduct occurring in person or via audio, visual, electronic, or written transmission. . . .

The guideline notes several conditions that could raise security concerns under AG ¶ 13. The following are potentially applicable in this case:

- (a) sexual behavior of a criminal nature, whether or not the individual has been prosecuted; and
- (c) sexual behavior that causes an individual to be vulnerable to coercion, exploitation, or duress.

Applicant admitted that he solicited prostitutes in December 2013 and mid-2021. At the time of the December 2013 incident, he was married and a U.S. Navy officer. AG ¶¶ 13(a) and 13(c) apply.

Sexual behavior security concerns may be mitigated under AG ¶ 14. The following is potentially applicable in this case:

- (b) the sexual behavior happened so long ago, so infrequently, or under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or judgment.

In addition to the two alleged incidents, Applicant admitted that he engaged the services of prostitutes while in the Navy and deployed overseas. I have not considered these unalleged incidents as disqualifying conduct; however, they are appropriate for consideration in the evaluation of Applicant's evidence in mitigation. The DOHA Appeal Board has held that conduct not alleged in the SOR may be considered in the evaluation of an applicant's evidence in mitigation; as to whether an applicant has demonstrated successful rehabilitation; and in the whole-person analysis. See ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006) (citing ISCR Case No. 02-07218 at 3 (App. Bd. Mar. 15, 2004); ISCR Case No. 00-0633 at 3 (App. Bd. Oct. 24, 2003)). See *also* ISCR Case No. 12-09719 at 3 (App. Bd. Apr. 6, 2016) (citing ISCR Case No. 14-00151 at 3, n.1 (App. Bd. Sept. 12, 2014); ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006)).

Applicant acknowledged that he had been briefed about human trafficking, prostitution, and the associated security concerns for service members. Notwithstanding Applicant's demonstrated questionable judgment, he only engaged in criminal sexual behavior once in the past 12 years. AG ¶ 14(b) applies.

## **Guideline F: Financial Considerations**

The security concern for financial considerations is set out in AG ¶ 18:

Failure to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds. . . .

The guideline notes several conditions that could raise security concerns under AG ¶ 19. The following are potentially applicable in this case:

- (a) inability to satisfy debts; and
- (c) a history of not meeting financial obligations.

Applicant's six delinquent debts, totaling approximately \$193,600, became delinquent between June 2017 and December 2022. These accounts remain delinquent. AG ¶¶ 19(a) and 19(c) apply.

Conditions that could mitigate the financial considerations security concerns are provided under AG ¶ 20. The following are potentially applicable in this case:

- (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;
- (b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;
- (c) the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit

counseling service, and there are clear indications that the problem is being resolved or is under control;

(d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts; and

(e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

Applicant bears the burdens of production and persuasion in mitigation. An applicant is not held to a standard of perfection in his debt-resolution efforts or required to be debt-free. “Rather, all that is required is that an applicant act responsibly given his circumstances and develop a reasonable plan for repayment, accompanied by ‘concomitant conduct,’ that is, actions which evidence a serious intent to effectuate the plan.” ISCR Case No. 15-02903 at 3 (App. Bd. Mar. 9, 2017). See, e.g., ISCR Case No. 13-00987 at 3, n.5 (App. Bd. Aug. 14, 2014).

Applicant’s government debt (SOR ¶ 2.a.) became delinquent shortly after his involuntary separation from the U.S. Navy in June 2017. He experienced some underemployment as he worked for a ridesharing service; however, he obtained gainful employment by August 2018. He was then unemployed from October 2020 to August 2021 and navigating divorce proceedings until May 2024. There is no evidence of any debt-resolution efforts by Applicant to resolve or address this government debt until he disputed the characterization of his separation in about November 2023. Applicant’s inaction is an aggravating circumstance in this case.

By January 2024, Applicant had lost his appeal concerning his government debt, yet he took no steps to address or resolve this debt. He did, however, address and resolve a \$17,000 state-income tax debt by June 2024, initiated child-support payments beginning in May 2024, and initiated other debt payments. Since June 2024, he has made \$50 monthly payments on both SOR ¶¶ 2.c. and 2.f., and his \$100 monthly payments on SOR ¶ 2.d. began in about October 2024. He had initially believed the \$100 payments were to be split between the accounts in SOR ¶¶ 2.d. and 2.e., but, upon learning of the misunderstanding, initiated a plan for \$100 monthly payments on SOR ¶ 2.e. to begin in February 2026. After the hearing, he also made one payment on SOR ¶ 2.b.

Applicant also provided documentary evidence of his debt-resolution efforts on unalleged debts and a federal tax debt. He has not participated in financial counseling, but he does maintain a detailed monthly budget. He has not initiated payments or debt-resolution efforts on the government debt; however, he admitted this debt and will pay it when he is financially able. Applicant established that circumstances largely beyond his control contributed to his financial delinquencies, and, despite some inaction, he has demonstrated a track record of financial responsibility in addressing and resolving his

delinquent accounts. AG ¶¶ 20(b) and 20(d) apply. Applicant mitigated the financial considerations security concerns.

### **Guideline H: Drug Involvement and Substance Misuse**

The security concern for drug involvement is set out in AG ¶ 24:

The illegal use of controlled substances, to include the misuse of prescription and non-prescription drugs, and the use of other substances that cause physical or mental impairment or are used in a manner inconsistent with their intended purpose can raise questions about an individual's reliability and trustworthiness, both because such behavior may lead to physical or psychological impairment and because it raises questions about a person's ability or willingness to comply with laws, rules, and regulations. *Controlled substance* means any "controlled substance" as defined in 21 U.S.C. 802. *Substance misuse* is the generic term adopted in this guideline to describe any of the behaviors listed above.

Director of National Intelligence (DNI) Memorandum ES 2014-00674, "Adherence to Federal Laws Prohibiting Marijuana Use," October 25, 2014, states:

[C]hanges to state laws and the laws of the District of Columbia pertaining to marijuana use do not alter the existing National Security Adjudicative Guidelines. . . . An individual's disregard of federal law pertaining to the use, sale, or manufacture of marijuana remains adjudicatively relevant in national security determinations. As always, adjudicative authorities are expected to evaluate claimed or developed use of, or involvement with, marijuana using the current adjudicative criteria. The adjudicative authority must determine if the use of, or involvement with, marijuana raises questions about the individual's judgment, reliability, trustworthiness, and willingness to comply with law, rules, and regulations, including federal laws, when making eligibility decisions of persons proposed for, or occupying, sensitive national security positions.

In 2021, the Security Executive Agent (SecEA) promulgated clarifying guidance concerning marijuana-related issues in security clearance adjudications. It states in pertinent part:

[Federal] agencies are instructed that prior recreational marijuana use by an individual may be relevant to adjudications but not determinative. The SecEA has provided direction in [the adjudicative guidelines] to agencies that requires them to use a "whole-person concept." This requires adjudicators to carefully weigh a number of variables in an individual's life to determine whether that individual's behavior raises a security concern, if at all, and whether that concern has been mitigated such that the individual may now receive a favorable adjudicative determination. Relevant

mitigations include, but are not limited to, frequency of use and whether the individual can demonstrate that future use is unlikely to recur, including by signing an attestation or other such appropriate mitigation. Additionally, in light of the long-standing federal law and policy prohibiting illegal drug use while occupying a sensitive position or holding a security clearance, agencies are encouraged to advise prospective national security workforce employees that they should refrain from any future marijuana use upon initiation of the national security vetting process, which commences once the individual signs the certification contained in the Standard Form 86 (SF-86), Questionnaire for National Security Positions.<sup>1</sup>

The guideline notes several conditions that could raise security concerns under AG ¶ 25. The following are potentially applicable:

- (a) any substance misuse; and
- (c) illegal possession of a controlled substance, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia.

Between July and October 2022, Applicant illegally used marijuana once or twice a week. Between August and October 2022, he purchased and used LSD twice and purchased and used cocaine two or three times. Applicant's illegal drug use violated drug laws and his employer's drugfree workplace policy. AG ¶¶ 25(a) and 25(c) apply.

Conditions that could mitigate the drug involvement security concerns are provided under AG ¶ 26. The following are potentially applicable:

- (a) the behavior happened so long ago, was so infrequent, or happened under such circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or good judgment; and
- (b) the individual acknowledges his or her drug involvement and substance misuse, provides evidence of actions taken to overcome this problem, and has established a pattern of abstinence, including, but not limited to:
  - (1) disassociation from drug-using associates and contacts;
  - (2) changing or avoiding the environment where drugs were used; and
  - (3) providing a signed statement of intent to abstain from all drug involvement and substance misuse, acknowledging that

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<sup>1</sup> *Security Executive Agent Clarifying Guidance Concerning Marijuana for Agencies Conducting Adjudications of Persons Proposed for Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position*, dated December 21, 2021 (SecEA Clarifying Guidance), at p. 2.

any future involvement or misuse is grounds for revocation of national security eligibility.

Applicant admitted that he was aware that his marijuana, LSD, and cocaine use violated federal drug laws and his employer's policies. He was subject to random drug screening at the time of his drug use. Notwithstanding Applicant's questionable judgment at the time, he was also experiencing turmoil during his divorce proceedings. He began mental-health treatment and medication in March 2021, and he has maintained a healthy romantic relationship since December 2022. His illegal drug use coincided with previous relationships and at a time when he consumed alcohol more regularly. He no longer associates with individuals who use illegal drugs, and he has reduced his alcohol consumption. He has stated his intent to abstain from all drug involvement and credibly testified that his last illegal drug use occurred over three years ago. AG ¶¶ 26(a) and 26(b) apply.

### **Guideline J: Criminal Conduct**

The security concern for criminal conduct is set out in AG ¶ 30:

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 conditions that could raise a security concern and may be disqualifying. The following are potentially applicable:

- (a) a pattern of minor offenses, any 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.

In addition to the two prostitution incidents and illegal drug involvement addressed above, Applicant admitted violent assaults in December 2013, December 2014, and February 2021. During the December 2013 incident, the victim screamed and begged for her life. During the December 2014 altercation, Applicant's pregnant wife was hospitalized after their altercation. Applicant struck his wife and pushed her to the ground in February 2021. He pled guilty to having violated the terms of the restraining order in August 2021. He illegally purchased and used marijuana, cocaine, and LSD on multiple occasions in late 2022. AG ¶¶ 31(a) and 31(b) apply.

Conditions that could mitigate criminal conduct security concerns are provided under AG ¶ 32. The following are potentially applicable:

(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.

Applicant acknowledged his toxic relationship with his then wife, his problematic alcohol consumption, his undiagnosed mental-health conditions, and his anger issues as contributing factors to his criminal conduct. Beyond the alleged conduct, Applicant's volatile relationship triggered a military protective order in 2014 and repeatedly escalated into physical altercations spanning several years. He credited his mental-health treatment, psychiatric medication, and stable romantic relationship for the absence of recent criminal conduct; however, Applicant's 2021 solicitation of prostitution, 2021 violation of the restraining order, and 2022 drug involvement all occurred during his treatment. Furthermore, although Applicant provided his VA disability rating, there are no medical records detailing Applicant's disclosures about his past behavior and drug involvement or any recommendations from clinicians for aftercare and treatment. Applicant acknowledged that he was advised against consuming alcohol while prescribed psychiatric medications, yet he continues to consume alcohol on occasion. Therefore, I am unable to determine whether he is in compliance with the recommendations or the likelihood of relapse into poor behavior. I have considered the absence of record evidence of criminal conduct since late 2022 and Applicant's self-reported reduced alcohol consumption as favorable evidence in mitigation; however, the violence during these incidents and the lengthy history of criminal conduct continue to cast doubt on his judgment, rehabilitation, and reliability.

### **Guideline E: Personal Conduct**

The 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. . . .

The guideline notes several conditions that could raise security concerns under AG ¶ 16. The following disqualifying condition is potentially 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 record evidence established security concerns arising from Applicant's sexual behavior, financial considerations, criminal behavior, and drug involvement, as discussed *supra*. In the aggregate, these circumstances trigger AG ¶ 16(c).

The following personal conduct mitigating conditions under AG ¶ 17 are potentially relevant:

(c) the offense is 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; and

(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.

As discussed with the Guideline J mitigation analysis, Applicant attributed his criminal conduct and questionable judgment to his toxic relationship, problematic alcohol consumption, and undiagnosed mental-health conditions. I have considered that he actively engaged in counseling in 2021 and 2022 and has remained on psychiatric medication. I have also considered that there is no record evidence of criminal conduct since late 2022, that he has thrived in his employment, and that he has been in a stable romantic relationship for three years. For the reasons delineated in the Guideline J mitigation analysis, he has not established that he has complied with his clinician's recommendations, and some of his criminal conduct and drug involvement occurred while in treatment. Furthermore, the evidence in mitigation has not overcome the nature, gravity, and span of Applicant's misconduct, criminal conduct, drug involvement, and questionable judgment. Applicant did not mitigate the personal conduct security concerns.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for access to classified information 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 eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have incorporated my comments under Guidelines D, F, H, J, and E, and the factors in AG ¶ 2(d) in this whole-person analysis.

Applicant's supervisor and two colleagues praised his professionalism, reliability, judgment, and trustworthiness; however, the record evidence does not establish that they are aware of the full extent of the alleged security concerns. Applicant's girlfriend indicated some awareness of the prostitution incidents, drug use, and toxic relationship with his ex-wife, and she confirmed no physical altercations during their relationship.

Applicant demonstrated a track record of debt-resolution efforts for approximately two years, and he mitigated the financial considerations security concerns. Given the passage of time since Applicant's drug involvement and criminal sexual behavior, he has also mitigated those security concerns. Notwithstanding some changed circumstances and the passage of time since Applicant's most recent criminal conduct, taking the record evidence as a whole, doubts remain as to his judgment and reliability. Eligibility for access to classified information is denied.

This decision should not be construed as a determination that Applicant cannot obtain a security clearance in the future. With a longer passage of time and further evidence of successful rehabilitation, Applicant may overcome the aforementioned concerns.

### **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 D:	FOR APPLICANT
Subparagraphs 1.a.-1.b.:	For Applicant
Paragraph 2, Guideline F:	FOR APPLICANT
Subparagraphs 2.a.-2.f.:	For Applicant
Paragraph 3, Guideline H:	FOR APPLICANT

Subparagraphs 3.a.-3.e.:	For Applicant
Paragraph 4, Guideline J:	AGAINST APPLICANT
Subparagraphs 4.a.-4.b.:	Against Applicant
Subparagraph 4.c.:	For Applicant
Subparagraphs 4.d.-4.g.:	Against Applicant
Paragraph 5, Guideline E:	AGAINST APPLICANT
Subparagraph 5.a.:	Against Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, I conclude that it is not clearly consistent with the interests of national security to grant Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

Eric H. Borgstrom  
Administrative Judge