DATE: November 30, 2006

In Re:

SSN: ----------

Applicant for Security Clearance

ISCR Case No. 03-09694

ECISION OF ADMINISTRATIVE JUDGE

JOAN CATON ANTHONY

APPEARANCES

FOR GOVERNMENT

Sabrina Redd, Esq., Department Counsel

FOR APPLICANT

Elizabeth Newman, Esq.

SYNOPSIS

Applicant deliberately falsified material facts on security clearance applications he completed and signed on September 19, 1996 and July 10, 2002. In an interview with an authorized investigator in September 2004, he deliberately provided false or misleading information about his drug use, number of arrests, and use of his office e-mail system to send unauthorized e-mails that could be considered offensive. Applicant failed to mitigate security concerns under Guidelines E and J of the Directive. Clearance is denied.

STATEMENT OF THE CASE

The Defense Office of Hearings and Appeals (DOHA) declined to grant or continue a security clearance for Applicant. On January 14, 2005, under the applicable Executive Order[(1)] and Department of Defense Directive,[(2)] DOHA issued a Statement of Reasons (SOR) detailing the basis for its decision-security concerns raised under Guideline E (Personal Conduct) and Guideline J (Criminal Conduct) of the Directive. Applicant answered the SOR in writing on March 7, 2005, and elected to have a hearing before an administrative judge. On January 10, 2006, the Government moved to amend the SOR and served a copy of the motion on Applicant's counsel on January 11, 2006. On May 18, 2006, the case was assigned to me.

On July 14, 2006, I convened a hearing to consider whether it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. At the hearing, the Government's motion to amend the SOR was granted without objection. The Government called one witness and submitted ten exhibits (Ex.), which were identified as Ex. 1 through 10. With the exception of Ex. 8, the Government's exhibits were admitted without objection. Ex. 8 was admitted over Applicant's objection. Applicant called one witness and submitted one exhibit, identified as Ex. A. The Government cited subparagraph E3.1.17 of the Directive and objected to the admission of Ex. A because it had not been provided to Department Counsel prior to its submission by Applicant's counsel at the hearing. I granted the Government's objection and continued the hearing to allow time to cure the surprise.

On September 20, 2006, I reconvened the hearing. Applicant called one witness and submitted three exhibits, which were identified as Ex. A, B, and C and admitted without objection. At the conclusion of Applicant's case, the Government called one rebuttal witness. On July 25, 2006, DOHA received the transcript of the July 14 hearing. (Tr. I.) On September 29, 2006, DOHA received the transcript (Tr. II.) of the September 20 hearing.

FINDINGS OF FACT

The amended SOR contains 12 allegations of disqualifying conduct.[(3)] Eight allegations relate to conduct alleged under Guideline E, Personal Conduct, and four allegations relate to conduct alleged under Guideline J, Criminal Conduct. In his January 14, 2006 response to the SOR, Applicant denied the allegations at ¶¶ 1.a(1), 1.b(1), 1.c., 1.d., and 2.a. He admitted the allegation at ¶ 1.e. Applicant responded to the additional allegations in the amended SOR at his hearing. His admission is incorporated as a finding of fact.

At the time of his hearing, Applicant was 52 years old and employed as a manager by a government contractor. He and his wife have been married for 20 years. They have no children. (Ex. 1; Tr. I, 93; Tr. II, 72, 81-82.)

Applicant was born and raised in a small town. At the age of twelve, he began to work for his father and subsequently became an electrician. He graduated from high school in 1971 and remained in his home town. (Tr. I, 85-86.)

In the summer of 1974, Applicant was arrested and charged with indecent exposure. He was convicted and received a sentence of two years in jail. His sentence was suspended; Applicant paid a fine and court costs; and he was ordered to obtain treatment at a mental health center. (Ex. 5 at 3.) Applicant asserted his arrest occurred after he and several friends were caught swimming naked at a local quarry. He said he was charged because he was the driver of the truck that had carried his friends to the quarry. (Tr. I, 86-88. Tr. II 68-70.)

In February 1980, Applicant was arrested and charged with criminal trespass when he entered a junior high school several times without authorization. The police report alleged that on one of these occasions, Applicant had a camera and asked a female student to take a shower so he could take her photograph with his camera. Applicant denied the allegation and asserted he went to the school to apply for a job as an electrician. The person in charge of maintenance for the junior high school stated Applicant never came to him to apply for a job, and he further stated that all hiring for jobs at the junior high school was done not at the school but at a business office in the town. Applicant appeared before a magistrate, posted $1,000 bail, pled guilty to a reduced charge, and paid a fine and court costs. (Ex. 7, 1-18; Tr. II, 60-64.)

Applicant and his wife were married in 1986. He continued to work as an electrician, and, in 1991 or 1992, he accepted an overseas assignment. He returned from the overseas assignment in about August 1992. Applicant testified his wife met him at the airport and they went to a hotel for the weekend.[(4)] There was a swimming pool at the hotel. Applicant went to the swimming pool several times. His wife testified she was with him at the swimming pool, but was not with him the entire time they were at the hotel. While Applicant and his wife were at the hotel, police came and placed applicant under arrest. He was charged with Indecent Liberties with a Child, a felony offense. The charge was later *nolle prosequi.* (Ex. 1; Ex. 5; Ex. 6; Tr. I, 93-95; Tr. II, 73-75.)

After returning from the overseas assignment, Applicant decided he no longer wished to work as an electrician. He moved back to his home state, lived with his mother, studied computer science, and became a network engineer. His first job as a network engineer was with Employer A. He then transferred with several co-workers and went to work for Employer B, where he was employed for approximately two years. In September 1997, Applicant sent e-mails containing four-letter vulgarities associated with sex to female co-workers. (Ex. 9; Ex. 10.) One of his co-workers appeared on his behalf and testified she did not find the e-mails offensive, although she acknowledged that other co-workers or their managers might have found the communications offensive or inappropriate in the workplace. (Tr. I, 127-128, 133-135.) On September 22, 1997, Applicant was terminated for cause by Employer B and not recommended for rehire. (Ex. 8; Tr. II at 97-98.) The following notation was made by Employer B in Applicant's personal file:

[Applicant] was a good technical resource who never learned how to work in a professional environment. His general arrogance, disregard for proper procedures, rejection of any authority, occasional vulgar comments to women, abuse of

professional personal leave practices all created a very difficult environment to properly regard his technical contributions. His unacceptable behavior had a long history but was overlooked while the project did not have any replacement should he leave. Bottom line - never acclimated to the professional business world of [Employer B].

(Ex. 8 at 3.)

At his hearing, Applicant submitted documents that he claimed showed the managers at Employer B treated him unfairly. (Ex. A, Ex. B, and Ex. C.) The testimony of the Government's rebuttal witness supported the record statements of Employer B's managers. (Tr. II, 84-99.)

From approximately 2000 to 2002, Applicant worked for Employer C, where he was tasked with supervision of at least one employee. Applicant concluded an employee he supervised was not doing a good job. He notified the employee three times of her deficiencies. He asked her to take a lower position, and the employee complained to Employer C's human resources department. Applicant's employer investigated the matter and gave Applicant a verbal warning about his abrasive management style. Not long afterwards, Employer C found it necessary to downsize and to lay off 7,000 employees from its national workforce. Applicant was laid off and received a severance package. (Ex. 4 at 1-2; Tr. II, 32-38.)

During the years 1972, 1973, and 1974, Applicant used cocaine six times, LSD two times, and Valium about six times. He began using marijuana in 1970, and he smoked it daily until 1972. Between 1972 and 1974, he smoked marijuana about twice a week and attempted to grow marijuana. Between 1974 and 1987, he smoked marijuana one or two times a month. Between 1987 and 1999, he used marijuana about 12 times. Applicant used marijuana from July 1995 to at least 1999. Applicant claimed his last use of marijuana was in 1999. In late 2001 or early 2002, he was with a group of people who were smoking marijuana in an automobile. Applicant stated he did not smoke the marijuana cigarette when it was passed to him. (Ex. 3 at 1-2.)

On September 19, 1996, Applicant completed a security clearance application identified as a Standard Form 85P (SF-85P). Question 20 on the SF-85P reads as follows: "In the last 7 years, have you been arrested for, charged with, or convicted of any offense(s)? (Leave out traffic fines of less than $150.)" Applicant answered "no" to Question 20. (Ex. 2.) After completing the SF-85P, Applicant signed the following certification: "My statements on this form, and any attachments to it, are true, complete, and correct to the best of my knowledge and belief and are made in good faith. I understand that a knowing and willful false statement on this form can be punished by fine or imprisonment or both. (See section 1001 of title 18, United States Code.)"

On July 7, 2002, Applicant completed a security clearance application identified as a Standard Form 86 (SF-86). Question 20 on the SF-86 asks if an applicant has, in the past seven years, been fired from a job, quit a job after being told he or she would be fired, left a job by mutual agreement following allegations of misconduct, left a job by mutual agreement following allegations of unsatisfactory performance, or left a job for some other reason under unfavorable circumstances. Applicant answered "no" to Question 20.

Question 21 on the SF-86 asks an applicant if he or she has ever been charged with or convicted of any felony offense. Applicant answered "no" to Question 21. Question 27 on the SF-86 reads as follows: "Since the age of 16 or in the last 7 years, whichever is shorter, have you illegally used any controlled substance, for example, marijuana, cocaine, crack cocaine, hashish, narcotics (opium, morphine, codeine, heroin, etc.), amphetamines, depressants (barbiturates, methaqualone, tranquilizers, etc.), hallucinogenics (LSD, PCP, etc.), or prescription drugs?" Applicant answered "no" to Question 27 on the SF-86. At his hearing, Applicant explained his answer to Question 27 as follows: "I don't believe that touching a marijuana cigarette once or twice a year is possession. And I didn't believe that one or two puffs off a marijuana cigarette, you know, determined use." (Tr. II at 31-32.)

On July 10, 2002, after completing the SF-86, Applicant signed the following certification:

My statements on this form, and any attachments to it, are true, complete, and correct to the best of my knowledge and belief and are made in good faith. I understand that a knowing and willful false statement on this form can be punished by fine or imprisonment or both. (See section 1001 of title 18, United States Code).

On September 16, 2004, Applicant was interviewed by a special agent of the DSS. Applicant stated he left his job with Employer B by mutual agreement and because he had reported one of his supervisors for stealing from the company. (Ex. 4 at 2.) He also denied sending any e-mail while employed by Employer B that "could be considered offensive to any of my coworkers." (Ex. 4 at 2.)

Also at the interview, Applicant discussed his arrest for Indecent Liberties with a Child, but denied he had been arrested for or charged with any other crimes. He then recalled his 1974 arrest in which he was charged with and convicted of indecent exposure and provided some details. When reminded by the special agent of his obligation to be truthful, pursuant to section 1001 of Title 18, United States Code, Applicant recalled his arrest in 1980 and the subsequent charge of criminal trespass. He provided details. He went on to tell the special agent he had not used or possessed any illegal drugs, to include marijuana, in the last seven years. (Ex. 4 at 4.) Applicant signed the statement and certified that it was " true, complete and accurate to the best of [his] knowledge and belief and . . . made in good faith." He further stated he understood that a knowing and willful false statement can be punished, pursuant to Section 1001 of Title 18, United States Code, by fine or imprisonment or both. (Ex. 4 at 4.)

On October 4, 2004, Applicant met again with a special agent and admitted his drug use and possession. He acknowledged his use of marijuana from 1970 to 1999. He also acknowledged past use of cocaine, LSD, and Valium, and he stated he had not used these drugs since 1980. He stated his last involvement with marijuana took place in 2001 or 2002 when he was riding in an automobile with individuals who were smoking marijuana. (Ex. 3 at 1-2.) Applicant again signed and certified a statement memorializing his admissions as truthful, complete, and accurate to the best of his ability and made in good faith. (Ex. 3 at 1.)

POLICIES

"[N]o one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has "the authority to . . . control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to occupy a position . . . that will give that person access to such information." *Id.* at 527. The President has restricted eligibility for access to classified information to United States citizens "whose personal and professional history affirmatively indicates loyalty to the United States, strength of character, trustworthiness, honesty, reliability, discretion, and sound judgment, as well as freedom from conflicting allegiances and potential for coercion, and willingness and ability to abide by regulations governing the use, handling, and protection of classified information." Exec. Or. 12968, *Access to Classified Information* § 3.1(b) (Aug. 4, 1995). Eligibility for a security clearance is predicated upon the applicant meeting the security guidelines contained in the Directive.

Enclosure 2 of the Directive sets forth personal security guidelines, as well as the disqualifying conditions (DC) and mitigating conditions (MC) under each guideline. In evaluating the security worthiness of an applicant, the administrative judge must also assess the adjudicative process factors listed in ¶ 6.3 of the Directive. The decision to deny an individual a security clearance is not necessarily a determination as to the loyalty of the applicant. *See* Exec. Or. 10865 § 7. It is merely an indication that the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that disqualify, or may disqualify, the applicant from being eligible for access to classified information. *See Egan*, 484 U.S. at 531. The Directive presumes a nexus or rational connection between proven conduct under any of the disqualifying conditions listed in the guidelines and an applicant's security suitability. *See* ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002); *see* Directive ¶ E3.1.15. An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance." ISCR Case No. 01-20700 at 3.

CONCLUSIONS

Guideline E, Personal Conduct

In the amended SOR, DOHA alleged Applicant raised concerns under Guideline E, Personal Conduct, when he falsified material facts in his answer to Question 20 on the SF-86 he executed and signed on July 10, 2002, by denying he was terminated from Employer B for disruptive influence, unauthorized or excessive absence, and incompatibility with the job, and, further, was not eligible for rehire (¶ 1. a. (1); and that Applicant again falsified material facts in his answer to Question 27 on the SF-86 he executed and signed on July 10, 2002, by denying and failing to list illegal drug use in the previous seven years, when he knew he had used marijuana with varying frequency from 1995 to 1999 (¶ 2.b.(1).

DOHA also alleged in the amended SOR that Applicant raised Guideline E concerns when, on September 19, 1996, he falsified material facts on a SF-85P he executed by denying, in his response to Question 20, he had been arrested, charged, or convicted of any offense in the past seven years, when, in fact, he had been arrested for Indecent Liberties with a Child on April 11, 1993 (¶ 1.c.).

DOHA alleged that in a signed sworn statement, dated September16, 2004, to an authorized investigator, Applicant falsified material facts by stating he had not used any illegal drugs, to include marijuana, in the past seven years and deliberately failed to disclose the marijuana use set forth in paragraph 1.b(1) above (¶ 1.d.). DOHA also alleged Applicant received a verbal reprimand in February 2001 from his employer as the result of complaints about his conduct (¶ 1.e.). DOHA also alleged Applicant falsified material facts on the SF-86 he executed on July 10, 2002, by answering "no" to Question 21, which asked if he had ever been charged with or convicted of any felony offense, when, in fact, he deliberately failed to list that he had been charged with the felony offense of Indecent Exposure on April 11, 1993 (¶ 1.f.).

DOHA also alleged in the amended SOR that Applicant falsified material facts in a signed, sworn statement made on September 16, 2004, to an authorized DSS investigator by stating that when he worked for Employer B he never sent an e-mail at work that could be considered offensive by any of his co-workers, whereas, in fact, on September 17, 1997, and September 18, 1997, he sent e-mails to co-workers that contained four-letter vulgarities related to sex (¶ 1.g.). DOHA also alleged Applicant falsified material facts in an interview with an authorized DSS investigator on about September 16, 2004, when, after being questioned about his arrest in 1993, he stated he had not been arrested on any other occasions and, thereafter, after additional questioning and after being advised of the applicability of U.S.C. §1001, Applicant revealed his arrest for Criminal Trespass in 1980 and deliberately failed to reveal his arrest for Indecent Exposure in 1974 (¶ 1.h.).

Guideline E conduct, which involves questionable judgment, untrustworthiness, unreliability, lack of candor, dishonesty, or unwillingness to comply with rules and regulations, could indicate an applicant may not properly safeguard classified information. Directive ¶ E2.A5.1.1.

With respect to the Guideline E conduct alleged in the SOR, the Government has established its case. Reliable unfavorable information about Applicant's conduct in the workplace was provided by former employers and co-workers, thus raising a security concern under Disqualifying Condition (DC) E2.A5.1.2.1. of Guideline E. His failure to answer four questions completely, truthfully, and correctly on two security clearance applications raises a security concern under DC E2.A5.1.2.2. His deliberate false statements to investigators in connection with a personal security or trustworthiness determination raise concerns under DC E2. A5.1.2.3. His concealment of information he considered embarrassing or professionally damaging could make him vulnerable to coercion and blackmail, thus raising a security concern under DC E2.A5.1.2.4. Additionally, his conduct raises concerns under DC E2.A5.1.2.5. because it suggests a pattern of dishonesty or rule violation. Applicant's reticence to reveal the truth about his conduct suggests that, under some circumstances, he may put his interests before those of the Government.

Mitigating condition E2.A5.1.3.1. does not apply to the facts of this case: the information Applicant withheld is pertinent to a determination of his judgment, trustworthiness, and reliability. Three other mitigating conditions under Guideline E might be applicable to the instant case. The security concern raised by Applicant's disqualifying conduct could be mitigated if his falsifications were isolated and not recent, and if he subsequently provided the correct information voluntarily. Mitigating Condition (MC) E.2.A.5.1.3.2. Additionally, if Applicant made prompt good faith efforts to correct the falsifications before being confronted with the facts, then MC E2.A5.1.3.3. might apply. The

evidence showed Applicant supplied the correct information only when repeatedly questioned by DSS special agents. His falsifications were multiple, carried out over a period of several years, and continued into the present. Accordingly, neither MC E.2.A.5.1.3.2. nor MC E2.A5.1.3.3. applies to the facts of Applicant's case. Applicant provided no evidence to show he had reduced or eliminated his vulnerability to coercion, exploitation, or duress, and, accordingly, MC E2.A5.1.3.5. is also inapplicable. The Guideline E allegations at ¶¶ 1.a(1), 1.b(1), 1.c., 1.d., 1.f., 1.g., and 1.h. of the amended SOR are concluded against the Applicant. Because it was not established that his management style while employed by Employer C constituted disqualifying conduct under Guideline E , the allegation at ¶ 1.e. of the amended SOR is concluded for Applicant.

Guideline J, Criminal Conduct

In the amended SOR, DOHA alleged Applicant deliberately falsified material facts on security clearance applications and in interviews with authorized DSS investigators about his employment history, drug use, and criminal activity, and that these deliberate falsifications, as alleged in ¶¶ 1.a(1), 1.b(1), 1.c., 1.d., 1.f., 1.g., and 1.h. constituted felonious conduct pursuant to 18 U.S.C. § 1001 (¶ 2.a.). In the amended SOR, DOHA also alleged Applicant was arrested in April 1993 and charged with Indecent Liberties with a Child, a felony offense (¶ 2.b.); that he was arrested in February 1980 and charged with Criminal Trespass after an investigation revealed he had entered a junior high school without authorization on several occasions and, on one of these occasions, had requested that a schoolgirl pose for him in a school locker room shower, and that he had pled guilty to a reduced charge and was sentenced to pay a fine and court costs (¶ 2.c.); and that he was arrested in August 1974 for Indecent Exposure, was found guilty, sentenced to two years confinement, ordered to receive mental health treatment, and his sentence was suspended. (¶ 2.d.)

Applicant had a record of criminal conduct that spanned three decades. In 1996 and 2002, when he completed his two security clearance applications, he deliberately failed to report his criminal history. He then signed his name and certified that his statement was true, complete and correct to the best of his knowledge and belief. Further, he acknowledged his understanding that a false statement on the SF- 85P and the SF-86 could be punished as a felony crime by fine or imprisonment under the provisions of Section 1001 of Title 18, United States Code. Applicant made knowing and willful false statements in his responses to Question 20 on his SF-85P and to Questions 20, 21, and 27 on his SF-86.

In September 2004, Applicant provided materially false information in a sworn written statement to a special agent of the Defense Investigative Service and signed his name below the following statement, which reads, in pertinent part, as follows:

I certify that the following statement is true, complete and accurate to the best of my knowledge and belief and is made in good faith. I understand that a knowing and willful false statement can be punished by fine or imprisonment or both. (See U.S. Code, Title 18, Section 1001.)

Under section Title 18, Section 1001, of the United States Code, it is a felony crime to knowingly make a materially false, fictitious, or fraudulent statement to a department or agency of the Federal government. Applicant prepared and signed a written statement to a lawful investigator in which he lied about his employment history, drug use, and criminal conduct.

Additionally, Applicant's history or pattern of criminal activity raises doubts about his judgment, reliability and trustworthiness. ¶ E2.A10.1.1. A person seeking access to classified information enters into a fiduciary relationship with the Government based upon trust and confidence. Where the facts proven by the Government or admitted by the applicant raise doubts about the applicant's judgment, reliability or trustworthiness, the applicant has a heavy burden of persuasion to demonstrate that he or she is nevertheless security worthy.

Applicant's criminal behavior raises security concerns under Disqualifying Condition (DC) E2. A10.1.2.1 and DC E2.A10.1.2.2 of Guideline J. He was arrested in 1993 and charged with Indecent Liberties with a Child, a felony crime. He was also arrested in 1974 and convicted of Indecent Exposure. In 1980 he was arrested for Criminal Trespass. Applicant's history of criminal behavior consisted of one felony, two lesser offenses, and felonious conduct under 18 U.S.C. § 1001, making DC E2.A10.1.2.1. and DC E2.A10.1.2.2. applicable.

The criminal behavior for which Applicant was arrested and charged was not recent, and thus Mitigating Condition (MC) E2.A10.1.3.1 applies. However, his crimes were not isolated incidents, and they suggest a pattern of behavior. Applicant failed to demonstrate clear evidence of successful rehabilitation. Accordingly, neither MC E2.A10.1.3.3. nor MC E2.A10.1.3.6. applies. Additionally, no other mitigating conditions under Guideline J are applicable to the facts of Applicant's case. Accordingly, the Guideline J allegations in the amended SOR are concluded against the Applicant.

In my evaluation of the record, I have carefully considered each piece of evidence in the context of the totality of evidence and under all the Directive guidelines that were generally applicable or might be applicable to the facts of this case. I have observed Applicant and assessed his credibility. Under the whole person concept, as specified at ¶ E2.2. of Enclosure 2 of the Directive, I conclude Applicant has failed to rebut or mitigate the Government's case opposing his request for a DoD security clearance.

FORMAL FINDINGS

The following are my conclusions as to each allegation in the amended SOR:

Paragraph 1. Guideline E: AGAINST APPLICANT

Subparagraph 1.a(1): Against Applicant

Subparagraph 1.b(1): Against Applicant

Subparagraph 1.c.: Against Applicant

Subparagraph 1.d.: Against Applicant

Subparagraph 1.e.: For Applicant

Subparagraph 1.f.: Against Applicant

Subparagraph 1.g.: Against Applicant

Subparagraph 1.h.: Against Applicant

Paragraph 2. Guideline J: AGAINST APPLICANT

Subparagraph 2.a.: Against Applicant

Subparagraph 2.b.: Against Applicant

Subparagraph 2.c.: Against Applicant

Subparagraph 2.d.: Against Applicant

DECISION

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 or continue a security clearance for Applicant. Clearance is denied.

Joan Caton Anthony

Administrative Judge

1. Exec. Or. 10865, *Safeguarding Classified Information within Industry* (Feb. 20, 1960), as amended and modified.

2. Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Jan. 2,

1992), as amended and modified.

3. The original SOR served on Applicant contained five allegations under Guideline E and one allegation under Guideline J. Applicant denied four of the Guideline E allegations and admitted one. He denied the Guideline J allegation.

4. Applicant testified he worked overseas "for eight or nine months," and the rendez-vous with his wife took place immediately upon his return to the U.S. (Tr. I at 93.) On his security clearance application, dated July 10, 2002, he listed his employment on the overseas job as from December 1991 to August 1992. (Ex. 1.) Police and FBI records indicated he was arrested and charged with taking indecent liberties with a child in April 1993. (Ex. 5 and Ex. 6.) In a signed sworn statement, dated September 16, 2004, Applicant stated the arrest took place in 1990, after he returned to the U.S. from an overseas assignment, and during the time he and his wife were at a hotel to celebrate his return. (Ex. 4 at 3.) Applicant's SF-86 also showed he was studying at a vocational school in the U.S. in April 1993. (Ex. 1.) Applicant provided no explanation for these discrepancies.