



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



In the matter of: )  
)  
) ISCR Case No. 12-02521  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Candace Garcia, Esq., Department Counsel  
For Applicant: William F. Savarino, Esq.

06/30/2014

**Decision**

LOUGHRAN, Edward W., Administrative Judge:

Applicant has not mitigated sexual behavior and personal conduct security concerns. Eligibility for access to classified information is denied.

**Statement of the Case**

On February 6, 2014, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guidelines D (sexual behavior) and E (personal conduct). The action was taken under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) implemented by the DOD on September 1, 2006.

Applicant answered the SOR on February 28, 2014, and requested a hearing before an administrative judge. The case was assigned to me on May 5, 2014. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on May 14, 2014, scheduling the hearing for June 10, 2014. The hearing was convened as scheduled. DOHA received the hearing transcript (Tr.) on June 19, 2014.

## **Procedural and Evidentiary Rulings**

### **Department Counsel's Letter to Applicant**

Department Counsel sent an informational letter to Applicant on April 3, 2014. The letter is included in the record as Hearing Exhibit (HE) I.

### **Evidence**

Government Exhibits (GE) 1 through 8 were admitted in evidence without objection. Applicant testified and submitted Applicant's Exhibits (AE) A through C, which were admitted without objection.

### **Motion to Amend SOR**

Department Counsel moved to amend the SOR by withdrawing the allegation under SOR 1.d. The motion was granted without objection.

### **Findings of Fact**

Applicant is a 55-year-old employee of a defense contractor. He has worked for his current employer since 2010. He served on active duty in the U.S. military from 1980 until he was honorably discharged in 1985. He seeks to retain a security clearance, which he has held since about 2006. He attended college for a period, but he is a few credits short of an associate's degree. He married in 1982 and divorced in 1988. He married again in 1993 and divorced in 2003. He married for the third time in 2014. He has two adult sons, and he has three adult stepchildren.<sup>1</sup>

Applicant was arrested in October 1991 and charged with the felony offense of lewd and lascivious assault upon a child.<sup>2</sup> The victim was the 11-year-old daughter of Applicant's live-in girlfriend. The girl's mother became Applicant's second wife when they married in 1993. The girl told the police that Applicant fondled her breasts under her clothes and fondled her vaginal area on top of her clothes. Applicant lied to the police officers about what occurred. He initially told the officers that he did not touch the girl. The police report indicated that Applicant was given a polygraph and admitted to accidentally touching the girl's breast with his hand remaining on the breast longer than it should have. He admitted to having a problem and that he wanted help.<sup>3</sup>

Applicant was in jail awaiting trial for about 30 days. He received a deferred adjudication in which he was required to complete community service and counseling.

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<sup>1</sup> Tr. at 22-25, 102, 105; GE 1-5.

<sup>2</sup> The charge has also been described as sex offense – against child – fondling.

<sup>3</sup> Tr. at 26, 67, 89-90, 105; Applicant's response to SOR; GE 3, 5-8; AE A.

Applicant completed four years of counseling and other terms of his deferred adjudication, and the charge was dismissed.<sup>4</sup>

Applicant admitted that he fondled the girl's breasts over her clothes on about three occasions. He denied touching her vaginal area, and he denied fondling her breasts under her clothes. He admitted that he initially lied to the police, but he testified that he confessed the same day. He denied that he was administered a polygraph by the police. He stated that he was administered several polygraphs in conjunction with the counseling requirements of his deferred adjudication, but he passed all those polygraphs. He stated that he had never failed a polygraph at any time in his life.<sup>5</sup>

Applicant stated that he learned through therapy that his unemployment caused him to feel like he lost control in his life. Abusing the girl was a way of gaining control. He stated that therapy taught him to control his emotions, and that now he "generally [has] respect for anybody and everything." He stated that the 1991 charge was "one of the most significant" events in his life, and that he has learned valuable lessons from the experience. He stated that there has been no recurrence of that type of behavior.<sup>6</sup>

Applicant stated that as part of his counseling and rehabilitation, he was required to tell a number of people what he did. He told the child's mother and father. He told his parents, but he has not told his siblings or his children. One of his sons is married with a daughter who is about nine years old. That son found out about Applicant's arrest, and he does not have any contact with Applicant. Applicant's current wife is also aware of Applicant's conduct. Applicant's employer and co-workers are not aware of his actions. Applicant stated that, if necessary, he would tell anyone about his actions, and that the information could not be used as a basis for coercion.<sup>7</sup>

A security clearance application (SF 86) with Applicant's name and information was submitted in December 2003. The copy of the SF 86 submitted in evidence is unsigned, but it reported: "DATE SUBJECT SIGNED THE FORM: 2003/12/17." Applicant denied submitting the SF 86. He indicated that he provided information in response to e-mail requests from his company, but he never actually filled out the SF 86. In an SF 86 submitted in September 2005, Applicant listed that he was investigated for a background investigation in December 2003, and that he "[w]as issued Interim Secret Clearance in December 2003 by DISCO." Similar information was listed on a 2011 SF 86. Applicant eventually admitted that he may have submitted the SF 86.<sup>8</sup> After considering all the evidence, including the personal information on the 2003 SF 86 and

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<sup>4</sup> Tr. at 28-30, 35, 68; GE 3, 5-8; AE A.

<sup>5</sup> Tr. at 26-28, 34-35, 89-92, 95-96, 107-108.

<sup>6</sup> Tr. at 31-33, 83-84, 88, 99-100.

<sup>7</sup> Tr. at 36-37, 49-50, 101-105; GE 5.

<sup>8</sup> Tr. at 37, 51-64; GE 1, 2, 4.

Applicant's later reference to a 2003 investigation, I find by substantial evidence<sup>9</sup> that Applicant filled out and submitted the 2003 SF 86 that was admitted as GE 1.

Applicant answered "No" to Section 21 of the 2003 SF 86, **Your Police Record – Felony Offenses**, which asked:

Have you ever been charged with or convicted of any felony offense? (Include those under the Uniform Code of Military Justice.) For this item, report information regardless of whether the record in your case has been "sealed" or otherwise stricken from the record. The single exception to this requirement is for certain convictions under the Federal Controlled Substances Act for which the court issued an expungement order under the authority of 21 U.S.C. 844 or 18 U.S.C. 3607.<sup>10</sup>

Applicant submitted a questionnaire for national security positions (SF 86) on September 20, 2005. He answered "No" to all the police record questions, including question 23a, which asked: "Have you ever been charged with or convicted of any felony offense? (Include those under Uniform Code of Military Justice.)"<sup>11</sup> The preliminary information for the police record questions advised:

For this item, report information regardless of whether the record in your case has been "sealed" or otherwise stricken from the court record. The single exception to this requirement is for certain convictions under the Federal Controlled Substances Act for which the court issued an expungement order under the authority of 21 U.S.C. 844 or 18 U.S.C. 3607.<sup>12</sup>

Applicant was interviewed for his background investigation on November 18, 2005. He discussed his arrest for fondling his then-girlfriend's daughter. He admitted that he touched the girl's breasts outside her clothes on about two or three occasions. He stated that the police came to his house and confronted him with the allegations. He reported to the background investigator that he denied the charges to the police and took a polygraph, which he failed. He stated that he completed all the terms of the deferred prosecution, and the charges were dismissed. He stated that he did not list the arrest on his SF 86 because it asked if he had ever been charged with or convicted of

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<sup>9</sup> Substantial evidence is "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the same record." ISCR Case No. 10-09035 at 5 (App. Bd. Jun. 13, 2014) (citing Directive ¶¶ E3.1.14; E3.1.32.1). "This is something less than the weight of the evidence, and the possibility of drawing two inconsistent conclusions from the evidence does not prevent [a Judge's] finding from being supported by substantial evidence." *Consolo v. Federal Maritime Comm'n*, 383 U.S. 607, 620 (1966). "Substantial evidence" is "more than a scintilla but less than a preponderance." See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4<sup>th</sup> Cir. 1994); ISCR Case No. 04-07187 at 5 (App. Bd. Nov. 17, 2006).

<sup>10</sup> GE 1.

<sup>11</sup> Tr. at 37; GE 2.

<sup>12</sup> GE 2.

any felony offense, and he did not consider that he was charged because the charges were dismissed. He admitted to the investigator that “charges cannot be dismissed if one has never been charged.”<sup>13</sup>

Applicant testified that he brought the 1991 arrest to the attention of the investigator, and that he gave the investigator a copy of a letter from the State’s Attorney. He denied telling the investigator that he took a police polygraph. He stated that he told the investigator that he took polygraphs during the course of his therapy. Applicant admitted that, based upon the investigator’s questions, he knew at the time of the 2005 interview that he should have listed the 1991 charge on his SF 86. Applicant received a top secret security clearance in about 2006.<sup>14</sup>

Applicant began work for his current employer in November 2010. He submitted a questionnaire for national security positions on July 23, 2011. He stated that he used his 2005 SF 86 to update the information on the 2011 SF 86.<sup>15</sup> The preliminary information for the police record questions advised:

For this item, report information regardless of whether the record in your case has been sealed, expunged, or otherwise stricken from the court record, or the charge was dismissed. You need not report convictions under the Federal Controlled Substances Act for which the court issued an expungement order under the authority of 21 U.S.C. 844 or 18 U.S.C. 3607. Be sure to include all incidents whether occurring in the U.S. or abroad.

For questions a and b, respond for the timeframe of the last 7 years (if an SSBI go back 10 years). Exclude any fines of less than \$300 for traffic offenses that do not involve alcohol or drugs.

Applicant answered “No” to question 22c, which asked: “Have you EVER been charged with any felony offense? (*Include those under Uniform Code of Military Justice.*)”<sup>16</sup>

Applicant was interviewed for his background investigation on August 30, 2011. He discussed his arrest. He admitted that he fondled the girl’s breast. He stated that the girl was 14 or 15 at the time. He stated that he did not list the charge on his SF 86 because of an oversight and confusion over the question. Applicant testified that he had not seen the girl in more than a decade, and he “guessed at her age” during the interview.<sup>17</sup>

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<sup>13</sup> Tr. at 72; GE 3.

<sup>14</sup> Tr. at 24, 41-44, 72-77, 93, 106-109.

<sup>15</sup> Tr. at 44, 63; GE 4.

<sup>16</sup> GE 4.

<sup>17</sup> Tr. at 47-48, 94-95, 106; GE 5.

Applicant denied intentionally providing false information on his SF 86s. He stated that he did not think that he was required to list his felony charge because the charge was dismissed. He stated that it was explained to him that if he “successfully completed the program that [the] State’s Attorney would take and drop the charges and [he] would have no record of the arrest.” He testified that it was not until the investigator read the question to him during his 2011 interview that he realized that he was required to list a charge that had been dismissed. He also stated that he thought the DOD was well aware of the charge because he had fully discussed it with them in 2005. He testified that when he submitted the 2011 SF 86, he “had not recalled what was discussed in the 2005 interview as far as whether [he] should have answered yes or no.”<sup>18</sup>

After considering all the evidence, I find that Applicant intentionally falsified SF 86s submitted in 2003, 2005, and 2011, by failing to disclose his felony charge of lewd and lascivious assault upon a child.<sup>19</sup> Rationale for this finding is discussed in the Analysis section. I further find that Applicant intentionally provided false information in his interviews in 2005 and 2011, in his SOR response, and during his hearing testimony when he denied intentionally falsifying the SF 86s.<sup>20</sup>

Applicant submitted a number of documents attesting to his excellent job performance. His wife describes him as “a decent, honest, hardworking and loyal man.” She is aware of the details surrounding Applicant’s 1991 arrest. She indicated that Applicant “has never given [her] any reason to suspect that his inappropriate conduct in 1991 might recur.” She also wrote that to her knowledge, Applicant has “never lied to [her] or anyone else about anything, particularly concerning his 1991 arrest.”<sup>21</sup>

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<sup>18</sup> Tr. at 35-41, 47-49, 66-71, 77-89, 98, 111-112; Applicant’s response to SOR.

<sup>19</sup> The Appeal Board explained the process for analyzing falsification cases:

(a) when a falsification allegation is controverted, Department Counsel has the burden of proving falsification; (b) proof of an omission, standing alone, does not establish or prove an applicant’s intent or state of mind when the omission occurred; and (c) a Judge must consider the record evidence as a whole to determine whether there is direct or circumstantial evidence concerning the applicant’s intent or state of mind at the time the omission occurred.

ISCR Case No. 03-10390 at 8 (App. Bd. Apr. 12, 2005) (citing ISCR Case No. 02-23133 (App. Bd. June 9, 2004)).

<sup>20</sup> Applicant’s false statements during his interviews, in his SOR response, and during his testimony were not alleged in the SOR, and they will not be used for disqualification purposes. They may be considered when assessing Applicant’s credibility, in the application of mitigating conditions, and in analyzing the “whole person.”

<sup>21</sup> AE B, C.

## **Policies**

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

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, administrative judges apply the guidelines in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(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 access to classified information will be resolved in favor of 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 E, Personal Conduct**

The security concern for personal conduct is set out in AG ¶ 15, as follows:

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 information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process.

AG ¶ 16 describes conditions that could raise a security concern and may be disqualifying. The following disqualifying conditions are potentially applicable:

(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 security clearance eligibility or trustworthiness, or award fiduciary responsibilities; and

(e) personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress, such as . . . engaging in activities which, if known, may affect the person's personal, professional, or community standing.

Applicant discussed his arrest when he was interviewed in 2005. The DOD was aware of his conduct and granted him a top secret clearance. I gave due consideration to Applicant's argument that he had no motive to falsify the 2011 SF 86 because the DOD was already aware of his conduct and granted him a clearance.<sup>22</sup> Applicant had recently started a new job when he submitted his 2011 SF 86. No one at his company was aware of his 1991 arrest. Applicant's actual motive is unknown, but he may have been concerned about his co-workers discovering that he was arrested for a child molestation offense.<sup>23</sup> I have also considered the following:

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<sup>22</sup> "Although evidence that an applicant has a particular motive to falsify may be probative of an intent to falsify for purposes of Guideline E, there is no legal requirement that a particular motive to falsify be established in order to prove an applicant had the intent to falsify." See ISCR Case No. 03-10390 at 8 (App. Bd. Apr. 12, 2005) (citing ISCR Case No. 02-15935 at 7 (Oct. 15, 2003).

<sup>23</sup> See ISCR Case No. 10-09035 at 5 (App. Bd. Jun. 13, 2014) for a discussion about an administrative judge's obligation to discuss a motive to falsify:

In addition, a reasonable person could believe and consider that Applicant had a motive to have omitted some of his misconduct: concern over losing his job. He testified that he was worried about the effect his last DUI might have on his continued employment, and it is not fanciful to suppose that this concern provided him with a strong reason to minimize the totality of his misconduct, especially his early felony arrest. The Judge did not address this, which, under the facts of this case, impairs her analysis.



- The clear language of the questions on the SF 86s, along with Applicant's education, professional experience, and communication skills.
- Applicant's statement that he did not realize until his 2011 interview that he was required to list a charge that had been dismissed. This statement is contradicted by his admission that he became aware during his 2005 interview that he was required to list a dismissed charge.
- Applicant lied to the police officers about what occurred.
- The discrepancy between the victim's description to the police of what occurred and Applicant's description of the events.
- The police reported that Applicant was given a polygraph. Applicant testified that he never took a police polygraph, but he told the background investigator in 2005 that he took a police polygraph, which he failed. He denied telling the investigator that he took a police polygraph. He stated that he told the investigator that he took polygraphs during the course of his therapy.
- Applicant testified that the 1991 charge was "one of the most significant" events in his life; he went through four years of counseling; and the victim became his stepdaughter; but he told the investigator in 2011 that the girl was 14 or 15 at the time of the assault, when she was actually 11 years old.

After considering all the evidence, including that which is discussed above, and considering Applicant's demeanor and credibility, I find that he intentionally provided false information about his felony charge for lewd and lascivious assault upon a child on SF 86s submitted in 2003, 2005, and 2011. AG ¶ 16(a) is applicable.

SOR ¶ 3.a cross-alleges Applicant's sexual behavior. That conduct created a vulnerability to exploitation, manipulation, and duress. AG ¶ 16(e) is applicable. Additionally the conduct showed poor judgment and an unwillingness to comply with the law, which raises questions about Applicant's reliability, trustworthiness, and ability to protect classified information. The general concern addressed in AG ¶ 15 is also raised. See ISCR Case No. 12-01683 at 4 (App. Bd. Jun. 10, 2014).

AG ¶ 17 provides conditions that could mitigate security concerns. The following are potentially applicable:

(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 caused untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur; and

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

Having determined that Applicant intentionally provided false information on three SF 86s, I have also determined that he provided false testimony when he denied the omission was intentional. It would be inconsistent to find the conduct mitigated.<sup>24</sup>

It has been about 23 years since Applicant molested an 11-year-old girl. Applicant had four years of therapy, and there is no evidence that he has ever repeated that behavior. He has told a number of family members about what he did. Other family members and co-workers are not aware of his actions. Applicant has lessened, but not eliminated, his vulnerability to coercion, exploitation, and duress. AG ¶ 14(c) is partially applicable. Moreover, I am concerned about the inconsistencies in this case. Applicant's conduct continues to cast doubt on his current reliability, trustworthiness, and good judgment.<sup>25</sup>

#### **Guideline D, Sexual Behavior**

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

Sexual behavior that involves a criminal offense, indicates a personality or emotional disorder, reflects lack of judgment or discretion, or which can subject the individual to undue influence or coercion, exploitation, or duress can raise questions about an individual's reliability, trustworthiness and ability to protect classified information. No adverse inference

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<sup>24</sup> See ISCR Case 03-22819 at 4 (App. Bd. Mar. 20, 2006), in which the Appeal Board reversed the Administrative Judge's decision to grant Applicant's security clearance under similar circumstances:

Once the Administrative Judge found that Applicant deliberately falsified a security clearance application in September 2002, the Judge could not render a favorable security clearance decision without articulating a rational basis for why it would be clearly consistent with the national interest to grant or continue a security clearance for Applicant despite the falsification. Here, the Judge gives reasons as to why he considers the falsification mitigated under a "whole person" analysis, namely that Applicant has matured, has held a position of responsibility, recognizes how important it is to be candid in relation to matters relating to her security clearance, and has changed her behavior so that there is little likelihood of recurrence. However, the Judge's conclusion runs contrary to the Judge's rejection of Applicant's explanations for the security clearance application falsification. At the hearing (after earlier admitting the falsification in her March 2003 written statement to a security investigator), Applicant testified that she had not intentionally falsified her application. Given the Judge's rejection of this explanation as not being credible, it follows that the Judge could not have concluded Applicant now recognizes the importance of candor and has changed her behavior.

<sup>25</sup> See ISCR Case No. 09-03233 (App. Bd. Aug. 12, 2010). The Appeal Board determined that an applicant's child molestation offense "even though it occurred long ago, impugn[ed] his trustworthiness and good judgment."

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;
- (c) sexual behavior that causes an individual to be vulnerable to coercion, exploitation, or duress; and
- (d) sexual behavior of a public nature and/or that reflects lack of discretion or judgment.

Applicant sexually molested an 11-year-old girl. All of the above disqualifying conditions are applicable.

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

The sexual behavior security concerns are not mitigated for the same rationale discussed under the personal conduct guideline.

### **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(a):

- (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 and E in my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under those guidelines, but some warrant additional comment.

I considered Applicant's favorable character evidence, including his honorable military service. However, Applicant sexually molested an 11-year-old girl; he intentionally falsified three security clearance applications by failing to divulge his criminal record; and he intentionally provided false information in his interviews in 2005 and 2011, in his SOR response, and during his hearing testimony when he denied intentionally falsifying the SF 86s. I have significant doubts about his judgment, honesty, and trustworthiness.

Overall, the record evidence leaves me with questions and doubts as to Applicant's eligibility and suitability for a security clearance. I conclude Applicant has not mitigated the personal conduct and sexual behavior security concerns.

### **Formal Findings**

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline E:	Against Applicant
Subparagraphs 1.a-1.c:	Against Applicant
Subparagraph 1.d:	Withdrawn
Subparagraph 1.e:	Against Applicant
Paragraph 2, Guideline D:	Against Applicant
Subparagraph 2.a:	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 continue Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

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Edward W. Loughran  
Administrative Judge