

**United States Department of Energy
Office of Hearings and Appeals**

In the Matter of: Personnel Security Hearing)
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Filing Date: November 18, 2025)
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_____)

Case No.: PSH-26-0016

Issued: July 7, 2026

Administrative Judge Decision

Andrew Dam, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXXXXXX (the Individual) to hold access authorization under the United States Department of Energy's (DOE) regulations, set forth at 10 C.F.R. Part 710, "Procedures for Determining Eligibility for Access to Classified Matter and Special Nuclear Material or Eligibility to Hold a Sensitive Position."¹ As discussed below, after carefully considering the record before me in light of the relevant regulations and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (June 8, 2017) (Adjudicative Guidelines), I conclude that the Individual's access authorization should not be restored.

I. BACKGROUND

The Individual holds access authorization in connection with employment with a DOE contractor (DOE Contractor). Exhibit (Ex.) 1 at 6.² On February 14, 2025, the Local Security Office (LSO) learned that the Individual had been arrested for several crimes. Ex. 7 at 27–28. The LSO also learned that family members of the Individual's then-husband filed complaints for protective orders against the Individual in February 2025. Ex. 8 at 37 (Individual's May 23, 2025, response to Letter of Interrogatory (LOI)) (May 2025 LOI Response). In her May 2025 LOI Response, the Individual confirmed she had been arrested and charged with (1) three counts of Criminal Sexual Penetration in the First Degree (Child Under 13) (hereinafter Criminal Sexual Penetration); (2) three counts of Child Abuse (Recklessly Caused or Permitted) (No Death or Great Bodily Harm) (hereinafter Child Abuse); (3) three counts of Failure to Report Child Abuse or Neglect (hereinafter Failure to Report Child Abuse); and (4) three counts of Obstructing Investigation of

¹ The regulations define access authorization as "an administrative determination that an individual is eligible for access to classified matter or is eligible for access to, or control over, special nuclear material." 10 C.F.R. § 710.5(a). This Decision will refer to such authorization as "access authorization" or "security clearance."

² Exhibits 1 through 10 submitted by the DOE were submitted as a single PDF, Bates numbered in the upper right corner of each page. This Decision will refer to the Bates numbering when citing to exhibits submitted by the DOE.

Child Abuse (hereinafter Obstruction). *Id.* at 30–34, 39–44; *see also* Ex. 9 at 48–53 (criminal complaint and arrest warrant affidavit for Individual); Ex. 11 at 79–80 (court docket). The Individual denied any wrongdoing in relation to those civil petitions and criminal proceedings. *See generally* Ex. 8.

The LSO subsequently issued a Notification Letter advising the Individual that it possessed reliable information that created substantial doubt regarding her access authorization eligibility. Ex. 1 at 5–8. In a Summary of Security Concerns (SSC) attached to the letter, the LSO explained that the derogatory information raised security concerns under Guideline J of the Adjudicative Guidelines. *Id.* at 5. The Individual exercised her right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. Ex. 2 at 10–11. The Director of the Office of Hearings and Appeals (OHA) appointed me as the Administrative Judge, and I conducted an administrative hearing.

The DOE submitted fourteen exhibits (Ex. 1–14). There were no objections to the LSO’s exhibits. Hearing Transcript, OHA Case No. PSH-26-0016 (hereinafter cited as Tr.) at 7. The Individual submitted thirty-nine exhibits (Ex. A–Z, AA–OO(2)).³ DOE counsel had several objections to the Individual’s exhibits based on relevancy, materiality, and undue repetition. *Id.* at 9–26; Email from DOE counsel to Individual’s counsel and OHA Administrative Judge (Mar. 20, 2025); *see also* 10 C.F.R. § 708.28(b)(1) (allowing administrative judges to exclude evidence that “immaterial, irrelevant, or unduly repetitious”). The Individual, through counsel, withdrew some of the documentary evidence both over email and at the hearing. Email from Individual’s counsel to DOE counsel and OHA Administrative Judge (Mar. 26, 2026); Tr. at 9–26. I sustained and overruled some of the DOE’s objections. Tr. at 9–26. Ultimately the following was excluded from the record for my consideration pursuant to 10 C.F.R. § 708.28(b)(1) and for the reasons stated on the record: portions of Exhibit BB and Exhibits I–L, N, NN, and U.

The Individual offered the testimony of a caseworker who used to work for the state’s child protective services agency. *Id.* at 3. The Individual also testified on her own behalf. *Id.* The LSO offered the testimony of no witnesses. *Id.* at 7.

II. THE SECURITY CONCERNS

Guideline J involves criminal activity “creat[ing] doubt about a person’s judgment, reliability, and trustworthiness.” Adjudicative Guidelines at ¶ 30. Criminal activity “calls into question a person’s ability or willingness to comply with laws, rules, and regulations.” *Id.* Conditions that could raise a security concern include “evidence (including, but not limited to, a credible allegation, an admission, and matters of official record) of criminal conduct, regardless of whether [an] individual was formally charged, prosecuted, or convicted.” *Id.* at ¶ 31(b). In citing Guideline J, the LSO cited to the Individual’s arrests and charges for the following: (1) the three counts Child Abuse; (2) the three counts of Failure to Report Child Abuse; (3) the three counts of Obstruction; and (4) the three counts of Criminal Sexual Penetration. Ex. 1 at 5. The LSO also cited to the fact

³ The Individual’s exhibits were submitted as separate PDF files labeled with letters. The Individual did not submit an Exhibit FF, Exhibit HH, or Exhibit MM. Exhibit OO was sent as two separate exhibits: Exhibit OO(1) and Exhibit OO(2). This Decision will refer to the exhibit letter and PDF page number when citing to exhibits submitted by the Individual.

that her then-husband's family members filed for protective orders against the Individual. *Id.*⁴ Ex. 1 at 6–7. There is sufficient derogatory information in the possession of DOE to raise security concerns under Guidelines J.

III. REGULATORY STANDARDS

A DOE administrative review proceeding under Part 710 requires me, as the Administrative Judge, to issue a Decision that reflects my comprehensive, common-sense judgment, made after consideration of all the relevant evidence, favorable and unfavorable, as to whether the granting or continuation of a person's access authorization will not endanger the common defense and security and is clearly consistent with the national interest. 10 C.F.R. § 710.7(a). The regulatory standard implies that there is a presumption against granting or restoring a security clearance. *See Dep't of Navy v. Egan*, 484 U.S. 518, 531 (1988) ("clearly consistent with the national interest" standard for granting security clearances indicates "that security determinations should err, if they must, on the side of denials"); *Dorfmont v. Brown*, 913 F.2d 1399, 1403 (9th Cir. 1990) (strong presumption against the issuance of a security clearance).

An individual must come forward at the hearing with evidence to convince the DOE that granting or restoring access authorization "will not endanger the common defense and security and will be clearly consistent with the national interest." 10 C.F.R. § 710.27(d). An individual is afforded a full opportunity to present evidence supporting his or her eligibility for an access authorization. The Part 710 regulations are drafted to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. *Id.* at § 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

IV. FINDINGS OF FACT

a. The Individual's Background and Guardianship of her Ex-Husband's Grandchildren

The Individual married her former husband (Ex-Husband)⁵ in 2012. Ex. 14 at 136–37. The Ex-Husband's daughter, who is not biologically related to the Individual, birthed three girls (Daughter 1, Daughter 2, and Daughter 3) in a foreign country. Ex. 8 at 30. In late May 2016, the Individual and her Ex-Husband took in Daughter 1 (age 3) and Daughter 2 (age 2), as the girls' biological mother lacked stable housing and experienced substance abuse issues. Ex. 8 at 30; Ex. O at 2–7. The Individual, in her May 2025 LOI Response, stated that, "[u]pon pickup, they appeared . . . in very poor condition" and that the Individual was "informed that [Daughter 1] had experienced sexual abuse." Ex. 8 at 30. The Individual submitted medical records evincing that she and her Ex-Husband took Daughter 1 to a medical provider in early June 2016 and had reported to the medical provider that they suspected that Daughter 1 had been sexually abused. Ex. CC at 7. The medical

⁴ The LSO misstated in the SSC that the proceeding brought by the then-husband's family resulted in an "Order of Protection" against her until January 2035; this was erroneous, as this was the outcome of the proceeding that the Individual initiated against her Ex-Husband. *Compare* Ex. 1 at 5 *with* Ex. 10 at 63. Regardless, the proceedings initiated by her Ex-Husband's family member are properly raised as a security concern.

⁵ Though not yet final or formally divorced, the Individual filed a petition for the dissolution of their marriage in July 2025 and referred to him as her "ex-husband." Ex. JJ at 2–4; Tr. at 137.

provider “could not confirm whether or not [Daughter 1] had been sexually abused.” *Id.* at 4.

In 2022, the Individual and her Ex-Husband took in Daughter 3 (age 5) who arrived into their physical custody under similar circumstances. Ex. 8 at 30. The Individual was told that Daughter 3 had also been sexually abused and trafficked prior to coming into their custody. *Id.* The Individual brought Daughter 3 to a medical provider in May 2023 to “establish care.” Ex. AA at 3. The Individual disclosed to the medical provider that Daughter 3 had been physically and sexually abused. *Id.* at 4. A nurse practitioner’s notes reflect that Daughter 3 “tested positive for Chlamydia on her first visit” and that Daughter 3 received treatment. Ex. BB at 11. Medical records indicate that the “test [for Chlamydia] was not repeated after treatment.” *Id.* At the hearing, the Individual indicated that the medical personnel did not inform her that she needed to report the abuse to local law enforcement or the child protective services agency. Tr. at 154. The local court granted both the Individual and her Ex-Husband custody of the children as guardians. Ex. EE at 3.

b. Allegations Raised with the Local Child Services Agency

In March 2024 and December 2024, Daughter 3 alleged to school officials that the Individual’s Ex-Husband had sexually abused Daughter 1 and Daughter 2, and this allegation resulted in the state’s child protective services agency sending caseworkers to the Individual’s home. Ex. AA at 13; Ex. BB at 11; Ex. EE at 5–6; Tr. at 38, 55, 74–75. When interviewed by caseworkers, Daughter 1 and Daughter 2 denied that the Individual’s Ex-Husband had sexually abused them. Ex. EE at 5–6; Tr. at 55. A caseworker for the child protective services agency testified that the child services agency found those allegations initially to be unsubstantiated. Tr. at 38–39, 55–56.

Contemporaneous medical records also reflect that in December 2024 Daughter 3 had bled in her underwear at around the time Daughter 3 had reported abuse to school staff. Ex. BB at 11. The Individual has maintained that it was her belief that Daughter 3 had started her period. *Id.*; Tr. at 82–83. At the time, Daughter 3 was seven years old, and the Individual had researched through the internet that a child could start her period at eight years old. Tr. at 83–84. The Individual provided Daughter 3 with sanitary pads and took her to a medical provider a few days later. *Id.* The medical provider’s notes reflect that the Individual was aware that Daughter 3 was “inappropriately touching herself and others.” Ex. BB at 11; *see also* Ex. AA at 13 (medical records from March 2024 indicating that the Individual was aware of Daughter 3 “act[ing] out sexually[,] often being inappropriate with other family members”); Ex. LL (transcript of interview between detective and the Individual wherein the Individual disclosed she knew that “they [the daughters] were doing inappropriate things to each other”). The caseworker testified that, at the time of the child protective services agency’s 2024 investigations into Daughter 3’s allegations, the Individual informed the child protective services agency that (1) Daughter 3 had been sexually abused in a foreign country prior to Daughter 3 coming into the Individual’s custody in 2022; (2) Daughter 3 tested positive for Chlamydia in 2023; and (3) Daughter 3 would sexually act out and tried touching the other girls. *Id.* at 45–46. The Individual testified that, when the child protective services agency became involved in her family’s life in 2024, the child protective services agency had not reported her to law enforcement or otherwise pursued legal action for not reporting prior sexual abuse in the foreign country. *Id.* at 154.

In January 2025, Daughter 3 again reported abuse to school officials, which again resulted in an investigation by the child protective services agency. Ex. EE at 10; Tr. at 55–56. The caseworker arrived at the Individual’s residence in the evening while the Individual was away. Ex. EE at 6. The Individual’s Ex-Husband answered the door, and the caseworker proceeded to interview the children individually. *Id.* Daughter 3 told the caseworker that she had witnessed the Individual’s Ex-Husband sexually abusing Daughter 2. *Id.* at 6–7. Daughter 2, when interviewed, originally denied any sexual abuse. *Id.* at 7. However, Daughter 1 reported to the caseworker that the Individual’s Ex-Husband regularly sexually abused all three girls, and Daughter 2 later admitted that the Individual’s Ex-Husband had also abused her. *Id.* at 8–9. Daughter 1 reported that the Individual’s Ex-Husband started abusing her at the age of 8, in approximately 2021, and described several specific instances of abuse that the Individual’s Ex-Husband inflicted on her and her sisters. *Id.* The girls had originally denied the ongoing sexual abuse and told no one, as the Individual’s Ex-Husband periodically threatened their possible deportation to a foreign country if they had reported the abuse. *Id.* at 6–8, 13; Tr. at 36.

During the caseworker’s interview with Daughter 1, the Individual returned to the residence. Ex. EE at 8–9; Tr. at 36–37. The caseworker had the girls confirm to the Individual that the Individual’s Ex-Husband sexually abused them. Ex. EE at 8–9; Tr. at 37–41. The Individual became upset with her Ex-Husband. Ex. EE at 9 (affidavit of investigator from child protective services agency describing the Individual as “protective” of the girls); Tr. at 42 (caseworker’s testimony that she was “supportive” of the girls). Daughter 1 and Daughter 2 completed affidavits in which they indicated that the Individual had no knowledge of the sexual abuse prior to January 2025. Ex. OO(1) at 1; Ex. OO(2) at 2. The Individual demanded that the Ex-Husband vacate the home, and, that same day, he eventually agreed to leave. Tr. at 42–43.

Following her Ex-Husband departing from the residence, the Individual disclosed the following to the caseworker:

[The Individual] stated that just days prior [to the daughters admitting they had suffered ongoing sexual abuse in January 2025] . . . something came over her and thought maybe something was going on. [The Individual] stated she couldn’t explain the feeling. [The Individual] knew that [the Individual’s Ex-Husband] and [Daughter 1] had gone into the RV to “clean it out”. After a while [the Individual] sent [Daughter 2] to go see what [the Individual’s Ex-Husband and Daughter 1] were doing. [The Individual’s Ex-Husband and Daughter 1] came back into the residence and [the Individual] asked [Daughter 1] [“]what were you and your dad doing in the RV[?]”] [The Individual] states [that Daughter 1] stated, “nothing, we were cleaning out the RV[.]”] [The Individual] stated to [Daughter 1] don’t let me find out you and your dad are in there doing nasties”. [sic] [The Individual] stated [Daughter 1] replied, “no mom, we’re not”. [sic] [The Individual] stated at the same time she felt so guilty of thinking bad thoughts about her husband and granddaughter[,] but [Daughter 1] denied anything was going on.

Ex. EE at 9; *see also* Ex. E (interview of Daughter 1 in January 2025 wherein she recounts that the Individual’s Ex-Husband was almost caught sexually abusing Daughter 1 when the Individual had a “strange feeling” and sent Daughter 2 to go “check to see what was happening” and that the

Individual has seen Daughter 1 “all nervous” and “scared”). According to Daughter 1, this was an incident in which the Individual’s Ex-Husband “almost got caught because [the Individual] kept on saying something was going on” though the Individual’s Ex-Husband “was just saying no, even though they were[.]” Ex. E at 4.

At the hearing, the Individual testified about the incident and explained that she had noticed her Ex-Husband follow Daughter 1 into the RV, which she found curious. Tr. at 146. She instructed Daughter 2 to inspect and when Daughter 2 returned she indicated that they were “picking up [] bags”—which the Individual found strange because they had recently cleaned the whole RV. *Id.* at 146–47. At this point, she called for Daughter 1, who returned to the Individual; the Individual observed that Daughter 1 was nervous and then started asking her if she had been sexually abused: “Are you guys doing inappropriate things?”—which Daughter 1 denied. *Id.* at 147–48.

c. The Individual’s Conflict with the Prosecutor and Attempt to Remove Children from the Home

Charges were brought against the Individual’s Ex-Husband, and he was arrested. Ex. R at 2–7 (criminal complaint and arrest warrant affidavit for the Individual’s Ex-Husband); Ex. EE at 16. In early February 2025, the Individual met the prosecutor assigned to the case at her Ex-Husband’s pre-trial detention hearing. Tr. at 101. The Individual described that after the pretrial detention hearing, due to a misunderstanding between her and the prosecutor, the local prosecutor came to believe that the Individual did not believe the daughters. *Id.* at 102–03. According to the Individual, the prosecutor would not listen when she tried explaining and the misunderstanding escalated into an argument. *Id.* at 103. The Individual admitted that the prosecutor instructed her to not talk to her daughters about the case against the Individual’s Ex-Husband and that she responded: “Well, you can’t tell me how to talk to my daughters.” *Id.*; Ex. M at 4 (transcript of police officer’s bodycam video the next day) (Individual recounting that the prosecutor told her that she “cannot talk to the girls about the case” to which she responded, “you’re not going to tell me, with all due respect, Madam”).

The Individual testified that the next day the police arrived at her residence to temporarily remove the children. Tr. at 105–06. A transcript of an officer’s bodycam video reflects that the officer originally informed the Individual that the prosecutor had asked the police “to remove the girls from the house until they can get through this hearing . . .” Ex. M at 2. The Individual responded that the prosecutor could not remove the girls and made references to the prosecutor having earlier “threatened” this action. *Id.* The Individual stated, “you need to arrest me or whatever” and asserted that she would not allow the police officer to take the girls since she wanted to “protect [her] family.” *Id.*

The police officer explained to the Individual that there was a “problem” with the Individual and the daughters “conversing about [the case]” against the Individual’s Ex-Husband and that “there [we]re powers . . . higher than [the officer,]” specifically the prosecutor and the supervising detective, “that are asking and essentially ordering us to do these [temporary] holds” of the children. *Id.* at 4–6. He further explained that if she “interfere[d] with this process” she “probably will go to jail.” *Id.* at 6. Eventually, the police officer talked to the supervising detective and informed the Individual that, at the time, he did not have “enough substantial evidence” to

“remov[e] them from the house.” *Id.* at 13. The police officer gave conflicting information in the recording: “I could see why the [prosecutor] wants us to do it [remove the children,] and I think there’s enough, barely enough for me with what I’m allowed to do by law to remove the kids. I think there is enough. My gut feeling doesn’t tell me I have enough though.” *Id.* at 14.

d. Individual’s Arrest and Indictment

In mid-February 2025, an arrest warrant was issued for the Individual—the affiant of the arrest warrant affidavit stating that he “believe[d] the totality of the circumstances establish[ed] sufficient probable cause for issuance of an arrest warrant for [the Individual], charging her with” Child Abuse, Failure to Report Child Abuse, and Obstruction. Ex. V at 6. The Individual was arrested then released on her own recognizance. Ex. 9 at 54–59; Ex. 12 at 87–88.

A grand jury met in late February 2025 and returned an indictment for (1) three counts of Criminal Sexual Penetration;⁶ (2) three counts of Child Abuse; (3) three counts of Failure to Report Child Abuse; and (4) three counts of Obstruction. Ex. A at 5; Ex. X at 2–4 (grand jury indictment). A transcript reflects that the grand jury heard the supervising detective’s testimony about (1) the Individual’s suspicion that Daughter 3 had been abused prior to them coming into her custody, given information provided and her positive 2023 Chlamydia test, (2) the abuse the children suffered at the hands of the Individual’s Ex-Husband, (3) the Individual’s awareness that the girls had been sexually inappropriate with each other, (4) the alleged failure to disclose these instances of abuse to the appropriate authorities, and (5) the Individual’s refusal to provide the children to state custody in light of the state’s concern about preserving the children’s testimony. *See* Ex. GG at 2–16.

The Individual filed “*Defendant’s Motion to Dismiss Indictment*” on several bases. Ex. A at 2–3. The Court in considering the Individual’s motion made several things explicit:

It became clear during the hearing [on the motion to dismiss the indictment] that there is a dispute between [the Individual] and the [s]tate as to the factual accuracies of the statements [the Individual] asserts are exculpatory Based on the facts before the Court, it appears that there are multiple ways to interpret the evidence, an issue properly resolved by a jury [T]he Court declines to engage in any review or weighing of the evidence presented to the grand jury

Id. at 14–15. Ultimately, the Court found, however, that the state had overstepped when the prosecutor made an argument during the grand jury proceeding that was not a presentation of the facts and instead made “a conclusory statement” as to the prosecutor’s opinion of the sufficiency of the evidence. *Id.* at 15–16. Accordingly, the Court dismissed the indictment, notably “**WITHOUT PREJUDICE.**” *Id.* at 17 (formatting in original).

⁶ The state had not alleged that the Individual herself engaged in the sexual abuse but charged her based on an “accessory theory.” Ex. AA at 6.

e. Proceeding Initiated by Ex-Husband's Family Member

In February 2025, three family members of the Individual's Ex-Husband filed civil complaints requesting protective orders to restrain the Individual from approaching them or contacting them. Ex. T at 10–14, 21–25, 30; Tr. at 124 (testifying that she knew of three petitions for “restraining orders” filed against her). The complaints in two of those cases allege that the Individual had made phone calls and text messages to the Ex-Husband's family member after the Ex-Husband was arrested and that the Individual entered the family members' residences without permission. *Id.* Two of those complaints were dismissed given that the criminal proceeding had already ordered no contact between the Individual and her Ex-Husband and his family; the third was dismissed since all parties failed to appear for a hearing. *Id.* at 2–4, 16–17, 28.⁷ At the hearing in the instant case, the Individual indicated that these family members had filed these complaints against her in retaliation for making her Ex-Husband leave the home and because they blame the Individual for the Ex-Husband's incarceration. Tr. at 143.

V. ANALYSIS

Based on the record before me, the Individual has not mitigated the LSO's security concerns.

Conditions that could mitigate security concerns under Guideline J include:

- (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;
- (b) the individual was pressured or coerced into committing the act and those pressures are no longer present in the person's life;
- (c) no reliable evidence to support that the individual committed the offense; 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.

Adjudicative Guidelines at ¶ 32.

Regarding mitigating condition (b), the Individual has not put forth evidence indicating that she experienced coercion or pressure to commit any criminal behavior. In fact, she contests whether she engaged in criminal activity. Mitigating condition (b) does not apply.

⁷ In her May 2025 LOI Response, the Individual certified the following: “The matter was addressed in court and subsequently deemed to be unfounded and lacking credibility.” Ex. 8 at 37. The record confirms, however, that these matters were dismissed for procedural reasons—not due to any substantive findings on the credibility of the allegations. Ex. T at 2–4, 16–17.

The same reasoning applies as to mitigating condition (d), which requires evidence of rehabilitation. The Individual contests that she engaged in criminal activity and put forth no evidence regarding rehabilitation. Mitigating condition (d) does not apply.

The Individual bases much of her argument on mitigating condition (c), contesting the reliability of the evidence used to bring forth the charges. Tr. at 162 (closing argument from Individual's attorney) ("All this conduct . . . it's not reliable evidence . . ."). In particular, the Individual has put forth evidence to dispute the Criminal Sexual Penetration and the Child Abuse charges: the Criminal Sexual Penetration charges requiring that the Individual "intentionally" aided and abetted the crime and the Child Abuse charges requiring that she have acted "recklessly" or "permitted" the abuse. *See* Ex. X at 2–3. The Individual disputed having actual knowledge that the abuse was occurring or that she could have known about the abuse, citing to the child services agency failing to substantiate the first two child abuse reports and the daughters' initial denial that the Individual's Ex-Husband had sexually abused them. She also disputed the underlying allegations raised by her Ex-Husband's family in their various civil complaints.

However, the argument that there exists "no reliable evidence" to support the charges lacks persuasion given that the record contains various documents and statements supporting at least some of the offenses brought forth in the indictment. To start, the court considering the sufficiency of the indictment made clear it had not dismissed the indictment based on the sufficiency of the evidence itself and indicated that many of the Individual's own arguments turned on the interpretation of certain evidence. Simply put, the court dismissed the indictment *without prejudice* due to a mistake on the prosecutor's part and not based on any purported insufficiency of the evidence.

Turning to the evidence itself, with respect to the Obstruction charges, the Individual admitted that the prosecutor instructed her to not talk to her children about the criminal case against her Ex-Husband to preserve the reliability of their accounts. The Individual argued with the prosecutor about the instruction at the courthouse. Then, when a police officer told her that the prosecutor and supervising detective had given him an "order" to take the children into temporary custody in connection with the investigation, the Individual responded that she would need to be arrested before she would let that happen. There is some indication that the police officer disagreed with the prosecutor and supervising detective's decision and felt differently about the sufficiency of the basis for taking the children into custody; however, the police officer clearly expressed to the Individual that a consequence for her noncompliance could be "jail." One interpretation of the above facts is that the Individual would not agree to cooperate in preserving the reliability of the girls' accounts and denied state officials access to the girls for the purpose of preserving their accounts, thus putting at risk the successful prosecution of her Ex-Husband. That the police officer and the Individual disagreed with the prosecutor and detective does not demonstrate that there was "no reliable evidence" to support Obstruction charges, especially considering that a judge found the evidence sufficient to issue an arrest warrant against the Individual for Obstruction, and that a grand jury found there to be sufficient evidence to indict her for the same charge. *See generally* Ex. V; Ex. X.

Similarly, the argument that there exists “no reliable evidence” to support the Failure to Report Child Abuse charges lacks persuasion. To start, the grand jury indictment cites to the state criminal code, which requires that any person who “knows” or has “reasonable suspicion” that a child is an “abused child” to report “immediately” to local law enforcement or the local child services agency. The state further defines an “abused child” as one who “has suffered” serious harm—the verbiage necessarily including past abuse.⁸

The Individual came into physical custody of Daughter 3 in 2022. The Individual believed that Daughter 3 suffered sexual abuse based on information the Individual received when Daughter 3 came into her physical custody and Daughter 3’s positive test for Chlamydia in 2023. The Individual also believed Daughter 3 to have acted sexually inappropriate with the other girls prior to March 2024. The Individual failed to report to local law enforcement and the local child protective services agency that the girls were sexually abused children until the local child protective services agency became involved in March 2024. That the local child protective services agency did not refer this to law enforcement at the time of the March 2024 report is inapposite given the plain text of the criminal statute.

Furthermore, while not dispositive, I have reason to believe that the Individual had some reasonable suspicion that child abuse was occurring in her household. The Individual found it strange that her Ex-Husband had followed Daughter 1 into the RV in January 2025. Instead of investigating this herself, she asked Daughter 2 to investigate what was occurring in the RV. Daughter 2 returned and gave the Individual an answer that seemed illogical to her. Then, the Individual called for Daughter 1, and, when Daughter 1 also provided a dubious explanation, the Individual directly asked Daughter 1 if she was “doing” sexual activity with her Ex-Husband. In one retelling, the Individual is said to have asked Daughter 1 if she and her Ex-Husband had been “doing nasties.” At the hearing, the Individual recounted that she had asked Daughter 1 if she and her Ex-Husband had been “doing inappropriate things.”

This narrative—in which the Individual leapt to suspecting abuse in a scenario that for others would have seemed innocuous—suggests that the Individual had more reasons for her suspicion than she admitted. She articulated that the suspicion arose from some unexplainable “feeling,” but it seems more probable that she had previously witnessed suspicious indicators of abuse that could provide a basis for that feeling, and which she had unreasonably ignored or failed to investigate prior to that day. Taken together, a plausible view of the evidence is that the Individual (1) had a suspicion of child abuse based on her past observations, (2) failed to investigate the suspicion herself, and (3) shifted the burden of preventing and reporting the sexual abuse onto the girls. This framing of the January 2025 RV abuse also supports the Child Abuse charge, which requires the Individual to have acted with recklessness rather than with actual knowledge.

⁸ Given the text of the state criminal statute and its related definitional provision, I interpret the statute to impose a strict duty to report when a child is an “abused child”—regardless of the passage of time. This interpretation also makes common sense. For example, if a child suffered sexual abuse by a teacher at age four and the abuse went undiscovered by the child’s parents until years later when the child turned nine, state authorities still have several plausible interests in knowing of that abuse, such as to prosecute that crime, to prevent further abuse, and to connect the child with the appropriate services.

As outlined above, there exist several pieces of evidence supporting several of the charges raised in the indictment. Ultimately, none of the above might return a guilty verdict in a criminal court. In the security clearance context, however, clearance determinations “err . . . on the side of denials.” *Dep’t of Navy v. Egan*, 484 U.S. at 531; *see also* 10 C.F.R. § 710.7(a) (“Any doubt as to an individual’s access authorization eligibility shall be resolved in favor of the national security.”) (emphasis added). Mitigating condition (c) lacks application here.

Regarding mitigating condition (a), these charges were brought, and the underlying behavior occurred, only a little over a year before the hearing. Accordingly, I cannot find that “so much time has elapsed.” The circumstances also continue to cast doubt on the Individual’s reliability, trustworthiness, and good judgment. I acknowledge that the Individual may have had no actual knowledge that her Ex-Husband was sexually abusing her children. I also acknowledge that the Individual wanted to speak freely to her children after she discovered the sexual abuse and wanted to retain custody of her children in contradiction to the directives from state officials. However, that understanding aside, the Individual had direct experience with her daughters’ narratives changing, and officers and prosecutors provided her those directions to preserve the reliability of their testimony. When asked to cooperate with authorities in taking measures to preserve the reliability of their statements, the Individual instead demonstrated obstinance that ultimately could have put at risk the successful prosecution of her Ex-Husband for the sexual abuse of her daughters. Guideline J is specifically concerned with one’s “ability” and “willingness to comply with laws, rules, and regulations.” Adjudicative Guidelines at ¶ 30. Her outright disregard of the directions from the authorities investigating and prosecuting her Ex-Husband’s sexual abuse of her children—regardless of her personal feelings towards the prosecutor—demonstrates an unwillingness and inability to follow laws, rules, and regulations implicated by the Adjudicative Guidelines, and thus reflects poorly on her reliability and judgment.

I must also discuss the “nature, extent, and seriousness of the conduct” as well as the “circumstances” of the conduct above. 10 C.F.R. § 710.7(c). I find alarming the Individual’s lack of action related to her belief that Daughter 3 was an abused child considering information given to her at the time Daughter 3 came into the Individual’s custody and Daughter 3’s positive Chlamydia test in 2023. Despite her having several indicators that Daughter 3 had been sexually abused, the Individual failed to immediately report that she had suffered abuse to the proper authorities. That the medical professionals also failed to report that Daughter 3 had likely suffered abuse and that Daughter 3 may have experienced this abuse in the past in a foreign country does not detract from the strict affirmative duty to report child abuse to the authorities. Another party’s failure to protect the interests of Daughter 3 and to follow the law does not absolve the Individual of that same legal responsibility. Then, when Daughter 3 started acting sexually inappropriately towards the other daughters, the Individual again failed to report that abuse immediately to the appropriate authorities.

Most disturbing of all, the Individual’s narrative about the January 2025 abuse suffered by Daughter 1 in the RV suggests that the Individual may have witnessed other indicators of abuse in her household that would have led her to conclude that Daughter 1 may be suffering abuse. Instead of confirming those suspicions herself, she, without explanation, asked Daughter 2 to investigate the RV. When unsatisfied with the explanation Daughter 2 provided, the Individual asked Daughter 1 if she had been “doing” either “inappropriate things” or “nasties” with her Ex-Husband,

a phrasing, that casts Daughter 1 as a participant in her own possible abuse. By asking Daughter 2 to investigate, asking Daughter 1 to confirm her own sex abuse, and phrasing the question in a way that paints Daughter 1 as a participant, the Individual effectively removed responsibility from herself, thrusting the onus on the minors in protecting themselves from the Individual's Ex-Husband. This reflects extremely poorly on her reliability, trustworthiness, and judgment.

Furthermore, whether a clearance holder or applicant would look away from illegal conduct because of the truth's inconvenience relates directly to a clearance holder or applicant's willingness to report suspicious behavior. Said another way, the Individual's failure to take appropriate steps to investigate and to report on her suspicions about illegal activity in her own home directly implicates her ability to affirmatively mitigate security risks and exercise good judgment and reliability in the national security context. This further aggravates the severity of the security concerns.

In summary, the record is comprised of the Individual's serious lapses in reliability, trustworthiness, and judgment occurring at several junctures over a number of years: first, when the Individual failed to report to authorities that she reasonably suspected Daughter 3 to be an abused child in 2023; second, in January 2025, when the Individual failed to meaningfully act on her suspicions that her Ex-Husband was abusing Daughter 1; and third, in February 2025, when the Individual chose to behave uncooperatively with the authorities investigating and prosecuting her Ex-Husband. 10 C.F.R. § 710.7(c) (also requiring the consideration of the "frequency" of the conduct). In consideration of all the above, the Individual has not demonstrated reliability, trustworthiness, or good judgment. Mitigating condition (a) does not apply.

VI. CONCLUSION

In the above analysis, I found that the DOE possessed sufficient derogatory information to raise security concerns under Guideline J of the Adjudicative Guidelines. After considering all the relevant information, both favorable and unfavorable, in a comprehensive, common-sense manner, including weighing all the testimony and other evidence presented at the hearing, I find that the Individual has not brought forth sufficient evidence to resolve the security concerns set forth under Guideline J. Accordingly, I find the Individual has not demonstrated that restoring her security clearance would not endanger the common defense and would be clearly consistent with the national interest. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Andrew Dam
Administrative Judge
Office of Hearings and Appeals