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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: October 7, 2025 )  
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Case No.: PSH-26-0001

Issued: December 11, 2025

## Administrative Judge Decision

Phillip Harmonick, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXX (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 should not be granted access authorization.

## I. BACKGROUND

On July 22, 2024, the Individual signed and submitted a Questionnaire for National Security Positions (QNSP) as part of seeking access authorization. Exhibit (Ex.) 7 at 96.<sup>2</sup> In the QNSP, the Individual reported having been charged with offenses in connection with alleged domestic violence in 2021 and 2019, having a domestic violence-related order of protection issued against him in 2023, and having been arrested and charged with Driving While Intoxicated (DWI) in 2011 and Criminal Sexual Penetration of a Minor (Statutory Rape) when he was nineteen years old in 2003. *Id.* at 82–88. He also reported having received court-ordered counseling in connection with the 2003 Statutory Rape charges. *Id.* at 80–81. The Individual denied having been arrested or charged with any other offenses in the seven years prior to completing the QNSP, having been charged with any felony offenses besides the DWI and 2003 Statutory Rape, having been ordered

<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 exhibits submitted by the local security office (LSO) were Bates numbered in the upper right corner of each page. This Decision will refer to the Bates numbering when citing to exhibits submitted by the LSO.

to consult with a mental health professional on any occasion other than in connection with the 2003 Statutory Rape charges, or having used any illegal drugs in the prior seven years. *Id.* at 80–89.

A background investigation of the Individual related to his seeking access authorization revealed that the Individual had been ordered to attend counseling related to the 2019 domestic violence allegations he disclosed on the QNSP. *Id.* at 236. Criminal records obtained during the background investigation showed that the Individual had been arrested, charged, and/or cited with dozens of offenses from 1997 to 2024, including domestic violence-related charges he had not disclosed on the QNSP. *Id.* at 211, 223–25. The background investigation additionally revealed numerous felony offenses he had not disclosed on the QNSP: two alleged sex crimes while the Individual was a minor; Aggravated Fleeing Law Enforcement Officer (Fleeing) in 2001; Battery, Fleeing, and Resisting/Obstructing a Peace Officer in 2004; and, Felony Criminal Sexual Penetration in 2006. *Id.* at 217, 228, 231, 233, 269. A “protected source” interviewed by an investigator as part of the background investigation also revealed that the Individual had used hallucinogenic mushrooms. *See* Ex. 5 at 37 (summarizing information obtained by the LSO in the adjudication of the Individual’s eligibility for access authorization).<sup>3</sup>

The LSO subsequently issued the Individual a letter of interrogatory (LOI) concerning the illegal drug use alleged by the protected source. Ex. 6. In his response, the Individual admitted that he had used hallucinogenic mushrooms on one occasion in 2021 with a friend. *Id.* at 40.

The LSO 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 10–12. In a Summary of Security Concerns (SSC) attached to the letter, the LSO explained that the derogatory information raised security concerns under Guidelines E and J of the Adjudicative Guidelines. *Id.* at 5–9.

The Individual exercised his right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. Ex. 2. 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 ten exhibits (Ex. A–J). The Individual testified on his own behalf. Tr. at 3, 11. The LSO did not call any witnesses to testify.

## **II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS**

The LSO cited Guideline E (Personal Conduct) of the Adjudicative Guidelines as the first basis for its substantial doubt regarding the Individual’s eligibility for access authorization. Ex. 1 at 5–6. “Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual’s reliability, trustworthiness, and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes.” Adjudicative Guidelines at ¶ 15. The SSC cited the Individual having

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<sup>3</sup> The report of the background investigation appears to have redacted all information from the protected source. *See* Ex. 9 at 241. The LSO reproduced the information from the protected source in a case evaluation it prepared following receipt of the report of the investigation. Ex. 5 at 37.

failed to disclose on the QNSP: (1) his use of hallucinogenic mushrooms; (2) having been arrested and charged with domestic violence-related offenses in 2019<sup>4</sup> and twice in 2023;<sup>5</sup> (3) five occasions on which he was arrested and charged with felony offenses; and, (4) having been ordered to attend counseling following his 2019 arrest for domestic violence-related offenses. Ex. 1 at 5–6. The LSO’s allegations that the Individual deliberately omitted, concealed, or falsified information on the QNSP justify its invocation of Guideline E. Adjudicative Guidelines at ¶ 16(a).

The LSO cited Guideline J (Criminal Conduct) of the Adjudicative Guidelines as the other basis for its substantial doubt regarding the Individual’s eligibility for access authorization. Ex. 1 at 6–9. “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. The SSC cited fifty-four occasions on which the Individual was allegedly arrested, charged, and/or cited for unlawful conduct from 1997 to 2024. Ex. 1 at 6–9. The LSO’s allegations that the Individual engaged in a pattern of minor offenses, as well as serious criminal conduct, justify its invocation of Guideline J. Adjudicative Guidelines at ¶ 31(a)–(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).

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 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. FINDINGS OF FACT

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<sup>4</sup> As explained in detail below, I find that the Individual did disclose his 2019 domestic violence-related charge on the QNSP and accordingly find that the LSO’s allegation that the Individual did not do so is without merit and does not present security concerns under Guideline E. *Infra* p. 9.

<sup>5</sup> As explained in detail below, I find that the LSO’s allegation that the Individual was charged with a domestic violence-related offenses in January 2023 and March 2023 insufficiently substantiated to raise security concerns under Guideline E. *Infra* p. 9.

### **A. Individual's History of Alleged Sex Crimes**

The Individual was charged with sex crimes on five occasions from 1997 to 2006. The Individual was charged with Felony Criminal Sexual Penetration of a Minor in 1998, related to conduct that allegedly occurred in 1997 when the Individual was fourteen years old. Ex. 9 at 228; *see also* Ex. 7 at 51 (indicating the Individual's birthdate). The charges were dismissed *nolle prosequi* by the prosecuting agency. Ex. 9 at 228. At the hearing, the Individual testified that the allegations, which he asserted were false and instigated by his mother, were made against him by his sibling and subsequently recanted. Tr. at 53–54.

The Individual was next charged with a sex crime in 2000 when he was arrested and charged with Felony Criminal Sexual Contact with a Minor (With Force or Coercion). Ex. 9 at 231; *see also* Tr. at 14, 53 (Individual denying in his hearing testimony that he was ever charged with this offense). Criminal records obtained during the background investigation of the Individual show that he was arrested and charged with Statutory Rape in April 2003 and August 2003.<sup>6</sup> Ex. 9 at 217, 231–32, 266. In an interview with an investigator, the Individual claimed that both records of his arrest in 2003 related to a single offense wherein, at the age of nineteen, he had consensual sexual intercourse with a seventeen-year-old girl who contacted law enforcement to report the Statutory Rape after the Individual refused to enter into a relationship with her. *Id.* at 181–82. The Individual pleaded guilty and was sentenced to an eighteen-month term of probation pursuant to which he was required to complete court-ordered counseling. *Id.* at 181–82, 219. The Individual's court-ordered counseling occurred in a group setting and, other than an intake session, he did not meet one-on-one with a clinician. Tr. at 66.

In 2006, the Individual was drinking alcohol with a woman (Jane Doe) with whom he shared a child but who was dating another man at that time. Ex. 9 at 183–84. The Individual and Jane Doe had sexual intercourse. *Id.* The Individual was subsequently arrested and charged with Criminal Sexual Penetration after Jane Doe alleged that she had not consented to the sexual intercourse. *Id.* at 183–84, 269. The charges against the Individual were dismissed. *Id.* at 269. In an interview with an investigator and in his hearing testimony, the Individual theorized that Jane Doe and her boyfriend had planned the incident that led to his arrest as revenge for the Individual having disclosed to a probation officer that the boyfriend was using illegal drugs around the Individual's son. *Id.* at 183–84; Tr. at 43–44.

### **B. Individual's Alleged Domestic Violence**

The Individual was first accused of domestic violence in 2007 when Jane Doe sought an order of protection against him for alleged domestic violence. Ex. 9 at 228. The details of the alleged domestic violence are not present in the record, but the Individual denied that it occurred and alleged that Jane Doe's claims were related to the 2006 Criminal Sexual Penetration charge. Tr. at 42–43. A judge eventually dismissed the matter after Jane Doe failed to appear at a hearing. Ex. 9 at 228.

In 2008, the Individual was arrested and charged with Battery and Criminal Damage to Property in connection with another alleged instance of domestic violence. *Id.* at 218, 269–70. In his

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<sup>6</sup> The Individual was also arrested in May 2003 for what appears to be failure to appear at a hearing related to the April 2003 Statutory Rape charge. Ex. 9 at 267.

interview with an investigator, the Individual claimed that he and a girlfriend (Girlfriend 1) had argued while intoxicated and that he had called law enforcement after she struck him in the face but was nevertheless arrested himself. *Id.* at 184–85. The charges against the Individual were dismissed after Girlfriend 1 failed to appear at a hearing concerning the matter. *Id.* at 185, 218.

In April 2009, law enforcement officers were summoned to the home of Girlfriend 1. *Id.* at 214; *see also id.* at 185 (Individual indicating that the information obtained by the investigator, which was redacted to omit the name of the person who contacted law enforcement, pertained to Girlfriend 1). The Individual and Girlfriend 1 had broken up, and the Individual had damaged some of Girlfriend 1's property and communicated threats via text and phone calls because she had not returned a calculator belonging to him which he needed for an academic program in which he was enrolled. *Id.* at 214–15. Law enforcement officers recovered the calculator for the Individual who left Girlfriend 1's property without further incident. *Id.*

The Individual was arrested and charged with Use of a Telephone to Terrify/Intimidate/Harass/Annoy/Offend in 2011 in connection with a dispute with a former girlfriend (Girlfriend 2). *Id.* at 213, 222. Girlfriend 2 alleged that he had harassed her by phone since she notified him that she was pregnant with his child, that he was pressuring her to obtain an abortion against her wishes, and that he had a history of violent behavior. *Id.* at 213; *but see id.* at 185–86 (Individual denying allegations in an interview with an investigator); Tr. at 37 (Individual testifying at the hearing that he broke up with Girlfriend 2 due to her erratic behavior). The charges against the Individual were eventually dismissed *nolle prosequi*. *Id.* at 222. Girlfriend 2 subsequently obtained an order of protection prohibiting the Individual from contacting her. *Id.* at 227–28; *see also* Tr. at 38 (Individual testifying that he did not contest the order of protection sought by Girlfriend 2 because he alleged that she was harassing him, and he believed that Girlfriend 2 being granted the order of protection would result in her ceasing her harassment of him).

In June 2019, the Individual was arrested and charged with Criminal Damage to Property and Disorderly Conduct in connection with an alleged act of domestic violence against a woman (Girlfriend 3) with whom the Individual shares two children. *Id.* at 187, 234, 261. By the Individual's own account of the incident, he damaged Girlfriend 3's home and personal property by dropping, swiping, and throwing objects during an argument. *Id.* at 187; *see also* Ex. 5 at 37–38 (summarizing information obtained from a "protected source," who was almost certainly Girlfriend 3, largely corroborating the Individual's account of the event); Tr. at 27. The Individual's outburst occurred in the presence of children Girlfriend 3 shared with another man. Ex. 9 at 187–88. The man with whom Girlfriend 3 shared those children obtained an order of protection, which was in effect for approximately six months, against the Individual in favor of his children after learning of the Individual's behavior. *Id.* The charges against the Individual were eventually dismissed after the Individual entered into a domestic violence diversion program pursuant to which he attended court-ordered counseling and paid fines and fees. *Id.* at 236.

The Individual was charged with Disorderly Conduct and Preventing Use of Telephone in Emergency in October 2021. *Id.* at 237. The Individual claimed to an investigator that he and Girlfriend 3 engaged in a verbal argument and that he "grabbed [her] phone" when he saw that she was texting their address to law enforcement. *Id.* at 188. However, the protected source who is

almost certainly Girlfriend 3 claimed that the Individual damaged property and pushed her during the argument before taking their young son and disappearing for several days. Ex. 5 at 37. The charges against the Individual were eventually dismissed. Ex. 9 at 237; *see also id.* at 188 (indicating that Girlfriend 3, who was likely the only witness to the Individual's alleged conduct, left the state in which they resided shortly after the incident); Tr. at 19 (Individual confirming that Girlfriend 3 and their children left the state in which they resided at the time of alleged 2021 domestic violence shortly after the incident occurred).

Following the October 2021 incident that led to the Individual's arrest, he and Girlfriend 3 separated. Tr. at 19. The Individual and Girlfriend 3 shared custody of their children. *Id.* at 20. At some point in 2023, the Individual came to Girlfriend 3's residence after arguing with her over the telephone, according to him for a scheduled custody exchange, and Girlfriend 3 said that she was calling the police. *Id.* The Individual grabbed Girlfriend 3's phone and, according to him, set it down, after which he left Girlfriend 3's residence when she again threatened to call the police. *Id.* Girlfriend 3 sought protective orders against the Individual based on allegations of domestic violence in January 2023 and March 2023, both of which actions were dismissed.<sup>7</sup> Ex. 9 at 223–24. In May 2023, a judge issued a restraining order prohibiting the Individual “from committing further acts of abuse or threats of abuse” against Girlfriend 3 or from “any contact with” Girlfriend 3 until May 2025. *Id.* at 188–89, 238.

### **C. Individual's History of Traffic Citations and Other Unlawful Conduct**

The Individual has a lengthy history of traffic infractions. From 2001 to 2024, the Individual was charged or cited for traffic infractions on twenty occasions, ranging from speeding to reckless driving to operating a vehicle without required registration or licensure. *Id.* at 210–37; *see also* Ex. 5 at 37–38 (protected source, who is almost certainly Girlfriend 3, describing occasions on which the Individual engaged in risky, dangerous behavior while driving and attributing it to “road rage”); Tr. at 56–57 (Individual testifying that he was charged with Reckless Driving after he rearended another vehicle, which the Individual attributed to the other driver's aggressive and reckless driving). While some of the citations and charges associated with these infractions were dismissed, the Individual was required to pay fines and fees on numerous occasions after being found guilty of the alleged offenses. Ex. 9 at 210–37. Additionally, the Individual's failure to attend hearings

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<sup>7</sup> The LSO alleged in the SSC that the Individual was charged with Domestic Violence in January 2023 and March 2023. Ex. 1 at 6. The Individual claimed during an interview with an investigator and in his hearing testimony that he was never charged with this offense. Ex. 9 at 188; Tr. at 11–12 (testifying that he believed the LSO's allegation referred to an order of protection sought against him by Girlfriend 3 in March 2023 in connection with a child custody dispute); Tr. at 21–22 (testifying that at least one of the dismissed actions was an attempt by Girlfriend 3 to obtain an order of protection against the Individual in favor of their shared children). Upon review, the records of the background investigation of the Individual support the Individual's claim. First, the March 2023 entry refers to the case type as “family/domestic violence” and includes acronyms that appear to refer to domestic violence protective orders sought on behalf of minors along with redacted third-party information which is likely the name of the person seeking or covered by a protective order. Ex. 9 at 223–24. The January 2023 entry also indicates that the case type is “family,” indicates that the case was brought by a “petitioner” rather than the state as plaintiff, and has redacted third-party information which is, again, presumably the name of the person seeking a protective order. *Id.* at 224–25. In the absence of more concrete evidence that the Individual was charged with Domestic Violence twice in 2023, I accept the Individual's claims that the entries relied upon by the LSO relate to orders of protection sought by Girlfriend 3 and conclude that the Individual was not charged with Domestic Violence in January 2023 or March 2023.

and comply with judicial orders in connection with these infractions has resulted in the Individual being found in contempt of court and bench warrants being issued for his arrest. *Id.* In September 2025, during the pendency of this proceeding, the Individual was cited for speeding in excess of twenty-five miles per hour over the speed limit and was later found guilty and ordered to pay fines and fees. *See* Ex. A at 1.<sup>8</sup> The Individual testified at the hearing that he did not believe that his traffic infractions reflected an unwillingness on his part to comply with laws, rules, or regulations because, if he did not respect laws, rules, or regulations, he “wouldn’t have taken care of those tickets.” Tr. at 15; *see also id.* at 59 (Individual testifying that he “ha[s] a lead foot 100 percent”). However, the Individual admitted that he had not resolved all of his unpaid speeding tickets. *Id.* at 60 (testifying that he “ha[s] not] been paying those” and that he “need[s] to get caught up with those”).

Several other instances of alleged criminal conduct on the part of the Individual are of note. First, in 2001 and 2004 the Individual was charged with felony offenses for fleeing a law enforcement officer pursuing the Individual for traffic violations and, in the case of the 2004 offense, for battery upon a police officer. Ex. 9 at 231, 233. The details of the resolution of the 2001 offense are not present in the record. The Individual pleaded guilty to the 2004 offense, paid a fine, and served a term of probation. *Id.* at 183, 233.

In 2011, the Individual was arrested and charged with DWI. Ex. 9 at 222. The Individual pleaded guilty and, pursuant to the terms of the plea agreement, was required to attend a victim impact panel, undergo an alcohol screening, and participate in educational classes related to alcohol misuse. *Id.* at 223. The Individual successfully completed all required elements of the plea agreement in 2013. *Id.*

Finally, in 2008, law enforcement investigated a potential battery by the Individual. *Id.* at 215. The Individual’s manager at his job at that time filed a police report indicating that the Individual became upset and used profanity after receiving an unfavorable workplace performance review. *Id.* According to the manager, after the Individual was asked to leave, the Individual physically attacked the manager, placed the manager in a headlock, and had to be removed by other employees. *Id.* The manager told law enforcement that he did not wish to press charges and only filed the police report because he was required to do so by his employer. *Id.* At the hearing, the Individual denied having placed the manager in a headlock and claimed that he and the manager had argued, the manager “pushed [him] up against the wall,” and in response the Individual “clocked him in the face.” Tr. at 41.

#### **D. Submission of the QNSP and Subsequent Investigation**

The Individual completed and signed the QNSP on July 22, 2024. Ex. 7 at 96. As part of doing so, the Individual certified that the information he provided therein was “true, complete, and correct to the best of [his] knowledge and belief and [was] made in good faith.” *Id.* In a section of the QNSP directing the Individual to disclose any occasions on which he had been arrested or charged with a criminal offense in the seven years prior to completing the QNSP, the Individual disclosed

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<sup>8</sup> The Individual’s Exhibit A lists numerous judicial proceedings in which the Individual has been involved. A review of the case number associated with the Individual’s September 2025 offense on a publicly-available website confirms that the Individual was cited for speeding in excess of twenty-five miles per hour and required to pay fines and fees.

the domestic violence-related charges from October 2021 and June 2019<sup>9</sup> involving Girlfriend 3. *Id.* at 82–85. The Individual also disclosed the order of protection obtained against him by Girlfriend 3 in May 2023 for alleged domestic violence. *Id.* at 88.

The Individual disclosed his 2011 DWI offense and August 2003 Criminal Penetration charge in response to a question on the QNSP concerning whether he had “EVER” been charged with a felony offense or an offense involving alcohol or drugs. *Id.* at 85 (emphasis in original). However, the Individual did not disclose the other occasions on which he was charged with felony sex crimes from 1997 to 2006 or the felony charges related to his encounters with law enforcement in 2001 and 2004 and checked a box marked “No” in response to a question asking if he had been charged with any other felony offenses. *Id.* at 88.

In response to a question on the QNSP as to whether he had ever been court-ordered to consult with a mental health professional, the Individual disclosed that he had been required to attend counseling as part of his probation related to the August 2003 Criminal Penetration charge. *Id.* at 80–81. However, he checked a box marked “No” in response to a question asking whether he had any additional instances of court-ordered counseling to report and did not disclose that he attended court-ordered counseling as part of the diversion program to resolve the charges related to his 2019 domestic violence-related offense. *Id.* at 81. Additionally, in a section of the QNSP related to illegal drug use, the Individual checked a box marked “No” in response to a question asking whether he had “illegally used any drugs or controlled substances” in the seven years prior to completing the QNSP. *Id.* at 89.

A background investigation revealed aspects of the Individual’s criminal history that he had not disclosed on the QNSP. During a series of interviews with an investigator, the Individual was confronted with criminal conduct he did not disclose on the QNSP. Ex. 9 at 174–75, 178–79, 181–89. He denied having been charged with Felony Criminal Sexual Penetration in 1997. *Id.* at 181. The Individual initially told the investigator that he did not disclose his 2004 Fleeing and Battery on a Police Officer charges because he believed he was charged with a misdemeanor and not a felony, but speculated during a later interview that the charges might have been reduced from felonies to misdemeanors and that he omitted them due to oversight. *Id.* at 174, 182–83; *see also* Tr. at 13 (Individual testifying at the hearing that he was unable to locate the offenses on a state court database and did not realize that they were felonies); Ex. C (showing that the charges do not appear in the results of a query of a state court database when searching by the Individual’s name).

The background investigation also revealed that the Individual had attended court-ordered domestic violence counseling in 2021, which the Individual did not disclose on the QNSP, to resolve the charges associated with the 2019 domestic violence-related offenses. Ex. 9 at 236; Ex. 7 at 80–81 (showing that the Individual did not disclose the counseling on the QNSP). In his hearing testimony, the Individual claimed that he did not disclose the 2021 domestic violence

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<sup>9</sup> The Individual indicated in the QNSP and in a subsequent interview with an investigator that this event occurred in May 2019. Ex. 7 at 83; Ex. 9 at 187. In his hearing testimony, the Individual asserted that the LSO’s allegation that he was arrested for domestic violence-related offenses in both May and June 2019 was in error and that the two allegations related to a single incident. Tr. at 12. Based on my review of the record, which does not appear to contain any evidence of the Individual being charged with domestic violence-related offenses in May 2019, I conclude that the alleged May and June 2019 offenses related to a single incident and that the Individual erroneously identified the charges as having been made in May 2019, rather than June 2019, in the QNSP.

counseling on the QNSP because it was conducted in a group setting “like an AA meeting” and he did not believe that the sessions were led by someone “qualified as a mental health professional.” *Id.* at 15.

A protected source revealed the Individual’s use of hallucinogenic mushrooms during the background investigation. *See* Ex. 5 at 37; *see also* Tr. at 60–61 (Individual testifying that he used the hallucinogenic mushrooms at the urging of a friend in 2021, they caused him to experience “a lot of bad anxiety,” and he “had a horrible experience for several weeks after that”). The LSO confronted the Individual in the LOI with the information from the protected source, and he admitted that he had used hallucinogenic mushrooms on one occasion in October 2021. Ex. 6 at 40. At the hearing, the Individual claimed that he had volunteered this information during an interview with an investigator as part of the background investigation without first having been confronted with the information. Tr. at 11, 62. However, the report of the background investigation contains no indication that the Individual volunteered this information before being confronted with it in the LOI. Ex. 9 at 173–90. Considering that the detailed notes of the investigatory interviews make no mention of illegal drug use by the Individual, I find it more likely that the Individual did not volunteer his hallucinogenic mushroom use before being confronted in the LOI than that the investigator failed to include this information in the otherwise detailed report.

At the hearing, the Individual testified that he omitted his 2006 charge of Felony Criminal Sexual Penetration from the QNSP in error due to the offense not being listed on a state court database that he consulted in completing the QNSP. Tr. at 12–13; *see also* Ex. C (showing that the charge does not appear in the results of a query of a state court database when searching by the Individual’s name). He denied recollection of the details of the 2001 Fleeing offense and indicated that he did not disclose it on the QNSP because he did not know that he was charged with a felony. Tr. at 13. The Individual claimed that he did not disclose the 1998 Felony Criminal Sexual Penetration of a Minor charge on the QNSP because he was unaware of it until he was confronted about it by the investigator. Tr. at 14; *but see* Ex. C at 1 (showing that the charge appears on the state court database that the Individual said that he consulted in completing the QNSP).

## **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;

- (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.

Before addressing the mitigating conditions, I first address allegations in the SSC which do not present security concerns. First, the SSC alleged that the Individual failed to disclose having been charged with Domestic Violence in January 2023 and March 2023. However, I find that there is insufficient evidence in the record to support the LSO's claims that these charges occurred. *Supra* note 7. As the LSO has not established that the charges occurred, I find that the Individual not disclosing the charges on the QNSP did not present security concerns under Guideline E. Second, the LSO alleged that the Individual failed to disclose having been charged with domestic violence-related offenses on June 15, 2019. I find that the Individual did disclose the charges, though he mistakenly stated that he was charged in May 2019 rather than June 2019. *Supra* note 9. As the Individual did disclose the charges in question, I find that the LSO's allegation does not present security concerns under Guideline E.

Turning to the mitigating conditions, the Individual did not disclose the numerous felony charges, illegal drug use, or court-ordered counseling that he omitted from the QNSP before being confronted by the investigator or LSO. The Individual claimed at the hearing that he disclosed his illegal drug use to the investigator before being confronted in the LOI. However, I see no indication in the copious, detailed notes of the investigator's interviews with the Individual that the Individual disclosed illegal drug use in the seven years prior to completing the QNSP. Accordingly, I find the first mitigating condition inapplicable to the facts of this case. Adjudicative Guidelines at ¶ 17(a).

The second mitigating condition is irrelevant because the Individual does not assert that he failed to disclose information in the QNSP on the advice of counsel or another representative. *Id.* at ¶ 17(b).

The Individual asserted in his hearing testimony that his omissions on the QNSP were unintentional errors, and cited the passage of time since some of the oldest alleged criminal conduct

and a lack of records related to the alleged criminal conduct in a state court database he relied on in completing the QNSP as contributing factors to his omissions. The Individual's assertions are not without merit. The most recent of the felony offenses the Individual failed to disclose on the QNSP, the 2006 Felony Criminal Sexual Penetration charge, occurred over eighteen years prior to the Individual's submission of the QNSP. Moreover, numerous felonies that the Individual did not disclose do not appear on the state court database and it is plausible that he was unaware of the offenses, or that they were felony offenses, when he submitted the QNSP.

However, several factors weigh against the Individual. His 1998 Criminal Sexual Penetration charge does appear on the state court database, undercutting the Individual's argument that he faithfully disclosed whatever information he found on the database. Furthermore, I find it notable that the Individual omitted all of his alleged non-consensual sex offenses, which he might have perceived as more serious than the Statutory Rape charge, from the QNSP. Additionally, I find it extremely implausible that the Individual forgot his 2021 hallucinogenic mushroom use considering his claim that he suffered ill effects from the drug for weeks after using it. His claim to have disclosed the drug use to the investigator, which is not corroborated by the investigator's copious notes of interviews with the Individual, also undercuts the Individual's credibility. Further undermining the Individual's credibility is his claim that he did not disclose his 2021 court-ordered counseling because he did not perceive it to have been consultation with a mental health professional because of the group nature of the counseling when he disclosed much older group counseling he participated in in 2003. On balance, I find that the nature and extent of the Individual's omissions, the circumstances surrounding the conduct, the recency of the conduct, and the potential motivation for the conduct all weigh against the Individual. 10 C.F.R. § 710.7(c) (listing factors that must be considered in applying the mitigating conditions). Accordingly, I find that the third mitigating condition does not resolve the security concerns presented by the Individual's omissions on the QNSP. Adjudicative Guidelines at ¶ 17(c).

The remaining mitigating conditions are irrelevant to the facts of this case because the Individual does not claim to have pursued counseling related to issues of honesty or forthcomingness, the LSO did not allege that the Individual's omissions on the QNSP placed him at elevated risk of exploitation, manipulation, or duress, the Individual's allegations which I found presented security concerns under Guideline E were not unsubstantiated or based on sources of questionable reliability, and the LSO did not allege that the Individual associated with persons engaged in criminal conduct. *Id.* at ¶ 17(d)–(g).

Although the Individual has established that some of the LSO's allegations under Guideline E were meritless, he has not established the applicability of any of the mitigating conditions to the surviving concerns. Accordingly, he has not fully resolved the security concerns asserted by the LSO under Guideline E.

#### **A. 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.

While I found that the Individual was not arrested or charged with domestic violence in 2023, he was subject to an order of protection in favor of Girlfriend 3 based on allegations of domestic violence which only expired in May 2025. This alleged domestic violence appears to be part of a pattern on the part of the Individual of reacting in a volatile, violent manner when in conflict. Likewise, while some of the Individual's alleged traffic offenses are relatively minor, the sheer volume of the offenses demonstrates a pattern of irresponsibility which persisted during the pendency of this proceeding when the Individual was cited for speeding significantly in excess of the posted speed limit. This is not to say that the Individual committed every criminal act of which he was accused or that he reacted violently without provocation; however, the record clearly establishes that the Individual has a history of failing to control his impulses and exercising poor judgment leading him to repeat detrimental patterns of behavior. Considering the relative recency of the Individual's conduct, its repetition under similar circumstances, and the high probability of recurrence, I find the first mitigating condition inapplicable to the facts of this case. *Id.* at ¶ 32(a).

The second mitigating condition is irrelevant to the facts of this case because the Individual does not allege that he was pressured or coerced into committing unlawful conduct. *Id.* at ¶ 32(b).

While the Individual denies that he committed many of the offenses, the sheer volume of offenses with which the Individual has been charged or cited is compelling evidence that the Individual is not a victim of circumstance or false allegations. Moreover, he has been adjudicated guilty of or pleaded guilty to numerous offenses. As the Individual has brought forward no evidence besides his own accounts of the incidents, I find the third mitigating condition inapplicable. *Id.* at ¶ 32(c).

The Individual has repeatedly served terms of probation only to reoffend. He has not brought forward recent evidence of job training or higher education, good employment record, or constructive community involvement. As discussed above, the current passage of time without recurrence of criminal activity is extremely brief, considering his lengthy history of alleged criminal conduct. Accordingly, I find the fourth mitigating condition inapplicable. *Id.* at ¶ 32(d).

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

## **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 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 the security concerns asserted by the LSO. Accordingly, I have determined that the Individual should not be granted access authorization. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Phillip Harmonick  
Administrative Judge  
Office of Hearings and Appeals