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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-25-0162
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Issued: May 6, 2026

Administrative Judge Decision

Phillip Harmonick, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXXXXXX (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 restored.

I. BACKGROUND

From 1976 to 2010, the Individual was arrested and charged with numerous offenses, including four occasions on which the Individual was arrested and charged with Driving Under the Influence (DUI).² Exhibit (Ex.) 15 at 233–35, 315–23, 347–55, 479–88.³ The Individual was granted access authorization in October 2020. Transcript of Hearing, OHA Case No. PSH-25-0162 (Tr.) at 92. On August 1, 2024, the local security office (LSO) received Personnel Security Information Reports (PSIR) indicating that the Individual had been arrested and charged with disorderly

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 The name of the offense the Individual was charged with on each of these occasions varied based on the circumstances and the jurisdiction in which the Individual was charged. I refer to all offenses in which the Individual was alleged to have operated a motor vehicle while impaired by alcohol as "DUI."

³ The exhibits submitted by the local security office (LSO) were Bates numbered in the upper right corner of each page. This Decision will refer to the Bates numbering when citing to exhibits submitted by the LSO.

conduct. Ex. 6 at 47. An appended incident report stated that the Individual “was visibly highly intoxicated” at the time of the arrest. *Id.* at 48. The LSO subsequently issued the Individual a letter of interrogatory (LOI) concerning her alcohol consumption and the circumstances of her disorderly conduct arrest. In responses to the LOI on October 7, 2024, and November 27, 2024, the Individual stated that she had not consumed alcohol since August 18, 2024, but had previously consumed “6 to 10” light beers daily since 2017. Ex. 7 at 62; Ex. 8 at 76–77.

In January 2025, the Individual underwent a psychiatric evaluation with a DOE-contracted psychiatrist (DOE Psychiatrist). Ex. 10 at 124. The DOE Psychiatrist subsequently issued a report of the evaluation (Report) wherein he opined that the Individual met sufficient diagnostic criteria for a diagnosis of Alcohol Use Disorder (AUD), Moderate, under the *Diagnostic and Statistical Manual of Mental Health Disorders – Fifth Edition-Text Revision (DSM-5-TR)*. *Id.* at 130.

The LSO issued the Individual a Notification Letter, advising her that it possessed reliable information creating substantial doubt regarding her eligibility for access authorization. Ex. 1 at 9–11. 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 6–8.

The Individual exercised her right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. Ex. 2. The Director of the Office of Hearings and Appeals (OHA) appointed me as the Administrative Judge, and I conducted an administrative hearing in April 2026. The LSO submitted fifteen exhibits (Ex. 1–15) and the Individual submitted eighteen exhibits (Ex. A–R).⁴ The Individual testified on her own behalf. Tr. at 3, 20. The LSO offered the testimony of the DOE Psychiatrist. *Id.* at 3, 103.

II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS

The LSO cited Guideline G (Alcohol Consumption) of the Adjudicative Guidelines as the first basis for its substantial doubt regarding the Individual’s eligibility for access authorization. Ex. 1 at 6–7. “Excessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses, and can raise questions about an individual’s reliability and trustworthiness.” Adjudicative Guidelines at ¶ 21. The SSC cited the four occasions on which the Individual was arrested and charged with DUI, the Individual’s 2024 arrest and charge for disorderly conduct, the Individual’s self-reported daily consumption of six to ten alcoholic beverages for seven years, and the Individual’s diagnosis with AUD by the DOE Psychiatrist. Ex. 1 at 6–7. The LSO’s allegations that the Individual engaged in alcohol-related incidents away from work,⁵ habitually or binge consumed alcohol to the point of impaired judgment, and was diagnosed with AUD by a duly qualified medical or mental health professional justify its invocation of Guideline G. Adjudicative Guidelines at ¶ 22(a), (c)–(d).

⁴ Exhibits A–K and O were submitted in a single PDF and Bates numbered at the bottom each page. This Decision will refer to the Bates numbering when citing to exhibits A–K and O. Exhibits L–N were videos submitted by the Individual. Exhibits P–R were submitted as three separate PDFs. This Decision will cite to pages within exhibits P–R in the order in which they appear in each PDF.

⁵ As explained *infra* § V.A of this Decision, I find that the Individual was not intoxicated at the time of her 2024 Disorderly Conduct arrest and therefore that this arrest was not an alcohol-related incident.

The LSO cited Guideline J (Criminal Conduct) of the Adjudicative Guidelines as the other basis for its substantial doubt regarding the Individual's eligibility for access authorization. Ex. 1 at 6. "Criminal activity creates doubt about a person's judgment, reliability, and trustworthiness. By its very nature, it calls into question a person's ability or willingness to comply with laws, rules, and regulations." Adjudicative Guidelines at ¶ 30. The SSC cited fourteen occasions on which the LSO alleged the Individual was arrested and charged with unlawful conduct. Ex. 1 at 7–8. The LSO's allegation that the Individual engaged in criminal conduct justifies its invocation of Guideline J. Adjudicative Guidelines at ¶ 31(b).

III. REGULATORY STANDARDS

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

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

IV. FINDINGS OF FACT

A. Individual's Criminal History Prior to Receiving Access Authorization

From 1976, when the Individual was nineteen years of age, to 2010, she was arrested and charged with the following offenses:

- Auto Theft (Aug. 1976) – Deferred judgment, served six-month probation
- DUI, Driving Without Headlights, No Proof of Financial Responsibility, and Possession of Alcoholic Beverage in a Vehicle (Jun. 1988) – Found guilty, ordered to attend a victim impact panel, pay a fine, and complete a term of probation
- DUI and Failure to Maintain Lane (Aug. 1989) – Guilty, ordered to pay a fine, serve two nights in jail, and serve a term of probation

- Abandonment/Cruelty to Child (Jan. 1995) – Children temporarily placed in foster care after officers observed drug paraphernalia in the Individual’s home while serving a traffic ticket-related warrant. A social worker determining that the children had been neglected due to “lack of supervision and poor living conditions”
- Battery Against a Household Member (Sep. 1995) – Dismissed
- Felony Arrest Warrant (Nov. 1995) – Dismissed
- Felony Possession of a Controlled Substance (Sep. 1996) – Dismissed⁶
- Obstructing an Officer (Nov. 2001) – Disposition not present in the record
- Assault, Concealing Identity, and Refusing to Obey an Officer (Mar. 2004) – Disposition not present in the record
- DUI, Careless Driving, and Open Container (Jan. 2007) – Pleaded guilty, ordered to pay a fine, receive alcohol-related treatment, perform community service, have an interlock device installed on her vehicle, and serve a term of probation
- Possession of Drug Paraphernalia (July 2008) – Guilty, ordered to pay a fine
- DUI (Sep. 2008) – Guilty, ordered to attend inpatient rehabilitation for twenty-eight days, receive alcohol-related counseling, pay a fine, and serve a term of probation
- Driving with Revoked License, No Registration, and No Insurance (Nov. 2010) – Pleaded guilty, ordered to pay a fine

Ex. 15 at 233–35, 315–23, 347–55, 479–88; Tr. at 26–28.

Two of the Individual’s arrests warrant specific attention in consideration of parallels to the Individual’s 2024 arrest. *See* Tr. at 35 (Individual testifying that the 2001, 2004, and 2024 arrests involved what the Individual perceived to be escalations of conflict by law enforcement). First, in 2001, the Individual returned home to find an officer questioning her babysitter about a suspicious vehicle. *Id.* The Individual’s efforts to “let [the officer] know, this is where I live” and convince him to leave were unsuccessful, the officer “kept pressing it[,] [a]nd then, [the Individual] did too.” *Id.* at 36. The confrontation escalated until, according to the Individual, the officer “slammed [her] head on the hood of his car and arrested [her] for obstruction of justice.” *Id.* In 2004, the Individual experienced a medical incident in a grocery store. Ex. E at 36–37. An officer attempted to question the Individual who responded that she was speaking to an emergency medical technician and would respond to his questions “in a minute.” Tr. at 37. What happened next is not entirely clear from the record, but the Individual perceived that the officer intended to assault her, the officer interpreted the Individual’s defense against the perceived assault as a threat or an assault, and the Individual was arrested. *Id.*; Ex. E at 37.

B. Individual’s Alcohol Consumption and July 2024 Arrest

⁶ In an interview with an investigator, the Individual stated that she was in possession of illegal drugs at the time of her arrest and intended to use them to “get high.” Ex. 15 at 316–17. The Individual indicated she was unsure why the charges were dismissed. *Id.* at 317.

The Individual began consuming alcohol as a teenager. Ex. 10 at 126. Around this time, the Individual was the victim of sexual violence on two occasions.⁷ *Id.* at 125–26, 130; Ex. A at 2–3; *see also* Ex. 10 at 130, 132 (DOE Psychiatrist opining that posttraumatic stress disorder (PTSD) related to these incidents may have contributed to the Individual’s subsequent alcohol use). While the Individual participated in court-ordered alcohol interventions as a result of the aforementioned DUIs, she did not want to abstain from alcohol and was not responsive to treatment. Ex. 10 at 126.

The full extent of the Individual’s alcohol consumption prior to her July 2024 arrest is inconclusive based on the record. In response to the LOI, the Individual claimed that she had not been intoxicated since 2006. Ex. 7 at 63. I deem this claim false because the Individual’s blood alcohol content (BAC) was estimated at .1% in connection with her 2008 arrest for DUI, the Individual herself admitted to an investigator that she became intoxicated on numerous occasions from 2008 to 2014, and the Individual and a friend both told an investigator that the Individual vomited while going through “withdraw[al]” from alcohol in 2009. Ex. 15 at 319, 324, 334.

According to the Individual, she switched from drinking beer with an alcohol by volume (ABV) of approximately 5% to a lower ABV light beer in 2014. Tr. at 54. The Individual represented that she made this change because her doctor would not prescribe her cholesterol medication due to concerns about how the medication would “affect[] [her] liver” in light of her alcohol consumption. *Id.* The Individual reported consuming six to twelve 3.3% ABV light beers daily over the course of approximately seven hours from 2017 to August 2024. Ex. 8 at 76; Ex. 10 at 126; *but see* Tr. at 55–57 (testifying at the hearing that her previous account “has to be tempered a little” and that, while she may have consumed beer in this manner “300 days or 350 days” per year beginning in 2020, she did not do so literally every day).

1. Individual’s July 2024 Arrest and Dismissal of the Charges

On the evening of July 27, 2024, the Individual purchased food from a restaurant in a downtown area of a city and walked across the street where she consumed the food on a chair outside of an establishment. Ex. 8 at 68. The manager of the establishment approached a law enforcement officer and complained that the Individual was refusing to leave, had thrown trash, and overturned tables and chairs. Ex. 6 at 48. An officer spoke to the Individual who left the premises. *Id.*; Ex. 8 at 69–70.

The Individual crossed the street and returned to the restaurant where she had initially obtained food. Ex. 8 at 70. There, the Individual had an encounter with an employee of the restaurant wherein the employee formed the impression that the Individual was making derogatory comments towards him based on his race. Ex. 6 at 48 (indicating that the employee told a law enforcement officer that the Individual refused to leave the restaurant and said “f**k you . . . I will not listen to you because you’re black”); Ex. 8 at 70 (Individual representing that, due to mishearing the employee, she made a remark that he perceived as mocking his vernacular).

⁷ The Individual strongly disputed that the DOE Psychiatrist’s Report accurately reflected the information she provided concerning these assaults. Tr. at 14–15. While the specific circumstances of the events are not material to my Decision, I note that I do not accept the recitation of the assaults in the Report as fact.

Law enforcement officers confronted the Individual and asked her to leave the area. Ex. 6 at 48; Ex. M. The Individual was uncooperative, yelled at the officers, and refused to leave. Ex. L;⁸ Ex. M; Ex. N; Ex. 6 at 48; *see also* Tr. at 97–98 (testifying that she is unsure why she did not cooperate with the officers). The Individual was arrested and charged with Disorderly Conduct. Ex. 6 at 48–49.

An incident report prepared by one of the law enforcement officers states that the Individual was “visibly highly intoxicated” during the encounter that led to her arrest. *Id.* at 48. I find that this was not the case. First, bodycam footage of the incident does not support the allegation; the Individual’s speech was not slurred in video footage where audio was present, her coordination standing and walking did not appear impaired, and her responses to the officers, while agitated, were coherent and congruent with the statements by the officers to which she responded. Ex. L; Ex. M; Ex. N. The incident report is silent as to what factors led the officers to conclude that the Individual was intoxicated, and her BAC was not measured following her arrest. Ex. 6 at 48; Ex. 7 at 58.⁹ Moreover, the incident report contains another significant exaggeration that undermines the credibility of the officers’ observations; specifically, that the Individual entered a “fighting stance,” which the incident report characterized as “clench[ing] both hands into fists while widening [her] stance,” after which the arresting officer claimed he “immediately gained control of [the Individual’s] person.” Ex. 6 at 48. Bodycam footage flatly contradicts this assertion; the Individual was not cooperative with the officers, but in the moments immediately prior to the Individual’s arrest she did not clench her fists, widen her stance, or make any movement even remotely consistent with a “fighting stance.” Ex. N; *see also* Ex. 12 at 166 (providing vital information indicating that the Individual was sixty-six years old and approximately one hundred and forty pounds at the time of the altercation). Considering the exaggerations in the incident report, the absence of information in the incident report as to the basis for the officers’ opinion that the Individual was intoxicated, the lack of visual evidence of intoxication in the bodycam footage, and the lack of alcohol testing, I conclude that she was not intoxicated at the time of her arrest.

The charges against the Individual were dismissed in January 2025, without prejudice, after the arresting officer failed to appear at trial. Ex. O at 85–86.

2. *Individual’s Post-Arrest Alcohol Consumption*

The Individual continued consuming alcohol on a daily basis until August 18, 2024, when she was enrolled in her employer’s fitness for duty (FFD) program and stopped consuming alcohol. Ex. 10 at 126, 129. On August 20, 2024, the Individual’s employer required her to undergo a

⁸ Bodycam footage, from which the Individual removed the audio, clearly shows the Individual yelling and gesticulating in an agitated manner as she backs away from the officers. Ex. L. The Individual’s captioning of the video “Audio removed to emphasize motor control” is not a compelling explanation for the removal of the audio. *Id.* The Individual’s omission of the audio appears to have been calculated to avoid displaying an aspect of the encounter that would have reflected unfavorably on the Individual.

⁹ The Individual claimed that she did not consume any alcohol on the day of her arrest. Tr. at 63. Considering that the Individual admitted to daily, or nearly daily, alcohol consumption during this period, I do not accept that she consumed no alcohol based on her uncorroborated testimony. *See supra* p. 5 (discussing the Individual’s alcohol consumption as of July 2024). However, whether or not the Individual consumed alcohol on the day of her arrest, the evidence discussed above is sufficient to convince me that the Individual was not intoxicated at the time of her arrest.

phosphatidylethanol (PEth)¹⁰ test which was positive at 686 ng/mL. *Id.* at 129, 138–39. According to the DOE Psychiatrist, this result was consistent with the Individual’s self-reported alcohol consumption. *Id.* at 129. The Individual underwent a second PEth test on September 23, 2024, which was positive at 32 ng/mL. *Id.* at 129, 140–41; *see also id.* at 129 (DOE Psychiatrist opining that this result “reflected the normal clearing of PEth from her system” and was not inconsistent with her self-reported abstinence since August 18, 2024). Another PEth test was performed on December 26, 2024, which was negative for traces of alcohol consumption. *Id.* at 142–43.

C. Evaluation by the DOE Psychiatrist

The Individual met with the DOE Psychiatrist for a clinical interview on January 7, 2025. *Id.* at 124. The Individual provided an account of her personal history consistent with that recited heretofore in this Decision. *Id.* at 125–30. The Individual denied alcohol use since August 18, 2024, and expressed the intention to abstain from alcohol going forward. *Id.* at 126, 129–30. A PEth test conducted immediately following the psychiatric evaluation was negative for traces of alcohol, corroborating the Individual’s stated abstinence from alcohol. *Id.* at 127, 134.

In addition to the abovementioned sexual violence the Individual reported having experienced as a teenager, the Individual disclosed to the DOE Psychiatrist that she had experienced trauma as a result of the death by suicide of her brother in 1980 and her son in 2006. *Id.* at 130. According to the Individual, she had experienced sleep troubles since the 1980s and emotional disturbance related to the aforementioned events. *Id.*

In his Report, the DOE Psychiatrist opined that the Individual met sufficient criteria for diagnoses of AUD, Moderate, and PTSD, childhood onset, under the *DSM-5-TR*. *Id.* at 128–30. The DOE Psychiatrist opined that the Individual’s PTSD did not impair her judgment, stability, reliability, or trustworthiness. *Id.* at 131. However, he opined that the condition might have exacerbated the Individual’s maladaptive alcohol use due to her using alcohol to control PTSD symptoms. *Id.* at 130, 132. The DOE Psychiatrist recommended that the Individual demonstrate rehabilitation from her AUD by abstaining from alcohol for twelve months from August 18, 2024, corroborated by monthly PEth testing, attend at least three weekly meetings of Alcoholics Anonymous (AA) or another evidence-based peer support group and work the steps of the program with a sponsor, and comply with her employer’s FFD program. *Id.* at 131.

D. Individual’s Recent Actions and Updated Opinion of the DOE Psychiatrist

From October 2024 to January 2025, the Individual attended a weekly educational class related to alcohol misuse through her employer’s employee assistance program (EAP). Tr. at 65. On January 9, 2025, the Individual successfully completed the course. Ex. R. The Individual characterized the class as “not a very structured format” and said that she and the other participants “just talked about alcohol and stuff like that.” Tr. at 65.

¹⁰ PEth is a biomarker for alcohol consumption that can be detected in blood for approximately one month following moderate or greater episodes of alcohol consumption. Ex. 10 at 127.

On February 10, 2025, the Individual met with a licensed professional clinical counselor (LPCC) for an intake meeting. Ex. G at 49; Ex. K at 77. In the intake meeting, the Individual reported “substance use issues in the past but [] no recent complications.” Ex. G at 51. The documentation of the intake meeting prepared by the LPCC provides no further details concerning the Individual’s alcohol use, except that it occurred from 1973 to 2024. *Id.* The Individual subsequently met with the LPCC seventeen times – once or twice monthly – from February 2025 to January 2026 for “individual talk therapy focused on identity discovery.” Ex. G at 52; Ex. K at 78; *see also* Ex. G at 52 (indicating that the Individual sought “professional medical documentation and support for mental health”). During a session on July 22, 2025, the LPCC administered numerous psychological tests to the Individual. Ex. G at 51–52. Based on the results of the testing, which included assessment of alcohol and drug use over the Individual’s entire life rather than just recent substance use reported by the Individual in the intake, the LPCC updated the Individual’s diagnosis, which was previously Adjustment Disorder, Unspecified, to include Other Substance Use Disorder, in sustained remission. *Id.* at 52. However, the LPCC did not provide the Individual with alcohol-related counseling and the Individual and the LPCC “never talked about alcohol” outside of the questions asked by the LPCC to diagnose the Individual. Tr. at 74–75. The LPCC also did not diagnose or treat the Individual for PTSD. Ex. G.

In June 2025, after receiving the DOE Psychiatrist’s Report, the Individual began attending AA meetings. Tr. at 75–77. The Individual began attending Self-Management and Recovery Training (SMART) meetings in approximately October 2025.¹¹ *Id.* at 77. The Individual attended meetings with varying frequency from June 2025 to the hearing date. *Id.* at 77–78; Ex. I; Ex. P; Ex. Q; *see also* Tr. at 82 (testifying that she attended meetings as “time allowed”). The Individual did not work the steps of the AA program or obtain an AA sponsor. Tr. at 77–78; *see also id.* at 96 (testifying that she does not “have the urges” that other AA participants do and is “astonished at how hard they have struggled”). Through SMART, the Individual learned to “reframe” experiences and triggers to produce more positive outcomes. *Id.* at 95.

The Individual testified that she abstained from alcohol since August 2024, and twelve negative PEth results from tests administered every four to six weeks from March 2025 onward corroborate her abstinence. Ex. J at 69–75. The Individual testified that she intends to keep alcohol “out of [her] life” and never return to consuming it in the future. Tr. at 80. The Individual further testified that, considering her prior experience breaking addiction to illegal drugs, she “kn[e]w what giving up [a substance] means” and that giving up alcohol had been “easy.” *Id.* at 80, 84.

In September 2025, the Individual was pulled over and ticketed for speeding. *Id.* at 90. The Individual indicated that she “did not get offended” and “was not gruff[or] combative” during the interaction because she recognized that “[t]his guy’s not hurting you[h]e’s just doing his job.” *Id.* at 90–91. The Individual represented that she had “deescalate[d]” in other situations that might have resulted in conflict numerous times since her July 2024 arrest. *Id.* at 91.

¹¹ SMART is “an evidenced-informed recovery method grounded in Rational Emotive Behavioral Therapy and Cognitive Behavioral Therapy” that helps people with substance abuse problems make behavioral changes through education and peer support. SMART RECOVERY USA, INC., WHAT IS SMART RECOVERY?, *available at* smartrecovery.org/what-is-smart-recovery (last visited May 5, 2026).

The DOE Psychiatrist testified that the Individual's AUD was in sustained remission based on the passage of time without relapse and the Individual's "level of success" in treatment. *Id.* at 115. However, the DOE Psychiatrist expressed concern that the Individual was not receiving sponsorship or working the twelve steps of AA, which he characterized as both supportive of abstinence and "essential parts of personal accountability." *Id.* at 116. The DOE Psychiatrist testified that until she fulfilled that aspect of his recommendations she would not have demonstrated rehabilitation. *Id.* at 118. He further indicated that the Individual had not made full use of the resources available to her through her employer's EAP. *Id.* at 120. The DOE Psychiatrist opined that the Individual had an intermediate prognosis – neither poor nor excellent – for avoiding a return to maladaptive alcohol use. *Id.* at 119.

V. ANALYSIS

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; or,
- (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.

I will first address the Individual's 2024 Disorderly Conduct arrest. As indicated above, I am convinced that the Individual was not intoxicated at the time of her arrest. Accordingly, I conclude that the Individual's arrest was not an alcohol-related incident, and therefore that it did not raise security concerns under Guideline G.

Turning to the mitigating conditions, the Individual misused alcohol over decades under ordinary circumstances. Considering her numerous DUI arrests and near daily consumption of alcohol to excess for many years, I cannot find that the Individual's over one year of demonstrated abstinence from alcohol is sufficient to conclude that she will not misuse alcohol in the future. *Id.* at ¶ 23(a).

Turning to the second mitigating condition, the Individual has acknowledged her maladaptive alcohol use and, through monthly negative PEth tests, demonstrated a clear and established pattern of abstinence in accordance with the DOE Psychiatrist's recommendations. The question is whether she has taken sufficient action to overcome her alcohol misuse and support her long-term recovery. On one hand, the Individual has participated in programming through her employer's EAP and attended AA and SMART meetings as the DOE Psychiatrist recommended. On the other hand, the Individual has not worked the AA steps or obtained a sponsor as the DOE Psychiatrist recommended, and her description of what she learned through the EAP programming, AA meetings, and SMART meetings was not detailed or supported by testimony from witnesses knowledgeable of the details of the Individual's participation. Thus, the question of whether the Individual has done enough is a close one.

The Adjudicative Guidelines provide a number of considerations that must be weighed in applying the mitigating conditions. 10 C.F.R. § 710.7(c). The Individual has overcome illegal drug misuse in the past, showing that she may have the wherewithal to do the same with alcohol. *See id.* (requiring consideration of the "likelihood of recurrence" and "other relevant and material factors"). The Individual's documentation of over one year of abstinence from alcohol through PEth testing likewise bodes well as to the likelihood of recurrence of her maladaptive alcohol use. *See id.* However, the Individual did not display any insight into what influenced her to misuse alcohol for such an extensive period, despite the DOE Psychiatrist suggesting that painful, unresolved aspects of the Individual's past may have contributed to these behaviors. *See id.* (requiring consideration of "the circumstances surrounding the conduct" and "the motivation for the conduct"). Further, the Individual's alcohol misuse continued into her late sixties and was clearly not the product of youth or immaturity. *See id.* (requiring consideration of the Individual's "age and maturity"). The Individual also has not brought forward evidence of a support system to hold her accountable and support her abstinence from alcohol once the scrutiny of the adjudicative process has ended, calling into further question whether her alcohol use will recur. *See id.* (requiring consideration of "the likelihood of continuation or recurrence").

While the Individual has shown positive progress, "security determinations should err, if they must, on the side of denials." *Egan*, 484 U.S. at 531. The doubts I have as to the durability of the Individual's abstinence presented by the DOE Psychiatrist's lukewarm prognosis, the Individual's lack of a demonstrated support system, the Individual's lack of demonstrated insight into the causes of her alcohol misuse, and the longstanding duration of her alcohol misuse prior to her current period of abstinence, present too many concerns. I find the second mitigating condition inapplicable. Adjudicative Guidelines at ¶ 23(b).

The third mitigating condition is inapplicable because the DOE Psychiatrist found that the Individual did not fully meet his recommendations and gave her a less than favorable prognosis. *Id.* at ¶ 23(c). The fourth mitigating condition is inapplicable because the Individual has not completed the steps directed by the DOE Psychiatrist; *i.e.*, obtaining a sponsor and working the twelve steps of AA. *Id.* at ¶ 23(d).

For the aforementioned reasons, I find that the Individual has not fully resolved the security concerns alleged 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.

In evaluating the applicability of the first mitigating condition, I first note that the vast majority of the Individual's alleged criminal conduct occurred over twenty years ago and/or occurred in connection with drug addiction that is no longer present in the Individual's life and therefore is unlikely to stimulate future criminal conduct. *See* 10 C.F.R. § 710.7(c) (requiring consideration of the "recency of the conduct," the "circumstances surrounding the conduct," and the "likelihood of continuation or recurrence"). However, the Individual's most recent arrest suggests both a continuation of a pattern of behavior that may undermine her reliability as a clearance holder and a lack of recognition as to how her behaviors have led to her arrests that calls into question her judgment.

The video footage of the July 2024 incident shows the Individual shouting at law enforcement officers who asked her to leave. The Individual's decision to remove the audio from that footage strongly suggests that she is seeking to hide behavior that escalated the situation and led to her arrest. In the Individual's accounts of her 2001 and 2004 arrests, she confronted or refused to comply with an officer only for the situation to quickly escalate into violence and her arrest. Considering the Individual's attempt to hide her aggravating behavior in connection with the 2024 arrest, I find it likely that the Individual is similarly omitting or failing to recognize aspects of her own behavior in connection with those events that led to her arrest. As noted above, the Individual is in her sixties and should have developed the maturity at this point in her life to avoid engaging in behaviors of this nature. *See id.* (requiring consideration of "the age and maturity of the individual at the time of the conduct"). Moreover, the Individual's adversarial encounters with law enforcement suggest that the Individual has, consciously or unconsciously, an unwillingness to comply with authority figures that could present concerns as a security clearance holder. *See id.* (requiring consideration of the nature of the conduct and "other relevant and material factors"). That the Individual testified she is not sure why she behaved as she did in 2024 raises the concern

that these noncompliant, adversarial encounters will continue until she develops some insight into the reasons for her conduct. *See id.* (requiring consideration of the “likelihood of recurrence”).

Considering the foregoing, I find that the passage of time since the Individual’s most recent arrest is insufficient to mitigate the security concerns in light of her history of criminal conduct. Further, I find that the Individual’s latest arrest did not occur under unusual circumstances but was rather part of a broader pattern of conduct. Accordingly, I find the first mitigating condition inapplicable. Adjudicative Guidelines at ¶ 32(a).

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

While the Individual denied that she committed the 2024 offense as alleged, the fact that multiple people complained about the Individual’s conduct to law enforcement, the observations of the officers, albeit exaggerated in the incident report, and the video evidence of the Individual yelling at the officers, is at least some reliable evidence that she committed the offense. With respect to the Individual’s older offenses, besides those offenses for which she was actually found guilty, the law enforcement records collected during the background investigation provide some reliable evidence that she committed the offenses. Thus, the third mitigating condition is inapplicable. *Id.* at ¶ 32(c).

As to the final mitigating condition, the passage of time since the Individual’s most recent arrest is insufficient, in of itself, to resolve the security concerns based on the same considerations addressed under the first mitigating condition. The Individual has not brought forth any evidence of job training, constructive community involvement, or other behavior specified under the fourth mitigating condition since her most recent arrest. Accordingly, I find the fourth mitigating condition inapplicable. *Id.* at ¶ 32(d).

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

VI. CONCLUSION

In the above analysis, I found that there was sufficient derogatory information in the possession of DOE to raise security concerns under Guidelines G and J of the Adjudicative Guidelines. After considering all relevant information, favorable and unfavorable, in a comprehensive, common-sense manner, including weighing all testimony and other evidence presented at the hearing, I find that the Individual has not brought forth sufficient evidence to resolve the security concerns asserted by the LSO. Accordingly, I have determined that the Individual’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.

Phillip Harmonick
Administrative Judge
Office of Hearings and Appeals