

**\*The original of this document contains information which is subject to withholding from disclosure under 5 U.S. C. § 552. Such material has been deleted from this copy and replaced with XXXXXX's.**

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

In the Matter of: Personnel Security Hearing )  
 )  
Filing Date: December 16, 2025 ) Case No.: PSH-26-0027  
 )  
 )  
\_\_\_\_\_ )

Issued: February 25, 2026

---

**Administrative Judge Decision**

---

Noorassa A. Rahimzadeh, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXX (the Individual) to hold an access authorization under the United States Department of Energy’s (DOE) regulations, set forth at 10 C.F.R. Part 710, “Procedures for Determining Eligibility for Access to Classified Matter and Special Nuclear Material or Eligibility to Hold a Sensitive Position.”<sup>1</sup> As discussed below, after carefully considering the record before me in light of the relevant regulations and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (June 8, 2017) (Adjudicative Guidelines), I conclude that the Individual’s access authorization should not be restored.

**I. Background**

In December 2024, the Individual was arrested and charged with misdemeanor Driving Under the Influence (DUI) with Property Damage or Personal Injury. Exhibit (Ex.) 6 at 46.<sup>2</sup> The police report indicates that the Individual rear-ended another vehicle that was stopped at a red light. *Id.* at 47. A nearby law enforcement officer “heard a loud crashing noise” and when the officer drove to the scene, he observed the Individual sitting in his car as the other driver flagged him down. *Id.* at 47, 63. The police report also indicates that the law enforcement officer “detected multiple indicators of impairment[,]” as the Individual was “unsteady on his feet and using the vehicle to hold himself up.” *Id.* at 47, 63. Other signs of impairment included “the odor of an alcohol beverage emitting from the [Individual’s] breath as he spoke, slurred speech[,] and bloodshot, watery[,] and glassy eyes.” *Id.* at 47, 63, 70. Another officer who responded to the scene noted that the Individual “was very confrontational and uncooperative, as he was yelling and continuously repeating ‘[n]obody

---

<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 DOE and the Individual were not numbered. This Decision will refer to the PDF page number when citing to exhibits.

called you!” *Id.* at 70. The Individual refused to submit to any field sobriety tests or a breath alcohol test but was nonetheless placed under arrest.<sup>3</sup> *Id.* at 47, 71.

The Individual was asked to complete a Letter of Interrogatory (LOI) at the behest of the DOE Local Security Office (LSO), which he signed and submitted in May 2025. Ex. 6. The Individual explained that on the day of the December 2024 DUI incident, he attended a work party whereat he claimed that he consumed approximately three beers over three hours. *Id.* at 39–40. He stated that, after he left the party, as he approached a green light, it appeared that the car in front of him was moving forward, but “suddenly hit the brakes.” *Id.* at 39. They both pulled off the road, and the Individual stated that damage to the other car was “cosmetic.” *Id.* at 39–40.

In the LOI, the Individual was also asked to provide information regarding a March 2022 DUI arrest and charge.<sup>4</sup> *Id.* at 41. He explained that on that occasion, he went to watch a fight at a local sports bar to celebrate a friend’s birthday. *Id.* He claimed that he consumed one beer and three mixed drinks. *Id.* His blood alcohol content (BAC) on that night was 0.12. *Id.*

The Individual completed a second LOI in June 2025. Ex. 7. In explaining the uncooperative behavior that the officer noted in the police report regarding the December 2024 DUI incident, the Individual explained that when the accident occurred, he and the other driver pulled over to exchange information. *Id.* at 85. He stated that after law enforcement personnel responded to the scene, they were asked to leave by both him and the other driver. *Id.* He explained that his “frustration was directed at the officers’ rude behavior and what [he] perceived [was] an unlawful detainment.” *Id.*

As questions still remained, the Individual underwent a psychological evaluation conducted by a DOE-consultant psychologist on July 22, 2025 at the behest of the LSO. Ex. 9. As part of the evaluation process, the Individual submitted to Phosphatidylethanol (PEth) and ethyl glucuronide (EtG) tests. *Id.* at 103–04. The PEth test was positive at a value of 22 ng/mL, and the EtG test was negative.<sup>5</sup> *Id.* at 103. In a report (the Report) that the DOE Psychologist issued in August 2025, the DOE Psychologist concluded that the Individual “habitually or binge consume[s] alcohol to the point of impaired judgment[.]” *Id.* at 100.

The LSO began the present administrative review proceeding by issuing a letter (Notification Letter) to the Individual in which it notified him that it possessed reliable information that created a substantial doubt regarding his eligibility for access authorization. In a Summary of Security

---

<sup>3</sup> The Individual ultimately entered a guilty plea to reckless driving in July 2025. Ex. 8. He was placed on probation, which required him to complete fifty hours of community service, report to a probation officer for twelve months, pay restitution, complete a DUI school and victim impact panel, and undergo a drug and alcohol evaluation followed by any necessary treatment. Ex. 8 at 89; Ex. C; Ex. D; Ex. E; Ex. F; Ex. H. Because he completed the terms of his probation early, he was discharged from probation in December 2025. Ex. G.

<sup>4</sup> A record of the Individual’s criminal history was accessed in June 2025, which confirmed that the DUI charge was reduced to Reckless Driving Alcohol Related on final disposition in January 2023. Ex. 5 at 29–30.

<sup>5</sup> “PEth levels in excess of 20 ng/mL are considered evidence of moderate to heavy ethanol consumption.” Ex. 9 at 103. PEth “can be detected for up to 28 [days].” Ex. 11 at 3. An EtG test requires a urine specimen and can detect alcohol in the body, and “[a]fter only one or two drinks, EtG can be detected for up to 48 [hours], but with heavy consumption, EtG can be detected for up to 4 days.” *Id.* at 2.

Concerns (SSC) attached to the Notification Letter, the LSO explained that the derogatory information raised security concerns under Guidelines G (Alcohol Consumption), E (Personal Conduct), and J (Criminal Conduct) of the Adjudicative Guidelines. Ex. 2. The Notification Letter informed the Individual that he was entitled to a hearing before an Administrative Judge to resolve the substantial doubt regarding his eligibility to hold a security clearance. *See* 10 C.F.R. § 710.21.

The Individual requested a hearing, and the LSO forwarded the Individual's request to the Office of Hearings and Appeals (OHA). The Director of OHA appointed me as Administrative Judge in this matter. At the hearing I convened pursuant to 10 C.F.R. § 710.25(d), (e), and (g), the Individual testified on his own behalf. *See* Transcript of Hearing, OHA Case No. PSH-26-0027 (hereinafter cited as "Tr.") The Individual also submitted fourteen exhibits, marked Exhibits A through N. The DOE Counsel submitted ten exhibits marked as Exhibits 1 through 10 and presented the testimony of the DOE Psychologist.

## II. Notification Letter

### 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. Among those conditions set forth in the Adjudicative Guidelines that could raise a disqualifying security concern are "alcohol-related incidents away from work, such as driving while under the influence[,] and the "habitual or binge consumption of alcohol to the point of impaired judgment, regardless of whether the individual is diagnosed with alcohol use disorder[.]" *Id.* at ¶ 22(a), (c). Under Guideline G, the LSO alleged that:

1. The DOE Psychologist determined that the Individual "habitually binge consumes alcohol to the point of impaired judgment, which has resulted in high-risk behavior." Ex. 2 at 6.
2. The Individual was charged with DUI in December 2024, and officers noted an odor of alcohol, slurred speech, bloodshot, watery, and glassy eyes, as well as uncooperative behavior. *Id.* at 7. The Individual admitted that he had consumed three beers prior to the DUI. *Id.*
3. The Individual was arrested and charged with DUI in March 2022. *Id.* The Individual's BAC was .12. *Id.*

The LSO's invocation of Guideline G is justified.<sup>6</sup>

### Guideline E

---

<sup>6</sup> The LSO made two additional allegations restating opinions the DOE Psychologist offered in the Report. While this information informed the DOE Psychologist's conclusion that the Individual binge consumed alcohol to the point of impaired judgment, the two additional allegations do not raise security concerns distinct from the DOE Psychologist's opinion concerning the Individual's binge consumption of alcohol and therefore I do not consider them herein. Additionally, I have no information before me indicating that the DOE Psychologist consulted with a medical doctor, an appropriate individual to interpret PEth test results. Accordingly, I afford the DOE Psychologist's interpretation of the PEth test result very little weight.

Under Guideline E, “[c]onduct involving questionable judgement, 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.” Adjudicative Guidelines at ¶ 15. Among those conditions set forth in the Adjudicative Guidelines that could raise a disqualifying concern is the “deliberate omission, concealment, or falsification of relevant facts from any . . . form used to . . . determine national security eligibility or trustworthiness[.]” and “deliberately . . . concealing or omitting information concerning relevant facts to a . . . competent medical or mental health professional involved in making recommendation relevant to any national security eligibility determination[.]” *Id.* at ¶ 16(a)–(b). Under Guideline E the LSO alleged that:

1. The Individual told the DOE Psychologist that “he currently consumes alcohol approximately once per month with an average of two drinks per occasion,” and in the May 2025 LOI, he stated that his alcohol use “is very infrequent.” Ex. 2 at 8. The DOE Psychologist determined that his PEth test results were inconsistent with the above self-reports. *Id.*
2. In the May 2025 LOI response, the Individual stated that he “consumed only [three] beers prior to his [2024] arrest.” *Id.* However, the Individual told the DOE Psychologist that he last binge consumed alcohol on the night of the December 2024 DUI, and defined binge consumption as “consuming [five] or more drinks in one sitting.” *Id.*
3. The Individual indicated in the July 2025 LOI response that he and the other driver involved in the December 2024 accident were “amicabl[y] exchanging information” and that they asked law enforcement to leave upon their arrival. *Id.* However, the incident report indicates that the other driver “called [the law enforcement officer] over to the accident scene[.]” *Id.*

As explained *infra*, I find that the first allegation by the LSO does not raise security concerns under Guideline E. However, the second and third allegations justify the LSO’s invocation of Guideline E.

### **Guideline J**

Guideline J states that “[c]riminal activity creates doubt about a person’s judgment, reliability, and trustworthiness” and that, “[b]y its very nature, it calls into question a person’s ability or willingness to comply with laws, rules, and regulations.” Adjudicative Guidelines at ¶ 30. Conditions that could raise a security concern under Guideline J include “[e]vidence . . . of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted[.]” *Id.* at ¶ 31(b). The LSO alleged that:

1. The Individual was arrested and charged with DUI with Property Damage or Personal Injury in December 2024, “pleaded guilty to a reduced charge of Reckless Driving,” and was ordered to complete probation. Ex. 2 at 9.

2. The Individual was arrested and charged with DUI in March 2022 and was ultimately found guilty of Reckless Driving Alcohol Related. *Id.*

The LSO's invocation of Guideline J is justified.

### 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 Department of Navy v. Egan*, 484 U.S. 518, 531 (1988) ("clearly consistent with the national interest" standard for granting security clearances indicates "that security determinations should err, if they must, on the side of denials"); *Dorfmont v. Brown*, 913 F.2d 1399, 1403 (9th Cir. 1990) (strong presumption against the issuance of a security clearance).

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

### IV. Findings of Fact and Hearing Testimony

Regarding the precipitating incident in 2024, the Individual stated at the hearing that law enforcement responded to the scene as the parties were exchanging information. Tr. at 25. He then "asked [law enforcement personnel] to leave," and that is when their "attitude towards [him] changed," and "they smelled alcohol on [him]." *Id.* at 26. He insisted that the other driver told him that she did not call law enforcement, and he disagreed with the allegation that the other driver alerted law enforcement to the scene. *Id.* at 26–28. He initially testified that he was not intoxicated during the 2024 incident, as the "way he maneuvered [his] vehicle" to avoid hitting the car in front of him "probably tells you that [he] was not intoxicated." *Id.* at 40. However, in later testimony, he indicated that he "could have been" intoxicated on the night of the 2024 incident and "would have to have a test done that night" to be sure. *Id.* at 41, 49.

The Individual told the DOE Psychologist during the late July 2025 evaluation that December 2024 was the last time that he binge consumed alcohol, which he "defined as consuming five or more drinks in one sitting." Ex. 9 at 94. He explained to the DOE Psychologist that he binge consumed alcohol approximately once per year, and he denied a history of blackouts. *Id.* He also told her that he consumed alcohol approximately once per month, "with an average of two drinks per occasion." *Id.* She also noted his reports of intermittent abstinence, and denial of any history

of alcohol treatment. *Id.* The DOE Psychologist concluded in her Report that although the Individual does not meet sufficient diagnostic criteria for a diagnosis of Alcohol Use Disorder (AUD), it was troubling that the Individual was involved in two alcohol-related criminal incidents over the span of three years. *Id.* at 99–100. Although the Individual “reported infrequent use” of alcohol, she stated, the aforementioned incidents “suggest periods of impaired decision-making under the influence.” *Id.* at 100. She also opined that the Individual’s PEth test suggests “alcohol consumption within the preceding [two to three] weeks” which is “discrepant with his self-reported pattern of infrequent, low-quantity use and raises questions about the accuracy of his disclosures regarding recent drinking behavior.”<sup>7</sup> *Id.* Accordingly, she determined that the Individual habitually or binge consumes alcohol to the point of impaired judgment, and that the discrepancy between his self-reports of alcohol consumption and PEth test results “may reflect a lack of insight, minimization, or defensiveness in reporting.” *Id.* at 100–01. She later clarified that for men, binge drinking consists of five or more drinks “over the course of one occasion.” Tr. at 92

The DOE Psychologist recommended in the Report that in order for the Individual to show adequate evidence of rehabilitation or reformation he should engage in a “[s]ubstance use education or relapse prevention program[,]” remain abstinent or engage in “documented low-risk use” for the span of twelve months, “[d]emonstrate[] [an] understanding of the impact of alcohol on decision-making and judgment,” and “engage[] in supportive services” like Alcoholics Anonymous to “increase insight and accountability.” Ex. 9 at 101–02.

The Individual explained in the May 2025 LOI, during the psychological evaluation, and in his testimony that his current alcohol consumption “is very infrequent,” “low,” and “inconsistent.” Ex. 6 at 42; Ex. 9 at 94; Tr. at 17. He indicated that “[t]here are some years where [he] chooses not to drink at all, and other times it can be several months between instances” of alcohol consumption. Ex. 6 at 42; Ex. 9 at 94. He testified that he was abstinent for about a year in 2021. Tr. at 59–61. He denied keeping alcohol in his home and estimated his average consumption as “once a month.” Ex. 6 at 42; Ex. 9 at 94. He stated that he generally does “not consume more than [two] beers” on the occasions that he does consume alcohol. Ex. 6 at 42; Ex. 9 at 94. He stated that when he does consume alcohol, it is usually in the context of a special event or celebration involving friends and family. Ex. 6 at 42. He insisted that “[i]t is very rare that [he] would drink enough alcohol to put [him] above the legal limit[,]” and that it would require more than two drinks for him to reach impairment. *Id.* at 43. He also indicated that he developed “digestive issues” in approximately 2024, and as a result, he “rarely drink[s] anymore[,]” and when he does, it is in small amounts, “as [his] body now reacts negatively to alcohol.” *Id.* at 44.

At the hearing, the Individual insisted that he consumed three drinks on the night of the 2024 incident, because he does not consume “five beers or more drinks in one sitting.” Tr. at 29. He claimed that at the time he answered the DOE Psychologist’s question, he believed that binge drinking was “anywhere between three and five drinks.” *Id.* at 30. In later testimony, he indicated that he “must have misunderstood what binge drinking” is. *Id.* at 42. When asked whether he was “not being truthful when [he told the DOE Psychologist] that [he] had five or more drinks” the night of the 2024 incident, he stated that he did not recall, but that he believed he had said “three drinks, not five.” *Id.* at 43.

---

<sup>7</sup> The Individual explained at the hearing that he was not aware that he was going “to supply a lab test of biomarkers” or that he had to be “tracking [his] alcohol intake.” Tr. at 17.

At the hearing, the Individual stated that he disagrees with the DOE Psychologist's conclusion that he habitually or binge consumed alcohol to the point of impaired judgment. *Id.* at 18. He asserted that prior to the psychological evaluation, he drank alcohol "around the Fourth of July[.]" which would have been approximately 18 days prior to the psychological evaluation and PEth test, but he could not provide an estimate of how much alcohol he had consumed on that occasion, which is why he provided the DOE Psychologist with an estimate based on his "previous alcohol consumption pattern[s]."<sup>8</sup> *Id.* at 18–19, 34. He did not have "any intention to mislead [the DOE Psychologist]." *Id.* at 19.

When asked if he had completed any of the DOE Psychologist's recommendations, he stated that he had completed the terms of his probation and indicated that since the evaluation, he had found an online self-managed recovery program. *Id.* at 21, 31–32. At the time of the hearing, the Individual had attended one group meeting of the self-managed recovery program. Ex. L; Ex. N. The Individual also stated that his "ongoing alcohol consumption since the incident[] has been responsible to low levels[.]" but he did not provide any specific indication of how much he was consuming.<sup>9</sup> Tr. at 21. He explained that the self-managed recovery meeting has taught him how to drink responsibly, "build healthy habits," and "find balance," and has offered him "positive reinforcement." *Id.* at 22. He stated that he last consumed alcohol the weekend prior to the hearing, consuming one drink on Saturday and one drink on Sunday. *Id.* at 55–56. When asked why he continues to consume alcohol despite having two alcohol-related incidents, the Individual stated that there was "no particular reason" and that "[it is] just to go out and share time with friends and family[.]" *Id.* at 62. He explained that if he so chose, he "could stop drinking right now[.]" but that he has not because he does not "have a problem." *Id.* at 63.

At the hearing, the DOE Psychologist confirmed her assessment that the Individual has, on multiple occasions, "consumed alcohol to the point of impaired judgment." *Id.* Specifically, the Individual consumed alcohol to the point of impaired judgment on the days of the 2022 and 2024 alcohol-related incidents. *Id.* at 89–90. The DOE Psychologist stated that although she felt that the Individual's engagement with the self-managed recovery meeting is a "positive step[.]" "a substance use education class would be great." *Id.* at 90–91. In later testimony, the DOE Psychologist determined that the education requirements of the Individual's probation were sufficient to meet the "substance use education class" recommendation that she made at the hearing. *Id.* at 110. She also suggested "a substance abuse evaluation and then possible treatment

---

<sup>8</sup> The Report does not indicate that the Individual provided the DOE Psychologist with any information regarding his July 4, 2025, alcohol consumption. In his testimony the Individual was asked whether he knew "when [he] actually had a drink prior to [the psychological] evaluation and testing[.]" Tr. at 34. The Individual stated, "if [he] drank, it was around that weekend of the Fourth of July[.]" *Id.* When asked to clarify, he then responded, "[o]h yeah. No, I drank. I celebrated Fourth of July[.]" and stated that the PEth test was positive because he "drank that weekend." *Id.* at 34–35. When asked again how much alcohol he had consumed, he could not remember but stated with confidence that it was "[n]o more than two at once[.]" *Id.* at 35. When asked about the last time he drank prior to the Fourth of July, he could not remember and guessed that he consumed alcohol "the week before or two weeks before." *Id.* at 35–36.

<sup>9</sup> The Individual provided the results of an "alcohol drug screening test," which he characterized as an EtG test. Ex. B; Tr. at 23. The stated detection range for the test was 500 ng/mL. Ex. B. The collection date was mid-January 2025, and the results were negative. *Id.*

with somebody that specializes in substance misuse[.]”<sup>10</sup> *Id.* at 91. She also suggested “objective testing of either abstinence or at least low risk, low use drinking[.]” *Id.* She explained that, at the time of the hearing, the Individual had not shown evidence of sustained behavioral change because he had not provided evidence of modified alcohol consumption. *Id.* at 92–93, 95–96. She explained that the Individual lacks “insight around the misuse of alcohol and the . . . problems that have occurred as a result of the alcohol use.” *Id.* at 94. She did, however, state that one or two drinks per month would generally be considered low risk use. *Id.* at 113–15.

## V. Analysis

### Guideline E

The Adjudicative Guidelines provide that 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

---

<sup>10</sup> The DOE Psychologist made this recommendation despite the fact that the Individual underwent an alcohol and drug evaluation as part of his probation. Ex. 8 at 89. The record does not contain any indication of the results of evaluation he underwent as part of his probation.

reliability, trustworthiness, judgment, or willingness to comply with rules and regulations.

*Id.* at ¶ 17.

The allegation that the Individual misrepresented his alcohol consumption to the DOE Psychologist is based on the DOE Psychologist's interpretation of the PEth test results. As indicated above, as the DOE Psychologist is not a medical doctor, she is not the appropriate person to interpret these results, and accordingly, her interpretation was provided little weight. The first cited allegation under Guideline E in the SSC does not present a security concern, as there is no indication in the Report from an appropriate professional that the recent alcohol consumption the Individual reported to the DOE Psychologist could not have resulted in a PEth test result of 22 ng/mL.

However, turning to the other allegations under Guideline E, I do not find the Individual to be a credible witness. The Individual's responses to questions at the hearing were frequently vague and evasive, and I find his testimony to be inconsistent with the other evidence in the record before me. For instance, he testified that he limits himself to one to two drinks and that he does not drink to intoxication. This is simply inconsistent with the fact that the Individual was charged with an alcohol-related offense on two separate occasions; on the first occasion, the Individual's BAC was measured at .12 and on the second occasion the responding officers reported that they observed the Individual to exhibit signs of intoxication. His assertions regarding the traffic accident on the night of the 2024 incident and his LOI response indicating that he only consumed three beers on the night of the 2024 incident are notable in that they are self-serving, and further, I did not receive a credible explanation for the discrepant information that he provided as stated in the second and third Guideline E allegations. The Individual did not present any evidence to corroborate his assertions regarding how the 2024 incident unfolded, but I have in the record an account provided by law enforcement personnel via an incident report, which in light of my concerns with the Individual's credibility, I assign greater weight than the Individual's testimony. The Individual provided clearly discrepant information regarding how much alcohol he had consumed on the night of the 2024 incident and only indicated at the hearing that he may have misunderstood what constituted binge drinking. The Individual made no effort to correct any statements. Mitigating factor (a) has not been met. As the Individual provided dishonest, inconsistent statements during these proceedings, I cannot conclude that the offense is so minor, so much time has passed, 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. Mitigating factor (c) has not been met.

I have no information before me that the Individual's behavior was the result of advice that he received from an appropriate person, like an attorney. Mitigating factor (b) is not applicable. There is no information before me that the Individual is seeking counseling to address the alleged Guideline E behavior. Mitigating factor (d) is not applicable. The SSC did not allege vulnerability to exploitation, manipulation, or duress. Mitigating factor (e) is not applicable. The Individual did not argue that the information cited in the SSC was unsubstantiated or came from a source of questionable reliability. Mitigating factor (f) is not applicable. The SSC did not allege that the

Individual was associated with persons involved in criminal activities. Mitigating factor (g) is not applicable.

In light of the foregoing, the Individual has failed to resolve the security concerns raised by the second and third allegations cited under Guideline E.

### **Guideline G**

The Adjudicative Guidelines provide that 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.

Pursuant to 10 C.F.R. § 710.7(c), I am required to consider, among other things, “the frequency and recency of the conduct,” the absence or presence of rehabilitation or reformation and other pertinent behavioral changes,” and “the likelihood of continuation or recurrence.” Irrespective of how the Individual has characterized his alcohol consumption or whether he agrees with the DOE Psychologist's assessment that he habitually or binge consumed alcohol to the point of impaired judgment, the fact remains that since 2022, in a span of less than three years, the Individual was charged with two DUI offenses. Not only did this alcohol-related behavior occur as recently as 2024, the DUI offenses also occurred in relatively quick succession. Simply based on the number of the alcohol-related offenses in such a condensed amount of time, I am reluctant to accept the Individual's assertions that his consumption is as infrequent as he claims it is. Further, based on the record, I do not have any information before me that the Individual changed his alcohol consumption. He insists that he does not consume more than two drinks per occasion, however, as explained above in the Guideline E analysis, I do not find the Individual a credible narrator of his alcohol consumption. In the face of these troubling circumstances, the two DUIs and the fact that the LSO finds his consumption concerning, the Individual admitted that he still continues to consume alcohol at about the same level as he did prior to the psychological evaluation and only

offered the possibility of changing his behavior at some unknown future date, if he so desires. At the very least, this evidences deeply poor judgment. As indicated by the DOE Psychologist, the Individual has not shown any change in his behavior as he has no notion that his behavior should be changed, and therefore, I am not reassured that poor behavior around alcohol will not recur.

As the most recent alcohol-related incident occurred in 2024 and only a few years after his first known alcohol-related incident, I cannot conclude that enough time has passed, that his behavior was infrequent or that it happened under unusual circumstances. Mitigating factor (a) has not been satisfied.

The Individual did not acknowledge his pattern of maladaptive alcohol consumption, has not participated in counseling for his alcohol consumption, and has not demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations. Mitigating factors (b), (c), and (d), are not applicable.

In light of the foregoing, the Individual has failed to resolve the security concerns raised by the allegations cited under Guideline G.

### **Guideline J**

The Adjudicative Guidelines provide that conditions that can 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.

I cannot conclude that the Individual has mitigated the alcohol-related Guideline J concerns. As the last DUI arrest was in 2024, I cannot conclude that it happened so long ago. I also cannot conclude that it happened under unusual circumstances or is unlikely to recur, as the Individual has not effectively addressed his underlying alcohol consumption. Therefore, the Individual has failed to mitigate the alcohol-related criminal behavior pursuant to mitigating factor (a). Although the Individual presented evidence that he successfully completed the terms of his probation, as related to the 2024 DUI, and that both DUIs were pled down to a lesser offense, the fact remains

that the Guideline J concerns are inextricably intertwined with the Guideline G concerns, as these concerns stem from Individual's alcohol consumption. Although the Individual did not dodge accountability for the actual criminal offenses, he spent most of his testimony downplaying or understating the underlying behavior, his alcohol consumption. If he does not address the underlying behavior, then he cannot show sufficient or successful rehabilitation, as the possibility of repeating the criminal offense still exists. As I am tasked with considering the possibility of recurrence pursuant to 10 C.F.R. Part 710.(c), mitigating factor (d) has not been met.

The Individual did not present any evidence indicating that he was coerced or pressured into committing the alleged criminal acts. Mitigating factor (b) is not applicable. The Individual did not present any evidence suggesting that there is no reliable evidence to support that he committed the alleged offenses. Mitigating factor (c) is not applicable.

In light of the foregoing, the Individual has failed to resolve the security concerns raised by the allegations cited under Guideline J.

## **VI. Conclusion**

For the reasons set forth above, I conclude that the LSO properly invoked Guidelines G, E, and J of the Adjudicative Guidelines. After considering all the evidence, 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 Guidelines G, E, and J concerns set forth in the SSC. Accordingly, the Individual has not demonstrated that restoring his security clearance would not endanger the common defense and security and would be clearly consistent with the national interest. Therefore, I find that the Individual's access authorization should not be restored. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Noorassa A. Rahimzadeh  
Administrative Judge  
Office of Hearings and Appeals