



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



In the matter of:)
)
) ISCR Case No. 25-00670
)
Applicant for Security Clearance)

Appearances

For Government: Alison P. O'Connell, Esq., Department Counsel
For Applicant: Mark J. Thomas, Esq.

07/01/2026

Decision

DORSEY, Benjamin R., Administrative Judge:

Applicant did not mitigate the sexual behavior or criminal conduct security concerns. The personal conduct security concerns were not established. Eligibility for access to classified information is denied.

Statement of the Case

On July 23, 2025, the Defense Counterintelligence and Security Agency (DCSA) issued a Statement of Reasons to Applicant detailing security concerns under Guideline D (sexual behavior), Guideline E (personal conduct), and Guideline J (criminal conduct). Applicant provided a response to the SOR on November 7, 2025, and requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA).

On December 11, 2025, Department Counsel from DOHA amended the Statement of Reasons (collectively the Statement of Reasons and the Amended Statement of Reasons will be referred to as the "SOR") and, on January 8, 2026, Applicant responded to the SOR Amendment (collectively the November 7, 2025 and January 8, 2026 responses will be referred to as the "Answer"). The case was assigned to me on April 1, 2026.

The hearing was convened as scheduled on May 12, 2026. I admitted Government Exhibits (GE) 1 through 6 and Applicant Exhibits (AE) A through J, without objection. DOHA received a transcript (Tr.) of the hearing on May 19, 2026.

Findings of Fact

Applicant is a 55-year-old man seeking renewal of his security clearance eligibility. His employment status is unclear from the record. He graduated from high school in 1989 and attended about a semester of college before enlisting in the Army. He served on active duty in the Army from 1990 until 2001, earning an honorable discharge. He served in the Army Reserve from 2001 until 2003, again earning an honorable discharge. In 2003, he deployed to a combat zone for 10 months. He earned a multitude of awards and commendations for his service, including a Bronze Star. His specialty throughout the majority of his military and civilian career has been in information technology (IT). He is single after having one prior marriage from 1995 until March 2021. He has two adult children, ages 29 and 27. (Tr. 32-44, 66; GE 1; AE I)

In 2021, shortly after Applicant's divorce, his younger son (C) moved back into Applicant's home. A few months later, in the fall of 2021, C's girlfriend, Ms. V, also moved into Applicant's home. C and Ms. V had been dating since high school, so Applicant had known Ms. V since she was about 16 and considered her family and a potential daughter-in-law. Beginning sometime in 2023, without Ms. V's consent, Applicant planted a small "spy camera" with a micro secure digital (SD) card and a motion sensor in the bedroom where she commonly changed clothes. He planted this camera on multiple occasions to try to film her while she was changing or undressed. He specifically purchased the camera for this purpose despite struggling with the propriety of its intended use. He planted the camera over a period of several months on a "semi-regular basis." On August 10, 2023, after he failed to retrieve the spy camera the same night he planted it, she noticed the camera while she was on top of C on the bed in the room where she normally changed clothes. She and C took the camera to the local police station. Police reviewed the images on the SD card and concluded that Applicant planted the camera given the timing of his appearances on the video recordings. (Tr. 44-56, 66-70, 72-78; Answer; GE 2-6; AE A)

Based upon the aforementioned evidence, on August 10, 2023, police executed a search warrant and seized Applicant's phone, personal desktop computer, and his employer-issued laptop computer, among other items. They restrained him with a zip tie and read him his Miranda Rights but did not tell him he was "under arrest." They released him after they executed the search warrant. As a result of their search, police ultimately found images and video on Applicant's devices showing Ms. V in various stages of undress, including while naked. These recordings were labelled with words such as "after scouts" or "meeting" or "no underwear" or "shower." In August 2023, police charged Applicant with visual surveillance-private area; private place-prurient intent; and peeping tom. One of the videos police obtained appeared to have been filmed in a bathroom not in Applicant's home. Police eventually determined that, without Ms. V's or her parents' consent, Applicant also planted a similar spy camera in a

bathroom in Ms. V's parents' house so that he could film her showering. He planted the camera in Ms. V's parent's house while he was attending a "family game night" to which he was invited. He claimed that he only planted the camera in Ms. V's parents' house on one occasion. In September 2023, based upon the evidence of filming in Ms. V's parents' home, police charged Applicant with an additional charge of visual surveillance-private area; private place-prurient intent. Applicant pleaded guilty to all these misdemeanor charges and was sentenced to one year of incarceration with six months suspended and three years of supervised probation. He has completed his period of incarceration. He will be on supervised probation until about August 2027. Applicant provided a statement from his probation officer dated April 17, 2026, conveying that Applicant was in compliance with the terms of his probation, and that he was at a supervision level that required one face-to-face meeting per month. He was initially required to meet with his probation officer weekly. (Tr. 44-56, 66-70, 72-78, 80-82; Answer; GE 2-6; AE A)

In October 2023, Applicant informed his supervisor about his criminal charges and at least some of the underlying conduct. Applicant's employer at the time, Company P, terminated his employment in November 2023 partly because of his failure to secure its seized laptop computer. Applicant claimed that he waited until October 2023 to notify Company P about the charges because he was unsure of his reporting requirements and initially thought he did not need to report the charges because he had not been convicted. He claimed that when he eventually understood his reporting requirements after making some inquiries, he informed his supervisor at Company P the following day. (Tr. 50-53, 78-80; Answer; AE D)

In SOR ¶¶ 1.a and 1.b, under Guideline D, the Government alleged Applicant's August 2023 and September 2023 criminal charges and convictions. Under Guideline E, the Government cross-alleged the allegations in SOR ¶¶ 1.a and 1.b (SOR ¶ 2.a) and alleged his termination from Company P (except that it alleged the termination occurred in August 2023) (SOR ¶ 2.b). Under Guideline J, it cross-alleged the allegations in SOR ¶¶ 1.a and 1.b (SOR ¶ 3.a). In the Answer, Applicant admitted the SOR allegations except for SOR ¶ 2.b, which he denied. (Answer)

From September 2023 until February 2024 and then from September 2024 through March 22, 2025, Applicant received bi-weekly treatment from a licensed clinical social worker and certified sex-offender treatment provider (Therapist C). The break in treatment between February 2024 and September 2024 coincided with his incarceration. Therapist C provided a letter stating that Applicant made significant progress with his therapy, was in a "low-risk range" given his lack of prior criminal history, had a positive prognosis, and his risk for recidivism was low. He noted that Applicant's treatment ended on March 22, 2025, on Therapist C's recommendation. Therapist C recommended that Applicant attend a Sexaholics Anonymous group. Since April 2025, he has attended Sexaholics Anonymous meetings at least once and, more recently, twice weekly. He has found the treatment rewarding and effective and has recently begun running the meetings himself. He claimed that he did not think to obtain help before he began filming Ms. V because sexaholism is a progressive disease that

one does not recognize is destructive until one's behavior is discovered. He claimed that he had developed an interest in female undress early during his career in the Army that continued with his ex-wife but was left unfulfilled after his divorce. He testified that there were times that he tried to stop himself from filming Ms. V, but he ultimately gave in to "the hunger of the disease." (Tr. 56-61, 70-72, 74-76, 83-84; Answer; AE B, C)

During direct testimony, Applicant described the ways in which his actions and the legal consequences have affected him. He has been unable to maintain consistent employment and has very little savings. He claimed that neither his sons nor their families speak with him. He has never met his twin grandsons, who were born in September 2023. He lamented that these things resulted from "one poor decision." When he was asked during cross-examination to explain why he thought his actions were based on "one poor decision" as opposed to multiple decisions on multiple occasions, he compared his decision-making process to baking a cake, in that there were multiple steps and ingredients required to bake it, but you still only made one cake. He claimed that he no longer has the same sexual fetish of seeing women undressing or naked, and that, given the consequences he had suffered and the support system he has in place, there was no chance that his criminal behavior would recur. He noted that he became more reclusive after getting out of jail and it took him a long time to become the social person he had been before. He opined that he thought he should be awarded security clearance eligibility because he is loyal, trustworthy, and loves his country. He noted that he has been able to separate his personal life from his work life and has continued to do well at work despite suffering some difficult occurrences, such as his divorce and the death of his father. (Tr. 60-66, 81-82; Answer; AE E-J)

Applicant provided performance reviews from some of his employers for years prior to 2022 showing that he performed well at work, often exceeding expectations. He also provided employer-issued awards to this effect. He has completed several cybersecurity and other work-related training courses and received multiple professional accreditations. He has a history of volunteering his time and provided awards recognizing his efforts up to 2015. He provided a written statement that he would not engage in sexual misconduct that is criminal in nature upon pain of an automatic revocation of his security clearance. (Tr. 60-66, 81-82; Answer; AE E-J)

Applicant called one other witness during his case in chief (Mr. L). This witness is a former colleague and friend of Applicant. Mr. L has held security clearance eligibility for over 30 years and has worked for government contractors throughout that period. Mr. L has known Applicant for about eight years, first meeting him in about 2018 when they both worked as government contractors supporting the U.S. military. While they worked together, Mr. L interacted with Applicant nearly daily at work. Mr. L claimed Applicant was proficient at his job and rated him among the top government contractors with whom he worked. Mr. L described Applicant as very trustworthy. Mr. L testified that he believed that Applicant was having issues with his security clearance eligibility because he failed to secure his work laptop computer that was seized as a result of a "foreign offense" for which he was terminated from his employment and convicted. Mr. L

initially testified that he was not aware of the nature of the underlying conduct that resulted in Applicant's termination and conviction and that Applicant should retain his security clearance eligibility because any criminal conduct would be out of Applicant's character. Upon further questioning on direct examination, Mr. L acknowledged that he did, in fact, understand that Applicant had been convicted for placing cameras in private spaces. Mr. L maintained that, given his knowledge of Applicant's underlying conduct, Applicant should retain his security clearance eligibility. (Tr. 16-30)

Applicant also provided character-reference letters from eight individuals. Some letters are from friends and colleagues with whom he worked. One is from his mother, and another is from his brother. His colleagues and friends note that he has consistently demonstrated reliability and trustworthiness, especially as it pertains to national security. They note his technical competence, work ethic, and attention to detail. Some note that Applicant has shared with them at least some of the issues relevant to this security clearance adjudication, but think it is an isolated incident not indicative of his overall character. His mother and brother wrote that they believe he is remorseful for his actions, has taken responsibility and accountability, and has undergone the necessary treatment to make this type of behavior unlikely to recur. To the extent they opine, all believe that he should maintain his security clearance eligibility. (Tr. 82-83, AE H)

Policies

This case is adjudicated 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), which became effective on June 8, 2017.

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(c), 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 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.

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. 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 potentially applicable:

- (a) sexual behavior of a criminal nature, whether or not the individual has been prosecuted;
- (b) pattern of compulsive, self-destructive, or high-risk sexual behavior that the individual is unable to stop;

(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.

Applicant engaged in criminal sexual behavior when he filmed Ms. V, without her consent, while she was in various stages of undress. He was prosecuted for those actions and ultimately convicted. He engaged in this criminal sexual behavior on multiple occasions. His criminal sexual behavior could cause him to be vulnerable to coercion, exploitation, or duress because, if known, it could damage his personal and professional reputation. His actions reflected a lack of judgment. The above disqualifying conditions are applicable, and the burden shifts to Applicant to provide evidence in mitigation.

Conditions that could mitigate sexual behavior security concerns are provided under AG ¶ 14. The following are potentially applicable:

(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 good judgment;

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

(e) the individual has successfully completed an appropriate program of treatment, or is currently enrolled in one, has demonstrated ongoing and consistent compliance, with the treatment plan, and/or has received a favorable prognosis from a qualified mental health professional indicating the behavior is readily controllable with treatment.

At the outset, I note that Applicant has shared at least some of the details of his conduct with his colleagues and friends and has therefore reduced the likelihood that his behavior could be used as a basis for coercion, exploitation, or duress. However, it is difficult to conclude that his unusual and, quite frankly, extraordinary behavior can no longer be used as a basis for those concerns. AG ¶ 14(c) is partially applicable.

While Applicant last engaged in this criminal sexual behavior almost three years ago, he has not provided sufficient evidence that it is unlikely to recur and that it does not cast doubt on his current reliability, trustworthiness, or good judgment. Under the terms of his criminal sentence, he is still on probation for his conduct, undermining the concept that it happened so long ago. He engaged in this behavior multiple times over a period of months, and each time, it required planning and premeditation, which undermines his efforts to show that it happened infrequently. If it is true that he engaged in this behavior because he suffers from "sexaholism," for which he continues to

undergo support, and from which he theoretically still suffers, the circumstances under which his behavior occurred are not unusual. While he has since been treated by a duly qualified medical professional and continues to receive support through Sexaholics Anonymous, the ease with which he overcame his reservations about his conduct to knowingly and surreptitiously “feed the beast” means that he has not met his burden to prove that his behavior is unlikely to recur. I also found his continued effort to classify his repeated unlawful and inappropriate sexual conduct as “one poor decision,” as opposed to multiple decisions and efforts over several months, displayed an unjustified attempt to minimize his culpability or accept the full scope of his transgressions, which casts doubt on his current reliability, trustworthiness and judgment. AG ¶ 14(b) does not apply.

According to Therapist C, Applicant has successfully completed an appropriate program of treatment, and he is currently enrolled in a sexaholics anonymous program that Therapist C recommended. The record evidence shows that he has regularly and consistently attended these meetings and has therefore demonstrated compliance with his treatment plan. Therapist C gave Applicant a “positive” prognosis as opposed to the “favorable” prognosis required by the Directive, but this difference seems to be a matter of semantics. While Therapist C did not specifically opine as to whether Applicant’s behavior is “readily controllable with treatment,” his opinion that Applicant’s risk for recidivism is low effectively conveys a similar finding. AG ¶ 14(d) applies, but because it is merely a portion of the mosaic of the whole-person analysis, its applicability is not outcome determinative.

Guideline J, Criminal Conduct

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

Criminal activity creates doubt about an Applicant’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:

(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; and

(c) individual is currently on parole or probation.

In 2023, Applicant engaged in criminal behavior on multiple occasions when he filmed Ms. V in stages of undress without her consent. He was prosecuted and convicted of criminal offenses for this conduct and remains on supervised probation.

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.

For the reasons set forth in the analysis of AG ¶ 14(b), *supra*, Applicant provided insufficient evidence that his criminal behavior is unlikely to recur, or that his behavior does not cast doubt on his reliability, trustworthiness, and good judgment. AG ¶ 32(a) does not apply.

The almost three years that have passed without recurrence of criminal activity and compliance with the terms of his parole provide some evidence of successful rehabilitation. He has also presented some evidence of a good employment record, although this evidence preceded his criminal conduct, and there is evidence that he has been terminated by at least one employer after engaging in criminal behavior. He has also presented evidence that he has engaged in volunteer activities, although, again, these activities preceded his criminal conduct. AG ¶ 32(d) partially applies.

Guideline E, Personal Conduct

The security concern for personal conduct 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. The following are 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; and

(d) credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information, 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. This includes, but is not limited to, consideration of:

(1) untrustworthy or unreliable behavior to include breach of client confidentiality, release of proprietary information, unauthorized release of sensitive corporate or government protected information;

(2) any disruptive, violent, or other inappropriate behavior;

(3) a pattern of dishonesty or rule violations; and

(4) evidence of significant misuse of Government or other employer's time or resources.

The conduct the Government alleged in SOR ¶¶ 1.a and 1.b that it cross-alleged under Guideline E in SOR ¶ 2.a is explicitly covered under Guidelines D and J, and, as analyzed herein, is sufficient for an adverse determination under those Guidelines. Neither AG ¶ 16(c) nor AG ¶ 16(d) is established by the conduct alleged in SOR ¶ 2.a.

In SOR ¶ 2.b, the Government alleged Applicant's August 2023 job termination from Company P (evidence provides Company P terminated him in November 2023), because he failed to secure his government-issued laptop computer. Applicant's failure to secure his laptop directly resulted from his sexual behavior of a criminal nature as it was seized during the execution of a search warrant investigating that behavior. He did not engage in any independent, unrelated problematic conduct that resulted in the computer being seized, and I have already analyzed that underlying conduct and found it sufficient for an adverse determination under two other Guidelines. Given these considerations, the fact that Applicant's employment was terminated because his computer was seized, in and of itself, does not establish disqualification under AG ¶ 16(c) or AG ¶ 16(d). Guideline E is not established.

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 have incorporated my comments under Guidelines D, J, and E in my whole-person analysis. I have also considered Applicant's military service, including his service in a combat zone, his positive character evidence, his good job performance, and his volunteer activities. However, the presence of some mitigating evidence, including the applicability of certain mitigating conditions that I have discussed herein, does not compel a favorable adjudication. Instead, I must weigh the evidence as a whole and decide whether the favorable evidence outweighs the unfavorable, or vice versa. Applicant's conduct towards a person whom he considered family was unacceptable and showed a willful disregard for others. His efforts to minimize his conduct as one bad decision when he repeatedly made the same poor, premeditated decision belie his purported acceptance of his culpability. While he testified about how his actions negatively impacted him, he made very little reference to the actual victims of his conduct, which undermined the sincerity and quality of his contrition. I acknowledge that he sought and is still receiving treatment for a condition that contributed to his behavior, but I also note that he claimed that he was unable to fight his urges, which increases the likelihood of recurrence. He also has over a year left on his probation. Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility and suitability for a security clearance. I conclude Applicant did not mitigate the sexual behavior or criminal conduct security concerns. The personal conduct security concerns were not established.

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
Subparagraphs 1.a and 1.b:	Against Applicant
Paragraph 2, Guideline E:	FOR APPLICANT
Subparagraphs 2.a and 2.b:	For Applicant
Paragraph 3, Guideline J:	AGAINST APPLICANT

Subparagraph 3.a:

Against Applicant

Conclusion

It is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

Benjamin R. Dorsey
Administrative Judge