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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: March 28, 2025 )  
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Case No.: PSH-25-0098

Issued: June 27, 2025

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**Administrative Judge Decision**

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Andrew Dam, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXX (the Individual) to hold an 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."<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 granted.

**I. BACKGROUND**

The Individual applied for access authorization in conjunction with employment with a DOE contractor (DOE Contractor). Exhibit (Ex.) 1 at 2.<sup>2</sup> The Individual in February 2024 completed a Questionnaire for National Security Positions (QNSP), disclosing two criminal incidents: the first occurring in September 2023 and the second in November 2023. Ex. 4 at 56–58, 65. Further investigation revealed that in September 2023 police arrested and charged the Individual for "Malicious Destruction of Property" (Destruction of Property), after the Individual allegedly threw a rock or brick through a bar window while intoxicated; the Individual had no "recollection" of the incident. *Id.* at 71, 76; Ex. 6 at 110. In November 2023, the Individual received charges for "Reckless Driving, Misdemeanor" (Reckless Driving) and "Obstructing Police – Fleeing or Eluding (Felony)" (Fleeing). Ex. 4 at 77. A police officer observed the Individual "popping a wheelie" on an electric bike and nearly hitting a vehicle. *Id.*; Ex. 6 at 110. The officer initiated his

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<sup>1</sup> 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."

<sup>2</sup> The Local Security Office's (LSO) exhibits were combined and submitted in a single, 134-page PDF file. References to the LSO's exhibits are to the exhibit number and the PDF page number, regardless of internal pagination.

lights and siren to conduct a traffic stop, but the Individual left the scene. Ex. 4 at 77; Ex. 6 at 110. The officer arrived at the Individual's address, observed blood on the Individual's shin, and questioned the Individual regarding the blood. Ex. 4 at 77. The Individual denied knowing why blood was on his shin and refused to show the officer his bike when asked. *Id.* Thereafter, police arrested the Individual. *Id.*; Ex. 6 at 110. Other police records reflect speeding charges in 2020 and 2021. Ex. 4 at 79 (criminal history records reflecting that in 2021 the Individual "was issued a civil traffic citation for speeding 60 MPH in a 55 MPH zone" and that in 2020 the Individual was charged with "Violation of Basic Speed Law . . .").

The Individual underwent an Enhanced Subject Interview (ESI) conducted by an investigator in April 2024. Ex. 4 at 70. During the ESI, the Individual stated that he drank alcohol and "usually [drank] 6-8 regular can[ned] beers in social settings[.]" *Id.* at 71. During the April 2024 ESI, he also represented he did "not drink to intoxication." *Id.* Two months later in June 2024, the Individual provided a response to a Letter of Interrogatory (LOI). Ex. 6 at 112. In his response, he represented that he drank to intoxication "2-3 times per month" while in college and would "rarely" drink to intoxication "maybe once per month" while "[o]ut of college." *Id.* In the LOI, the Individual further represented that "the last time [he] was intoxicated was after [his] graduation" in May 2024 when he "had roughly 6-8 12 oz beers over a 3-4 hour period." *Id.* The Individual stated that he "started using alcohol when [he] turned 21"<sup>3</sup> and "[f]rom 2000-2021 [he] never used alcohol." *Id.* at 111.

The LSO referred the Individual for a psychological assessment with a DOE consultant psychologist (DOE Psychologist) in August 2024. Ex. 7 at 115. During the assessment, the Individual admitted to first drinking alcohol at 20 years old, which contradicted his earlier claim that he started drinking alcohol at 21. *Compare id.* at 117 with Ex. 6 at 111 (June 2024 response to the LOI). As part of the assessment, the Individual underwent a Phosphatidylethanol (PEth) test.<sup>4</sup> Ex. 7 at 116, 121. The Individual's PEth test returned a value of 77 ng/mL, which the DOE Psychologist interpreted as providing evidence of regular or heavy drinking within a few weeks of the test. *Id.* at 116. Following the evaluation, the DOE Psychologist issued a report (DOE Psychologist's Report), in which he opined that the Individual binge consumed alcohol to the point of impaired judgment. *Id.* at 139-40. He also concluded that, at the time of the evaluation, there was inadequate evidence of rehabilitation and reformation. *Id.* at 141.

The LSO subsequently issued the Individual a Notification Letter advising him that it possessed reliable information that created substantial doubt regarding his eligibility for access authorization. Ex. 1 at 2. In a Summary of Security Concerns (SSC) attached to the letter, the LSO explained that the derogatory information raised security concerns under Guidelines E, G, and J of the Adjudicative Guidelines. Ex. 2 at 6-9.

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<sup>3</sup> He turned 21 in 2021. Ex. 4 at 5 (QNSP stating Individual's date of birth).

<sup>4</sup> PEth is a "biomarker . . . formed on the surface of the red blood cell . . . [,]" and "PEth production begins as soon as ethanol is consumed" and "[o]nce formed . . . degrades very slowly . . ." Ex. 8 at 129-30. The PEth test was completed by United States Drug Testing whose website reflects that "PEth may be detected in blood for up to approximately 2-4 weeks" though "there may be isolated circumstances where PEth may be detected at 6 weeks or more." United States Drug Testing, *Adult PEth Testing*, <https://www.usdtl.com/testing/peth-alcohol-test-labs> (last visited June 4, 2025). "PEth levels in excess of 20 ng/mL are considered evidence of moderate to heavy ethanol consumption." Ex. 7 at 121.

The Individual exercised his right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. Ex. 3 at 11. The Director of the Office of Hearings and Appeals (OHA) appointed me as the Administrative Judge in this matter, and I conducted an administrative hearing. The LSO submitted nine exhibits (Ex. 1–9). The Individual submitted six exhibits (Ex. A–D, G–H).<sup>5</sup> Neither party objected to the admission of these exhibits into the record. Hearing Transcript, OHA Case No. PSH-25-0098 (Tr.) at 8–9. The Individual testified on his own behalf. The LSO offered the testimony of the DOE Psychologist.

## II. THE SECURITY CONCERNS

### a. Guideline E

Guideline E relates to questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations. Adjudicative Guidelines at ¶ 15. Especially concerning is the refusal to be truthful and honest during the administrative review process. *Id.* Conditions that could raise security concerns include the deliberate omission of relevant facts from a personnel security questionnaire and concealing information from an investigator or security official. *Id.* at ¶ 16(a)–(b). Furthermore, “untrustworthy or unreliable behavior” and “a pattern of dishonesty” may be considered when it “supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, [or] unwillingness to comply with rules and regulations . . . .” *Id.* at ¶ 16(d)(1), (3). In citing Guideline E, the LSO cited to the Individual:

- (1) reporting in his June 2024 LOI response that, “since May 2024, he rarely drinks alcohol, maybe going to a social setting such as a bar once a month” which the LSO alleged as inconsistent with his August 2024 PEth test which evinced regular or heavy drinking within a few weeks of the test;
- (2) reporting during his April 2024 ESI that he does not drink to intoxication, which the LSO alleged as inconsistent with his June 2024 LOI response reporting that he was last intoxicated in May 2024 and drinks to intoxication approximately once per month and the fact that he became intoxicated during the September 2023 Destruction of Property incident;
- (3) reporting in his June 2024 LOI response that he “never” used alcohol until he turned 21 in May 2021 but then reporting to the DOE Psychologist, during an August 2024 interview, that he first started drinking at 20 years old; and
- (4) when confronted by police after having fled from them on a bike, denying knowledge as to why he had blood on his shin and refusing to show the police his bike.<sup>6</sup>

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<sup>5</sup> The Individual’s exhibits are not labeled sequentially because the Individual, through counsel, agreed to withdraw earlier submitted exhibits or portions of exhibits—specifically, professional headshots, a copy of his driver’s license, and two duplicates of a letter of recommendation in Exhibit A. Tr. at 7–8.

<sup>6</sup> The LSO mistakenly characterized this fourth concern as “provid[ing] false or misleading information during the national security investigation and adjudicative processes.” Ex. 2 at 7–8. The Individual’s concealment of information

Ex. 2 at 7–8.

The first alleged concern—that the Individual in his June 2024 LOI self-reported rarely drinking, maybe going to a social setting such as a bar monthly and that his August 2024 PEth allegedly evinced regular or heavy drinking within a few weeks of the test—does not raise a security concern under Guideline E. The results of the August 2024 PEth test could only have been used to estimate the Individual’s alcohol consumption within the four weeks prior to the test, and therefore sheds no light on the Individual’s alcohol consumption prior to July 2024. Accordingly, the LSO’s reliance on the August 2024 PEth test is misplaced and does not establish that the Individual’s June 2024 LOI response was untruthful.

The second alleged concern—that the Individual, during the April 2024 ESI, stated he does not drink to the point of intoxication; that the Individual in his June 2024 LOI response reported that he last drank to intoxication in May 2024 and drank to the point of intoxication monthly, and that the Individual became intoxicated during the September 2023 Destruction of Property incident—also does not raise a security concern under Guideline E. The notes from the April 2024 ESI make clear that the Individual had no intent to obscure that he drank to intoxication. Ex. 4 at 71 (ESI notes reflecting that the Individual acknowledged he was “intoxicated with alcohol” at the time of the September 2023 incident and that he “continue[d] drinking alcohol to present”). The Individual explained that his “understanding of the question [during the April 2024 ESI] was incorrect” and only meant that his drinking was not primarily for the purpose of becoming intoxicated but instead to be social. Tr. at 21. He consistently admitted to drinking to the point of intoxication during the investigative process and had not meant to deny that fact. *Id.*

However, given the evidence that the Individual had concealed his alcohol use prior to turning 21 and given his failure to provide forthcoming answers to the police during the November 2023 incident, there is sufficient derogatory information in the possession of DOE to raise security concerns under Guidelines E.

#### **b. Guideline G**

Under Guideline G, “[e]xcessive 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. Conditions that could raise security concerns include “alcohol-related incidents away from work, such as . . . disturbing the peace” and “habitual or binge consumption of alcohol to the point of impaired judgment, regardless of whether the individual is diagnosed with alcohol use disorder[.]” *See id.* at ¶ 22(a), (c). In citing Guideline G, the LSO cited to:

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from the police in the November 2023 incident clearly does not amount to the provision of false or misleading information during a national security investigation or adjudication. Regardless, the LSO’s SSC has adequately described this as “[c]onduct involving questionable judgment, lack of candor, [or] dishonesty . . . rais[ing] questions about [the Individual’s] reliability, trustworthiness, and ability to protect classified or sensitive information” which supports the invocation of Guideline E. *Id.* at 7. At the hearing, the Individual, through counsel, did not dispute having notice of the security concern. Tr. at 9. I find that the Individual had sufficient notice of the security concern.

- (1) the opinion in the DOE Psychologist's Report that the Individual habitually or binge consumes alcohol to the point of impaired judgment and has not demonstrated evidence of rehabilitation or reformation;
- (2) the August 2024 PEth result providing evidence that the Individual had been drinking on a regular or heavy basis;<sup>7</sup> and
- (3) the Individual's alcohol-related criminal arrest and charge for Destruction of Property in September 2023.

Ex. 2 at 6–7. There is sufficient derogatory information in the possession of DOE to raise security concerns under Guidelines G.

### **c. Guideline J**

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 “a pattern of minor offenses . . . which in combination cast doubt on [an] individual’s judgment, reliability, or trustworthiness” and “evidence . . . of criminal conduct, regardless of whether [an] individual was formally charged, prosecuted, or convicted.” *Id.* at ¶ 31 (a)–(b). In citing to Guideline J, the LSO cited to:

- (1) the Individual’s admission that he began drinking alcohol when he was 20 years old;
- (2) his two speeding tickets in 2020 and 2021;
- (3) the September 2023 Destruction of Property incident; and
- (4) the November 2023 Reckless Driving and Fleeing incident.

Ex. 2 at 8–9. 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

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<sup>7</sup> This allegation informed the DOE Psychologist’s conclusion but does not present a sufficient, standalone security concern.

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. Individual’s Background, Speeding Tickets, and Drinking Habits During College

The Individual submitted into the record his resume reflecting his achievement in school and work, performance reviews from his work, copies of his associate’s and bachelor’s degrees, and evidence of achievement in high school, such as a certificate acknowledging athletic achievement for playing on his high school sports team. Ex. A at 4–22; Ex. B at 30–31; Ex. C at 32–33. The Individual indicated that he was submitting these “to help show who [he] [is] as an individual.” Ex. A at 1.

The Individual attended college from 2020 to 2024. Ex. 4 at 32–33. While in college, he received two speeding tickets in October 2020 and October 2021. *Id.* at 79. During the hearing, the Individual explained the circumstances surrounding those traffic citations, indicating that in 2020, he was riding his motorcycle with several friends, and they were all stopped by a law enforcement officer and issued speeding tickets. Tr. at 26–27. In 2021, the Individual was trying to navigate his vehicle on an unfamiliar road. *Id.* at 26. There was a significant change in the speed limit, and because the Individual had engaged his vehicle’s cruise control function, he “missed the change of speed limit.” *Id.* He was, accordingly, stopped by a law enforcement officer and issued a ticket. *Id.* The Individual testified that he paid all fees and fines associated with both speeding tickets. *Id.* at 26–27.

The Individual started drinking alcohol at 20 years old while in college. Ex. 7 at 117; Tr. at 21–22, 27, 34 (Individual’s testimony admitting that he began drinking at 20 years old). The Individual reported that he regularly drank alcohol starting at 21 years old. Ex. 6 at 111; Ex. 7 at 117. When asked how frequently he consumed alcohol, he indicated that, “during college, [he] would often go out every other weekend to the bar with friends” and “often [ ] would [consume alcohol] at home as well.” Ex. 6 at 111. He reported consuming between three and eight alcoholic beverages when drinking. *See id.* at 112 (June 2024 response to the LOI reporting that he “would typically have between 3-6 drinks per night”); Ex. 4 at 71 (ESI interview notes reflecting the Individual estimating he “usually drinks 6-8 regular can[ned] beers when hanging out with his friends in social settings”). He also estimated that, during college, he needed approximately four to six drinks to become intoxicated and that he would drink to intoxication two to three times per month. Ex. 6 at 112.

**b. Individual's September 2023 Destruction of Property Arrest**

In September 2023, the Individual drank with his friend at a local bar. Ex. 4 at 71. The Individual could not recall the exact amount of alcohol he consumed that night. *Id.* A bouncer asked the Individual to leave. *Id.* at 71, 76. The Individual, during his ESI, indicated that “he believe[d]” bar staff removed him “because he was intoxicated with alcohol but could not confirm the exact reason . . . .” *Id.* at 71. Criminal records reflect that “a bar security officer . . . said he kicked [the Individual] out of the bar because he had smashed a bottle inside the bar.” *Id.* at 76. The Individual left the bar and proceeded “to pick up a stone and thr[o]w it between his legs through the window . . . .” *Id.* at 76; *see also id.* at 71 (“The security bouncer [ ] witnessed him throwing a brick at a window outside the bar and called the police.”).

The Individual had “no recollection of this [throwing the brick or rock]” and only “remember[s] . . . walking home” when “several police officers approached [him] asking [him] questions.” Ex. 6 at 110. The Individual recounted being “unsure [as to] what they were referring . . . .” *Id.* At the hearing, the Individual confirmed he had blacked out during this incident. Tr. at 39. The police records reflect the Individual told the police that “he did not want to admit to anything because he was intoxicated.” Ex. 4 at 71. The police “told [him] he matched the description of the suspect” then “handcuffed, arrested, and charged [the Individual] with” Malicious Destruction of Property. *Id.* at 76; *see also* Ex. 6 at 110. The Individual disclosed that his “friend [ ] explained to [him] the next day” that he had been accused of “throw[ing] a brick through a window of a business behind the bar.” Ex. 6 at 110.

The Individual indicated that in February 2024 he received a notice from the court regarding a hearing date for the Destruction of Property charge. *Id.* Court records reflect that the Court entered, in March 2024, an order of *nolle prosequi*. Ex. 4 at 80. Accordingly, “[t]he case closed with no further actions.” *Id.* at 71. At the hearing, the Individual generally took responsibility for the incident. *See* Tr. at 18–19 (the Individual admitting that he had been drinking on the night of the incident and indicated that he was “very ashamed of his actions”).<sup>8</sup>

**c. Individual's November 2023 Arrest for Reckless Driving and Fleeing on an Electronic Bike**

Two months after the September 2023 Destruction of Property incident, the Individual planned on meeting his friends at a local bowling alley. Ex. 4 at 70. The Individual rode his electric bike and popped a wheelie in front of a police officer. *Id.* Police records reflect that “[t]he officer initiated his lights and sirens to conduct a traffic stop” but “the [Individual] did not stop.” *Id.* at 77. The records further reflect that the Individual “drove through grass, nearly hit a vehicle, and almost hit the patrol vehicle.” *Id.* The Individual admitted to fleeing from the police and going home. *Id.* at 70; Ex. 6 at 110.

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<sup>8</sup> In his closing statement, Individual's counsel argued there is “no reliable evidence” that the Individual committed the offense, “other than he got kicked out of the bar.” Tr. at 77.

At the hearing, the Individual admitted that he made the “horrible decision” to flee from the police that night. Tr. at 23, 42. The Individual also admitted that he had been drinking alcohol prior to encountering police. *Id.* at 41. The Individual could not recall the exact amount he had consumed but admitted that he had attended a college sporting event prior to the incident. *Id.* As recounted above, the Individual estimated that he typically drank anywhere from three to eight drinks when in a social setting at this time. *See supra* at Section IV(a).

Approximately half an hour after the Individual eluded the police, an officer arrived at his home, observed blood on his shin, and questioned the Individual regarding the blood. Ex. 4 at 70, 77. The Individual “denied knowing why he had blood on his shin.” *Id.* at 77. The police also asked the Individual if he had a bike and requested to see the bike. *Id.* The Individual “refused to show his bike.” *Id.* The officer thereafter placed Individual under arrest and found the electric bike in the Individual’s garage. *Id.* The Individual was charged with Reckless Driving and Fleeing. *Id.*

The Individual explained that he deeply regretted the decision to run away from the police. Tr. at 23. He also could not explain why he had failed to cooperate with the police when they came to his home: “I don’t know. It was just silly mistakes[,] and I know I was in the wrong. I honestly couldn’t tell you, and I regret it.” *Id.* at 24. He also “attended counseling through [his] university . . . required” by “student conduct.” *Id.* He explained that the counseling lasted for about six or eight weeks and helped him through a “very difficult point in my life.” *Id.* at 24; *see also* Ex. 7 at 117 (DOE Psychologist’s Report indicating that the Individual reported the following benefits of therapy: “I have learned from my mistakes, how to navigate relationships in life from a different perspective[.]”).

The Individual retained a lawyer and initially pled “not guilty[.]” Ex. 6 at 110. In December 2023, the Individual later pled guilty to a lesser charge. *Id.*; Ex. 4 at 80. Court records reflect that the Individual “received 2 days of jail served[.]” “was ordered to complete 6 days of community service and a 3-month probation[.]” and “paid a total of \$585 in court fees.” Ex. 4 at 80. The Individual completed probation in February 2024. *Id.* The Individual completed his community service obligations with a nonprofit that addresses food insecurity for children. Ex. A at 24–29. He also submitted a letter of support from the volunteer coordinator who described him as a “great worker[.]” *Id.* at 29. The Individual stopped volunteering upon completion of the hours required of him. *See id.* at 28–29 (reflecting attendance until February 2024 upon termination of probation).

#### **d. Individual’s Application for Access Authorization and Investigation**

The Individual submitted his QNSP in February 2024, disclosing both the September 2023 and November 2023 criminal incidents. Ex. 4 at 56–57, 65. The Individual subsequently underwent an ESI in April 2024. *Id.* at 70. During the ESI, according to the notes of the investigator who conducted the interview, the Individual stated “he does not drink to intoxication” but admitted that he “believed” himself to have been kicked out of a bar “because he was intoxicated with alcohol” on the night of the September 2023 incident. *Id.* at 71. During the ESI, he also self-reported that he continued to drink alcohol. *Id.* (“The [Individual] has continued drinking alcohol to present. He usually drinks 6-8 regular can[s of] beer[] when hanging out with his friends in social settings.”).



The LSO issued to the Individual the LOI, to which the Individual submitted his response in June 2024. Ex. 6 at 104. In the June 2024 LOI response, the Individual reported that he was last intoxicated in May 2024 and since then rarely drank to the point of intoxication, “maybe once per month.” *Id.* at 112. He further estimated that he “rarely drink[s]” alcohol, “maybe go[ing] out to a social setting such as a bar once a month.” *Id.* at 111. The Individual also disclosed that he “started using alcohol when [he] turned 21” and that, “[f]rom 2000-[May] 2021[,] [he] never used alcohol.” *Id.* The Individual “certif[ied] that all the above information [was] accurate to the best of [his] knowledge.” *Id.*; Tr. at 46–47.

As discussed more below, the Individual then met with the DOE Psychologist in August 2024. Ex. 7 at 115; *see infra* at Section II(e). According to the DOE Psychologist’s Report, the Individual, during the clinical interview, “reported he was 20 years old when he had his first drink . . .” contradicting his earlier statement that he never used alcohol prior to turning 21. *Compare id.* at 117 with Ex. 4 at 111. At the hearing, the Individual had an opportunity to explain why he provided inaccurate information in the June 2024 LOI, when he certified he had not had alcohol prior to turning 21. Tr. at 22, 46–47. The Individual could not provide a specific explanation, stating instead that “it was just something[he] overlooked” and apologized. *Id.*

#### **e. The DOE Psychologist’s Report**

At the request of the LSO, the Individual met with the DOE Psychologist in August 2024. Ex. 7 at 115. As part of the psychological assessment, the DOE Psychologist, *inter alia*, (1) met with the Individual for an interview, (2) reviewed the personnel security documentation, and (3) reviewed a chain-of-custody PEth test result from the Individual. *Id.* at 115–17. The DOE Psychologist’s Report reflects that the Individual self-reported that he (1) began drinking alcohol at 20 years old, (2) more regularly drank alcohol at 21, (3) had presently cut down on his alcohol consumption, (4) felt remorse for his criminal incidents *Id.* at 117–18. The DOE Psychologist, in his Report, stated that the Individual’s PEth test “provid[ed] medical evidence that [the Individual] ha[d] been drinking on a regular or heavy basis within a few weeks of the test.” *Id.* at 116.

Based upon the above, the DOE Psychologist found that he could not diagnose the Individual with an alcohol use disorder pursuant to the *Diagnostic and Statistical Manual of Mental Disorders – Fifth Edition (DSM-5)*. *Id.* at 120. However, the DOE Psychologist found that the Individual “drinks to excess on occasion” which “resulted in problematic situations in the past” and that there was “not sufficient evidence of reformation at th[e] time” of the evaluation. *Id.* The DOE Psychologist found the Individual’s prognosis to be good given that the Individual was “open to receiving support services for alcohol use” but found “[in]sufficient evidence of reformation . . . at the time of the evaluation” *Id.* The DOE Psychologist recommended that the Individual “complete 10 weeks of substance use counseling to address his alcohol use.” *Id.*

**f. The Individual's Current Alcohol Use, Attendance in Alcoholics Anonymous, and Related Testimony**

The Individual began working for the DOE Contractor in August 2024. *See* Ex. A at 6. The Individual testified that he last drank alcohol in mid-February 2025. Tr. at 15. The Individual received the DOE Psychologist's Report in late February 2025 and testified that he stopped consuming alcohol before his receipt of the Report. Ex. 1 at 3; Tr. at 33. The Individual acknowledged reading the DOE Psychologist's opinion that "he drinks to excess on occasion that has resulted in problematic situations in the past" and the recommendation that he "complete 10 weeks of substance use counseling to address his alcohol use." Ex. 7 at 120; Tr. at 47–48. Accordingly, the Individual realized that "[it was] probably time to admit [that he had] a problem and attend AA." Tr. at 33. The Individual submitted a sample for PEth testing in May 2025. Ex. G at 2–3. The laboratory report reflects a negative result, providing evidence of abstinence or minimal alcohol consumption for up to four weeks. *Id.* He testified that his intent is to no longer drink alcohol and submitted a sworn, written statement that he "will continue not to consume alcohol in the future" with the "understand[ing] that any future involvement with drinking is grounds for revocation of my national security eligibility." Tr. at 28; Ex. D at 35.

The Individual started attending weekly online Alcoholics Anonymous (AA) meetings on March 17, 2025. Ex. H at 5 (email verification that the Individual attended the weekly sessions from March 17, 2025, to May 12, 2025). Regarding his AA attendance, the Individual testified that listening to the stories presented by other attendees was "a little bit of a wake-up call" and that he was "glad to have attended[.]" Tr. at 30. The Individual represented that, given those benefits, he plans to continue attending AA regardless of the outcome of this proceeding. *Id.* at 38–40. The person verifying his AA attendance represented that the Individual "shows up early and is attentive." Ex. H at 5. However, the Individual admitted that he never shared about his relationship with alcohol at the AA meetings. Tr. at 30. Furthermore, when asked to recite just one of the Twelve Steps, the Individual could not recount a single step, despite having attended weekly sessions from mid-March 2025 to mid-May 2025. *Id.* ("I couldn't tell you the exact steps. I know there is a 12-step program for it, and that's kind of my understanding of it.") He also acknowledged that, while AA participants commonly obtain a sponsor to support their recovery efforts, he had not secured a sponsor. *Id.* at 30–31.

The Individual testified that he believed his attendance in AA fulfilled the DOE Psychologist's recommendation that he attend 10 weeks of substance use counseling. Tr. at 70–71; *see also* Ex. H at 5 ("The government recommended 10 weeks of AA . . ."). However, at the hearing, the DOE Psychologist clarified that the Individual's AA attendance was not equivalent to counseling. Tr. at 62–63. Although AA offers participants a way to remain accountable if they choose to engage fellow AA members or a sponsor, it is possible for AA participants to "attend an AA group and not get very connected[.]" *Id.* As the DOE Psychologist testified, there is no requirement in AA to engage a sponsor, share a story, or invite feedback from the group. *Id.* An individual can "literally sit in an AA meeting and just sort of receive for the hour . . . and just walk out the door and not really talk to anybody[.]" *Id.* The DOE Psychologist noted that passively receiving information or passively experiencing the group is different from individual counseling, where one is required to

engage the counselor or therapist one-on-one. *Id.* He also noted that although the persons leading AA meetings “can be” certified counselors, they often are not. *Id.* at 71.

The DOE Psychologist testified that he would never “have recommended AA just by itself.” *Id.* at 65. Regardless, the DOE Psychologist opined that he would have liked to see the Individual engage a sponsor, share his alcohol-related stories, and actively work the Twelve Steps. *Id.* The DOE Psychologist also clarified that he intended the Individual to complete “ten weeks of substance use outpatient counseling with an individual counselor[.]” *Id.* at 70–71. He clearly stated that this was required for the Individual to show adequate evidence of rehabilitation or reformation.<sup>9</sup> *Id.* Ultimately, the DOE Psychologist acknowledged the Individual’s prognosis as good, as it appeared from the psychological evaluation that the Individual is “open to receiving help and seeking out treatment.” *Id.* at 57–58.

Throughout the investigative process, the Individual minimized the role alcohol played in his criminal incidents. *See, e.g.*, Ex. 4 at 60 (marking “No” when asked if his alcohol use “resulted in intervention by law enforcement/public safety personnel” in the February 2024 QNSP); Ex. 6 at 111 (“[A]lcohol makes me more sociable and has no negative impact on me.”). At the hearing, the Individual showed some recognition of the relationship between his alcohol use and criminality; however, the Individual only provided non-specific, general statements regarding his regret. Tr. at 19, 24, 28, 39–41. Furthermore, prior to the hearing, the Individual had not disclosed that he had been drinking alcohol prior to his November 2023 arrest for Fleeing. *Compare id.* at 40–41 (Individual’s testimony regarding his alcohol use before the November 2023 arrest) *with id.* at 68–69, 72 (DOE Psychologist’s testimony that he heard, for the first time at the hearing, that the Individual drank alcohol prior to his November 2023 arrest), Ex. 4 at 70–71 (notes from April 2024 ESI lacking any mention of alcohol use in relation to the November 2023 arrest), and Ex. 6 at 110 (June 2024 LOI response failing to include his alcohol use when he was asked to provide a “detailed narrative of the events that led up to [his November 2023] arrest”). As stated above, the Individual could not provide specific testimony as to the amount of alcohol consumed nor the role alcohol played in the events leading up to the November 2023 arrest. Tr. at 40–41.

## V. ANALYSIS

Based on the record before me, I am not convinced that the Individual has mitigated the LSO’s security concerns.

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<sup>9</sup> At the hearing, the Individual’s counsel asked the DOE Psychologist, on cross examination, whether the Individual had shown adequate evidence of rehabilitation based on the Individual’s misunderstanding that the DOE Psychologist recommended ten weeks of AA attendance. Tr. at 65–66. The DOE Psychologist answered that “[t]he evidence that he has provided is – yes, if he interpreted it that AA would suffice for that, then I would say yes.” *Id.* at 66. However, the DOE Psychologist, on redirect, clarified, in his capacity as an expert, that he ultimately recommended that the Individual complete counseling with a professional: “I [ ] think that [the Individual] would need to complete the ten weeks of substance use outpatient counseling with an individual counselor . . . , *in my clinical judgment*, for him to have evidence of rehabilitation and reformation.” *Id.* at 70–71 (emphasis added).

**a. Guideline E**

Guideline E concerns may be mitigated if:

- (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;
- (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.

Mitigating condition (a) does not apply to the Individual's failure to cooperate with police leading to the November 2023 criminal arrest. The Individual when confronted by law enforcement at his home concealed information from the police and had not corrected his concealment prior to his arrest. Regarding his false statement when he initially reported he "never" drank alcohol before turning 21, I acknowledge that the Individual self-corrected by later admitting to the DOE Psychologist that he started drinking alcohol at 20. However, I cannot find the Individual made this correction in good faith where the Individual continues to obscure the real reason behind the original concealment of information. The Individual acknowledged his responsibility to provide accurate information in his June 2024 LOI response but lacked any specific explanation as to why

he provided inaccurate information. He could only provide that he “overlooked” his response. I find this explanation lacks credibility and that the error and subsequent correction cannot be attributed to a mere administrative error. The Individual clearly knew he had provided a false answer given the specific details furnished when answering this question—in particular, dates, age, and an absolute qualifier when discussing when he started drinking: “I started using alcohol *when I turned 21*. Which [sic] was over 3 years ago on [his birthdate]. *From 2000-2021 I never used alcohol.*” Ex. 6 at 112 (emphasis added). The Individual’s testimony chalking up the falsification as an administrative error, rather than acknowledging the intentional nature of the falsification, leads me to conclude that the Individual has not taken responsibility for his dishonesty and therefore did not act in completely good faith when he revealed that he began consuming alcohol at age 20. This persistent lack of honesty casts doubts on his ability to be fully forthcoming in the future. Mitigating condition (a) does not apply. 10 C.F.R. § 710.7(c) (requiring consideration of “the nature, extent, and seriousness of the conduct” and “the frequency and recency of the conduct”).

Regarding mitigating condition (b), the Individual’s behavior cannot be attributed to the advice of legal counsel or a person with relevant professional responsibilities. The Individual presented no such evidence. This mitigating condition does not apply.

Mitigating condition (c) does not apply to the concerns raised. As explained above, I cannot find the omission and falsifications minor given the seriousness of the Individual (1) actively refusing to cooperate with the police leading up to his November 2023 arrest; (2) knowingly providing false information to the LSO in the June 2024 LOI response; (3) certifying that his response to the June 2024 LOI was accurate; and (4) failing to provide any reasonable explanation for furnishing false information to the police or LSO. Additionally, I cannot find his omissions or falsifications to be “infrequent” given that he gave two inaccurate statements in November 2023 and June 2024—only eight months apart. Given that the most recent of these inaccurate statements occurred only a year ago, I also cannot find that “so much time has passed.” The Individual presented no unique circumstances for the inaccurate statements. He expressed regret but could not provide a specific explanation for failing to cooperate with the police prior to his November 2023 arrest. Regarding his falsification in the June 2024 LOI response, he explained he had “overlooked” his answer to the question—which, as stated above, I do not credit. The frequency and recency of the dishonest behavior reflects poor judgment and a likelihood of recurrence. *See* 10 C.F.R. § 710.7(c) (requiring consideration of, among other things, “[t]he nature, extent, and seriousness of the conduct[, and] the frequency and recency of the conduct,” in applying the Adjudicative Guidelines). Since I cannot make a finding that the behavior—specifically his dishonesty—is unlikely to recur, mitigating condition (c) does not apply.

Regarding mitigating condition (d), the Individual attended therapy after the November 2023 Fleeing charge, but I have no evidence of counseling to address the dishonest behavior. The Individual has taken some positive steps in addressing his behavior, insofar as he acknowledged that he provided inaccurate statements and failed to cooperate with law enforcement. However, I cannot find that the dishonesty is unlikely to recur. The Individual fleeing from the police and subsequently lying to the police in November 2023 is alarming and strongly suggests an unwillingness to follow laws, rules, and regulations. Less than a year later in June 2024, the Individual during his access authorization investigation provided inaccurate information in

response to the LOI. As stated above, the record has led me to believe that the behavior is not unlikely to recur. Mitigating condition (d) does not apply.

Regarding mitigating condition (e), the LSO raised no concerns regarding personal conduct that could result in vulnerability to exploitation, manipulation, or duress. Mitigating condition (e) lacks application.

Regarding mitigating condition (f), there exists no dispute as to the reliability of the fact that the Individual made deliberate omissions during the security clearance investigation and when questioned by the police in the November 2023 incident. Mitigating condition (f) lacks application.

Regarding mitigating condition (g), the concerns raised by the LSO did not involve the Individual's association with those involved in criminal activities. Accordingly, mitigating condition (g) also lacks application.

For the aforementioned reasons, I find that none of the mitigating conditions are applicable to the facts of this case and that the Individual has not resolved the security concerns asserted by the LSO under Guideline E.

#### **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.

Regarding the first mitigating condition, the Individual only stopped drinking alcohol in February 2025. Accordingly, "so much time" has not passed. I also cannot find the behavior infrequent or to have occurred under unusual circumstances, where the Individual (1) until May 2024, drank

frequently to the point of intoxication two to three times per month and (2) estimated that, after college, he drank to the point of intoxication monthly in social situations. The recency of his alcohol use and the regularity with which he became intoxicated precludes a finding “that it is unlikely to recur.” Furthermore, the circumstances here—in particular, that alcohol played a role in his September 2023 charge; that he continued to drink alcohol, admitting during the hearing that he drank alcohol prior to his November 2023 arrest and drank to intoxication in May 2024; and that he, throughout the investigative process, found his alcohol use to be unproblematic—casts doubt on his reliability, trustworthiness, and judgment. Mitigating condition (a) does not apply.

Regarding the second mitigating condition, the Individual must (1) “acknowledge[ ] his . . . pattern of maladaptive alcohol use”; (2) “provide[ ] evidence of actions taken to overcome this problem” and (3) “demonstrate[ ] a clear and established pattern of . . . abstinence *in accordance with treatment recommendations*[.]” Adjudicative Guidelines at ¶ 23(b) (emphasis added). I find that the Individual has acknowledged his maladaptive alcohol use and has taken some steps to overcome the issue, specifically participation in AA and a reported three months of abstinence. However, the DOE Psychologist specifically recommended “substance use counseling to address his alcohol use.” Ex. 7 at 120. The Individual has not fulfilled this recommendation. The Individual’s failure to engage in professional substance use counseling may have arisen from an honest misunderstanding of what qualified as substance use counseling, but, as the DOE Psychologist explained, AA simply does not amount to counseling from a trained, licensed mental health professional. As the DOE Psychologist further explained after listening to the Individual’s testimony, the Individual needs professional treatment. Understanding the reason behind his maladaptive alcohol consumption with the assistance of a trained professional would certainly reduce the risk of relapse and alcohol-related issues recurring.

Even considering the Individual’s attendance in ten weeks of AA sessions, the Individual had not shared during AA sessions, could not list a single one of the Twelve Steps, and had not secured a sponsor. The lack of meaningful participation in AA suggests that the Individual saw the AA sessions as a box to check to secure access authorization rather than as an opportunity to meaningfully reflect on his alcohol consumption and behavior. Accordingly, his attendance in AA lacks persuasiveness when considering evidence of action taken to overcome his issues with alcohol.

Given the absence of substance use counseling and the lack of meaningful evidence regarding the sufficiency of his AA attendance, I cannot find that the Individual provided sufficient “evidence of actions taken to overcome the problem” or demonstrated abstinence “in accordance with treatment recommendations.” Mitigating condition (b) does not apply. The lack of substance use counseling or a treatment program also precludes application of mitigating conditions (c) and (d).

For the aforementioned reasons, I find that the Individual has not resolved the security concerns raised by the LSO under Guideline G.

### **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.

To summarize, all the Individual's criminal behavior occurred in college over an approximately three-year period—starting with two relatively minor traffic incidents of speeding in 2020 and 2021 and underage drinking prior to 2021, then culminating in two separate and serious incidents in September and November 2023. The evidence in the record indicates that, during the September 2023 criminal incident, the Individual blacked out from alcohol use, was kicked out of a bar, and threw a stone or brick at a window. Despite the Individual's pending charges and his prior experience with law enforcement, only two months later in November 2023, the Individual fled from a police officer attempting to initiate a traffic stop for recklessly driving his electronic bike.

Regarding the first mitigating condition, only a year and a half passed between the November 2023 Reckless Driving and Fleeing arrest and the Individual's hearing. Additionally, the Individual committed his two most serious criminal incidents in September 2023 and November 2023 under mundane circumstances: while he was out drinking with friends and while riding a bike. The Individual could not explain his behavior for the first incident because he blacked out, nor could he specifically and adequately explain why he ran from the police two months later. To the extent alcohol played a role in his criminal behavior, the Individual only stopped drinking four months ago. The frequency of the serious criminal behavior, his inability to explain why he engaged in this criminal behavior, and that he only stopped drinking alcohol four months ago preclude me from finding that his criminal behavior does not cast doubt on his reliability, trustworthiness, and judgment. Mitigating condition (a) does not apply here.

Regarding mitigating condition (b), there is no evidence that he felt pressured or coerced into committing his crimes. Ultimately, the burden rested with the Individual to comport himself in a law-abiding manner, and he exercised his discretion by engaging in disruptive, criminal behavior. I cannot find that mitigating condition (b) applies.

Regarding mitigating condition (c), the Individual's attorney in his closing argument asserted a lack of reliable evidence that the Individual committed the offense that led to the September 2023 Destruction of Property charge. However, the Individual's own testimony is that he blacked out.



Furthermore, the Individual gave testimony acknowledging responsibility for the incident. Last, documentation from the access authorization investigation indicates that witnesses saw him committing the crime. That the case may have ultimately ended in a *nolle prosequi* only means that the “case [was] closed by a prosecutor or the court.” *Nolle Prosequi*, The Wolters Kluwer Bouvier Law Dictionary Desk Edition (2012). It “does not operate as an acquittal[.]” *Id.* Accordingly, mitigating condition (c) lacks application to the September 2023 Destruction of Property incident, as well as the other criminal behavior that the Individual acknowledged committing.

Regarding mitigating condition (d), the Individual provided some evidence of rehabilitation. For example, the Individual has not been arrested or charged with any crimes since his November 2023 arrest. However, “the passage of time without recurrence of criminal activity” has only been a year and a half, and his pattern of criminal behavior—two serious criminal matters only two months apart—does not assure me that the likelihood of criminal recurrence is sufficiently low.

The Individual also graduated from college in May 2024 and has maintained employment with the DOE Contractor since August 2024. However, I find the Individual’s May 2024 graduation and current employment to have little probative value in determining whether the Individual has rehabilitated. I weigh more heavily that the Individual committed the September 2023 Destruction of Property offense and the November 2023 Reckless Driving and Fleeing offense during his senior year of college, only two months apart. The Individual’s responsibilities with respect to school and securing future employment gave him no pause before his repeated maladaptive, criminal behavior.

Last, with respect to the November 2023 incident, the Individual by February 2024 successfully completed the terms of his three-month probation, including six-days of community service and payment of court fees. Regardless, the Individual, after completing probation, discontinued attending his community service. This suggests that the Individual viewed the community service as more of a box to check to satisfy the terms of his probation, rather than as a moment to reflect on his criminality—not unlike how the Individual participated in AA but could not provide evidence of meaningful participation in those sessions. On balance, the Individual presented insufficient evidence to demonstrate rehabilitation, and mitigating condition (d) does not apply.

Accordingly, I find that the Individual has not satisfied any mitigating condition under Guideline J, and that the Individual has not resolved the security concerns asserted by the LSO.

## **VI. CONCLUSION**

In the above analysis, I found that the DOE possessed sufficient derogatory information to raise security concerns under Guidelines E, G, and 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 Guidelines E, G, and J. Accordingly, I find the Individual has not demonstrated that granting his 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