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

In the Matter of: Personnel Security Hearing )  
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Filing Date: June 27, 2024 )  
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Case No.: PSH-24-0148

Issued: December 4, 2024

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**Administrative Judge Decision**

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Steven L. Fine, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXXXXXXXXXX (hereinafter referred to as “the Individual”) to hold an access authorization under the Department of Energy’s (DOE) regulations set forth at 10 C.F.R. Part 710, entitled “Procedures for Determining Eligibility for Access to Classified Matter and Special Nuclear Material.”<sup>1</sup> 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 has a history of five arrests over a forty-two-year period. On May 11, 1982, police charged her with Resist Obstruct Officer, after she was disrespectful to a police officer. Exhibit (Ex.) 14 at 381. In March 1994, the Individual was cited for Driving While Intoxicated (DWI), speeding, and possession of marijuana.<sup>2</sup> Ex. 14 at 381. In March 1998, the Individual was charged with Disorderly Conduct after an incident in which she pushed her ex-husband off a porch. Ex. 14 at 381. On May 12, 2020, police charged the Individual with Battery Against a Household Member after she was involved in a physical altercation with her then boyfriend (JDoe) at their home. Ex. 7 at 36; Ex. 14 at 275. The police report signed by the arresting officer states in pertained part:

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<sup>1</sup> Under the regulations, “[a]ccess authorization means 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). Such authorization will also be referred to in this Decision as a security clearance.

<sup>2</sup> During a March 20, 2018, interview with an Office of Personnel Management Investigator (the OPM Interview), the Individual had stated that the marijuana and pipe discovered by the police’s search had belonged to her sister. Ex. 14 at 381.

ON MAY 12TH, 2020 I WAS DISPATCHED TO . . . A DOMESTIC DISTURBANCE. WHILE EN ROUTE DISPATCH ADVISED A MALE CALLED IN AND STATED HE WANTED HIS GIRLFRIEND TO LEAVE.

I SPOKE WITH THE MALE [JDoe] WHO IS THE CALLING PARTY. [JDoe] STATED THAT HE AND [the Individual] HAVE BEEN DATING FOR SEVERAL YEARS AND [the Individual] HAD JUST RECENTLY MOVED IN. HE EXPLAINED THAT HE HAD RECENTLY SPOKE WITH AN EXGIRLFRIEND AND [the Individual] ACCUSED HIM OF CHEATING ON HER. . . . HE STATED [the Individual] HAS BEEN DRINKING AND DURING AN ARGUMENT . . . [the Individual] ATTACKED HIM AND SCRATCHED HIS NECK AND CHEST AREA. [JDoe] WAS ABLE TO SHOW ME HIS NECK AND CHEST WHICH HAD SEVERAL SCRATCH MARKS. [JDoe] STATED THAT HE PUSHED [the Individual] AWAY WHICH CAUSED HER TO FALL AND HIT HER ARM ON A DRESSER. . . .

I THEN SPOKE WITH [the other arresting] OFFICER . . . WHO STATED [the Individual] TOLD HER SHE HAD BEEN THROWN TO THE GROUND BY [JDoe] AFTER SHE CONFRONTED HIM ABOUT CHEATING. SHE STATED [the Individual] DOES HAVE SWELLING TO HER LEFT FOREARM. I THEN SPOKE WITH [the Individual] AND ASKED WHAT HAPPENED. SHE STATED SHE CONFRONTED [JDoe] ABOUT CHEATING ON HER AND HE ATTACKED HER. SHE STATED THAT [JDoe] GRABBED HER BY HER SHOULDERS AND [threw] HER TO THE FLOOR. SHE STATED THAT SHE HIT A DRESSER AS SHE FELL WHICH INJURED HER FOREARM. AS I SPOKE WITH [the Individual] SHE WAS CONFRONTATIONAL AND I COULD SMELL THE ODOR OF ALCOHOL COMING FROM HER BREATH. [The Individual] LATER ADMITTED TO DRINKING ALCOHOL. I DID SEE SWELLING TO HER LEFT FOREARM, BUT WHEN I LOOKED AT HER SHOULDERS I DID NOT SEE ANY FINGER MARKS OR BRUISING.

Ex. 7 at 30. There was no indication in the police report indicating that JDoe was arrested or issued a citation because of this incident. Ex. 7 at 30. The police report indicates only that “[a] female was arrested and transported to the . . . Detention Center.” Ex. 7 at 33.

On June 17, 2020, the Individual responded to a Letter of Interrogatory (LOI) issued to her by the Local Security Office (LSO). Ex. 10 at 63. In her response to this LOI, the Individual provided the following account of the May 12, 2020, incident, in which she stated in pertinent part:

I was involved in a confrontation with my boyfriend, [JDoe]. He and I recently moved in together in March 2020. After we moved in together, I discovered he was having an ongoing relationship with another women. When I confronted him about this issue, and the possibility of ending the relationship, the interaction heightened and I was instructed by [JDoe] to “Get out.” I refused, and [JDoe] insisted and confronted me in a hostile manner. I defended myself and [JDoe] hit me and then physically threw me against the wall and table where I suffered a head injury and

was momentarily knocked unconscious. After a while, I realized the situation was not going to subside and I said, “Ok I’ll go, but I need my belongings.” [JDoe] said, “No”, you’ll get nothing” and continued to physically assault me. I explained to [JDoe] that I was willing to leave, but needed to collect some personal belongings. [JDoe] continued to escalate the situation at that time I called my son, . . . and told him [JDoe] was being violent against me and I was injured. My son instructed me to get out of the house, and telephoned the [police] . . . I explained the situation (described above) to the police officers. I told the office[r] I didn’t want to leave and insisted they have [JDoe] leave because I was not feeling well. The [police] summoned EMS to treat my injuries. I was reviewed by the EMS and told them I didn’t want to be treated and/or leave my residence. The [police] insisted that I was the one to leave the residence and both of us were being cited. It was at that time I was detained by the [police] and transported to the . . . Detention Center for intake.

Ex. 10 at 64. The Individual admitted consuming two glasses of wine prior to this incident. Ex.10 at 64. Concerning her 1998 arrest, the Individual’s LOI response claimed:

Prior confrontation with former husband in 1998 regarding visitation. During this time, [he] was under order of the court to only have contact with our two minor children only after he provided a drug test and satisfied all the court orders. It was at that time I refused him visitation and demanded he remove himself from my home. He called the police and said I pushed him. I pleaded to the charge because I didn’t have the funds for an attorney to represent due to the lack of child support.

Ex. 10 at 66.<sup>3</sup>

On December 28, 2023, police charged both the Individual and JDoe with Battery Against a Household Member after they were involved in another physical altercation at JDoe’s home. Ex. 6 at 27; Ex. 11 at 71–72. In his police report, the arresting officer (Officer) noted that both parties claimed the other party attacked first, and stated, “After hearing both statements, I was still unable to determine who was the predominant aggressor.” Ex. 11 at 72. He further stated: “I advised both parties they would be charged with battery against a household member.” Ex. 11 at 72. The Officer described the Individual as “crying and emotional” and “yelling.” Ex. 11 at 71–72. The Individual told the Officer that JDoe punched her and threw her to the ground. Ex. 11 at 71. The Officer noted that the Individual had a small cut on her cheek and dirt on her jacket and pants. Ex. 11 at 71. JDoe accused the Individual of attacking him and scratching his neck. Ex. 11 at 71. The Officer further reported that he observed “several scratches on both sides of [JDoe]” who further “admitted he threw [the Individual] to the ground because she attacked him.” Ex. 11 at 71.

On March 18, 2024, the Individual responded to a second LOI issued to her by the LSO inquiring about the December 28, 2023, incident. Ex. 9 at 47. In response to the LOI’s questions about this incident, the Individual stated in pertinent part:

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<sup>3</sup> During the OPM Interview, the Individual stated she pushed her ex-husband off the porch that during this incident. Ex. 14 at 381. She further reported during this interview that she “hired an attorney because she didn’t agree with the charges” but ultimately pled guilty and paid a fine of \$100. Ex. 14 at 381.

I was not arrested or taken into custody on December 28, 2023. I myself made a call to 911 and summoned the [Police] on December 28, 2023 to . . . intervene in an assault that was taking place against myself. . . . I [had] arranged with [JDoe] to pick up some personal property . . . that I had left at the residence. I arrived and retrieved my property, however, [JDoe] would not let me leave and insisted I go into the garage and taken additional items . . . it was at that time [JDoe] would not let me go. He got into my car and refused to get out so I could leave. When I tried to get into my car he pushed me to the ground and assaulted me. The police arrived and took statements and could not determine or make a professional judgement on the situation. During this time I sent a text [to my friend] and told her I would not be [meeting her]. My friend came to the residence . . . to provide emotional support. Her and I proceeded to [the] Hospital ER . . . . I was treated by a ER physician for fractured rib and laceration. On . . . January 5, 2024, I received a letter from the . . . court that charges we issued. . . . The case was dismissed in January 23, 2024.

Ex. 9 at 47.

The LSO began the present administrative review proceeding by issuing a Notification Letter to the Individual informing her that it received derogatory information creating substantial doubt regarding her eligibility to hold a security clearance. The Notification Letter further informed the Individual that she was entitled to a hearing before an Administrative Judge to resolve the security concerns. *See* 10 C.F.R. § 710.21. The Individual requested a hearing, and the LSO forwarded her request to the Office of Hearings and Appeals (OHA). The Director of OHA appointed me as the Administrative Judge in this matter. At the hearing I convened pursuant to 10 C.F.R. § 710.25(d), (e), and (g), I took testimony from the Individual, her friend (Friend), and her therapist (Therapist). *See* Transcript of Hearing, OHA Case No. PSH-24-0148 (Tr.). The DOE Counsel submitted fourteen exhibits, marked as Exhibits 1 through 14. The Individual submitted seven exhibits, which she marked as Exhibits A through G.

Exhibit A is an After Visit Summary dated December 28, 2023. It indicates that the Individual was examined in a hospital emergency room by a Certified Nurse Practitioner, who diagnosed the Individual with a fractured rib, contusions of the right forearm and left thigh, and a facial abrasion. Ex. A at 1, 6.

Exhibit B is a credit card statement indicating that the Individual purchased a computer on December 28, 2023. Ex. B at 2.

Exhibit C is a court record indicating that the charges filed against the Individual on May 12, 2020, have been dismissed by the prosecutor. Ex. C at 1.

Exhibit D is a court record indicating that the charges filed against the Individual on December 28, 2023, have been dismissed by the prosecutor. Ex. D at 1.

Exhibit E is a handwritten copy of notes taken by the attorney who represented the Individual in the criminal proceedings arising from the December 28, 2023, incident. They are not legible.

Exhibit F is an order of expungement for arrest records pertaining to her May 12, 2020, arrest.

Exhibit G is a treatment summary dated July 21, 2024, signed by the Therapist. It states in pertinent part:

Intakes:

Better Help platform: 7/17/24

Dates of service: 7/26/24, 7/31/24, 8/13/24, 8/17/24, 9/13/24, 9/24/24, 9/30/24, 10/15/24

Private Practice: 10/25/24

Next session: 11/1/24, scheduled weekly- Fridays

Diagnosis: Adjustment Disorder, mixed with anxiety and depression

Justification: Meets DSM criteria, related to stressors from previous relationship and work clearance concerns.

Prognosis: Client's prognosis is Good, and my clinical recommendation is continued therapy and consistent attendance while symptoms are present. Recommended frequency of therapy is weekly.

Compliance: Client has verbalized commitment to therapy and is attending sessions as scheduled.

Ex. G at 1.

## **II. The Summary of Security Concerns (SSC)**

The SSC attached to the Notification Letter informed the Individual that information in the possession of the DOE creates substantial doubt concerning her eligibility for a security clearance under Guideline J (Criminal Activity) of the Adjudicative Guidelines. Under Guideline J, the LSO cited the Individual's history of five arrests and citations. This information adequately justifies the LSO's invocation of Guideline J. Guideline J states that "[c]riminal activity creates doubt about a person's judgment, reliability, and trustworthiness" and that, "[b]y its very nature, it calls into question a person's ability or willingness to comply with laws, rules, and regulations." Adjudicative Guidelines at ¶ 30. Conditions that could raise a security concern under Guideline J include "[e]vidence . . . of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted[.]" Adjudicative Guidelines at ¶ 31(b).

## **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 of 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 Department 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).

The 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). The individual is afforded a full opportunity to present evidence supporting their 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. 10 C.F.R. § 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

#### **IV. Hearing Testimony**

##### **A. The Therapist's Testimony**

The Therapist testified that she is a licensed clinical social worker, who has been in practice since 2017. Tr. at 14. She has been treating the Individual since July 17, 2024. Tr. at 15. The Therapist testified that she was not aware of any alleged criminal conduct on the part of the Individual. Tr. at 16, 21–22. The Therapist testified that she was aware of "a very destructive relationship to the [Individual]." Tr. at 16. When asked if she had discussed the Individual's arrests with the Individual, the Therapist testified: "No. No, we have not, other than a recent situation . . . where, my understanding, both parties were questioned, but that's the extent, that I'm aware of." Tr. at 16. She further testified that she had only discussed this incident with the Individual briefly. Tr. at 23. When questioned further about what she knew about that incident, the Therapist testified: "Only what [the Individual] indicated, that she went to former partner's [JDoe] home to pick up an item and an altercation ensued, and it was very disturbing to [the Individual]." Tr. at 16. The Therapist described this incident as "interpersonal violence in a current relationship that the client has indicated to me was perpetrated towards her." Tr. at 22. The Therapist testified that Exhibit G was written on October 5, 2024. Tr. at 17. She diagnosed the Individual with "adjustment disorder mixed with anxiety and depression" which the Therapist described as "just a difficulty adjusting to a difficult time." Tr. at 18. The Therapist ruled out more serious disorders for the Individual. Tr. at 19–20. The Therapist testified that the Individual is responding to her treatment, noting that the Individual "is verbalizing some acceptance of a difficult situation and ability to work through it, good coping skills using available resources and positive words of affirmations as well." Tr. at 19. She opined that the Individual's prognosis is "good." Tr. at 20. When I asked the Therapist whether she worked on the Individual's emotional regulation issue, he answered that the Individual's therapy does involve some work on emotional regulation skills. Tr. at 24.

### **B. The Friend's Testimony**

The Friend testified that she has known the Individual for two or three years. Tr. at 29. On the date of the Individual's most recent arrest, the Individual was supposed to meet up with her to practice tennis, but did not show up. Tr. at 29. The Individual contacted her and said she needed help because "her then boyfriend had hit her and held her down." Tr. at 30. The Friend then went to JDoe's house, where the police had already arrived. Tr. at 30. The Individual was very upset, crying, and talking with the police when the Friend arrived at JDoe's house. Tr. at 31. The Individual looked as though she had been in a fight. Tr. at 37. The Individual was in pain when the Friend arrived. Tr. at 31. After the incident, she took the Individual to the emergency room for her bruised ribs. Tr. at 30. The Friend testified that she was aware that the Individual had her own residence. Tr. at 37. The Friend does not think that the Individual was still in a relationship with JDoe at the time of the incident. Tr. at 38. The Friend testified that the Individual told her that the recent incident had begun when JDoe threw the Individual's computer down and broke it and wouldn't let the Individual leave. Tr. at 39. The Individual told the Friend that JDoe had been violent with her on a previous occasion. Tr. at 38.

### **C. The Individual's Testimony**

The Individual testified that her first arrest occurred when she was eighteen and talked back to a police officer. Tr. at 45. She described her actions as "just being a child." Tr. at 45. The Individual testified that her 1994 DWI arrest occurred after she had taken a breathalyzer test showing that her blood alcohol content was .08 percent. Tr. at 48. She claimed she had consumed three or four drinks over the course of four hours prior to this arrest. Tr. at 48. The police also found marijuana and a marijuana pipe in the car. Tr. at 51.

The Individual testified that the 1998 battery and disorderly conduct charges occurred when her ex-husband came to her home and insisted on seeing their children. Tr. at 52. She claims she refused and pushed him off a porch. Tr. at 52. The ex-husband was under court order to avoid the children at the time, but he was not criminally charged following the incident. Tr. at 52-53. She testified that she has resolved her differences with her ex-husband and that they now get along well. Tr. at 53-54.

The Individual testified that the 2020 Battery Against a Household Member charge occurred when she was living with JDoe and confronted him "about some things he was doing" and "he got physical." Tr. at 56-57. She called the police and when they arrived, they told her to leave. Tr. at 57. She further testified: "I refused to leave the home, because it was my home." Tr. at 57. She was then arrested. Tr. at 57. She testified that she had two glasses of wine before this incident. Tr. at 57. As a result of this 2020 arrest, her clearance was suspended. Tr. at 57. She testified that she "should have learned my - from my lessons." Tr. at 57. She "went through some remediation with the DOE" as well as studying, taking self-improvement courses, and counseling with a psychologist as a result of this arrest, for which the charges were dismissed. Tr. at 57-59. Her clearance was restored as well. Tr. at 58. She described her relationship with JDoe as "toxic," and "intermittent." Tr. at 58. She claimed that JDoe is "a narcissistic, either sociopath/psychopath that feeds on people like me who are kind and nice." Tr. at 60. She testified that she has "removed

him from my life completely.” Tr. at 60. The Individual did testify: “I would like to have my clearance back, but I understand if it doesn’t come back, it’s a reflection of my behavior. And I am – technically, I am the one who allowed this to happen, so I cannot blame anybody for where I am.” Tr. at 61.

The Individual testified about the December 2023 Battery Against a Household Member charge. She testified that she had left JDoe’s home in the morning after he had become abusive and smashed her computer. Tr. at 67. She realized she had left her badge at JDoe’s home and returned to get it. Tr. at 67. The Individual provided the following account of the incident that ensued:

When I went to leave, he insisted I start taking other things. I said, “I have to leave. Some other time,” because there was stuff in the garage. And when I went to leave, he refused to let me leave. At that time, an altercation – he assaulted me. He went in my car. He wouldn’t get out of my car. When I tried get him out of the car, he threw me to the ground. At that time I called – I summonsed the police. I just wanted to leave. And he disappeared into the garage. And when the officers got there, the first comment, he was asking me stuff and I said, “I really wasn’t thinking.” He said, “You should have got your story straight before we got here.” And I thought, I’m just – wasn’t thinking of what story I was getting straight. I just needed to be somewhere, and he wouldn’t let me go. The officers came to there and they couldn’t figure out what to think because this guy’s very good liar, you know. He said he had scratches on his neck and I asked – I said to the officer, I had nothing under my hands. I didn’t wash my clothes. I didn’t do anything. I said, “I think he did it to himself, ‘cause I don’t recall.” The officers said they didn’t know what to do and they would get back to us, and they allowed me to leave . . . And they offered to summons an ambulance and I said, no, I would go myself. And we proceeded to leave. It was like four days later that I received a citation in the mail. . . . And it was dismissed on the 22nd of January.

Tr. at 67–68. The Individual testified that, at the time of the recent incident, she was not living with JDoe but was “trying to patch up the relationship.” Tr. at 69. After she received the Notification Letter, the Individual began counseling with the Therapist. Tr. at 69. She has removed JDoe from her life. Tr. at 70, 74. She now realizes, after counseling, that “toxic” relationships don’t change for the better, they just get worse. Tr. at 74. The Individual concluded her testimony by stating: “I understand if – why there’s major concerns because there is a history and there’s a pattern. And the pattern has been broken. This will never happen again.” Tr. at 76.

## **V. Analysis**

The Individual has exhibited a consistent long-term pattern of losing her self-control and domestic violence. Four of the incidents (the non-DWI citations) involve the Individual’s loss of self-control which led law enforcement officers to issue her citations. These incidents have demonstrated that the Individual is vulnerable to moments in which her judgment is seriously impaired. Two of these incidents occurred in the relatively recent past. While the Individual exhibits an understanding of her role in these incidents, she has not yet demonstrated her ability to avoid future incidents. While she has sought counseling, that counseling has not been focused upon addressing the Individual’s



propensity to lose her self-control. In fact, her therapist was unaware of the Individual's history of criminal citations. Finally, I note that three of the five criminal incidents cited in the SCC occurred in the distant past. However, two of these incidents, which led to the 1998 and 1982 arrests, are part of a long-term pattern in which the Individual has exhibited a loss of judgment and self-control requiring the response of law enforcement. Standing alone, the security concerns raised by these two incidents would be mitigated by time. However, these incidents are clearly part of a long-standing pattern in which the Individual lost her composure, resulting in criminal conduct. If only one of these incidents had occurred, I could find that the Individual had made an isolated mistake. However, there were four incidents. Moreover, I note that the Individual's recollection of the incidents seems to change over time and, in some cases diverges from the information appearing in the police reports. Accordingly, I question the accuracy of the information she has provided concerning these incidents. The Individual did take responsibility for her actions at the hearing and indicated she realized she needed to avoid "toxic relationships." I remain concerned, however, because she never indicated she was addressing her inability to manage her emotions in difficult situations. Nor did she exhibit any insight into her propensity to lose control.

The Adjudicative Guidelines set forth four conditions that can mitigate security concerns under Guideline J. None of these four conditions are present in the instant case.

Paragraph 32(a) provides that security concerns raised under Guideline J may be mitigated when the individual has shown that "[s]o 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." Adjudicative Guidelines at ¶ 32(a). In the present case, the repetitive nature of the criminal activity and the short amount of time since the 2023 arrest, show that not enough time has elapsed to mitigate the security concerns raised by her criminal activity. The reoccurring nature of her criminal behavior across several decades indicates that it did not occur under unusual circumstances. Therefore, I find that the Individual has not shown that her criminal behavior is unlikely to recur or that the concerns about her present reliability, trustworthiness, and good judgment are resolved. Accordingly, the first mitigating factor is not present in the instant case.

Paragraph 32(b) provides that security concerns raised under Guideline J may be mitigated when the individual has shown that "[t]he individual was pressured or coerced into committing the act and those pressures are no longer present in the person's life." Adjudicative Guidelines at ¶ 32(b). In the present case, the Individual has not asserted that she was pressured or coerced into committing the criminal acts. Accordingly, the second mitigating factor is not present in the instant case.

Paragraph 32(c) provides that security concerns raised under Guideline J may be mitigated when the individual has shown that there is no "reliable evidence to support that the individual committed the offense." Adjudicative Guidelines at ¶ 32(c). The Individual admitted her involvement in the first three citations appearing in the SSC. While she casts herself as the victim in the two most recent incidents and has shown that the charges resulting from both incidents have been dismissed, she has not submitted sufficient evidence to show that the conduct attributed to

her in the police reports did not occur. Accordingly, the third mitigating factor is not present in the instant case.

Paragraph 32(d) provides that security concerns raised under Guideline J may be mitigated when the individual has shown that 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(d). In the present case, there is some evidence of rehabilitation in the form of therapy. However, since her therapist was unaware of her history of criminal conduct and her recent therapy was focused upon helping the Individual cope with stressors including the present proceeding rather than to address the Individual’s criminal behavior it cannot be said that that her counseling is evidence of “successful rehabilitation” as required by the fourth mitigating factor. Accordingly, the fourth mitigating factor is not sufficiently present in the instant case.

I therefore find that the Individual has not sufficiently established the presence of any of the four mitigating conditions set forth at Guideline J. Accordingly, I find that she has not resolved the security concerns raised under Guideline J.

## **VI. CONCLUSION**

For the reasons set forth above, I conclude that the LSO properly invoked Guideline J of the Adjudicative Guidelines. After considering all the evidence, both favorable and unfavorable, in a comprehensive, common-sense manner, I find that the Individual has not brought forth sufficient evidence to resolve each of the security concerns raised under Guideline J. Accordingly, the Individual has not demonstrated that restoring her security clearance would not endanger the common defense and security and would be clearly consistent with the national interest. Therefore, the Individual’s security clearance should not be restored. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Steven L. Fine  
Administrative Judge  
Office of Hearings and Appeals