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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: July 8, 2025) Case No.: PSH-25-0163
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Issued: January 22, 2026

Administrative Judge Decision

Andrew Dam, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXXXXXXXXXX (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."¹ As discussed below, after carefully considering the record before me in light of the relevant regulations and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (June 8, 2017) (Adjudicative Guidelines), I conclude that the Individual's access authorization should not be granted.

I. BACKGROUND

The Individual applied for access authorization in connection with employment with a DOE contractor (DOE Contractor). Exhibit (Ex.) 1 at 8; Ex. 8 at 80 (submitting a Questionnaire for National Security Positions (QNSP) in April 2024).² As a part of his clearance investigation, the Local Security Office (LSO) learned of three prior incidents involving alcohol use, criminal conduct, or both. First, in 2010, the police arrested and charged the Individual with "Operating a Motor Vehicle Under the Influence of Alcohol/Drugs/Etc. (.08 First Offense)" and driving with "No Tail Lamps" (2010 Driving Under the Influence (DUI)). Ex. 5 at 40, 48 (December 2024 response to Letter of Interrogatory (LOI)) (December 2024 LOI Response); Ex. 8 at 119; Ex. 10 at 202–03 (investigator's notes of an Enhanced Subject Interview (ESI) with the Individual in June 2024), 230–31 (investigator's summary of police records). Second, in December 2012, the Individual and another person engaged in a physical altercation outside a bar in a foreign country

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

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

(2012 Bar Altercation); the Individual admitted to consuming three to four cocktails prior to the 2012 Bar Altercation. Ex. 10 at 204 (June 2024 ESI notes). Third, in November 2014, foreign police arrested the Individual for another incident during which he drove a vehicle while under the influence of alcohol (2014 DUI). Ex. 5 at 37, 48; Ex. 10 at 203–04, 213–14 (investigator’s summary of military records).

Additionally, during his June 2024 ESI, the Individual voluntarily disclosed that he had been arrested for a domestic incident involving his daughter (2024 Battery Arrest) about a week prior to the ESI. Ex. 10 at 207–08. Arrest records reflect charges against the Individual for “Battery, Family Violence (misdemeanor)[.]” *Id.* at 229–30. The Individual admitted to drinking alcohol prior to the 2024 Battery Arrest. *Id.* at 207.

The LSO referred the Individual for a psychological assessment with a DOE consultant psychologist (DOE Psychologist) in February 2025. Ex. 6 at 53 (DOE Psychologist’s Report). As part of the assessment, the Individual underwent a Phosphatidylethanol (PEth) test, which returned a value of 51 ng/mL.³ *Id.* at 59, 63–65. After the assessment, the DOE Psychologist issued a Report wherein he opined that “based upon th[e] evaluation, including the results of the PEth test, [the Individual] [] habitually or binge consum[es] alcohol to the point of impaired judgment.” *Id.* at 60. The DOE Psychologist also concluded that, at the time of the evaluation, there was no evidence of rehabilitation or reformation. *Id.*

The LSO subsequently issued a Notification Letter advising the Individual that it possessed reliable information that created substantial doubt regarding his eligibility for access authorization. Ex. 1 at 8–10. In a Summary of Security Concerns (SSC) attached to the letter, the LSO explained that the derogatory information raised security concerns under Guidelines G and J of the Adjudicative Guidelines. *Id.* at 6–7. The Individual exercised his right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. Ex. 2 at 12–14. 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 ten exhibits (Ex. 1–10). The Individual submitted twenty exhibits (Ex. A–T).⁴ Neither party objected to the admission of these exhibits into the record. The Individual testified on his own behalf. Hearing Transcript, OHA Case No. PSH-25-0163 (Tr.) at 3. The LSO offered the testimony of the DOE Psychologist.⁵ *Id.*

³ “PEth is not a normal body metabolite” and “accumulates when ethanol binds to the red blood cell membrane.” Ex. 6 at 63. “The PEth level reflects the average amount of alcohol consumed over the previous 28-30 days as red blood cells degrade and enzymatic action removes PEth” and a result “in excess of 20 ng/mL [is] considered evidence of moderate to heavy ethanol consumption.” *Id.* at 63, 65.

⁴ The Individual’s exhibits were submitted as a single PDF file with Bates numbering on the center bottom of each page. This Decision will refer to the Bates numbering when citing to exhibits submitted by the Individual.

⁵ The Individual stipulated to the DOE Psychologist’s expertise in the field of psychology. Tr. at 8.

II. THE SECURITY CONCERNS

a. 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 driving while under the influence, fighting, [or] child or spouse abuse . . .” 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 invoking Guideline G, the LSO cited to:

- (1) the 2010 DUI;
- (2) the 2012 Bar Altercation, before which he drank alcohol;
- (3) the 2014 DUI;
- (4) the 2024 Battery Arrest, before which he drank alcohol; and
- (5) 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.

Ex. 1 at 6. There is sufficient derogatory information in the possession of DOE to raise security concerns under Guidelines G.

b. 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 Guideline J, the LSO cited to:

- (1) the 2010 DUI;
- (2) the 2014 DUI; and
- (3) the 2024 Battery Arrest.

Ex. 1 at 6–7. There is sufficient derogatory information in the possession of DOE to raise security concerns under Guidelines J.

III. REGULATORY STANDARDS

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

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

IV. FINDINGS OF FACT

a. The Individual's Background and Reported History of Alcohol Consumption Prior to his Abstinence in 2025.

The Individual served in the military from 2006 to 2015. Tr. at 16; Ex. 8 at 106–07; Ex. B at 3 (Individual's Resumé). When he first joined the military, the Individual drank socially with his peers every two or three weekends. Ex. 6 at 56. When he would drink, the Individual estimated he drank about "3-4 beers" per night. *Id.* In 2009, he estimated that he would drink "5-6 beers or 3-4 liquor drinks" over 4 hours whenever he would drink. *Id.* According to the Individual, "becoming inebriated was never his goal." *Id.*

In his December 2024 LOI Response, he indicated that the current frequency of his alcohol consumption was "[t]wo times a month" during which times he typically had "[t]wo 12-ounce beers over 4 hours." Ex. 5 at 30–31, 46. He estimated that this was his pattern of consumption "[s]ince July 2021." *Id.* at 3. *But see* Ex. 6 at 57 (informing the DOE Psychologist during the 2025 evaluation that his pattern of consumption since 2015 was "usually no more than two or three beers once a month"). In his December 2024 LOI Response, he also indicated that he would "no longer be continuing drinking alcohol moving into the holidays [of 2024] and new year [2025]" and that he had "been living in sin of drinking alcohol." Ex. 5 at 33, 47; *see also id.* at 32, 46 ("My journey building my relationship with Jesus, [sic] I have seen that alcohol impacts me personally."). Regardless, at the hearing he testified that he continued drinking until June 2025. Tr. at 32.

The Individual married his now ex-wife in 2007, and they divorced in 2017. Ex. 10 at 110. They have one daughter together, towards whom the Individual’s actions resulted in his 2024 Battery Arrest. Ex. E at 36. The Individual has four other children with a woman he described as his partner (Partner). *See* Ex. C at 7. The Individual’s Partner lives in a separate residence with the children. Tr. at 48–49. The Individual has lived alone since the 2024 Battery Arrest. *Id.*

b. 2010 DUI

Regarding the 2010 DUI, the Individual testified that he was on “release” from his military post and that he went out with friends to celebrate. *Id.* at 23; *see also* Ex. 10 at 202. The Individual indicated that he and his friends “had a few drinks” then “towards the end of the night [they] headed back towards post.” Tr. at 23; *see also* Ex. 10 at 202. The Individual provided that he was pulled over by the police because of his broken taillight. Tr. at 23–24; Ex. 10 at 202. The Individual recalled that the officer asked him if he had been drinking, which the Individual confirmed. Tr. at 23–24 (testifying that he told the officer he “had a few” drinks); Ex. 10 at 202 (stating during his ESI that he told the officer he “consumed 2 cocktails”).

County court records reflect that, when the police pulled the Individual over, the “[o]fficer could smell the odor of an alcoholic beverage coming from the Subject.” Ex. 10 at 230. Furthermore, the records noted several issues with the Individual’s performance of the standard field sobriety tests. *Id.* The Individual took a breathalyzer test, which returned a positive blood-alcohol content (BAC) result of .097—over the .08 legal limit. *Id.* The records further reflect that the Individual stated, “I know I am going to fail” before the breathalyzer. *Id.*

The Individual entered a guilty plea in 2011. Ex. G at 40–41. The Sentencing Order required that the Individual “attend and complete an alcohol or substance abuse education treatment program . . .” Ex. H at 43. In 2011, the Individual completed a 12-hour program titled, “Alcohol and Drug Abuse Prevention Training”—which satisfied the requirements imposed by both the sentencing court and the Army for the 2010 DUI. Ex. I at 45; Tr. at 24–25. The Individual also “[c]ompleted the MADD [Mother’s Against Drunk Driving] program . . .” Ex. 8 at 119, 123; Ex. 10 at 202.

While serving in the military, the Individual held a clearance from 2006 to 2010 through the Department of Defense, U.S. Army. Tr. at 22; Ex. 8 at 123–24. The Individual explained that the U.S. Army “removed [his] Secret Clearance” in 2010 because of the 2010 DUI. Ex. 8 at 124.

c. 2012 Bar Altercation

The Individual was stationed in a foreign country from 2012 to 2015. Ex. 8 at 93; Ex. 10 at 225. Within that first year, the Individual ended up in a physical altercation with another soldier. Tr. at 25–27; Ex. 10 at 205. The Individual, his then wife, and other soldiers went off post to a bar. Ex. 10 at 204. The Individual at some point started arguing with the female soldier who had driven them all to the bar. Tr. at 25. The Individual testified he could not recall the subject of the argument though the Individual noted that there had been “tension” between the two of them. *Id.* at 27, 43. At some point, the Individual wanted to leave separately and “asked [the driver] if she would walk outside and unlock her car so he could get his bookbag . . .” Ex. 10 at 205. According to the Individual, the driver did not want the Individual to leave, and she slapped him, at which point

they chest-bumped each other. *Id.* At the hearing, the Individual described that, after the “pushing and shoving[,]” another soldier “broke [them] up.” Tr. at 25. He and his wife procured a cab and returned to base. *Id.*; Ex. 10 at 205. The next day, the Individual reported the incident up his chain of command; in the end, the company commander gave the female soldier and the Individual seven days of extra duty, and there were no other adverse outcomes. Tr. at 25–26; Ex. 10 at 205.

Prior to the altercation, the Individual reported consuming three to four cocktails. Ex. 10 at 204. Over a decade later, at the hearing, the Individual answered, “No” when asked if he felt that alcohol played a role in the argument. Tr. at 26. However, the Individual admitted that he had “a buzzed feeling” though he was not “completely impaired.” *Id.* at 42–43.

d. 2014 DUI

While still stationed in the foreign country, the Individual went out to a bar with some of his fellow soldiers sometime in November 2014. *Id.* at 27; Ex. 10 at 204. While driving back to the base, a foreign police officer stopped the Individual. Tr. at 27; Ex. 10 at 204. According to the Individual’s testimony, “[i]n the [foreign country] . . . , they can pull you over for pretty much anything[,]” and the foreign police “were trying to see if [he] had the required safety equipment . . .” in the vehicle. Tr. at 27–28. In his ESI, the Individual stated that he “was asked by the officer if he had been drinking” to which he admitted to “having had a few beers at the bar” though he maintained to the officer he “was not intoxicated.” Ex. 10 at 204. The Individual’s statement to the officer appears to have been inaccurate: the Individual’s breath test result at the time of the arrest was reported as .49 mg/L, the U.S. equivalent of .102% BAC. Ex. 5 at 37, 48; *see also* Tr. at 28 (admitting that his breathalyzer test converted to about .1).

The foreign police called the military police to pick the Individual up. Tr. at 28; Ex. 10 at 204. While in their custody, the military police administered a second breathalyzer test which converted to .088% BAC. Tr. at 27–28; Ex. 5 at 37, 48; Ex. 10 at 204. The Individual does not recall how much he had to drink prior to the arrest. Ex. 5 at 37, 48. He told the DOE Psychologist that, while in the foreign country, he drank about once a month and mostly beer; he also told the DOE Psychologist he could not approximate the amount he drank “because the beer was different and served in different containers.” Ex. 6 at 57.

This 2014 DUI was reported up the Individual’s chain of command, and command referred the Individual to the military’s Alcohol and Substance Abuse Program (ASAP). Ex. 8 at 204; Ex. 5 at 33, 38, 41, 46–48. The Individual described ASAP as a “group” program. Ex. 5 at 48. The Individual admitted during his June 2024 ESI that “he did not always make good choices in the military and admits that during that time he was consuming too much alcohol.” Ex. 10 at 206. The Individual also acknowledged that his alcohol-related incidents contributed to his discharge from the military. *Id.*; *see also* Ex. A (Certificate of Release or Discharge from Active Duty stating that the “NARRATIVE REASON FOR SEPARATION” was “PATTERN OF MISCONDUCT”) (formatting in original).

e. 2024 Battery Arrest

At the time of the 2024 Battery Arrest, the Individual was 38 years old and had been living alone with his 14-year-old daughter for about two years. Tr. at 32; Ex. 10 at 207; Ex. E at 32. Before his daughter had moved in with him, his daughter had been raised by his ex-wife. Ex. 10 at 207. The Individual described his ex-wife having “gotten to her wit[’]s end with [their daughter’s] pre-teen behavior[,]” and the Individual thus volunteered to let his daughter live with him. *Id.*

At the hearing, the Individual gave an account of the day leading up to his arrest:

That day . . . I picked up an acquaintance [(Acquaintance)] . . . from the airport. From there, we were making plans to head out . . . to go ax throwing. Before we had headed out there, there was a . . . conversation between me and my daughter on her behavior and her responsibilities [] at the house . . . I told her by the time I get back[] []she would need to figure out if [she] want[ed] to live with [her] mother or continue being under my roof[]

From there me and [the Acquaintance] headed over to . . . ax throwing. There I had two drinks . . . When we drove back, we got back around early morning . . . I went over to the room to []my daughter [] for her decision o[n] whether she wants to continue being with her mother or me. As the argument continued, I did take her luggage out to the middle of the hallway and then brought it outside.

In the altercation, she went out[,] and then I was preventing her from coming back in because I mentioned [to her] that once you’re out, you’re out. She did have her mother on the phone, which led to her [the mother] calling the police.

Upon arrival of the police, I was sitting on the driveway, just waiting for them, and I invoked my Fourth and Fifth Amendment right to not incriminate myself. At that time, I took the position of laying belly[-]first on the ground with my hands behind my back. There they handcuffed me and put me into the vehicle. From there I was [taken] to their detention center and booked . . . that night, that morning [sic].

Tr. at 29–30.

In her account to the officers, the Individual’s daughter confirmed that the Individual had thrown a suitcase outside, as well as some of her belongings. Ex. E at 33 (police report) The Individual’s daughter went outside the house to gather her scattered belongings into the suitcase. *Id.* The Individual’s daughter told officers that, when she “tried to push back [into the home] to grab her stuff[,]” the Individual “grabbed her and slammed her on the tile, causing her shoulder and head to hurt.” *Id.* The police report reflects that the police arrived on the scene after 1:00 a.m. and arrested him for Battery. *Id.* at 32, 34–35. According to the police report, one officer “felt a lump on the left side of the [] juvenile’s head” *Id.* at 33. Similarly, a medical respondent on the scene “advised there [was] a large contusion to the left side of the juvenile’s head[] and [that] the left rotator cuff does not have full range of motion” *Id.* The Individual’s daughter was transferred to a hospital for her injuries. *Id.*

The Individual maintained that he did not hit or slam his daughter and that he only blocked her from coming inside the house. Tr. at 31, 61–62. When asked to describe the physical interaction between the two of them, he stated that she was making “forward advance[s]” to get into the house and that he was “basically resisting her forward advances” preventing her from getting into the house. *Id.* To help explain, he offered the following analogy: “if you’ve seen football, how they kind of just come together and they’re kind of at a standstill . . .” *Id.* at 62.

The Individual’s Acquaintance, also interviewed by an investigator as a part of the Individual’s clearance investigation, confirmed she was present for the altercation. *See* Ex. 10 at 236–37 (investigator’s summary of July 2024 interview).⁶ The Acquaintance confirmed that the Individual, during the altercation, told his daughter “that if she did not want to abide by his rules . . . she could go live with her mother” outside the state. *Id.* at 237. The Acquaintance maintained that the argument “did not turn physical at any point” and that she did “not know why [the Individual’s ex-wife] called the police.” *Id.* This contradicts the Individual’s own admission that he physically blocked his daughter from entering the home. *Cf.* Tr. at 31, 61–62.

The Individual does not believe he had anything to do with his daughter’s injuries and implied that they may have occurred prior to him returning to home. *Id.* at 47–48. Specifically, at the hearing, he offered that he “[didn’t] know how she received the contusion or the rotator cuff [injury] in [his] absence” but suggested that she gave herself the injuries: “I’m not saying she did self-harm or whatnot, but she’s had history . . . under her mother’s roof . . . where counseling was involved, and she did try to OD [overdose] on medication under her mother’s parenting.” *Id.* at 61.

Since his arrest, the Individual provided inconsistent accounts of his consumption of alcoholic beverages that night. *Compare* Ex. 10 at 208 (claiming during his June 2024 ESI that he consumed one beer while ax throwing) *with* Tr. at 31, 66 (testifying that he had two beers while ax throwing). The Individual and his Acquaintance maintain that he was not intoxicated at the time of the incident and that alcohol played no role in the altercation. Ex. 10 at 208, 37; Tr. at 31–32. However, I cannot rule out the role that alcohol may have played in the 2024 Battery Arrest given several inconsistencies in the narrative and given the Individual’s minimization of his alcohol use in other scenarios like the 2012 Bar Altercation.

I also generally have no reason to find the Individual or his Acquaintance to be credible narrators as to the events of that night. To start, the Individual’s testimony is self-serving, minimizing his actions and maintaining that he engaged in no illegal conduct. The Individual provides no credible explanation for how his daughter received the injuries observed by reliable objective third-party first-responders. His insinuation that his daughter engaged in self-harm lacks support where the inflicted injury to her head and rotator cuff lacks consistency with her purported prior attempt at a drug overdose. Instead, the injuries are more consistent with the physical contact described by the

⁶ At the hearing, the Individual described this woman as an “acquaintance.” *See, e.g.*, Tr. at 29. However, in the investigator’s summary of the July 2024 interview, the Acquaintance indicated their contact was “extensive”; that they “speak regularly via telephone”; and that she visited the Individual at his residence. Ex. 10 at 236–37. Furthermore, in the DOE Psychologist’s Report, prepared after a clinical interview with the Individual, she is described as “a woman he was dating.” Ex. 6 at 55.

daughter and even the “football”-style blocking the Individual described. I also note that the Acquaintance’s account to the investigator is completely devoid of any mention of physical contact—even the Individual blocking his daughter from the door—a selective omission undermining the Acquaintance’s reliability. Also undermining her reliability is the potential romantic entanglement referenced in the record. *See supra* note 6.

At the hearing, the Individual admitted that the 2024 Battery Arrest reflects that he “lost [his] temper” and acknowledged that his active clearance application did not cross his mind at the time of the incident. Tr. at 45, 70. However, the Individual maintained that “[t]his situation was all based off of her [the daughter’s] performance, and then [the] involvement of her mother.” *Id.* at 31. The Battery charge remains pending, and a “no-contact order” remains in effect between the Individual and his daughter; the Individual testified that he has “gone through the phases of forgiveness” with respect to his daughter and would be willing to continue a relationship in the future. *Id.* at 45.

f. DOE Psychologist’s Report and Recommendations

At the request of the LSO, the Individual met with the DOE Psychologist on February 19, 2025, for a psychological evaluation. Ex. 6 at 52–53. As part of the psychological evaluation, the DOE Psychologist, among other things: (1) reviewed the personnel security documentation and investigation materials, (2) conducted a three-hour interview; (3) administered psychological testing, such as the Minnesota Multiphasic Personality Inventory-3rd Edition (MMPI-3);⁷ and (3) consulted with a psychiatrist (DOE Psychiatrist) in reviewing the results of a PEth test the Individual underwent. *Id.* at 55–60.

During his interview with the DOE Psychologist, the Individual recounted his history of alcohol use detailed above and the incidents described in Section IV(a)–(e). *Id.* at 54–57. The DOE Psychologist found insufficient criteria for any alcohol-related diagnoses pursuant to the *Diagnostic and Statistical Manual of Mental Health Disorders-Fifth Edition-Text Revision*. *Id.* at 54. However, the DOE Psychologist found that the Individual habitually or binge consumed alcohol to the point of impaired judgment. *Id.* at 60. I also find that the Individual habitually or binge consumed alcohol to the point of impaired judgment based upon his history of alcohol-related incidents; the related minimization of his alcohol consumption or the role of alcohol consumption in relation to those incidents; the dubious account of his alcohol consumption in connection to the 2024 Battery Arrest; the MMPI-3 results suggesting that the Individual had a tendency to portray events in an overly positive light, and, as noted *infra* in Section IV(g), the opinion of the Individual’s own consultant psychologist that he had a history of binge consuming alcohol.

The DOE Psychologist also concluded that the Individual had not demonstrated sufficient evidence of rehabilitation or reformation. *Id.* The DOE Psychologist recommended the following:

⁷ The results of the MMPI-3 suggested an “overly positive self-presentation . . . consistent with [a] desire to be seen in a positive light.” Ex. 6 at 60.

Attendance, participation, and successful completion in [a] two-year [recovery and abstinence program through the DOE Contractor's Employee Assistance Program (EAP)] would demonstrate evidence of rehabilitation. To provide evidence of abstinence, he should have six random PEth tests during the two-year period of the program. If [the Individual] chooses not to participate in the [DOE Contractor's program] active participation in a 12-step program such as AA or Celebrate Recovery for 6 months, to include attendance at 4 meetings per week and having a sponsor, would demonstrate reformation.

Id. at 61.

The DOE Psychologist testified that he recommended the two-year EAP program because it was integrated with employees' workday, could be attended virtually, and is without cost to the employee. Tr. at 77, 82.⁸ The DOE Psychologist explained that the program's first year involved "meet[ing]s twice a month" and a random drug test once per month. *Id.* at 82–83. The second year involved quarterly random drug tests and one counseling session once per month. *Id.* at 83.

g. Consultant Psychologist's Report

In July 2025, the Individual consulted with a third-party psychologist (Consultant Psychologist) "to provide a second opinion about whether [the Individual] has any alcohol use or behavioral propensities that could impact his reliability, trustworthiness, or judgment when tasked with safeguarding classified information or working in a national security sensitive setting." Ex. C at 6. The Consultant Psychologist, in September 2025, issued a report (Consultant Psychologist's Report) after a clinical interview, the administration of psychological testing, and a review of the personnel documentation provided to him. *Id.* at 5–13. The Consultant Psychologist found the following, with respect to his alcohol use and criminal behavior:

With respect to alcohol use, [the Individual] has a history of episodic binge drinking that at times impaired judgment and led to adverse consequences. His past includes two alcohol-related driving arrests (2010 in [the United States] and 2014 in [a foreign country]), and a 2012 altercation outside a bar while drinking. It seems he has historically minimized his drinking, as reflected in a February 2025 PEth result (51 ng/mL) that was inconsistent with his claim of abstinence at the time. The DOE psychologist who evaluated him in March 2025^[9] characterized his drinking as habitual or binge use to the point of impaired judgment and noted a lack of rehabilitation. The psychologist recommended a robust two-year treatment regimen and/or participation in Alcoholics Anonymous.

However, subsequent evidence points toward meaningful change. Following the DOE evaluation, [the Individual] demonstrated increased insight, acknowledging

⁸ The DOE Psychologist also explained that without a formal diagnosis of Alcohol Use Disorder it would be difficult or impossible for the Individual to enroll in "formal inpatient or extended treatment." Tr. at 77. This also informed his recommendation that the Individual participate in the EAP program. *Id.*

⁹ The Individual was evaluated by the DOE Psychologist on February 19, 2025. Ex. 6 at 53. The DOE Psychologist's Report was issued in March 2025. *Id.* at 61.

that his past weekend pattern met criteria for binge drinking and recognizing the associated risks. In June 2025, he made a faith-based decision to stop drinking entirely. His AUDIT [Alcohol Use Disorders Identification Test] score in July 2025 was in the low-risk range, and importantly, a September 2025 PEth test was negative (<20 ng/mL), corroborating his self-report of abstinence.

Taken together, his recent test results, clinical presentation, and lifestyle adjustments (faith-based commitments, counseling, and family responsibilities) provide credible evidence of rehabilitation and reduced risk moving forward.

With regard to Guideline G, [the Individual's] past alcohol-related incidents are well-documented and cannot be discounted; however, current data show no alcohol use disorder, no psychiatric impairment, and objective evidence of recent abstinence. His current presentation reflects insight, stability, and a pattern of healthy functioning inconsistent with ongoing alcohol misuse.

With regard to Guideline J, [the Individual] has four documented legal incidents spanning 2010 to 2024. Importantly, none involved mishandling of classified material or misconduct in the workplace. His post-military employment record is steady and positive, with consistent promotions, favorable evaluations, and no disciplinary problems. The Summary of Security Concerns itself did not identify occupational lapses or security infractions. These facts suggest that while his past legal history raises valid concerns, there is credible evidence of reform, especially given his recent sobriety, counseling, faith practices, and strengthened family and community support.

Id. at 13–14. The Consultant Psychologist made no treatment recommendations and instead found that the Individual “does not presently require formal, targeted treatment for alcohol use problems” because “there is insufficient evidence to conclude that [the Individual] poses an ongoing risk to national security due to alcohol misuse or criminal conduct.” *Id.* at 14.

DOE Counsel stipulated to the Consultant Psychologist’s expertise in the field of psychology. Tr. at 8. However, the Individual declined to call the Consultant Psychologist as a witness to testify, and his opinion lacked the opportunity for cross examination, which undermines the reliability of the Consultant Psychologist’s conclusions.¹⁰ For the reasons stated below, I decline to credit the Consultant Psychologist’s Report.

With respect to the Individual’s alcohol use, the record lacks any laboratory testing between the February 2025 PEth test and the September 2025 PEth test. I have no specific explanation for why the Consultant Psychologist would credit the Individual’s claim of sobriety prior to August 2025. Even crediting the Individual’s account of his sobriety, I also have no explanation as to why the Consultant Psychologist would find the Individual to no longer have an alcohol use problem after

¹⁰ While many courts will not exclude or strike an expert report, “the traditional and appropriate means” of evaluating an expert opinion’s reliability includes “[v]igorous cross examination, presentation of contrary evidence, and careful instruction on the burden of proof.” *United States v. Harris*, 502 F. Supp. 3d 28, 33 (D.D.C. 2020) (citing *Daubert v. Merrell Dow Pharms., Inc.*, 509 U.S. 579, 596 (1993)).

only four months. Without an opportunity to probe the Consultant Psychologist's rationale for both, I decline to credit the Consultant Psychologist's findings with respect to the Individual's alcohol-related issues.

With respect to the Consultant Psychologist's evaluation of the Individual's criminal conduct, I also have skepticism. While I have a stipulation as to the Consultant Psychologist's expertise in the field of psychology, I have no basis upon which to conclude that this expertise extends to clinical assessments on one's criminal behavior. Furthermore, I am troubled that the Consultant Psychologist offers little explanation as to why the 2024 Battery Arrest—occurring barely over a year before the July 2025 evaluation—is not of present concern. *See id.* at 11–14. The Consultant Psychologist's Report summarily states that “his recent sobriety, counseling, faith practices, and strengthened family and community support” show evidence of reform. *Id.* at 14. However, the Consultant Psychologist's conclusion lacks critical evaluation of obvious issues such as the Individual's denial that alcohol played a role in the 2024 Battery Arrest and his denial of the allegations underlying the 2024 Battery Arrest. Said another way, if the Individual denies alcohol as a catalyst for his most recent alleged criminal behavior, then it remains unclear what role sobriety plays in preventing future criminal incidents. Similarly, that the Individual denies the underlying allegations of the 2024 Battery Arrest and downplays his responsibility in the incident would serve as bases to probe the Consultant Psychologist's views on the Individual's criminal reformation. Without an opportunity for cross-examination, the Consultant Psychologist's opinion on the Individual's criminal reform cannot be credited.

h. Individual's Actions Taken and DOE Psychologist's Updated Opinion Regarding Rehabilitation or Reformation

The record lacks any mention of the Individual attempting to participate in the EAP program recommended by the DOE Psychologist. The Individual testified that he stopped drinking in June 2025. Tr. at 32. In terms of laboratory testing to support his claim of sobriety, the record consists of negative PEth tests from September 5, 2025; October 3, 2025; and October 31, 2025. Ex. J at 47–48; Ex. K at 50–51; Ex. L at 53–54.

The Individual also submitted a photo of two AA chips for 30 days and 60 days of sobriety. Ex. M at 62. The Individual testified that he would receive a 6-month sobriety chip after the hearing. Tr. at 33. The Individual participated in AA, submitting logs evincing AA attendance on average one to two times per week from late July to early November 2025. Ex. M at 59–61, 63–66; Tr. at 34 (testifying that he tries to go at least once per week). This frequency and duration were less than what was recommended by the DOE Psychologist to demonstrate reformation. *Cf. Ex. 6 at 61.* The Individual testified that he has a sponsor but that he has not worked even the first of the twelve steps. Tr. at 49–50. The DOE Psychologist testified that this was of concern. *Id.* at 80–81. The DOE Psychologist also indicated that the Individual's current history of AA attendance was “not sufficient to show adequate evidence of rehabilitation or reformation.” *Id.* at 81.

The Individual started attending individualized therapy in August 2024, which he testified has helped with some of his anger issues. *Id.* at 70–71 (discussing how he handles “road rage” by saying, “Peace be with you” and similar phrases); Ex. T at 86 (letter from Individual's therapist). However, his counseling has not addressed his alcohol-related issues. Tr. at 54 (Individual

responding, “No” when asked “is there any focus on alcohol use in that counseling”). The Individual started attending a men’s support group through his church in 2024 around the same time he started attending therapy. *Id.* at 38; Ex. T at 108 (letter from minister at the Individual’s church). However, in that group, “[a]lcohol hasn’t been mentioned.” Tr. at 54. The Individual also testified that he is currently enrolled in cosmetology school and provides discounted and free haircuts for homeless and low-income individuals. *Id.* at 39–41; *see also* Ex. T at 100, 107, 113 (letters from cosmetology school admissions director and others aware of his volunteer work involving hair cuts). When asked about the Individual’s activities outside of AA, the DOE Psychologist noted that, while they were commendable, the Individual’s participation in AA was important in demonstrating a “commitment” to preventing relapse. Tr. at 84.

The DOE Psychologist further testified that AA attendance and focus on his alcohol-related issues were important in preventing future issues:

[The Individual] has made a commitment to helping people. He’s made a commitment to helping his community. He’s made a commitment to his faith. All these things are very positive, but he also needs to make a commitment to himself, and without that commitment, that’s what makes looking at him [his prognosis] a year out guarded, instead of good.

Id. at 86. The DOE Psychologist explained that “guarded” meant that he had “doubts for one year out whether [the Individual] would be able to maintain sobriety” especially given his lack of participation in “alcohol-focused type of reformation or rehabilitation.” *Id.* at 96–97. He also expressed concern that the Individual still disclaimed that alcohol had a role in his 2012 Bar Altercation: “Three or four cocktails can, over a short period of time . . . , result in a pretty high blood alcohol level, and I do believe that would have contributed to that situation I believe he’s minimizing when he says that.” *Id.* at 102.

i. Character Letters and Other Similar Evidence

The Individual submitted twenty-seven letters from a variety of individuals, including family, friends, coworkers, and those from his church, touching on various aspects of the Individual’s positive character traits. *See generally* Ex. T at 82–113. For example, some describe him as a “friend and mentor” with a “strong moral compass.” *Id.* at 88. Others highlight his work with the homeless. *See, e.g., id.* at 97. Others mention his “strong family values” and describe him as a person who “places his family’s well-being at the center of his priorities.” *Id.* at 93, 106. The Individual also included photos associated with his volunteer work and community involvement. Ex. N at 68; Ex. O at 70; Ex. Q at 72–74; Ex. P at 76; Ex. R at 78. While the Individual provided a relatively large number of character references, they generally lack any indication of awareness of the specific incidents that gave rise to the security concerns in this case. Of the twenty-seven letters, only four vaguely mention that they may have knowledge as to the Individual’s alcohol-related issues and criminality. *Id.* at 82 (“[The Individual] has been transparent about his past and even present struggle”), 86 (“From the beginning of our therapeutic relationship, [the Individual] has been forthcoming about his background”), 99 (“From meeting [the Individual] . . . , he has been very open about his past and his religious beliefs.”), 113 (“[The Individual] shared with me his personal experiences with the law and alcohol”). None specifically mention the

2024 Battery Arrest or discuss his character in the context of the 2024 Battery Arrest. *See generally* Ex. T at 82–113.

V. ANALYSIS

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

a. 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 claimed to have stopped drinking alcohol in June 2025. I do not credit this account, given his unreliability in self-reporting his alcohol use and the extensive record of minimization before me. I only credit that the Individual has been sober since August 2025 as corroborated by his September 2025 PEth tests. Accordingly, I cannot find the behavior to have occurred “so long ago.” I also cannot make specific findings as to the frequency of the behavior. He self-reported drinking a number of beers either once or twice a month since either 2015 or 2021; however, as discussed above, the record includes evidence of minimization, undermining the reliability of his self-reported alcohol use.

The Individual has not alleged unusual circumstances leading to his pattern of alcohol consumption. I also find that his alcohol consumption continues to cast doubt on his reliability, trustworthiness, and judgment. 10 C.F.R. § 710.7(c) (requiring that I consider, among other things, the “nature, extent, and seriousness of the conduct; the circumstances surrounding the conduct . . . ; the absence . . . of rehabilitation or reformation . . . ; [and] the motivation for the conduct . . . ”).

His minimization of his alcohol consumption reflects ongoing dishonesty or a lack of insight or both. At the hearing, the Individual disclaimed the role alcohol played in a bar fight that happened well over a decade ago, which also raised concerns with the DOE Psychologist. That dishonesty and lack of insight apparent in his failure to see alcohol as contributing to his 2012 Bar Altercation inform my assessment on the inconsistent narrative given about his alcohol consumption prior to his 2024 Battery Arrest. I remain unconvinced that the Individual only had two drinks. Aggravating my concerns are his age and lack of maturity when the Individual—a father in his late 30s—consumed alcohol, threw his daughter’s belongings into the street, and minimized his role and the role of alcohol in the altercation. *Id.* (requiring that I also consider “the age and maturity of the individual at the time of the conduct”). The above circumstances demonstrate ongoing issues with his reliability, trustworthiness, and judgment. Mitigating condition (a) does not apply.

Regarding the second mitigating condition, I find that the Individual has acknowledged his maladaptive alcohol use to some extent. He has cited alcohol use as inconsistent with his faith for example. However, as mentioned above, the Individual over a decade later has failed to acknowledge the role alcohol played in a 2012 Bar Altercation and provided unreliable testimony on the role alcohol played in a 2024 Battery Arrest. With respect to actions taken to overcome the problem and demonstrating abstinence in accordance with treatment recommendations, the Individual has only provided laboratory testing evincing sobriety starting in August 2025. Given the short period of documented sobriety, I do not find his abstinence to be clear and established. As to the Individual’s actions to overcome his alcohol problem, I find that they are insufficient because of their inconsistency with the DOE Psychologist’s recommendations. The Individual declined to engage in the recommended EAP treatment as recommended by the DOE Psychologist. He has not followed the DOE Psychologist’s specific recommendations with respect to demonstrating reformation, which was attendance in AA four times per week for a six-month period. As explained by the DOE Psychologist, the Individual must engage in treatment or attend programming like AA that is focused on his alcohol use to minimize the likelihood of future alcohol-related issues. Mitigating condition (b) does not apply. The lack of alcohol-related 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.

b. 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.

On mitigating condition (a), the Individual's 2012 and 2014 DUIs occurred a long time ago. The same cannot be said, however, for the 2024 Battery Arrest, which evinces continuing issues with his alcohol consumption and related criminal behavior. The arrest happened in June 2024, about a year and half prior to the hearing and, troublingly, during the pendency of his clearance application process. Furthermore, the Individual's own explanation regarding the 2024 Battery Arrest indicates no circumstances so unusual that they would excuse the lapse in judgment. At best, the Individual became upset with his teenage daughter's teenage behavior, decided to throw out her personal belongings outside at 1:00 a.m., and physically prevented her from returning to the residence despite his obligations as her custodial parent. His active clearance application gave him no pause. This reflects poorly on his reliability, trustworthiness, and good judgment.

I have also declined to credit his narrative based on several unreliable answers given regarding the night's events. In particular, the Individual denied responsibility for his daughter's injuries to her head and left rotator cuff, despite admitting to physically blocking her like in "football." The Individual provided no credible explanation as to how she sustained those injuries, instead insinuating an unsupported and improbable narrative involving self-harm. The Individual has also given an inconsistent narrative as to his alcohol consumption that night. This all raises ongoing concern as to his reliability, trustworthiness, and judgment up to the day of the hearing. Mitigating condition (a) does not apply.

Regarding mitigating condition (b), I have no evidence of pressure or coercion associated with the Individual's criminal activity. I cannot find that mitigating condition (b) applies.

Mitigating condition (c) does not apply to the Individual's two DUIs, as he admitted to them. Furthermore, the record also reflects reliable evidence to support that the Individual committed the offense associated with the 2024 Battery Arrest. The police report documents that an officer and medical responder observed injuries to his daughter. Even crediting his version of events—which I do not—the Individual admitted that he physically blocked his daughter from entering the home like in "football." As described above, the Individual gave no credible explanation for how she otherwise sustained those injuries. Mitigating condition (c) does not apply.

Regarding mitigating condition (d), there is some evidence of rehabilitation. With respect to the two DUIs, he completed the courses and requirements imposed by the court and military. These two DUIs occurred long ago without similar offenses recurring. Furthermore, as evidence of rehabilitation, the Individual presently engages in counseling, church involvement, and volunteer opportunities. However, to the extent that alcohol played a role in his criminal offenses, the Individual eventually was arrested for another alcohol-related crime demonstrating that prior alcohol-related courses and requirements had little rehabilitative value in the long run.

Furthermore, the Individual has not attended AA at a frequency or for a duration recommended by the DOE Psychologist, specifically to address his alcohol-related issues—which have in turn contributed to his criminality. The DOE Psychologist also gave the Individual a “guarded” prognosis, expressing some skepticism as to whether the Individual will maintain his sobriety in the long term.

Furthermore, I have concerns with the Individual’s testimony. On the day of the hearing, he disclaimed responsibility for his daughter’s injuries and continually placed blame on his daughter for the altercation. *See, e.g.*, Tr. at 32 (“This situation was all based off of her performance . . .”), 45 (discussing having gone through the “phrases of forgiveness” with respect to his daughter). I have found his narrative of the events lack credibility, and I find his insistence regarding her purported fault troubling. Ultimately, his daughter was a minor in his custody, whose possessions he threw out of his home and whose residence he physically prevented her from entering. That he continues to place the responsibility for this altercation on her suggests a lack of meaningful reflection necessary in sincere rehabilitation. His character references, photographs, employment record, church involvement, and community involvement are insufficient when weighed against these deflective statements, which give direct insight into his perception of the issue. I find mitigating condition (d) inapplicable.

Accordingly, I find that the Individual has not satisfied any mitigating conditions 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 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 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