

to the ground. Ex. 11 at 75–77; Ex. 17 at 373. No charges were filed “due to a lack of information establishing [the Individual] and [his girlfriend] as primary aggressors.” Ex. 11 at 77 (narrative prepared by the responding police officer). Although the Individual disclosed this incident during a security clearance interview conducted on October 14, 2020, during a subsequent interview on January 22, 2024, the Individual stated that he could not recall the incident and that he had no interaction with law enforcement in February 2018. Ex. 17 at 272, 373.

On a Questionnaire for National Security Positions (QNSP) that the Individual completed on May 20, 2019 (2019 QNSP), the Individual admitted that he smoked marijuana two times in the summer of 2018. Ex. 16 at 206. He volunteered this information again during an interview by a security clearance investigator on October 14, 2020. Ex. 17 at 374. Yet on two QNSPs that the Individual completed on August 20, 2020 (2020 QNSP), and December 19, 2023 (2023 QNSP), the Individual certified that he had not illegally used or purchased any controlled substances in the past seven years. Ex. 15 at 184; Ex. 14 at 136. When later confronted about this omission by a security clearance investigator, the Individual claimed that it was due to an oversight. Ex. 17 at 272.

In October 2018, the Individual was terminated from his employment for spending too much time taking personal phone calls, despite multiple warnings. *Id.* at 269–70. When completing the 2019 and 2020 QNSPs, the Individual denied that he had been fired from this employment, and on a May 20, 2019, Declaration for Federal Employment, he denied that he had been fired from any employment within the last five years. Ex. 15 at 165–66; Ex. 14 at 117–18; Ex. 8 at 44. When later confronted about these false statements by a security clearance investigator, the Individual claimed that they were due to an oversight. Ex. 17 at 269–70.

On April 18, 2021, police were dispatched to the Individual’s home in response to a physical altercation between the Individual and his girlfriend, in which the Individual was alleged to have punched her in the head. *Id.* at 296–97. No charges were filed against either party. *Id.* at 297. On October 21, 2021, the Individual was criminally charged with Battery (household member) and Battery. Ex. 9 at 47–48. The Individual failed to disclose this incident to the Local Security Office (LSO) on multiple occasions: on the 2023 QNSP, in his April 23, 2024, response to a Letter of Interrogatory (LOI) issued to him by the LSO, and during an interview conducted on January 22, 2024, as part of his security clearance investigation. Ex. 14 at 134–36; Ex. 7 at 33; Ex. 17 at 271–72.

On February 18, 2024, the Individual was arrested and criminally charged with Aggravated Battery on a Household Member, Interference with Communications, and Abuse of a Child. Ex. 9 at 49–50; Ex. 6 at 28–29. According to the arresting officer’s report, the Individual’s girlfriend woke him up in the middle of the night, at which time he allegedly struck her multiple times, bit her arm twice, and then tried to prevent her from making a phone call to her mother for help. Ex. 10 at 64–65. The altercation occurred two feet away from where their two-year-old son was sleeping. *Id.* at 65. When interviewed by the arresting officer, the Individual denied knowledge of how his girlfriend sustained her injuries. *Id.* Later, in his response to the LOI, he admitted that “things got too far” and that he had consumed “more than just a few beers” earlier that day at his son’s birthday

party.³ Ex. 7 at 31–32, 38. On March 24, 2024, the Individual was charged with Aggravated Battery Against a Household Member, Abuse of a Child, and Deprivation of the Property of a Household Member. Ex. 9 at 51. The Individual failed to report both the February and March 2024 charges within three working days, as required by DOE Order 472.2A. Ex. 5 at 25; Ex. 4 at 19. Further, when responding to the LOI in April 2024, the Individual failed to disclose the March 2024 arrest when asked if he had been arrested for any other incidents in the last seven years. Ex. 7 at 33.

On June 20, 2024, the Individual was evaluated by a DOE-contracted psychologist (Psychologist). Ex. 12. As part of the evaluation, the Individual was interviewed by the Psychologist for 1.75 hours and sent for a Phosphatidylethanol (PEth) test for alcohol.⁴ *Id.* at 81. In the interview, the Individual described his current pattern of drinking as “only on weekends” and typically around “six or seven beers” if there is a party or otherwise “two to four beers on Saturday and/or Sunday” and an occasional shot of liquor. *Id.* at 83. After his February 2024 arrest, the Individual stated, he and his girlfriend decided to decrease the frequency and amount of alcohol they both consume. *Id.* In the 30 days prior to the evaluation, according to the Individual, he consumed approximately 13 beers. *Id.* The Individual’s PEth result, however, was positive at 211 ng/mL. *Id.* at 84. According to the consultant psychiatrist who interpreted the result, this indicates that the Individual was consuming “on average about 4 or more drinks/day.” *Id.* at 84. Thus, the Psychologist opined, the Individual was underreporting his alcohol consumption. *Id.*

The Psychologist concluded that the Individual met sufficient criteria for a diagnosis of Alcohol Use Disorder (AUD), Mild, pursuant to the *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision*. *Id.* She further opined that the Individual had been drinking “in a range of ‘heavy consumption,’ most likely by binge drinking on weekends,” and that the diagnosis of AUD and a pattern of binge drinking “are conditions which impair judgment.” *Id.* To show rehabilitation, she opined, the Individual would need to take one of two approaches: (1) “attend treatment of moderate intensity, such as once-per-week individual and group meetings for a period of six months which are focused on substance/alcohol use,” or (2) “attend three [Alcoholics Anonymous (AA)] meetings per week, work with a sponsor, and have his attendance documented.” *Id.* at 85. The Individual would need to submit to monthly PEth tests to demonstrate his abstinence over the six-month period. *Id.* Alternatively, if the Individual opted not to participate in treatment or AA, the Individual would be able to show reformation by abstaining from alcohol for one year, as documented by negative PEth tests. *Id.*

³ The Individual has provided inconsistent accounts of his alcohol consumption that day. In the April 2024 LOI, he claimed to have consumed “around 10 beers” at the party, which lasted from noon until 5 p.m. Ex. 7 at 31, 38. In an interview with a DOE-consultant psychologist on June 20, 2024, however, he told her that he consumed two 16-ounce light beers at the party, and then five or six 12-ounce light beers and two shots of liquor between 8:30 and 10:30 p.m. Ex. 12 at 81–82.

⁴ According to the consultant psychiatrist who interpreted the Individual’s PEth result,

The PEth level reflects the average amount of alcohol consumed over the previous 28-30 days . . . PEth greater than 20 ng/mL corresponds to significant alcohol consumption (averaging 2-4 drinks per day several days/week). . . . PEth greater than 200 ng/mL is heavy drinking (at least 4 drinks/day several days/week . . .).

On August 19, 2024, the LSO issued the Individual a letter in which it notified him that it possessed reliable information that created substantial doubt regarding his eligibility to hold a security clearance. Ex. 1 at 9. In a Summary of Security Concerns (SSC) attached to the letter, the LSO explained that the derogatory information raised security concerns under Guideline E (Personal Conduct), Guideline G (Alcohol Consumption), and Guideline J (Criminal Activity) of the Adjudicative Guidelines. *Id.* at 6–8.

The Individual exercised his right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. Ex. 2 at 13. The Director of the Office of Hearings and Appeals (OHA) appointed me as the Administrative Judge in this matter, and I subsequently conducted an administrative hearing. The LSO submitted 17 exhibits (Ex. 1–17). The Individual did not submit any exhibits. At the hearing, the Individual testified on his own behalf, and the LSO called the Psychologist to testify. Transcript of Hearing, OHA Case No. PSH-25-0036 (Tr.).

II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS

The LSO cited Guideline E as the first basis for its determination that the Individual was ineligible for access authorization. Ex. 1 at 6–7. “Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about the individual’s reliability, trustworthiness, and ability to protect classified or sensitive information.” Adjudicative Guidelines at ¶ 15. According to the LSO, the factors that gave rise to the Guideline E concern were: that the Individual failed to report within three working days that he was criminally charged on February 18 and March 24, 2024; that he failed to disclose the March 24, 2024, and October 21, 2021, charges on the LOI; that he failed to disclose the October 21, 2021, charges in the January 2024 investigatory interview and in the 2023 QNSP; that he falsely denied his 2018 purchase and use of marijuana on the 2020 QNSP,⁵ on the 2023 QNSP, and in the January 2024 investigatory interview; that in the January 2024 investigatory interview he denied any recollection of the February 2018 altercation with his father, or any interaction with law enforcement at that time; and that he falsely denied his 2018 termination from employment on the 2019 Declaration for Federal Employment, on the 2019 QNSP, and on the 2020 QNSP. Ex. 1 at 6–7. These allegations justify the LSO’s invocation of Guideline E. *See* Adjudicative Guidelines at ¶ 16(a)–(b).

The LSO cited Guideline G as the second basis for its determination that the Individual was ineligible for access authorization. Ex. 1 at 7. “Excessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses, and can raise questions about an individual’s reliability and trustworthiness.” Adjudicative Guidelines at ¶ 21. According to the LSO, the factors that gave rise to the Guideline G concern were: the Psychologist’s diagnosis of the Individual with AUD, Mild, and her opinion that the Individual had likely been engaged in weekend binge drinking, which would impair his judgment; that he was charged with Aggravated Battery and other criminal offenses in February 2024 at a time when he was intoxicated, after consuming approximately 10 beers; and that he was arrested and charged with DUI in September 2016. Ex. 1 at 7. These allegations justify the LSO’s invocation of Guideline G. *See* Adjudicative Guidelines at ¶ 22(a), (c)–(d).

⁵ The record does not establish that the Individual purchased the marijuana he used in 2018. As such, I will only consider, as part of the Guideline E security concern, that the Individual failed to disclose his marijuana use.

The LSO cited Guideline J as the third basis for its determination that the Individual was ineligible for access authorization. Ex. 1 at 7–8. “Criminal activity creates doubt about a person’s judgment, reliability, and trustworthiness. By its very nature, it calls into question a person’s ability or willingness to comply with laws, rules, and regulations.” Adjudicative Guidelines at ¶ 30. According to the LSO, the factors that gave rise to the Guideline J concern were: that the Individual was charged with violent crimes on March 24, 2024, February 18, 2024, and October 21, 2021; that the Individual was involved in physical altercations on April 18, 2021, and February 25, 2018, that resulted in police involvement; that he purchased and used marijuana two times⁶ in the summer of 2018; that he was arrested and charged with DUI on September 17, 2016; that he was charged with Speeding on April 27, 2017; and that a “Domestic Violence, No Contact Temporary Restraining Order” was filed against him on September 2, 2015. Ex. 1 at 7–8. These allegations justify the LSO’s invocation of Guideline J. *See* Adjudicative Guidelines at ¶ 22(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 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).

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 his eligibility for an access authorization. The Part 710 regulations are drafted so as to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. *Id.* § 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

During his testimony, the Individual was asked about the March 24, 2024, altercation with his girlfriend that resulted in criminal charges against him. Tr. at 12–13. He initially claimed that he “did not hit” his girlfriend, but was only “trying to stop her from hitting me,” when she dropped her phone and the screen broke. *Id.* at 13. Later in his testimony, he admitted that when his girlfriend was trying to hit him, he “had to just put her on the floor and just hold her there.” *Id.* at 51. Their son was present during the altercation. *Id.* at 13. The Individual reported the incident to

⁶ As noted *supra*, note 5, the record does not establish that the Individual purchased marijuana. As such, I will only consider as part of the Guideline J security concern that the Individual used marijuana twice in 2018.

security at the DOE facility where he works, but he did not know he was also required to report it to the LSO. *Id.* at 13–14. Additionally, he did not disclose the arrest on the April 2024 LOI because he was “pretty nervous” when filling it out and he “was still going through a whole bunch with lawyers and the court process and everything.” *Id.* at 15. When asked about the current status of the criminal charges, the Individual testified that “[e]verything has been dropped.” *Id.* at 17.

Regarding the February 18, 2024, altercation with his girlfriend, the Individual testified that after arriving home from his son’s birthday party, he consumed “some drinks” and fell asleep. *Id.* at 17–18. He woke up still intoxicated and heard his girlfriend “yelling” at his mom on the phone that he had hit her. *Id.* at 18. “And that’s when I had went to jail, that night,” he stated. *Id.* When asked if he took responsibility for the injuries that his girlfriend sustained to her face and arm that night, the Individual testified that he had no recollection of even touching her. *Id.* at 21–22. The Individual did not know he was required to report this incident to the LSO. *Id.* at 18. As to the status of the criminal charges, he indicated that the charges had been dropped. *Id.* at 19.

Regarding the October 21, 2021, altercation, the Individual indicated that he had a dispute with his girlfriend at her mom’s house. *Id.* at 23–24. As he was leaving the house, his girlfriend’s mom came outside, shouted an insult at him, and pushed him. *Id.* at 24. He then pushed her back. *Id.* After arriving home, he received a text from his mother informing him that he had been charged with Battery. *Id.* at 25. But he never received any paperwork or a court date, which is why he did not think it necessary to disclose the charges to DOE. *Id.* at 25–27. He now understands “there’s no excuse” for his omission. *Id.* at 27.

Regarding his failure to disclose on multiple QNSPs that he purchased and used marijuana in 2018, the Individual testified that he “probably just forgot.” *Id.* at 30–31. He confirmed that 2018 was the very last time he used marijuana. *Id.* at 52.

Regarding his failure to disclose that he was terminated from employment in 2018, the Individual claimed that he was not actually fired from this job, but rather he agreed with his boss that he would “look for something else.” *Id.* at 31–32. Later, when confronted with his prior statements indicating that he was fired for taking too many phone calls from his girlfriend, he admitted, “Yes, that was one of the reasons, as well.” *Id.* at 59.

Regarding the February 25, 2018, incident, the Individual stated that he got into an argument with his father, who was intoxicated, and his father “started pushing” him and “swung on” him. *Id.* at 39–43. After his father hit him, he stated, “I just turned around and I picked him up and I just put him down.” *Id.* at 43. According to the Individual, he did this to try and avoid hurting his father and to end the disagreement “as lightly as a [sic] possibly could.” *Id.* He was not arrested or charged in connection with this incident. *Id.* at 44–45. When asked why, during his January 2024 security clearance investigation, he denied any interaction with law enforcement in connection with this incident, the Individual could not give a reason. *Id.* at 55. He acknowledged that he did speak with a police officer “a couple days” after the incident. *Id.*

The Individual acknowledged that he was arrested and charged with DUI in 2016 and received a speeding ticket in 2017. *Id.* at 45. With respect to the man who got a restraining order against him in 2015, the Individual testified, “his daughter was trying to . . . date me, and he didn’t like that

she would leave his house without his permission and come and see me, so then that's why he got a restraining order." *Id.* at 48.

When asked if he has taken any action to address his repeated involvement in incidents of criminality and violence, the Individual testified that he has "completely stopped drinking" and that he no longer puts himself "in any situation to fight with anybody." *Id.* at 19–20. He acknowledged that he is still in a relationship with his girlfriend. *Id.* at 26. They attended "five or six" counseling sessions together around April 2024, and presently they attend bible study together at church. *Id.* at 26, 34. As of the hearing date, they had both stopped drinking. *Id.* Regarding the Individual's altercations with his girlfriend in 2024, the Individual characterized them as "unfortunate events" and blamed his girlfriend for starting the arguments. *Id.* at 47. He understands now that alcohol caused their arguments to escalate. *Id.* Although he still finds himself getting into "major fights," he credits his abstinence as allowing him to handle these arguments more maturely and to "walk away from the problem." *Id.* at 49, 52. With regard to all of the pre-2018 incidents, the Individual stated, "I was just kind of like a dumb kid." *Id.*

The Individual admitted he had not followed the recommendations of the Psychologist to demonstrate rehabilitation and reformation. *Id.* at 36. He had not attended individual therapy, he had not participated in AA, and he had not submitted to any PEth tests. *Id.* at 36–37. Nonetheless, he claimed, he had been abstinent from alcohol for the past seven or eight months.⁷ *Id.* He made the decision to abstain because he wants to do the right thing for his family, he wants to keep his job, and he recognizes he handles conflict more maturely when sober. *Id.* at 55–56. The Individual does not want to go back to drinking, but he acknowledges "[i]t's not going to be easy." *Id.* at 58.

The Psychologist testified after hearing the Individual's testimony. *Id.* at 62. In her opinion, even accepting the Individual had been abstinent for seven or eight months, he would still be in early remission from his diagnosis of AUD, Mild, and her recommendations for rehabilitation and reformation would remain the same. *Id.* As of the date of the hearing, she testified, the Individual had still not demonstrated rehabilitation or reformation. *Id.*

V. ANALYSIS

A. Guideline E

Conditions that could mitigate security concerns under Guideline E include:

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

⁷ Later, he testified that he consumed his last alcoholic drink in the fall of 2024, which would have been at most six months prior to the hearing. Tr. at 57.

- (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 contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur;
- (e) The individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress;
- (f) The information was unsubstantiated or from a source of questionable reliability; and
- (g) Association with persons involved in criminal activities was unwitting, has ceased, or occurs under circumstances that do not cast doubt upon the individual's reliability, trustworthiness, judgment, or willingness to comply with rules and regulations.

Adjudicative Guidelines at ¶ 17.

As an initial matter, the mitigating factors at paragraph (b), (e), (f), and (g) are inapplicable to the facts of this case. The LSO has not alleged any vulnerability to exploitation, manipulation, or duress, nor do the LSO's concerns relate to an association with persons involved in criminal activities. The information regarding the Individual's omissions does not come from an unsubstantiated or unreliable source, and the Individual has not claimed that he acted on the advice of legal counsel or other professional.

Turning to the factor at paragraph (a), the Individual did not make any efforts to correct his omissions and falsifications before being confronted with the facts. He did not correct his failures to disclose his 2018 marijuana use and his 2018 termination from employment until he was confronted by a security clearance investigator in 2024. With regard to his 2021 and 2024 arrests and criminal charges, the Individual never disclosed them to the LSO on his own initiative.⁸ And with regard to the February 2018 altercation with his father, the Individual did not, until the hearing, correct his misrepresentation to the security clearance investigator that he could not recall the incident and that he had no interaction with law enforcement that month. As such, the Individual has not demonstrated mitigation under the condition set forth in paragraph (a).

The Individual has also not demonstrated mitigation under the conditions set forth in paragraph (c). The Individual's omissions were not minor, as they concealed derogatory information about the Individual's criminal activity, and they were not infrequent or so long ago, as many of them continued uncorrected up until the date of the hearing. Moreover, the Individual did not show that his omissions were the result of any unique circumstances. He offered multiple excuses for his failures to report, including that he was "nervous" when completing the LOI, that he was not aware of the reporting requirement applicable to clearance holders, that he never received paperwork

⁸ Even accepting that the Individual reported his arrests to security guards at the DOE facility where he works, such disclosure does not satisfy the requirement in DOE Order 472.2A that, as a clearance holder, he must report his arrests to the LSO.

confirming his criminal charges, that he “forgot” about the underlying criminal incidents, and in some cases, that he had no reason or excuse at all. None of these excuses constitutes a unique circumstance that would assure me the omissions are unlikely to recur and do not cast doubt on the Individual’s reliability, trustworthiness, or good judgment.

Finally, the Individual has not demonstrated mitigation under the conditions set forth in paragraph (d). At the hearing, the Individual acknowledged, in some cases, that his omissions were inexcusable. But he did not present any evidence of counseling or other positive steps taken to change his unreliable behavior.

For the foregoing reasons, I cannot find that the Individual has resolved the LSO’s Guideline E concerns based on any of the applicable mitigating factors.

B. Guideline G

Conditions that could mitigate security concerns under Guideline G include:

- (a) So much time has passed, or the behavior was so infrequent, or it happened under such unusual circumstances that it is unlikely to recur or does not cast doubt on the individual’s current reliability, trustworthiness, or judgment;
- (b) The individual acknowledges his or her pattern of maladaptive alcohol use, provides evidence of actions taken to overcome this problem, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations;
- (c) The individual is participating in counseling or a treatment program, has no previous history of treatment and relapse, and is making satisfactory progress in a treatment program; and
- (d) The individual has successfully completed a treatment program along with any required aftercare, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations.

Adjudicative Guidelines at ¶ 23.

The concerns related to the Individual’s alcohol consumption continued up to the date of the hearing, as he continues to meet sufficient criteria for a diagnosis of AUD, Mild, and according to the Psychologist, has failed to demonstrate rehabilitation or reformation. Even accepting the Individual’s uncorroborated testimony that he has abstained from alcohol since seven or eight months before the hearing, such a period of time is too short to mitigate an eight-year pattern of alcohol-related incidents, which began with a DUI in 2016 and continued up until he was charged with Battery and related crimes in early 2024. Additionally, the Individual has not shown that his alcohol consumption occurred under any unusual circumstances that make it unlikely to recur or do not cast doubt on his current reliability, trustworthiness, or judgment. As such, the Individual has failed to demonstrate mitigation under the conditions set forth in paragraph (a).

The Individual has similarly failed to mitigate the Guideline G security concerns under paragraphs (b), (c), or (d). Although he acknowledges his pattern of maladaptive alcohol use and, at the hearing, expressed a desire to remain abstinent, he has not followed any of the treatment recommendations set forth by the Psychologist, nor has he established a 12-month period of abstinence, which the Psychologist indicated would be necessary to demonstrate reformation. In fact, the Individual admitted to how difficult it has been to maintain his abstinence, which gives me little confidence that he has overcome his problem.

For the foregoing reasons, I cannot find that the Individual has resolved the LSO's Guideline G concerns based on any of the applicable mitigating factors.

C. Guideline J

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.

As an initial matter, the mitigating factors at paragraph (b) and (c) are inapplicable to the facts of this case. The Individual has not alleged that he was pressured or coerced into committing the criminal acts alleged in the SSC. Nor can I find there is no reliable evidence to support that he committed the offenses. On the contrary, the frequency of the incidents, along with the detailed accounts of the police and other witnesses in the record, provides more than sufficient evidence to convince me that the Individual committed the acts, even in those cases where he denies it.

The Individual's criminal activity spans a period of nearly ten years, and just in the last four years, includes three separate incidents that resulted in his being charged with Battery and associated crimes. As such, I cannot find that sufficient time has elapsed to resolve the related security concerns. Although alcohol consumption contributed to some of the criminal behavior, as stated above, the Individual has not successfully resolved the concerns related to his alcohol use, and has therefore not shown that the circumstances underlying his conduct make it unlikely to recur or do not cast doubt on his reliability, trustworthiness, or good judgment. The Individual has failed to demonstrate mitigation under the conditions set forth in paragraph (a).

Despite a clear pattern of criminal involvement over many years, the Individual has expressed little if any remorse for his behavior. Even at the hearing, he was reluctant to take responsibility for

harming his girlfriend in February and March 2024 or his girlfriend's mother in 2021, instead blaming his behavior on the effects of alcohol consumption or insisting that he was only acting at the instigation of others. Further, the Individual did not present any evidence of restitution, job training or higher education, good employment record, or constructive community involvement. Accordingly, I am unable to find evidence of successful rehabilitation from criminality pursuant to paragraph (d).

For the foregoing reasons, I cannot find that the Individual has resolved the LSO's Guideline J concerns based on any of the applicable mitigating factors.

VI. CONCLUSION

In the above analysis, I found that there was sufficient derogatory information in the possession of DOE to raise security concerns under Guidelines E, G, and J of the Adjudicative Guidelines. After considering all the relevant information, 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 any of the security concerns set forth in the Summary of Security Concerns. Accordingly, I have determined that the Individual's access authorization should not be restored. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Matthew Rotman
Administrative Judge
Office of Hearings and Appeals