

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

In the Matter of: Personnel Security Hearing)
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Filing Date: March 10, 2026)
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Case No.: PSH-26-0069

Issued: September 1, 2026

Administrative Judge Decision

James P. Thompson III, Administrative Judge:

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

I. BACKGROUND

The Individual is employed by a DOE contractor in a position that requires a security clearance. In March 2025, the Individual submitted a Questionnaire for National Security Positions (QNSP) as part of his application for a security clearance in which he reported several arrests, criminal charges, and convictions dating back to 1998. Exhibit (Ex.) 8 at 74–82.² After obtaining additional information regarding the Individual's criminal history, the DOE Local Security Office (LSO) informed the Individual by letter (Notification Letter) that it possessed reliable information that created substantial doubt regarding his eligibility to possess a security clearance. Ex. 1 at 9. In an attachment to the Notification Letter, entitled Summary of Security Concerns (SSC), the LSO explained that the derogatory information implicated the application of 50 U.S.C. § 3343 (c)(1)(A) (Bond Amendment) and raised security concerns under Guideline J of the Adjudicative Guidelines. *Id.* at 5–8.

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 References to the local security office (LSO) exhibits are to the exhibit number and the page number of the combined .pdf of the exhibit book.

The Individual exercised his right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. The Director of the Office of Hearings and Appeals (OHA) appointed me as the Administrative Judge in this matter. Prior to the hearing date, the LSO updated the SSC to include an additional allegation: that the Individual had been charged in March 2026, after the issuance of the initial SSC, with Receipt, Transportation, or Possession of a Firearm or Destructive Device by a Felon and Tampering with Evidence. Ex. 1 at 8. I subsequently conducted an administrative review hearing on July 16, 2026. Transcript of Hearing, OHA Case No. PSH-26-0069 (Tr.). At the hearing, the Individual testified on his own behalf. The Individual submitted seventeen exhibits, marked Exhibits B through V.³ The LSO submitted fourteen exhibits, marked Exhibits 1 through 14.

II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS

As indicated above, the LSO cited the Bond Amendment and Guideline J (Criminal Conduct) of the Adjudicative Guidelines as the bases for concern regarding the Individual's eligibility to possess a security clearance. Ex. 1.

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 cites that the Individual was arrested and charged with Armed Robbery, Aggravated Assault (Deadly Weapon), Aggravated Assault Upon a Police Officer (Deadly Weapon) and related charges while a minor, he subsequently pled guilty to felony Armed Robbery, and he was incarcerated in juvenile prison for more than a year. Ex. 1 at 5. The LSO's allegation that the Individual was sentenced to and was incarcerated for over one year justifies its invocation of the Bond Amendment. 50 U.S.C. § 3343(c)(1)(A).

Guideline J provides that "[c]riminal activity creates doubt about a person's judgment, reliability, and trustworthiness." Adjudicative Guidelines at ¶ 30. "By its very nature, it calls into question a person's ability or willingness to comply with laws, rules, and regulations." *Id.* The SSC cited the Individual's myriad criminal arrests, charges, and convictions—including the felony conviction that resulted in his incarceration for over a year—that occurred over the years from 1998 to 2026. Ex. 1 at 5–8.⁴ The above evidence of credible allegations of and convictions for criminal conduct

³ The Individual was instructed to mark his exhibits using letters. In doing so, the Individual applied exhibit markers that correspond to the lettering of the paragraphs containing derogatory information in the SSC. For example, his exhibits B through Biv correspond to allegations contained in paragraph B of the SSC.

⁴ Among the allegations of criminal conduct, the SSC alleges that the Individual was cited with Criminal Trespassing at a fast-food restaurant after he refused to leave the drive thru. Ex. 1 at 7. However, the record demonstrates that the responding police officer only issued the Individual a "criminal trespass notification" that would form the basis for a criminal charge should the Individual return to the property and that the Individual, while described as "rude" by the restaurant staff, refused to leave without first receiving a refund of his money. Ex. 10 at 196. After he received the notification and a refund, he left. *Id.* I therefore do not conclude that this forms the basis of a Guideline J security concern since the record does not establish that the Individual committed a criminal act and the trespass notification appears to have been a warning and not a citation, as alleged.

demonstrate an inability or unwillingness to comply with laws, rules, and regulations and therefore justify the LSO's invocation of Guideline J.⁵ 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 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 or her eligibility for an access authorization. The Part 710 regulations are drafted to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. *Id.* § 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

The discussion below reflects my application of these factors to the testimony and exhibits presented by both sides in this case.

IV. FINDINGS OF FACT

The Individual testified that he was raised by drug-addicted parents and suffered physical abuse throughout his childhood. Tr. at 10, 13. At seventeen, he ran away from home and thereafter resided in an independent living program for youth, which he described as "doing [his] own thing at that point in [his] life" *Id.*

The record provides a plethora of criminal charges and convictions from 1998 to 2022 that the Individual reported in his QNSP or discussed with a security clearance investigator. The first of these charges was in August 1998, when the Individual was charged with Possession of Marijuana

⁵ In making my finding, I do not consider the most recent criminal charges that arose in 2026 as presenting a security concern that must be mitigated. Those charges arose and were added to the SSC after the hearing request was forwarded to OHA. Under 10 C.F.R. § 710.21(b)(2), the LSO must forward the individual a letter that identifies the information that creates a substantial doubt regarding their eligibility for a security clearance. Given that the SSC was updated without any explanation and appears to have only been provided to the Individual as part of the DOE exhibit book, I conclude that the LSO did not provide proper notice to the Individual. *See* 10 C.F.R. § 710.26(j) (providing that the individual should be permitted to request an "appropriate adjournment" where an amendment to the SSC "may involve undue hardship to the individual because of limited time to respond to the new derogatory information"). However, I will consider the alleged 2026 criminal charges as part of my Decision as explained *infra* in Section V.

With Intent to Distribute and Possession of Drug Paraphernalia after he brought marijuana to high school. Ex. 8 at 170. He could not recall the disposition of the case. *Id.* However, he insinuated that he did not in fact have any intent to distribute marijuana and was charged with intent to distribute because he possessed a scale and that he only possessed the scale because he wanted to ensure that he received the correct amount of marijuana he purchased. Ex. 10 at 170. That same year, in October, he committed an armed robbery and was prosecuted as a juvenile. Tr. at 12. During the robbery, he was shot multiple times by law enforcement, and he spent approximately three years incarcerated in a juvenile facility. *Id.*

In 2002, he was charged with Marijuana Possession, Less Than Once Ounce, Speeding, No Insurance, and Aggravated Driving Under the Influence of Liquor (DUI) after being pulled over and admitting to the officer that he possessed marijuana. Ex. 10 at 170. He recalled receiving a citation and having to pay a fine and perform community service. *Id.* In 2004, he was charged with Battery Against a Household Member, Obey Police and Fire Department, and Resisting Arrest and Obstructing after he attempted to enter a home he shared with his ex-wife. *Id.* at 174. He explained that he had forgotten his keys to their home, his ex-wife would not let him enter, and police arrived and “tackled” him without prompting. *Id.* He stated that he later learned his ex-wife would not let him into their home because she was cheating on him with the landlord. *Id.* He stated that he never made physical contact with his ex-wife, he fought back against the police because he was surprised by them, he pled not guilty, and the charges were dismissed. *Id.*; Ex. D (court record providing disposition of charges).

In 2005, he was charged with eleven counts of Contributing to the Delinquency of a Minor, Criminal Damage to Property (\$1,000 or less), and Concealing Identity.⁶ Ex. 10 at 174. The Individual explained that in 2005 he worked as a teacher’s aide at a high school and decided to rent a hotel room for a female student because she did not feel safe with her father. *Id.* at 165. When he attempted to later contact that student, she did not answer her phone, so he went to the hotel room in the evening and discovered that there were at least eleven underage people present in the room. *Id.* at 165–66. He said that he contacted several of the children’s parents, but when police arrived he instructed the occupants not to open the door because he “knew how it looked” and the police broke down the door. *Id.* at 166. He pled no contest to Criminal Damage to Property and Concealing Identity. *Id.* at 175, 210; Ex. Eii.

In July 2006, he was charged with Residential Burglary, Larceny, Criminal Damage to Property, Kidnapping, Battery on a Household Member, Resisting, Evading, or Obstructing an Officer, and Order of Protection. Ex. 10 at 166; Ex. 8 at 78; *see also* Tr. at 56 (clarifying the correct year the incident occurred). The Individual testified that these charges arose after he discovered that his ex-spouse was having an affair. Tr. at 70. Ultimately, the Individual pled either guilty or no contest to false imprisonment and admitted that he entered and drove off in her car while she was still in the vehicle during a heated exchange. *Id.* at 70–71; Ex. 10 at 167.

In March 2006, he was charged with DUI, Driving on a Revoked License, and Speeding but could not recall the incident or the disposition of the charges. Ex. 10 at 176. In October 2006, he was

⁶ This incident is also recorded in the SSC as occurring in 2019. Ex. 1 at 7. However, this appears to be a repeat entry of the offense which occurred in May 2005. *Compare* Tr. at 82–85 *with* Ex. 10 at 207–08.

charged with DUI, Speeding, and Driving on a Suspended/Revoked License. *Id.* at 224. The police report indicates that the Individual was stopped for speeding and failure to maintain his traffic lane. *Id.* The officer “smelled a heavy alcohol odor” from the Individual’s breath and observed “bloodshot watery eyes.” *Id.* The Individual reportedly refused to answer questions and became aggressive when asked to complete field sobriety tests. *Id.* As a result, the officer handcuffed the Individual and reported that the Individual resisted being handcuffed. *Id.* The officer also reported that the Individual became verbally aggressive and noncompliant after being transported to jail, including spitting. *Id.* at 224–25. In addition to the above, the officer determined that the Individual had a suspended or revoked driver’s license. *Id.* All charges were dismissed by the prosecutor. *Id.* at 225. When speaking to an investigator, the Individual denied that he was speeding but admitted he was “drunk” at the time and that his license was revoked. *Id.* at 166.

In June 2007, the Individual was charged with DUI, Careless Driving, and Driving While License Suspended. *Id.* The Individual reported that he crashed his vehicle after consuming alcohol. *Id.* He pled no contest to the charges. *Id.*

In September 2007, he was charged with Obstruction of Reporting or Investigation of Child Abuse or Neglect, Battery Against a Household Member and Interference with Communication, and two counts of Resisting/Evading/Obstructing an Officer. *Id.* at 170. The Individual reported that the incident arose because his ex-wife was intoxicated and attempting to leave by operating a motor vehicle, so he withheld her car keys and called the police. *Id.* The police arrived and arrested the Individual after speaking with his ex-wife. *Id.* The Individual asserted that his ex-wife hit him several times but he did not hit her back. *Id.* A police report indicates that the Individual was intoxicated and that his ex-wife alleged that he “grabbed” her arm to “forcefully take her keys” and he forcefully took her phone to prevent her from calling police. *Id.* at 216. The Individual alleged that while he was interacting with the officer, the officer became angry at him for moving his hands from behind his back and the officer “slammed” and injured him. *Id.* The Individual denied resisting arrest and stated the officer’s actions were unjustified. *Id.* at 171. The officer, by contrast, reported that the Individual “slipped the cuffs under his feet from behind and moved the cuffs to the front[,]” “struggle[ed] for his freedom[,]” and was “escorted to the ground” to “gain control and re-cuff him.” *Id.* at 216. The Individual pled no contest to Battery Against a household Member and Resisting/Evading/Obstructing an Officer. *Id.* at 171; Ex. J. The other charges were dismissed Ex. J.

In May 2008, he was charged with Battery Against a Household Member and Burglary of a Dwelling. Ex. 10 at 202. The record indicates he was given a deferred sentence. *Id.*

In May 2010, he was charged with DUI, Drivers Must be Licensed, and Reckless Driving. *Id.* at 170, 218. The Individual could not remember the details of this incident. *Id.* Court records indicate he pled no contest to the charges. *Id.* at 218.

In June 2010, he was charged with Burglary, Conspiracy to Commit Burglary, and Larceny. *Id.* at 204. Court records indicate he pled guilty to the charges. *Id.*

In December 2010, he was charged with Pass on the Left - Insufficient Clearance, Driving Under Restraint, and Speeding. *Id.* at 220. The Individual failed to appear for his court date, and five years later, in 2015, pled guilty to Driving Under Restraint and Speeding. *Id.* at 221.

In January 2011, he was charged with Controlled Substance, Possession Prohibited, and Contempt of Court. *Id.* at 219. He pled no contest to Controlled Substance, Possession Prohibited. *Id.*

In July 2011, he was charged with Residential Burglary, Battery Upon a Peace Officer, and Larceny. *Id.* at 205. He pled no contest to all the charges. *Id.*

To explain his criminal conduct leading up to 2011, he testified that he was “wild . . . [and] drinking a lot, . . . doing wild things a lot.” Tr. at 59. He also explained that he was in a challenging marriage from 2001 to 2010 and “didn’t care at that time in [his] life . . .” *Id.* at 13–14. He testified that in 2011 he decided to work on changing his life. *Id.* at 13. The Individual did not have any documented criminal charges thereafter for approximately seven and a half years.

Then, in 2019, he was again arrested for DUI on July 4. *Id.* at 18. The Individual stated that on that day he drove to a store, and a jail transport vehicle parked behind him in the parking lot, blocked his exit, and the driver called the police. *Id.* at 19. The police then arrived, and when the Individual approached them, an officer “pulled out his handcuffs, slammed [him] to the ground, and took [him] to jail.” *Id.* at 22. The Individual testified that he had not consumed alcohol preceding the incident because he was spending time with his infant child and wife. *Id.* at 19, 23. The Individual testified that the driver of the jail transport vehicle had called the police and accused him of attempting to run him off the road, which the Individual denied. *Id.* He also testified that while law enforcement asked him to submit to an alcohol breath test, he exercised his right to remain silent. *Id.* The charges were ultimately dismissed, and the Individual testified that his lawyer told him they were dismissed because the prosecution could not provide video evidence of the incident. *Id.* at 23. The Individual testified that he requested video footage from the transport vehicle and officers and it was not provided, which he alleges proves the allegation was fabricated. *Id.* at 20. He also referred to an allegation in the police report that he resisted arrest as false and testified that that lack of evidence to corroborate the allegations means the allegations are “hearsay.” *Id.* However, his current wife, whom he married in 2016, when interviewed by law enforcement, provided an account that directly contradicted his testimony because she reported that he had been consuming alcohol that day. Ex. 10 at 232; *see also* Tr. at 14–15 (indicating when he and his second wife married).

In January 2022, the Individual was charged with Domestic Violence. Tr. at 28. According to the Individual, the incident arose because his son became disrespectful and aggressive when the Individual attempted to enforce a rule and the Individual wanted to physically discipline him as a result. *Id.* at 30. As the Individual approached his son, his wife stepped between them and told the Individual to stop and leave. *Id.* As the Individual exited the home, police arrived and arrested him for domestic violence. *Id.* The Individual testified that his son called the police. *Id.* at 54. The Individual testified that he was arrested because the officer alleged that he saw the Individual push his wife. *Id.* The Individual denied pushing his wife and testified that his wife denied the same. *Id.* at 31 (testifying “[h]itting women is not something I do There’s no way that I’m going to put my hands on my wife”). *Id.* Ultimately the charges were dismissed for unexplained reasons. *Id.* at

32. The police report from the incident describes the events differently. First, it reports that his wife called police and stated that the Individual had battered her by grabbing her. Ex. 10 at 193. She also reported that the Individual's child was afraid of how he had been driving, she and the child confronted the Individual about it, and the Individual became upset and grabbed and pushed the wife aside to get at the child. *Id.* Officers spoke with the child and the child confirmed that the Individual shoved the wife. *Id.* When asked about the inconsistency, the Individual stated that a "criminal complaint is an officer's recount of a story . . . [and] they can put whatever they want in there." Tr. at 67.

Most recently, in March 2026, the Individual was arrested and charged with Receipt, Transportation, or Possession of a Firearm or Destructive Device by a Felon and Tampering with Evidence. *Id.* at 32; Ex. Vii. According to the Individual's testimony, on the day in question he was watching his child at his in-laws' residence when he went to meet up with his wife to pick up his younger child so she could go to work. Tr. at 32. He said that his wife did not have his son in a car seat, which is important to him, and they began discussing child safety "over the wind" since it was a windy day. *Id.* at 33. He said that another young man approached them and asked if everything was okay, the Individual's wife responded with "yes" and to mind his own business. *Id.* A bit later, the young man started "saying things," which the Individual responded to by "confronting him," and the young man and another man then started physically assaulting the Individual, including stabbing the Individual in the thigh (which he did not immediately realize). *Id.* at 33, 36. The Individual said that the fight ended and his wife continued on to work and he started heading back to his in-laws' home. *Id.* On the way back, he was pulled over, according to the Individual, due to his irregular driving as a result of having trouble with his vision. *Id.* at 33. The Individual exited his vehicle during the stop and an officer asked for his keys, which the Individual refused, and the officer informed the Individual he was under investigation for domestic violence because he was "seen beating" his wife and children. *Id.* The Individual stated that he threw his keys into the vehicle and the officer "broke into [his] vehicle without a warrant" and charged him with felony possession of a firearm and tampering with evidence after discovering a handgun. *Id.* The Individual testified that the charges were ultimately dropped and that he is suing the law enforcement agency as a result of the incident. *Id.* The Individual testified that he listened to the audio of the dispatcher and that the citizen who called the police never stated that he hit his wife and that the citizen only saw him and his wife yelling (presumably at one another) before two people assaulted him. *Id.* He testified, without further detail, that he had requested and reviewed the videos from the incident and they proved the officers lied and "plotted against [him]" to "bring charges[.]" *Id.* at 37. As for the firearm, he testified that his wife keeps firearms in all of their vehicles, and she placed it on the console of his vehicle while transferring clothes along with the young child. *Id.* at 38–39. He testified that the charges were dropped because the prosecution failed to timely provide its evidence as part of the criminal proceedings. *Id.* at 42; *see also* Ex. Vii (stating charges were dismissed without prejudice due in part to "some lack of discovery").

There are inconsistencies present in the record regarding this recent incident too. He testified that he and his wife were not arguing at the time the police were contacted and the dispatcher made that up, which is contradicted by his testimony that the audio recording of the emergency call contained the citizen alleging the Individual and his wife were yelling. *Id.* at 40, 42. Furthermore, he testified that his alleged assaulter stated he was motivated to attack the Individual because the alleged assaulter thought the Individual was assaulting his wife, which corroborates law

enforcement's position that a citizen reported that the Individual was seen assaulting his wife. *Id.* It seems far more likely that this third party attacked the Individual in order to defend his wife rather than deciding to assault a stranger, unprompted. Lastly, he testified that neither he nor the police knew there was a firearm in his vehicle before the police searched his vehicle and discovered it. *Id.* at 38. However, the police report indicates that the officer observed the weapon in plain view. Ex. 6 at 36.

The Individual credits his second wife, along with his children who he raises together with his wife, as helping him become less selfish. Tr. at 14–15. He also credited his change in perspective after 2011 to a program called Moral Recognition Therapy, which helps identify harmful feelings and behaviors and how to positively respond to and modify them. *Id.* at 16. He also reduced his use of alcohol use and abstained from marijuana and unlawful use of prescription drugs after 2011. *Id.* at 17. He testified that he has not had any therapy, other than marriage counseling, since 2011. *Id.* As a form of community service, every year he volunteers with the Forest Service to clean up outdoor spaces. *Id.* at 80.

The Individual testified that there is something about his personality and bad luck that results in him being treated poorly by law enforcement. *Id.* at 21, 37 (stating “my interaction with law enforcement has always resulted poorly on my behalf,” they are “arrogant” and “don’t like my demeanor or my face,” he knows he “look[s] suspicious,” he “know[s] what [his] rights are and what their duties are,” and they “don’t care for my . . . responses to what they say”). The Individual testified that generally he pled no contest when he knew the evidence was such that he could be found guilty. *Id.* at 73–74. He testified that some of the criminal charges he “pled to were not what happened and it’s [his] word against theirs. But [he] take[s] responsibility for every item on this [SSC] [.]” *Id.* at 75. Seemingly in reference to the 2019 charge of DUI, he testified that in small towns, everybody knows everybody and can, for example, call their law enforcement friend and the friend will believe their allegations. *Id.* at 22. The Individual testified that he did not know how he could change things to avoid getting into negative interactions with others and law enforcement. *Id.* at 52–54. The Individual testified that while what he pled to was not always what happened “[he] take[s] responsibility for every item on this [SSC] [.]” *Id.* at 75.

V. ANALYSIS

A. Guideline J Considerations

Conditions that can mitigate security concerns based on criminal conduct include the following:

- (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 none of the mitigating conditions apply to resolve the Guideline J security concerns. I conclude ¶ 32(a) does not apply to resolve the concerns derived from the Individual's lengthy criminal history that spans more than two decades. There is a plethora of evidence that demonstrates the Individual's continuing tendency to engage in criminal behavior and therefore supports my concern that insufficient time has passed from which to conclude that it is unlikely the Individual will engage in future criminal conduct. Even ignoring the most recent 2026 allegations, only approximately four and a half years have passed since his last criminal charges, which is not so long relative to a criminal history that dates back to 1998 and includes a span of approximately seven and a half years without being charged with a crime. And there is nothing unusual about the circumstances that led to the Individual's various criminal charges.

I further find that ¶ 32(b) does not apply to resolve the security concerns because there is no evidence that the Individual was pressured or coerced into committing the offenses.

Next, I conclude that ¶ 32(c) does not apply. There is reliable evidence in the record that the Individual committed the majority of the criminal offenses. The Individual was not only charged with but pled no contest to a significant number of serious criminal charges as outlined above, and the police records from many of those incidents provide allegations that form the basis for the criminal charges. To the extent he denies the allegations underlying his most recent criminal charges, I conclude that his testimony is unreliable given the specific contradictions highlighted in this Decision, the lack of corroborating evidence, and the substantial number of criminal charges that he has accumulated over the years. For example, his testimony regarding the conduct of the jail transport driver would require me to accept that the driver blocked him into a parking lot and contacted police for no reason and that the police officer slammed him to the ground unprompted (which he alleged occurred at least one other time in 2007 and is also contradicted by the related police report) because he suspects the driver and police officer were friends. It seems far more likely that the jail transport driver was concerned by the Individual's driving and contacted police as a result, especially considering the Individual's wife reported that he had consumed alcohol prior to the incident, which also contradicted the Individual's testimony. There are simply too many instances of the Individual raising an implausible explanation for his negative interaction with law enforcement over the years. Take, for example, the host of charges related to battering his domestic partners. While the most recent charges for battering his wife in 2022 were dismissed, his testimony regarding that incident was contradicted by his wife's and child's statements to law enforcement that the Individual grabbed and pushed his wife. This behavior is strikingly similar to the even more recent conduct that occurred during the pendency of his hearing, where his testimony, as outlined above, substantially undermines his credibility as to whether he physically assaulted his wife. While the Individual describes himself as somebody who does not physically assault women, he has a history of being charged with crimes as a result of his domestic partners alleging that he physically assaulted them. I therefore conclude there is sufficient evidence in the

record to demonstrate that the allegations regarding his criminal conduct outlined in the SSC are reliable.

Lastly, I conclude that ¶ 32(d) does not apply because the Individual has not demonstrated successful rehabilitation. While the Individual ostensibly accepted responsibility for his past criminal conduct, especially the incidents that pre-date 2011, he also attempted to justify his behavior and blamed his troubles on duplicitous law enforcement and bad luck. He therefore consistently denied responsibility for the alleged behavior, despite claiming otherwise. Furthermore, he was charged with additional serious crimes during the pendency of this administrative proceeding. While, as I stated above, those charges do not form the basis for a security concern, they do add weight to the already substantial balance in favor of finding that the Individual will likely engage in future criminal conduct based on his serious and extensive criminal history and given that it involved another alleged incident of domestic violence (despite not being charged as such). *See* 10 C.F.R. § 710.7(c). The sheer volume of his criminal conduct compounded by his questionable testimony that undermines his credibility and attempts to displace responsibility for this criminal behavior indicate that the Individual is not rehabilitated despite his pre-2011 program and present community service. Accordingly, I conclude that the Individual has not resolved the Guideline J concerns.

B. Bond Amendment

I conclude that the Bond Amendment applies to preclude the Individual from possession of a security clearance. The statutory language is clear that an individual who has been incarcerated for more than one year is barred from possessing a security clearance. There is no dispute the Individual was incarcerated for a period longer than one year after he committed an armed robbery in 1998.⁷

A waiver of the Bond Amendment 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” 50 U.S.C. § 3343(c)(2)(A)–(B). Considering my finding above related to the Guideline J security concerns, the facts of this case are not such that a waiver should be granted to the Individual.

VI. CONCLUSION

In the above analysis, I found that there was sufficient derogatory information in the possession of the DOE that implicated the Bond Amendment and raised security concerns under Guideline J of the Adjudicative Guidelines. After considering all of the relevant information, favorable and unfavorable, in a comprehensive, common-sense manner, including weighing all of the testimony and other evidence presented at the hearing, I conclude that the Individual has not brought forth sufficient evidence to resolve the Guideline J security concerns. I further conclude that the Bond

⁷ While not outlined in the SSC, I also note that the Individual reported that he was sentenced in 2006 or 2007 to three years of incarceration in prison and one year of parole after he pled no contest to charges that included Non-residential Burglary, Larceny, and Battery on a Peace Officer. Ex. 10 at 167.

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.

James P. Thompson III
Administrative Judge
Office of Hearings and Appeals