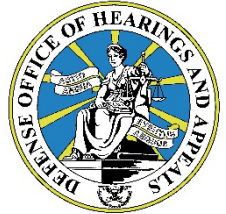




**DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 24-01733

Appearances

For Government:
John Renehan, Esquire, Department Counsel

For Applicant:
Pro se

07/28/2026

Decision

CEFOLA, Richard A., Administrative Judge:

Statement of the Case

On January 8, 2025, Applicant submitted a security clearance application (SCA). On February 6, 2026, in accordance with DoD Directive 5220.6, as amended (Directive), the Department of Defense issued Applicant a Statement of Reasons (SOR) alleging facts that raise security concerns under Guidelines J and E. The action was taken under Executive Order (EO) 10865, *Safeguarding Classified Information Within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within the Department of Defense on June 8, 2017.

Applicant answered the SOR in writing (Answer) on February 24, 2026, and requested a hearing before an administrative judge. The case was assigned to me on April 20, 2026. The Defense Office of Hearings and Appeals (DOHA) issued a Notice of Hearing on May 15, 2026. I convened the hearing as scheduled on May 27, 2026. The

Government offered Government Exhibits (GXs) 1 through 3, and 6 through 11, which were admitted without objection. GXs 4 and 5 were admitted over Applicant's objection. Applicant testified on his own behalf and offered Applicant Exhibits (AppXs) A through F which were admitted without objection. DOHA received the transcript of the hearing (TR) on June 9, 2026. The record was left open until June 25, 2026, for the receipt of additional evidence. Applicant submitted nothing further. The record closed at that time.

Findings of Fact

Applicant admitted to the allegations in SOR ¶¶ 1.c, and 1.d. He denied, in part, SOR allegations ¶¶ 1.a, 1.b, 1.e, 2.a. and 2.b, as they are alleged. After a thorough and careful review of the pleadings, exhibits, and testimony, I make the following findings of fact.

Applicant is a 34-year-old employee of a defense contractor. He has been employed with the defense contractor since April of 2022. He is married and has three minor children. He currently does not hold security clearance. (TR at page 6 line 19 to page 7 line 13, and at page 20 line 7 to page 21 line 18.)

Guideline J: Criminal Conduct & Guideline E: Personal Conduct (These allegations will be discussed in their chronological order.)

1.e. and 2.a. Applicant denies that about July of 2008, he was charged with felony Assault with a Deadly Weapon. He avers that this was a case of "mistaken identity." Applicant's averment is supported by two of the Government's exhibits. These allegations are found for Applicant. (TR at page 39 line 21 to page 42 line 21, GX 3 at page 7, and GX 8 at pages 5~6.)

1.d. and 2.a. Applicant admits that about August of 2009, as a 17-year-old, he was arrested and later charged with attempted murder. He was involved in a "gun fight" with a rival street gang. Applicant pled guilty and received a felony conviction, a juvenile life sentence, which meant he could be imprisoned until the age of 25. Because of his good behavior, he was released from confinement early in September of 2012, a prison term of about three years. (TR at page 42 line 22 to page 57 line 12, GX 3 at pages 5~6, and GX 7 at page 3.)

1.a. and 2.a. Applicant admits that he was a member of a criminal street gang from about August of 2009 until about June of 2013, a period of about four years. He still associates with "a lot" of his "family members" who are still "gang members." (TR at page 22 line 9 to page 38 line 8.)

1.c. and 2.a. Applicant admits that about February 2013, he was arrested for and found guilty of Vandalism. Applicant had a domestic dispute with his mother, when he destroyed his own property situated in her house. Applicant spent 186 days in jail and was then

placed on probation for three years. (TR at page 57 line 13 to page 69 line 9, GX 3 at page 7, and GX 6 at page 3.)

1.b. and 2.a. Applicant admits that in May of 2025, he was arrested for Carrying a Concealed Weapon in his Vehicle. He avers that as he had a license to carry a concealed weapon in his current state of residence, he assumed he could carry said weapon in another state. Because of his before-mentioned felony conviction, however, his license to carry a concealed weapon in his current state of residence has been revoked. Applicant avers he is appealing this revocation, but he has offered nothing further in this regard. (TR at page 69 line 10 to page 98 line 20, at page 109 line 3 to page 112 line 22, and GX 4 at page 3.)

Guideline E: Personal Conduct

2.b. When Applicant applied for a concealed pistol application on January 8, 2025, in his current state of residence, he answered, “No,” to the following question: “Have you ever been convicted in adult court or adjudicated in a juvenile court of a felony.” I find this to be a willful falsification as Applicant had a felony conviction in about August of 2009 for attempted murder, as noted above. (TR at page 98 line 23 to page 106 line 4, GX 9 at page 1, GX 10 at page 15, and GX 11.)

Policies

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

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

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires 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. I have not drawn inferences based on mere speculation or conjecture.

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

A person applying for national security eligibility seeks to enter into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants national security eligibility. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified or sensitive information. Finally, as emphasized in Section 7 of Executive Order 10865, “[a]ny determination under this order adverse to an applicant shall be a determination in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* Executive Order 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information.)

Analysis

Guideline J: Criminal Conduct

AG ¶ 30 sets forth the security concerns pertaining to 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 two conditions that could raise a security concern and may be disqualifying in this case:

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

(b) evidence (including, but not limited to, a credible allegation, an admission, and matters of official record) of criminal conduct, regardless of whether the person was formally charged, formally prosecuted or convicted.

Applicant has a history of criminal conduct, as evidenced by past membership in a criminal gang, multiple arrests, and a felony conviction of attempted murder as a juvenile. The evidence clearly establishes the above two disqualifying conditions.

AG ¶ 32 provides two conditions that could mitigate the above security concerns raised in this case:

(a) so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment; and

(d) there is evidence of successful rehabilitation; including but not limited to the passage of time without recurrence of criminal activity, restitution, compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement.

Neither of these apply. Applicant's most recent arrest was in May of last year, for illegally carrying a concealed weapon. The evidence does not establish mitigation under either of the above conditions. Criminal Conduct is found against Applicant.

Guideline E: Personal Conduct

The security concern relating to the guideline 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 following will normally result in an unfavorable national security eligibility determination, security clearance action, or cancellation of further processing for national security eligibility:

(a) refusal, or failure without reasonable cause, to undergo or cooperate with security processing, including but not limited to meeting with a security investigator for subject interview, completing security forms or releases, cooperation with medical or psychological evaluation, or polygraph examination, if authorized and required; and

(b) refusal to provide full, frank, and truthful answers to lawful questions of investigators, security officials, or other official representatives in connection with a personnel security or trustworthiness determination.

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

- (a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine national security eligibility or trustworthiness, or award fiduciary responsibilities; and
- (g) association with persons involved in criminal activity.

Applicant concealed his criminal past when applying for a weapons permit and was a criminal gang member. He still associates with family members who are gang members. The evidence is sufficient to raise these disqualifying conditions.

AG ¶ 17 provides conditions that could mitigate security concerns. I considered all of the mitigating conditions under AG ¶ 17 including:

- (a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;
- (b) the refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by advice of legal counsel or of a person with professional responsibilities for advising or instructing the individual specifically concerning security processes. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;
- (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
- (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.

None of these apply. Applicant concealed his criminal past from state authorities. He was also a criminal gang member and still associates with gang members. Personal Conduct is found against Applicant.

Whole-Person Concept

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

(1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

According to AG ¶ 2(c), the ultimate determination of whether to grant national security eligibility must be an overall commonsense judgment based upon careful consideration of the applicable guidelines and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all facts and circumstances surrounding this case. I have incorporated my comments under Guidelines J and E in my whole-person analysis.

Overall, the record evidence leaves me with questions or doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant failed to mitigate the Criminal Conduct and Personal Conduct security concerns.

Formal Findings

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

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

Conclusion

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

Richard A. Cefola
Administrative Judge