



In August 2025, the LSO issued the Individual a letter of interrogatory (LOI) related to information obtained during the background investigation. Ex. 6. In her response, the Individual confirmed that she owed the student loans identified via the credit report. *Id.* at 48.

In October 2025, the Individual met with a DOE-contracted Psychiatrist (DOE Psychiatrist) for a psychiatric evaluation. Ex. 8 at 108. Following the evaluation, the DOE Psychiatrist issued a report of the evaluation (Report) in which she opined that the Individual displayed “traits of anti-social personality disorder” and that these traits impaired her judgment, reliability, and trustworthiness. *Id.* at 120.

The LSO issued the Individual a Notification Letter advising her that it possessed reliable information that created 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 F, I, and J of the Adjudicative Guidelines, and prohibited the LSO from granting her a security clearance pursuant to the Bond Amendment. *Id.* at 5–8.

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 in this matter, and I conducted an administrative hearing. The LSO submitted twelve exhibits (Ex. 1–12). The Individual submitted three exhibits (Ex. A–C).<sup>3</sup> The Individual testified on her own behalf. Hearing Transcript, OHA Case No. PSH-26-0045 (Tr.) at 3, 11. The LSO offered the testimony of the DOE Psychiatrist. *Id.* at 3, 76.

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

The LSO cited Guideline F (Financial Considerations) of the Adjudicative Guidelines as one basis for its substantial doubt regarding the Individual’s eligibility for access authorization. Ex. 1 at 5–6. “Failure to live within one’s means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual’s reliability, trustworthiness, and ability to protect classified or sensitive information.” Adjudicative Guidelines at ¶ 18. The SSC cited the Individual’s delinquent student loan debts on which it calculated she owed a cumulative balance of nearly \$35,000. Ex. 1 at 5–6. The LSO’s allegations that the Individual demonstrated an inability or unwillingness to satisfy debts and a history of not meeting financial obligations justify its invocation of Guideline F. Adjudicative Guidelines at ¶ 19(a)–(c).

The LSO cited Guideline I (Psychological Conditions) of the Adjudicative Guidelines as another basis for its substantial doubt regarding the Individual’s eligibility for access authorization. Ex. 1 at 6. “Certain emotional, mental, and personality conditions can impair judgment, reliability, or trustworthiness. A formal diagnosis of a disorder is not required for there to be a concern under this guideline.” Adjudicative Guidelines at ¶ 27. The SSC cited the DOE Psychiatrist’s opinion that the Individual demonstrated traits of antisocial personality disorder and that these traits could

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<sup>3</sup> The Individual submitted her exhibits in a single PDF. This Decision will cite to the pages within the PDF in the order in which they appear when citing to the Individual’s exhibits.

impair her judgment, stability, reliability, and trustworthiness. Ex. 1 at 6. The LSO's invocation of the DOE Psychiatrist's opinion that the Individual had a condition that may impair her judgment, stability, reliability, or trustworthiness justifies its invocation of Guideline I. Adjudicative Guidelines at ¶ 28(b).

The LSO cited Guideline J (Criminal Conduct) of the Adjudicative Guidelines as an additional basis for its substantial doubt regarding the Individual's eligibility for access authorization. Ex. 1 at 6–8. "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 eighteen occasions on which the Individual was arrested or charged, or a warrant was issued for her arrest. Ex. 1 at 6–8. The LSO's allegations that the Individual engaged in criminal conduct justify its invocation of Guideline J. Adjudicative Guidelines at ¶ 31(b).

Finally, the LSO cited the Bond Amendment as a basis for its determination that the Individual was ineligible for access authorization. Ex. 1 at 5. Pursuant to the Bond Amendment, an agency may not grant or renew a security clearance to a person who "has been convicted in any court of the United States of a crime, was sentenced to imprisonment for a term exceeding 1 year, and was incarcerated as a result of that sentence for not less than 1 year." 50 U.S.C. § 3343(c)(1)(A). The SSC cited the Individual's incarceration for over one year in support of its invocation of the Bond Amendment. Ex. 1 at 5.

### 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 History of Criminal Conduct and Incarceration

The Individual was prescribed opioid pain medication for pain associated with a teenage pregnancy. *See* Ex. 8 at 110 (reflecting information provided by the Individual to the DOE Psychiatrist during the clinical interview). In 2009, the Individual obtained a position in a dental office. Ex. 6 at 61. The Individual was terminated from this position in 2013 after she sought to obtain opioid medication from a doctor, the doctor reviewed the Individual's prescription history and observed that she had been prescribed opioid medication by the dentist who employed the Individual, the doctor reported the prescription to the American Dental Association, and a law enforcement investigation was initiated. Ex. 12 at 262–63. The dentist who employed the Individual denied that she had prescribed the Individual opioid medication and the Individual was ultimately incarcerated after being charged with numerous offenses related to illegally acquiring and distributing controlled substances. *Id.* Throughout the adjudication of her eligibility for access authorization, the Individual denied that she had called in prescriptions for herself without authorization from the dentist and claimed instead that the dentist had offered to prescribe her pain medication as an employment benefit. *Id.* at 263 (telling an investigator that she had accepted this offer because it “sounded like a good deal” and she “did not think it was a big deal”); Ex. 6 at 61 (claiming in response to the LOI that the dentist offered to prescribe her opioids in lieu of health insurance); Tr. at 20, 61 (testifying that the dentist offered to prescribe her opioid medication in lieu of medical benefits and that she accepted because she “didn't know any different”).

At some point in 2012 or 2013, the Individual began using heroin and methamphetamines. Ex. 12 at 242–43 (indicating on the QNSP that she began using heroin and methamphetamine in 2012, when she was still employed by the dentist); Tr. at 18–19, 22 (testifying that she did not begin using “heavy street drugs” until 2013, after she lost her job in the dental office and was no longer able to obtain pain medication to which she had become addicted). According to the Individual, her drug addiction resulted in her becoming homeless and contributed to her committing numerous criminal offenses “to survive.” Tr. at 42, 68.

From 2007 to 2019, the Individual was arrested for and/or charged with the following offenses:

- Battery on a Household Member (2007) – Acquitted;
- Driving on a Revoked License (2012) – Dismissed;
- Numerous offenses related to illegally acquiring and distributing controlled substances (Feb. 2013) – Sentenced to eighteen-month term of probation pursuant to conditional discharge agreement, sentenced to one hundred eighty-two days incarceration after failing to comply with terms of probation;
- Numerous offenses related to failure to comply with court orders (Jun. 2013) – Disposition not present in record;
- Shoplifting (Mar. 2016) – Disposition not present in record;
- Larceny or Shoplifting (Apr. 2016) – Pleaded guilty;
- Arrested for outstanding warrant (Jul. 2016) – Dismissed without prejudice;
- Larceny or Shoplifting (Jul. 2016) – Disposition not present in record;
- Possession of a Controlled Substance and Receiving Stolen Property (Jul. 2016) – Pleaded guilty, sentenced to probation, incarcerated after failing to comply with terms of probation;

- Arrested for outstanding warrant (Apr. 2017) – Disposition not present in record;
- Forgery and multiple counts of Fraud (Dec. 2017) – Pleaded guilty, sentenced to incarceration for five years and six months followed by an eighteen-month term of parole;<sup>4</sup>
- False Pretenses and Swindle (Jan. 2018) – Disposition not present in record;
- Fraud and Forgery (Feb. 2018) – Disposition not present in record;
- Burglary and Breaking and Entering (May 2018) – Disposition not present in record;
- Shoplifting and Concealing Identity (Jul. 2018) – Disposition not present in record;
- Shoplifting (Oct. 2018) – Disposition not present in record, value of items under \$100;
- Possession of a Controlled Substance and numerous traffic offenses (May 2019) – Dismissed *nolle prosequi*.

Ex. 12 at 314–22, 326–28, 332–33. In December 2017, the Individual attempted to cash checks she and several associates had stolen from mailboxes. *Id.* at 268, 322–24. The Individual was caught after a bank teller at one of the banks at which she cashed the stolen checks refused to return her identification and called law enforcement. *Id.* at 268. The Individual pleaded guilty and was sentenced to a five year and six month term of imprisonment. *Id.* at 316. The Individual reported to a correctional facility in May 2019. *Id.* at 240, 268; Ex. 6 at 83.

The Individual received drug treatment while incarcerated which included individual counseling and group therapy. Tr. at 69. She was released in March 2021 due to good behavior and having completed the residential drug treatment program. Ex. 12 at 240, 268; Ex. 6 at 83. Following her release from prison, the Individual was placed on parole until April 2022. Ex. A at 3. The Individual complied with the terms of her parole, which included mental health and addiction counseling for one year, and was released from parole in 2022. Tr. at 37–39; Ex. A at 2–4.

Since her release from prison, the Individual has had a mixed employment record. She was terminated from one position for policy violations, quit another job after being told that she would be fired for policy violations, and quit another job after “having a little altercation.” Ex. 11 at 218–20; Tr. at 29–31 (testifying that she left each of the positions after an “altercation” or confrontation). However, she has been employed with the DOE contractor since July 2023 and is well regarded for the work that she performs in that role. Ex. 11 at 217; Ex. C at 7–14 (letters attesting to the Individual’s work ethic, diligence, and pleasant demeanor in her work for the DOE contractor).

According to the Individual, she has not used illegal drugs since May 2019, and her life transformed for the better since she began abstaining. Tr. at 23, 35 (testifying that “prison saved [her] life”). The Individual is motivated to maintain her abstinence from illegal drugs because, since overcoming her addiction, she has reconnected with family members who disassociated from her during her addiction and she “wouldn’t give [those connections] up for the world.” *Id.* at 26. She also supports her abstinence from opioids with prescribed Suboxone and meets with a clinician every two months for medication management. *Id.* at 39–40.

## **B. Individual’s Financial Difficulties**

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<sup>4</sup> The Individual did not ultimately begin serving the sentence associated with this offense until May 2019, and committed numerous other offenses during the pendency of the proceeding.

From 2008 to 2009, the Individual attended a community college and a vocational school. Ex. 12 at 215–16. The Individual took out student loans in connection with her enrollment in the aforementioned institutions. Tr. at 48, 54. At some point, the student loans fell into default. *Id.* at 70 (testifying that “I [the Individual] don’t know when they went into default”). In the QNSP, the Individual represented that she owed \$16,721 in delinquent student loan debts. Ex. 12 at 248. However, a credit report obtained during the background investigation listed student loans owed to lenders other than the servicer the Individual identified in the QNSP. *Id.* at 368–70, 373.

During a September 5, 2024, interview with an investigator, the Individual indicated that her financial situation was “ok” and that she planned to make arrangements to pay the student loan debts. *Id.* at 274. In another interview with an investigator on October 25, 2024, she said that she would “set up a payment plan before the end of 2024.” *Id.* at 280. Despite this statement, the Individual took no action to address her delinquent student loans over the following year. *See* Ex. 6 at 48. In her August 2025 response to the LOI, the Individual said that she would “call within the next week to set up some kind of arrangement[] for payment.” *Id.* However, the Individual did not set up a payment plan as she said that she would. Tr. at 50 (testifying that she did not contact the servicer of her student loan debts until 2026).

At some point in 2026, the Individual contacted a student loan servicer and arranged for student loans she owed to be placed in deferment until July 2026. *Id.* (estimating that she contacted the servicer in January or February 2026); Ex. B at 5 (statement from student loan servicer indicating that the Individual’s first payment on a student loan would be due on July 2, 2026). As of the date of the hearing, the Individual’s student loan balance with that servicer had increased to \$19,070.99. Ex. B at 5.

The Individual testified at the hearing that she believed that the servicer she contacted held all of her student loan debts. Tr. at 48–49. However, in her response to the LOI, she acknowledged owing what she estimated to be a cumulative \$23,177.97 in student loan debts to two student loan servicers. Ex. 6 at 48. Considering the Individual’s representations in the LOI, and the absence of evidence such as an updated credit report that could shed light on the status of the Individual’s student loan debts, I do not accept her testimony that Ex. B reflects all of her delinquent student loan debts.

The Individual testified that she believed she would be able to make student loan payments as scheduled beginning in July 2026. Tr. at 51. However, she provided no documentation concerning her current financial circumstances to corroborate that she could meet her financial commitments. Additionally, she testified that she owed significant credit card debt as a result of having “went crazy” making purchases after she was released from prison. *Id.* at 52–53; *see also id.* at 53 (testifying that she and her spouse were working on lowering their credit card balances “to not being maxed out”).

### **C. Evaluation by the DOE Psychiatrist**

On October 17, 2025, the Individual met with the DOE Psychiatrist for a psychiatric evaluation. Ex. 8 at 108. The DOE Psychiatrist conducted a clinical interview of the Individual, after which a psychologist (Psychologist) administered the Minnesota Multiphasic Personality Inventory-3rd Edition (MMPI-3) to the Individual. *Id.* at 108, 122–23. During the clinical interview, the Individual recounted to the DOE Psychiatrist her history of substance abuse, financial instability, and criminal conduct. *Id.* at 109–12. However, the Individual provided an account of her criminal conduct that led to her 2019 incarceration which differed significantly from that she had provided to an investigator, and which minimized her culpability. *Compare* Ex. 12 at 268 (telling the investigator that she and her associates were “driving around smoking meth and stealing from mailboxes” when one of the associates proposed that “if she wanted to make some money” she could cash checks that the associates had tampered with using a technique “to get the ‘TO:’ name off of a check” in exchange for a share of the proceeds) *with* Ex. 8 at 111 (telling the DOE Psychiatrist that “she cashed the checks without knowledge of their fraudulent nature” and asking “[w]hy would [she] use [her] own ID?” if she knew the checks to have been stolen). The Individual testified at the hearing that she had been truthful when she recounted these events to the DOE Psychiatrist. Tr. at 66 (testifying “I [the Individual] walked into the bank, I cashed the check. My name was on it. I was unaware that it was altered”).

The Individual recounted an incident to the DOE Psychiatrist wherein she assaulted another inmate while incarcerated and was removed from the general prison population for three days as a punishment. Ex. 8 at 111; Ex. 12 at 259 (telling the investigator that she “punched [a] girl in the face” during an argument over whose turn it was to use a prison phone). The Individual also reported a history of unemployment instability as a result of quitting jobs and violating her employers’ policies. Ex. 8 at 111.

The Individual reported numerous psychological issues to the DOE Psychiatrist, including a history of suicidal ideation and several suicide attempts, disturbed sleep, nightmares, and anxiety. *Id.* at 112. The Individual denied active suicidality to the DOE Psychiatrist, but the DOE Psychiatrist found her responses to questions about suicidality to be “evasive.” *Id.* at 113.

In a letter dated October 20, 2025, the Psychologist provided the DOE Psychiatrist with her interpretation of the results of the MMPI-3. *Id.* at 122. The Psychologist indicated that the Individual’s responses on the MMPI-3 produced elevations on scales measuring Somatic Dysfunction, Emotional Dysfunction, and Behavioral Dysfunction, which collectively caused the Individual to struggle to cope with stress, experience difficulties in attention and concentration, lack positive emotional experiences, and experience hostility, alienation, and other negative symptoms. *Id.* at 122–23, 126–32. In light of these symptoms, and the Individual’s endorsement of having “thought about how [she] might kill [her]self” and that “[n]o one knows it but I [the Individual] have tried to kill myself,” the Psychologist indicated that “**Risk for suicide should be assessed immediately.**” *Id.* at 123, 132 (emphasis in original).

The DOE Psychiatrist issued her Report on October 30, 2025. *Id.* at 120. Therein, she opined that, although the Individual did not meet full criteria for a personality disorder, the Individual displayed three traits of an antisocial personality disorder – disregard for rules and laws, impulsivity, and lack of remorse – based on her “multiple arrests, employment history, mood instability, and financial issues.” *Id.* at 119–20. The DOE Psychiatrist opined that these traits had impaired the

Individual's judgment, reliability, and trustworthiness, and that the Individual should "engage with an individual therapist for at least nine months or until mutually agreed therapy objectives are met . . ." *Id.* at 120.

#### **D. Individual's Current Psychological Status**

In her hearing testimony, the Individual denied having experienced suicidal ideation since "way back in the past." Tr. at 36, 58. The Individual did not meet with a therapist, as recommended in the Report, because she denied current negative mental health symptoms and did not "feel like [she] need[ed] to talk to somebody . . ." *Id.* at 41, 59–60. However, she also admitted that she was prescribed Clonidine in 2023 to control panic attacks in which she would cry, hyperventilate, and shake, which she claimed she had not experienced for "at least four months" prior to the hearing. *Id.* at 46–47, 71; *see also id.* at 47–48 (testifying that her last anxiety attack occurred when a "buzzing sound triggered something in [her] mind that . . . made [her] feel scared" and she had to leave the building she was in to calm herself).

At the hearing, the DOE Psychiatrist characterized the Individual's behaviors as reactions to her life circumstances and a survival method. *Id.* at 77–78. She opined that the Individual's prognosis was "fair to good," thought it would improve to "very good" if she received treatment as recommended in the Report. *Id.* at 80–81, 90–91. She indicated that the Individual's self-described success in addressing her substance misuse, and lack of criminal conduct since doing so, suggested that the Individual was unlikely to commit similar antisocial behaviors of a criminal nature in the future. *Id.* at 86.

### **V. ANALYSIS**

#### **A. Guideline F**

Conditions that could mitigate security concerns under Guideline F include:

- (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;
- (b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;
- (c) the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control;
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts;

- (e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue;
- (f) the affluence resulted from a legal source of income; and,
- (g) the individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

Adjudicative Guidelines at ¶ 20.

The Individual's student loans remained in delinquent status for many years, and the Individual only took action to bring some of those loans into a deferred payment status within a few months of the hearing. Moreover, as indicated above, the Individual likely has additional delinquent student loans for which she has not accounted. Accordingly, I conclude that the Individual's financial delinquency related to the student loans was neither infrequent nor long ago. The Individual's student loans may have fallen into delinquency while she was in the throes of addiction, which could constitute an unusual circumstance considering the Individual's current abstinence from illegal drugs. However, the Individual has been employed by the DOE contractor for nearly three years and repeatedly promised to address her delinquent student loans during the adjudication of her eligibility for access authorization. To be clear, I do not expect the Individual to have paid off her student loans while restarting her life following incarceration; however, particularly after obtaining employment with the DOE contractor, there were no barriers to her contacting her creditors and attempting to establish a modest repayment plan. Considering that the Individual's failure to attend to her student loans persisted for years after she obtained employment with the DOE contractor and after repeated promises on her part to address the loans, I find that even if the student loans fell into delinquency during her drug addiction it would not be a sufficient basis to conclude that the delinquencies do not present concerns as to her current reliability. Thus, the first mitigating condition is inapplicable. *Id.* at ¶ 20(a).

The Individual's drug addiction was contributed to by difficult life circumstances outside of her control, and this addiction certainly led to the homelessness and job insecurity that contributed to her defaulting on her student loans. However, the Individual has been free of the burden of addiction for at least six years and has been gainfully employed by the DOE contractor for nearly three years now. Moreover, the Individual was aware of the security concerns presented by her student loan debts as early as September 2024 when she told an investigator during an interview that she would address the loans. However, she did not even contact the lender to discuss addressing the delinquency until shortly before the hearing. Instead, by her own admission, she has engaged in frivolous spending and accrued credit card debt. Moreover, she has not submitted a credit report or other documentation that would allow me to conclude that all of her delinquent student loans are held by the servicing company she contacted. It is probable that the Individual has other delinquent student loan debts, and possibly other delinquent financial obligations, that she is not addressing. Absent more information, it is impossible to say whether the Individual is addressing all of her delinquencies. Considering the foregoing, the Individual has not acted responsibly under the circumstances. *Id.* at ¶ 20(b).

The Individual does not claim to have received financial counseling and accordingly the third mitigating condition is not relevant. *Id.* at ¶ 20(c).

The Individual has established a payment plan with the student loan servicer. However, as of the hearing date, she had not yet made a single payment and was not scheduled to do so for several months. Considering that the Individual did not take action to address the situation until shortly before the hearing, despite repeatedly indicating that she would do so, I have doubts that the Individual will comply with the payment arrangements in the future. Additionally, as noted above, the Individual did not provide a credit report that would have allowed me to confirm that all of her delinquent student loans were covered under the repayment agreement. Accordingly, there is a distinct possibility that the Individual has other delinquent student loans, or other delinquent debts, she is not addressing. Without more information, and at least some payments toward the student loans, I cannot find the fourth mitigating condition applicable. *Id.* at ¶ 20(d).

The remaining mitigating conditions are clearly inapplicable to the facts of this case because the Individual does not dispute that she owes the student loan debts, the LSO did not allege that the Individual displayed unexplained affluence, and the LSO did not allege that the Individual failed to file tax returns or pay taxes as required. *Id.* at ¶ 20(e)–(g).

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

## **B. Guideline I**

Conditions that could mitigate security concerns under Guideline I include:

- (a) The identified condition is readily controllable with treatment, and the individual has demonstrated ongoing and consistent compliance with the treatment plan;
- (b) The individual has voluntarily entered a counseling or treatment program for a condition that is amendable to treatment, and the individual is currently receiving counseling or treatment with a favorable prognosis by a duly qualified mental health professional;
- (c) Recent opinion by a duly qualified mental health professional employed by, or acceptable to and approved by, the U.S. Government that an individual's previous condition is under control or in remission, and has a low probability of recurrence or exacerbation;
- (d) The past psychological/psychiatric condition was temporary, the situation has been resolved, and the individual no longer shows indications of emotional instability;
- (e) There is no indication of a current problem.

*Id.* at ¶ 29.

The first two mitigating conditions are irrelevant in this case because the Individual has not pursued treatment and denies that she needs any treatment. *Id.* at ¶ 29(a)–(b).

A number of considerations weigh into my application of the remaining three mitigating conditions. First, I duly note that the DOE Psychiatrist’s opinion as to the Individual’s “condition” was based in part on the Individual having engaged in antisocial behavior while under the influence of addiction. These behaviors were in turn captured on the MMPI-3 upon which the DOE Psychiatrist based her opinion because the MMPI-3 captures data on the Individual’s entire life rather than solely her current functioning. These considerations imply that the DOE Psychiatrist’s opinion may no longer be applicable to the Individual since she is no longer homeless, addicted to illegal drugs, and struggling to survive.

However, I am deeply concerned by the Individual’s accounts of her criminal conduct in connection with her employment by the dentist and her attempts to cash stolen checks. The Individual’s testimony that she was not seeking to obtain opioids to support her addiction but happened to stumble into employment with an unscrupulous dentist who prescribed them to her as part of her employment compensation, and that she did not perceive this arrangement as improper, is implausible at best. Her testimony that she did not know the checks she sought to cash were stolen, despite admitting that she was involved in the theft during her interview with an investigator, appears to have been an outright lie. This willingness to misrepresent the truth to hide her culpability is consistent with the personality traits the DOE Psychiatrist opined that the Individual demonstrated. The Individual’s testimony as to her impulsive spending and employment difficulties after her release from prison are also not inconsistent with the DOE Psychiatrist’s opinion.

The adjudication of clearance eligibility requires security personnel, DOE clinicians, and administrative judges to draw significant inferences from documents and brief encounters with individuals. I cannot definitively know the Individual’s character based on the information at hand. However, I am deeply troubled that the Individual would, under oath, flagrantly minimize her responsibility for her prior criminal conduct. This willingness to lie raises two separate concerns. First, if I cannot trust the Individual to honestly admit to her culpability for criminal conduct where it will reflect negatively on her, I cannot rely on her testimony that she is psychologically stable and no longer experiencing suicidal ideation because she may perceive that admitting to suicidality will prevent her from obtaining a clearance. Second, to the extent that this behavior is the product of antisocial personality traits, she may engage in remorseless untruthfulness in connection with carrying out her duties as a clearance holder.

The DOE Psychiatrist gave the Individual a fair to good prognosis. In light of the aforementioned considerations, this is not enough for me to conclude that the traits identified by the DOE Psychiatrist are under control. Therefore, the third mitigating condition is inapplicable. *Id.* at ¶ 29(c).

Likewise, in consideration of my concerns that the Individual cannot be trusted to admit to adverse psychological symptoms and that her impulsivity and remorseless untruthfulness are persistent, I find that the fourth and fifth mitigating conditions are inapplicable. *Id.* at ¶ 29(d)–(e).

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

### **C. Guideline J**

Conditions that could mitigate security concerns under Guideline J include:

- (a) so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;
- (b) the individual was pressured or coerced into committing the act and those pressures are no longer present in the person's life;
- (c) no reliable evidence to support that the individual committed the offense; and
- (d) there is evidence of successful rehabilitation; including, but not limited to, the passage of time without recurrence of criminal activity, restitution, compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement.

Adjudicative Guidelines at ¶ 32.

I find that the fourth mitigating condition is applicable to the facts of this case. Six years have passed since the Individual's last alleged criminal conduct, she complied with the terms of her parole, and, at least with the DOE contractor, she has established a good employment record. *Id.* at ¶ 32(d). Nevertheless, while the Individual has technically met the fourth mitigating condition sufficiently that I conclude it is applicable, she has not resolved the security concerns asserted by the LSO under Guideline J.

As noted above, the Individual appeared to have lied under oath about her criminal conduct to minimize her culpability. Moreover, she engaged in reckless spending and employment-related altercations that fit the profile of antisocial traits the DOE Psychiatrist identified in her Report. The extent to which the Individual denied that she acted wrongfully in connection with some of her alleged criminal conduct leads me to doubt that she feels sufficient remorse to have truly reformed from her extensive history of criminal conduct. Moreover, to the extent that the Individual's lack of remorse is related to the personality traits that the DOE Psychiatrist identified as cause for concern, those personality traits may have contributed to the Individual's criminal conduct independent of her drug addiction and, despite the DOE Psychiatrist's moderate prognosis, may contribute to future criminal conduct on the part of the Individual. Considering the foregoing, there are numerous considerations that weigh against finding that

the Individual has mitigated the security concerns. *See* 10 C.F.R. § 710.7(c) (requiring consideration of “the circumstances surrounding the conduct,” “the absence or presence of rehabilitation or reformation and other pertinent behavioral changes,” “the likelihood of continuation or recurrence,” “and other relevant and material factors” in applying the mitigating conditions).

Considering the aforementioned factors, I am not sufficiently convinced that the Individual’s criminal conduct is unlikely to recur and does not cast doubt on her reliability, trustworthiness, or good judgment. Therefore, despite the significant passage of time and changed life circumstances of the Individual following her 2019 incarceration, I find the first mitigating condition inapplicable. Adjudicative Guidelines at ¶ 32(a).

The second and third mitigating conditions are inapplicable because the Individual does not allege that she was pressured or coerced into committing illegal conduct or deny that she committed the offenses, except for her accounts of illegally obtaining opioids from the dentist and cashing stolen checks which I find false. *Id.* at ¶ 32(b)–(c).

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

#### **D. Bond Amendment**

Pursuant to the Bond Amendment, an agency may not grant or renew a security clearance to a person who “has been convicted in any court of the United States of a crime, was sentenced to imprisonment for a term exceeding 1 year, and was incarcerated as a result of that sentence for not less than 1 year.” 50 U.S.C. § 3343(c)(1)(A). However, a waiver may be authorized in meritorious cases if doing so would be in accordance with “(A) standards and procedures prescribed by, or under the authority of, an Executive order or other guidance issued by the President; or (B) the [A]djudicative [G]uidelines . . . .” *Id.* § 3343(c)(2)(A)–(B).

The Individual was sentenced to and served over one year in prison. Accordingly, DOE is prohibited from granting her a security clearance pursuant to the Bond Amendment. Considering that the Individual has not mitigated the security concerns asserted by the LSO, and in particular in light of my concerns as to her truthfulness and stability, I see no basis to conclude that this is a meritorious case warranting waiver of the Bond Amendment’s prohibition.

#### **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 F, I, and J of the Adjudicative Guidelines and that the LSO properly invoked the Bond Amendment. 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 and that the Bond Amendment disqualifies the Individual from holding access authorization. Accordingly, I have

determined that the Individual should not be granted access authorization. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Phillip Harmonick  
Administrative Judge  
Office of Hearings and Appeals