



**DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of:)
)
) ISCR Case No. 25-01286
)
Applicant for Security Clearance)

Appearances

For Government: Jenny Bayer, Esq., Department Counsel
For Applicant: *Pro se*

05/21/2026

Decision

MURPHY, Braden M., Administrative Judge:

Applicant engaged the services of prostitutes for sexual services on numerous occasions between late 2022 and late 2024. He did not provide sufficient evidence to mitigate resulting security concerns alleged under Guideline D (sexual conduct) and cross-alleged under both Guideline J (criminal conduct) and Guideline E (personal conduct). Applicant’s eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted a security clearance application (SCA) on April 17, 2024. Following a background investigation, the Defense Counterintelligence and Security Agency (DCSA) issued a Statement of Reasons (SOR) to Applicant on December 5, 2025, detailing security concerns under Guidelines D, J, and E. The DCSA issued the SOR under Executive Order (Exec. Or.) 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 Security Executive Agent Directive (SEAD) 4, *National Security Adjudicative Guidelines* (AG), effective June 8, 2017.

Applicant answered the SOR on December 28, 2025, and requested a decision by an administrative judge from the Defense Office of Hearings and Appeals (DOHA) based on the administrative (written) record, in lieu of a hearing. With his SOR Response, he included one document, an award he received from his employer. (FORM Item 2)

On February 23, 2026, Department Counsel submitted the Government's File of Relevant Material (FORM), including documents identified as Items 1 through 5. DOHA sent the FORM to Applicant electronically on March 3, 2026. He was afforded an opportunity to note objections and to submit material in refutation, extenuation, or mitigation, within 30 days from receipt of the FORM. He submitted a response by email on March 26, 2026 (FORM Response). The FORM Response is unsigned but is sent from the same personal email address Applicant provided on the forum selection sheet he returned with his SOR Response. He did not note any objections to the Government's evidence.

The case was forwarded to the DOHA hearing office on or about April 28, 2026, and assigned to me on May 11, 2026. Government Items 1 and 2, the SOR and Applicant's Response, are the pleadings in the case. Item 3 is Applicant's SCA, Item 4 is Applicant's Response to Interrogatories from DOHA, in which he provided factual details about his engagement with prostitutes. Items 3 and 4 are admitted without objection, as is the FORM Response.

Item 5 is the unadopted summary of Applicant's December 2024 background interviews. In paragraph 2 of his FORM Response, Applicant quoted from the unadopted summary, said the quote was not accurate, and offered a correction. He also made other comments about things said in the interview, either by himself or the interviewer. (FORM Response) I conclude that Applicant specifically reviewed Item 5, and did not object to its admission, subject to the correction he noted. Item 5 is therefore admitted, with that limitation.

Findings of Fact

In his SOR Response, Applicant provided a narrative statement. He admitted the Guideline D allegation at SOR ¶ 1.a and the Guideline J cross-allegation at SOR ¶ 2.a. He denied the Guideline E allegation at SOR ¶ 3.a, but his answer suggested he interpreted SOR ¶ 3.a as alleging falsification of his SCA. In fact, it is a cross-allegation of the Guideline D allegation as an additional personal conduct security concern. I nonetheless consider SOR ¶ 3.a as denied. His admissions are incorporated into the findings of fact. Additional findings follow.

Applicant is 39 years old. He noted in his SCA that he does not have a high school diploma or a general equivalency degree (GED). He has never married and has no children. Since November 2023, he has been employed as a security guard for a defense contractor. From September 2023 to March 2023, he worked as driver for an auto parts store. He was unemployed between those two jobs (April to October 2023) and from August 2020 to August 2022. Previously, he worked for another auto parts store from

early 2018 to mid-2020. Before then, he lived at home caring for an elderly family member and said he was unemployed. This is his first application for a clearance. (Item 3)

After preparing and submitting his SCA in April 2024, he had a background interview in December 2024. During the interview, he was asked if he had engaged in sexual behavior that might subject him to blackmail. He disclosed a sexual relationship with a woman he met online. He said he liked to visit strip clubs and has paid for a prostitute before. He said he found prostitutes online and paid for sexual activities five or six times beginning in 2022-2023. (Item 5)

In his FORM Response, Applicant denied stating during the interview that he would continue the activity and said he “explicitly offered to formally agree to stop.” He said he “acknowledged that the information could potentially be used for leverage, but I did not agree that it would be effective.” He said he self-reported his conduct to his former facility security officer (FSO) and supervisor, his employer’s current FSO, and one other employee. (FORM Response)

In a July 2025 interrogatory, Applicant was asked to provide detailed information on his contacts with prostitutes, as previously referenced in his background interview (which was referenced but not provided). In his August 2025 interrogatory response, Applicant disclosed details of the approximately 25 times he paid prostitutes for sex between September 2022 and November 2024, either by finding them online and arranging to meet them at local hotels or residences, or, once, at a strip club. (Item 4) (SOR ¶¶ 1.a, 2.a, 3.a)

Applicant said his priorities and lifestyle had changed. He said he was more interested in career advancement and was no longer interested in seeking anyone out and paying for sex for the foreseeable future. He said he was in an open sexual relationship and pursued contacts online with people with similar interests and intentions. He professed not to care if anyone learned he had been with a prostitute, though he does not publicize it. (Item 4)

In his SOR Response, Applicant said he was not concerned about who knows about his past actions. He said he fully disclosed the details in his background interview and told his former FSO and supervisor at the time. He said he is not subject to blackmail, as the information is “already known to relevant parties, and I am prepared to be fully transparent in any forum.” He asserted that his issue is mitigatable due to his prior disclosure and lack of vulnerability to coercion. He said he has learned from his mistakes and has taken full responsibility for his actions and omissions.¹ He said he has been entirely truthful during the interview process. (Item 2)

¹ As noted above, there is no allegation in the SOR that Applicant omitted his conduct with prostitutes either on his SCA or otherwise during the clearance application process, nor does any question on his SCA call for disclosure of such information.

Applicant also listed three work-related character references and provided their phone contact information. (Item 2) However, he did not provide reference letters.

In his FORM Response, Applicant gave more detail about the origins of his interactions with prostitutes. He said that prior to 2021, he rarely left the house. He did not have a driver's license or a vehicle. After his father died and Applicant inherited his father's estate, he stayed home and played video games with friends. The COVID-19 pandemic and his mother's death changed his perspective. He got a driver's license, bought a car, and got a job. He found meeting people through online dating apps led to situations in which women would offer to sell him nude photos or expected money in exchange for meeting in person. He decided to "bypass what felt like transactional barriers," and decided to "pay for companionship." He acknowledged that he broke the law. (FORM Response)

Since then, Applicant said, engaging prostitutes no longer interests him, "nor does pursuing romantic relationships. I now prefer to keep all personal interactions at arm's length. Furthermore, due to ongoing medical issues, physical intimacy is no longer possible for me." (FORM Response) He provided no further information or details.

Applicant waived his right to a hearing. He did not provide any evidence of supporting references. With his SOR Response, he provided an award he received from his employer in January 2025.

Policies

It is well established that no one has a right to a security clearance. As the Supreme Court has held, "the clearly consistent standard indicates that security determinations should err, if they must, on the side of denials." *Department of Navy v. Egan*, 484 U.S. 518, 531 (1988).

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 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, these guidelines are applied 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 several 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.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Likewise, I have not drawn inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, an “applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel and has the ultimate burden of persuasion to obtain a favorable security 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 access to classified information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

Analysis

Applicant paid for sexual services from prostitutes about 25 times between September 2022 and November 2024, mostly through online contact. This continued after he submitted his SCA, but there is no indication that it continued after his December 2024 background interview. He acknowledged that his actions broke the law and that his actions could have been used for “leverage” (i.e., blackmail) or as a basis for coercion, exploitation, or duress. This conduct is alleged under Guideline D and cross-alleged under Guidelines J and E.

The applicable disqualifying conditions under each guideline are set forth below. Mitigation under each guideline is then addressed together.

Guideline D: Sexual Behavior

AG ¶ 12 expresses the security concern for sexual behavior:

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. No adverse inference concerning the standards in this Guideline may be raised solely on the basis of the sexual orientation of the individual.

AG ¶ 13 describes conditions that could raise a security concern and may be disqualifying. The following disqualifying conditions are applicable to Applicant's admitted conduct:

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

Guideline J: Criminal Conduct

AG ¶ 30 expresses the security concern for criminal conduct:

Criminal activity creates doubt about a person's judgment, reliability, and trustworthiness. By its very nature, it calls into question a person's ability or willingness to comply with laws, rules, and regulations.

AG ¶ 31 describes conditions that could raise a security concern and may be disqualifying. The following disqualifying conditions are applicable to Applicant's admitted conduct, cross-alleged as criminal conduct (SOR ¶ 2.a).

- (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.

Guideline E: Personal Conduct

AG ¶ 15 details the security concern regarding personal conduct:

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 conditions that could raise a security concern and may be disqualifying. The following disqualifying conditions are applicable to Applicant's admitted conduct, cross-alleged as a personal conduct security concern. (SOR ¶ 3.a)

(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;

(e) personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress by a foreign intelligence entity or other individual or group. Such conduct includes: (1) engaging in activities which, if known, could affect the person's personal, professional, or community standing; and

(g) association with persons involved in criminal activity.

SOR ¶ 3.a is a cross-allegation of Applicant's conduct under Guideline D, discussed above. SOR ¶ 1.a is already "sufficient for an adverse determination," under Guideline D, so AG ¶ 16(c) does not apply. However, engaging in the services of prostitutes satisfies both AG ¶¶ 16(e)(1) and 16(g).

Mitigation:

Under Guideline D, AG ¶ 14 sets forth the potentially applicable mitigating conditions for sexual conduct:

(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; and

(c) the behavior no longer serves as a basis for coercion, exploitation, or duress.

Applicant disclosed his engagement with prostitutes during a background interview, and provided details as requested in an interrogatory response. He asserted that he informed his FSOs and supervisors. AG ¶ 14(c) has at least some application. However, the repeated nature of his activity (25 times over 26 months) as well as its relative recency (from September 2022 to November 2024, ending less than two years ago) weighs against application of AG ¶ 14(b). While he now disavows an interest in engaging with prostitutes, it was not long ago that he was noncommittal. I cannot conclude that Applicant's actions happened so long ago, so infrequently, or under such unusual

circumstances, and no longer cast doubt on his current reliability, trustworthiness, or judgment. AG ¶ 14(b) does not apply.

Under Guideline J, AG ¶ 32 sets forth the potentially applicable mitigating conditions:

(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.

AG ¶ 32(a) does not apply for the same reasons as set forth under Guideline D, above. Similarly, AG ¶ 32(d) only partially applies. While there is no evidence of recurrence since November 2024, there is little evidence of voluntary constructive community involvement, though Applicant has a good employment record.

Under Guideline E, AG ¶ 17 details the personal conduct mitigating conditions. The following warrant discussion:

(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;

(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;

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

(g) association with persons involved in criminal activities was unwitting, has ceased, or occurs under circumstances that do not cast doubt upon the individual's reliability, trustworthiness, judgment, or willingness to comply with rules and regulations.

AG ¶ 17(c) does not apply to Applicant's engagement with prostitutes under Guideline E for the same reasons AG ¶¶ 14(b) and 32(a) do not apply, above. Similarly, AG ¶ 17(e) does not fully apply for the same reasons as set forth in AG ¶ 14(c).

As with AG ¶ 17(c), AG ¶ 17(d) does not fully apply because Applicant did not provide sufficient evidence to establish that his conduct will not recur. For instance, there is no indication that he has participated in counseling to change his behavior. There is also no way to gauge the veracity of his assertions that he has changed his ways.

AG ¶ 17(g) only partially applies. Applicant's engagement with prostitutes has ceased. It was not unwitting, however, and his actions cast doubt upon his reliability, trustworthiness, judgment, or willingness to comply with rules and regulations.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all 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, J, and E in my whole-person analysis.

Since Applicant elected a decision on the written record, in lieu of a hearing, I did not have the opportunity to ask him questions about his conduct and examine the veracity of his claims that it is unlikely to recur. I also had no opportunity to observe Applicant's demeanor, and thus, to assess his credibility. Applicant engaged in a pattern of poor judgment and his actions were repeated and recent. He did not provide sufficient evidence to establish that he has mitigated the security concerns in this case. He has not shown that it is clearly consistent with the national interest to grant him eligibility for access to classified information. Overall, the record evidence leaves me with questions and doubts as to Applicant's eligibility for access to classified information.

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:	AGAINST APPLICANT
Subparagraph 1.a:	Against Applicant
Paragraph 2, Guideline J:	AGAINST APPLICANT
Subparagraph 2.a:	Against Applicant
Paragraph 3, Guideline E:	AGAINST APPLICANT
Subparagraph 3.a:	Against Applicant

Conclusion

Considering all of the circumstances, it is not clearly consistent with the interests of national security to grant Applicant a security clearance. Eligibility for access to classified information is denied.

Braden M. Murphy
Administrative Judge