

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

In the Matter of: Personnel Security Hearing	)	
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Filing Date: June 24, 2026	)	Case No.: PSH-26-0140
	)	
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Issued: September 17, 2026

Administrative Judge Decision

James P. Thompson III, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXX (the Individual) to hold an access authorization under the United States Department of Energy's (DOE) regulations, set forth at 10 C.F.R. Part 710, "Procedures for Determining Eligibility for Access to Classified Matter and Special Nuclear Material or Eligibility to Hold a Sensitive Position."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

The Individual is employed by a DOE contractor in a position that requires a security clearance. In January 2026, the DOE Local Security Office (LSO) received notice through a Continuous Evaluation System Report that the Individual had been arrested and charged with Driving Under the Influence (DUI) and Resisting Stop, Frisk, Halt, or Search, Evading Arrest, and Implied Consent License Suspension. Exhibit (Ex.) 7 at 16.² Thereafter, the LSO received additional information, described in detail below, regarding the circumstances of the Individual's arrest and the Individual's history of criminal conduct and being issued Temporary Orders of Protection (TOP). *Id.* at 38; Ex. 8 at 51–53; Ex. 12; Ex. 13. Based on the information gathered by the LSO, the 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.

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 LSO exhibits are to the exhibit number and the page number of the combined .pdf of the exhibit book.

Ex. 2. In an attachment to the Notification Letter, entitled Summary of Security Concerns (SSC), the LSO explained that the derogatory information raised security concerns under Guideline E, Guideline G, and Guideline J of the Adjudicative Guidelines. *Id.*

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, and I subsequently conducted an administrative review hearing on August 13, 2026. Transcript of Hearing, OHA Case No. PSH-26-0140 (Tr.) at 1. At the hearing, the Individual testified on his own behalf. *Id.* at 4. The LSO presented the testimony of the state trooper (State Trooper) who arrested and charged the Individual with the 2026 DUI and related charges. *Id.* at 4, 87. The LSO submitted fourteen exhibits, marked Exhibits 1 through 14. The Individual did not submit any exhibits.

II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS

As indicated above, the LSO cited Guideline E (Personal Conduct), Guideline G (Alcohol Consumption), 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. 2 at 9–13.

Guideline E provides that “[c]onduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual’s reliability, trustworthiness, and ability to protect classified or sensitive information.” Adjudicative Guidelines at ¶ 15. “Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes.” *Id.* The SSC cited the Individual’s aforementioned 2026 arrest and the circumstances surrounding his conduct that led to his arrest, including the Individual making false statements to the State Trooper and an attempt to flee from custody after being transported to a hospital for the purpose of testing his blood alcohol level. Ex. 2 at 8. However, none of these cited allegations justify the invocation of Guideline E. They do not involve falsifying or omitting information from a “personnel security, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine national security eligibility or trustworthiness, or award fiduciary responsibilities.” Adjudicative Guidelines at ¶ 16(a). They do not involve providing false information or omitting information “concerning relevant facts to an employer, investigator, security official, competent medical or mental health professional involved in making a recommendation relevant to a national security eligibility determination, or other official government representative.” *Id.* at ¶ 16(b). They do not constitute “credible adverse information in several adjudicative issue areas that is not sufficient for an adverse determination under any other single guideline” because his behavior is specifically covered under Guidelines G and J and, as concluded below, is sufficient for an adverse determination under those conditions. *Id.* at ¶ 16(c). They do not constitute “credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination” for the same reason. *Id.* at ¶ 16(d). They do not constitute “personal conduct, or concealment of information about one’s conduct, that creates a vulnerability to exploitation, manipulation, or duress by a foreign intelligence entity or other individual or group” because the cited allegations do not demonstrate he is particularly vulnerable to exploitation, manipulation, or distress. *Id.* at

¶ 16(e). They do not involve “a violation of a written or recorded commitment made by the Individual[.]” *Id.* at ¶ 16(f). And they do not involve any allegations that the Individual “associate[d] with persons involved in criminal activity.” *Id.* at ¶ 16(g). For these reasons, I decline to consider the allegations asserted under Guideline E, except to the extent they raise Guideline G and Guideline J concerns, as outlined below.

Guideline G provides that “[e]xcessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses, and can raise questions about an individual’s reliability and trustworthiness.” *Id.* at ¶ 21. The SSC cited the above referenced criminal charges in 2026 and that the Individual was arrested for Aggravated Assault in 2023 after consuming alcohol. Ex. 2 at 7–8.³ The LSO’s allegations that the Individual’s alcohol-related incidents away from work demonstrate excessive alcohol consumption justify the LSO’s invocation of Guideline G. Adjudicative Guidelines at ¶ 22(a).

Guideline J provides that “[c]riminal activity creates doubt about a person’s judgment, reliability, and trustworthiness.” *Id.* 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 two arrests cited above under Guideline G, that the Individual had been issued four TOPs between September 2022 and July 2023, and that he had been charged with Failure to Appear in 2018. Ex. 2 at 9. The LSO’s allegation that the Individual’s criminal conduct over the years creates doubt about his judgment, reliability, and trustworthiness justifies the LSO’s 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 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.

³ The remaining allegations set forth in the SSC under Guideline G do not raise security concerns in themselves. Specifically, the allegations contained in paragraphs II.B.1–3, which describe the circumstances of the Individual’s 2026 arrest, do not in themselves constitute any of the specified conditions that could raise a security concern under Guideline G. Adjudicative Guidelines at ¶ 22(a)–(g); *see* 10 C.F.R. § 710.7(d) (information shall be regarded as derogatory if it “tend[s] to establish the validity and significance of one or more areas of concern as set forth in the Adjudicative Guidelines”).

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

In 2018, the Individual was charged with Failure to Appear as a result of failing to timely pay a speeding ticket and subsequently missing the scheduled court date. Ex. 14 at 132; Tr. at 16. He explained that his wife failed to pay the ticket, but acknowledged it was ultimately his responsibility to ensure it got paid. Tr. at 16. He resolved the matter by paying the dues. *Id.* The charge was consequently dismissed. Ex. 14 at 132.

In September 2022, a TOP was issued against the Individual to protect his ex-wife and two minor children by restraining the Individual from “assaulting, threatening, abusing, [h]arassing, following, interfering, or stalking the protected person and/or [t]he child of the protected person.” Ex. 13 at 123 (capitalization removed). On the same date that TOP was set to expire, another TOP was issued in November 2022 protecting the same parties. Ex. 12 at 120. The November TOP was set to expire January 2023. *Id.* at 121. Although the Individual could not clearly recall the details of these TOPs at the hearing, he testified that in 2022 his ex-wife had been preventing him from contacting his minor son by failing to respond to his several phone calls. Tr. at 22. He said that he then received notice that an order of protection was requested, and a TOP was issued after he represented himself at the hearing. *Id.* at 23. He testified that during the hearing he asked the judge to “[j]ust stick the order of protection on [him]” because he “just want[s] to see [his child].” *Id.* However, he also testified that he did not agree to the terms that were placed in the order. *Id.* He testified that he continued to text message his child and ex-wife despite there being an active TOP, which resulted in later being charged with a violation of the court’s order.⁴ *Id.* at 31; *see also* Ex. 9 at 57.

Then, in February 2023 a third TOP was issued against the Individual. Ex. 11 at 117. It restrained him from the same behavior as the September 2022 and November 2022 TOPs and protected the same parties. *Id.* at 116, 118; Tr. at 17. He testified that the order resulted from his ex-wife alleging that he followed her on a local public road on three occasions. Tr. at 19. The petitions filed with the court to initiate the 2023 TOP provide the narratives supplied by his adult daughter and ex-wife. Ex. 9 at 63. In the daughter’s petition, she described her mother receiving calls from the Individual on a Thursday, February 16, 2023, and on the following day a vehicle the daughter “suspected” was driven by the Individual followed her and her mother on a public road despite their attempts to evade him by turning around. *Id.* at 65. The daughter described the actions as “stalking.” *Id.* at 64. The ex-wife similarly described the Individual’s “harassing and threatening” calls and text messages on Thursday evening and asserted that he had made those calls and text messages despite there being a restraining order in place. *Id.* at 74; *but see* Ex. 12 at 121 (indicating the TOP was set to expire January 13, 2023). She described that the following day the Individual

⁴ The record does not include the final protective order issued by the court.

followed her vehicle, getting “really close” to her “rear bumper” before “fall[ing] back.” *Id.* The ex-wife also categorized the behavior as “stalking.” *Id.* at 73. At the hearing, the Individual testified that timesheets from his employer demonstrated he could not have been driving behind his ex-wife on the day in question. Tr. at 81. However, the timesheets merely demonstrate that he left his work shift on February 16 and February 17 at 3:30 p.m. Ex. 9 at 102. Furthermore, an email from the Individual contained in the record, sent in 2023, contains his assertion that his ex-wife alleged he had followed her at 5:30 p.m. *Id.* at 58. Given that the ex-wife’s petition stated that the harassing and threatening communications on Thursday occurred in the “evening,” the Individual’s own email indicates she alleged he followed her the following day at 5:30 p.m., and there is no evidence that indicates the incident on the road occurred prior to 3:30 p.m., the timesheets do not support the Individual’s testimony that he did not have the opportunity to engage in the complained of behavior. *Id.* at 63–74. The Individual also testified that on the day of the road incident he was assisting a friend on a manual task after work. Tr. at 81. That testimony is uncorroborated. The Individual also testified that his lawyer advised him to text his ex-wife in an attempt to contact one of his children to document his desire to contact that child. *Id.* at 29. That testimony is also uncorroborated.

In July 2023, the Individual was charged with Aggravated Assault. *Id.* at 31; Ex. 9 at 94. The following day, a fourth TOP was issued against the Individual, this time protecting a woman whom he testified was a former romantic partner. Tr. at 31–32; Ex. 10. When describing the incident during the hearing, the Individual explained that he contacted the police to have his former romantic partner removed from his property because she repeatedly came to his property despite their relationship being over. Tr. at 32. However, he also testified that the two had been consuming alcohol together prior to the arrival of police, which undermines the inference that this woman appeared at his house uninvited. *Id.* He also testified that at the time he called the police he was unaware that he had “a violation of order of protection from [his] ex-wife,” and the police arrested him as a result. *Id.* The TOP was eventually dismissed by the former romantic partner thirteen days later. *Id.* at 34; Ex. 9 at 89.

The police report from the July 2023 incident states that law enforcement arrived at the Individual’s home based on his report that the romantic partner was vandalizing his property and being unruly. Ex. 9 at 94. An officer reportedly observed a “severe laceration over [the romantic partner’s] left eye,” which she reported was the result of the Individual “pushing her around” and “into the porch railing” after they got into an argument. *Id.* The Individual told the officer that the romantic partner had damaged his vehicle during their argument, and the officer observed superficial scratches on his face. *Id.* The officer determined that the Individual was the aggressor and arrested and charged him with Aggravated Assault. *Id.* The Individual provided a narrative of the incident to security personnel. *Id.* at 60. Therein, he stated that he and his romantic partner had been consuming alcohol together before he broke up with her and asked her to leave his house. *Id.* She responded by hitting, scratching, and “clawing” him—which drew blood on his face and head—and she damaged his vehicle after he accidentally damaged her vehicle during their argument. *Id.* He also reported that her laceration resulted from hitting her head on a porch railing after he pushed her in self-defense because she had just hit him with a “metal [car] jack stand.” *Id.* There is no mention of him being in violation of a protective order in the police report, being attacked with a metal object, nor acting in self-defense.

Turning to the recent 2026 DUI and related charges, the Individual's description of his arrest differs significantly from that of the State Trooper. The Individual testified that prior to his arrest he had consumed five beers after arriving home from work. *Id.* at 43. He reported that he had also been dealing with a kidney stone and had purchased the beer on the way home that night because he wanted to "flush [it] out" and believed that "beer does it quicker" than water. *Id.* at 41–42. After consuming the beer, the pain became unbearable, and he had to drive himself to the hospital. *Id.* at 41, 43 (testifying that the pain was so severe that he passed out and vomited before leaving for the hospital); Ex. 9 at 42.

The Individual testified that on the way to the hospital he felt the urge to urinate, so he stopped on the side of the road and relieved himself in the woods. Tr. at 69. Feeling relief, he decided to head back home. *Id.* Heading back home, the acute pain started again, and he decided to immediately get off the road. *Id.* at 68–69. He pulled into a church parking lot and saw the State Trooper, who was using a "radar" to check the speed of vehicles, and flagged him down for help. *Id.* at 67–68. In his response to a letter of interrogatory (LOI) issued by the LSO on February 4, 2026, the Individual reported

I . . . drove up to the police car that was on the side of the road to ask for help. He rolled down his window and asked what the problem was. I realized by his attitude that I had made another bad decision. He left the parking lot before I did. I followed him out then he pulled over on the side of the road. He then pulled me over and performed a sobriety test. I was taken to the hospital for a blood alcohol test with no regards to the pain I was in.

Ex. 9 at 42.

He testified that he had knee surgery and therefore could not complete the field sobriety testing. Tr. at 44. He also testified that when he arrived at the hospital for the purpose of obtaining a sample of his blood, which he did not consent to, he felt the urge to urinate and asked the security guards in the room for permission to use the restroom. *Id.* at 45, 72. He testified that he had informed both the guards and the State Trooper of his kidney stones. *Id.* at 46, 73. He testified that the guards ignored his request so he decided to walk past the guards, with handcuffs hanging off his arm, to look for the restroom. *Id.* at 45. After taking ten steps, "he heard them coming"; they then "tackled [him] from behind" and stated that he was trying to escape. *Id.* The Individual denied that he was attempting to escape, and testified that, if he was trying to get past the guards, "I promise you I could have." *Id.* at 46. He testified that he had to be held "down to take [his] blood 'cause [he] was refusing." *Id.* at 72. The blood test results indicated his blood alcohol level was 0.18 and confirmed that he was under the influence of alcohol. *Id.* at 46, 70. The charges were still pending on the hearing date. *Id.* at 47.

The State Trooper testified that the Individual drove his vehicle up next to the State Trooper's vehicle while the State Trooper was sitting in a church parking lot working on reports. *Id.* at 88–89. The Individual then rolled down his window but did not say anything until the State Trooper asked if he was okay or needed something. *Id.* at 89. According to the State Trooper, the Individual responded that he was going to sit there to let everybody know there is a "[t]rooper right here, running radar." *Id.* Feeling "some type of tension," the State Trooper then backed his vehicle up

to view the Individual's license plate and report it to the dispatcher. *Id.* The State Trooper then shined his vehicle's spotlight into the Individual's vehicle to ensure there were no weapons, and the Individual "shined a [flash]light back in [the State Trooper's] eyes." *Id.* at 89–90, 104. Concerned, the State Trooper decided to leave the parking lot so he could observe the Individual's actions from a distance, but the Individual followed the State Trooper's vehicle, honking his horn and yelling. *Id.* at 89. The Individual then attempted to leave by turning around, but the State Trooper followed him and initiated a traffic stop. *Id.* at 92.

The State Trooper testified that he attempted to administer field sobriety tests but discontinued them for the Individual's safety because he observed the Individual stumbling. *Id.* at 94. He also confirmed the Individual refused to consent to a blood draw and so he obtained a warrant to complete the test. *Id.* at 95. He informed the Individual before they arrived at the hospital that he was going to jail after the blood draw. *Id.* at 111. The State Trooper testified that while he was out of the presence of the Individual, hospital security guards had to pin the Individual to the floor because he tried to leave and would not listen to them. *Id.* at 95, 110. The State Trooper testified that the Individual also became aggressive when they attempted to obtain his blood, so the State Trooper had to physically restrain the Individual because the Individual was actively resisting and the State Trooper was concerned that he may injure a nurse. *Id.* at 97, 107.

The State Trooper testified that the Individual mentioned an issue with his kidneys but never asked for help. *Id.* at 102, 109. He also testified that he did not observe the Individual inform the hospital medical staff that he had an issue with his kidneys. *Id.* at 108.

The Individual testified that he began attending Alcoholics Anonymous (AA) meetings two months prior to the hearing and that some participants' stories "hit home." *Id.* at 48. He testified that he began attending AA because he has a problem with alcohol. *Id.* at 83.

V. ANALYSIS

A. Guideline G Considerations

Conditions that can mitigate security concerns based on alcohol consumption include the following:

- (a) So much time has passed, or the behavior was so infrequent, or it happened under such unusual circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or judgment;
- (b) The individual acknowledges his or her pattern of maladaptive alcohol use, provides evidence of actions taken to overcome this problem, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations;
- (c) The individual is participating in counseling or a treatment program, has no previous history of treatment and relapse, and is making satisfactory progress in a treatment program; and

- (d) The individual has successfully completed a treatment program along with any required aftercare, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations.

Adjudicative Guidelines at ¶ 23.

I conclude that none of the above mitigating conditions apply to resolve the Guideline G security concerns. Paragraph 23(a) does not apply because I do not conclude that the passage of time, frequency of the conduct, or circumstances are such that the concerning conduct is unlikely to recur. The Individual's January 2026 DUI occurred less than one year prior to the hearing. Thus, a relatively short period of time has passed since his concerning conduct. Furthermore, the frequency of his conduct does not establish that his behavior is unlikely to recur because only two and a half years had passed since his 2023 alcohol-related incident that resulted in his arrest for Aggravated Assault. In other words, his behavior is relatively frequent as he has been arrested two times in the past three years as a result of his behavior.

Lastly, the circumstances surrounding his alcohol-related criminal charges were not unusual. Most recently, he accosted state law enforcement unprovoked at a time when he was unquestionably intoxicated. He was consequently arrested on suspicion of DUI after engaging in belligerent road behavior, attempted to escape custody, and initiated a physical struggle with state law enforcement attempting to implement a lawful blood draw. I find the State Trooper's description of the incident more credible than the Individual's testimony for a number of reasons. For example, I do not credit his testimony that he walked past security to find the restroom because it escapes reason for a person to conclude that they could "walk" past hospital security, while handcuffed and in custody, to wander the halls in an attempt to find a restroom prior to receiving permission. There is no credible explanation for why hospital security would tackle him other than to prevent his escape. Furthermore, there is no evidence in the record to corroborate the Individual's testimony that he was suffering from a kidney stone. The lack of evidence of that fact is consistent with the Individual's bizarre behavior prior to his arrest during which he made no reference to or action consistent with being in severe, debilitating pain from a kidney stone. It seems far more likely that the Individual fabricated the kidney stone story in an attempt to excuse his behavior. I also find the Individual's explanation for his behavior during the 2023 incident that resulted in his Aggravated Assault charge to be dubious. While the Individual attempted to justify his behavior as self-defense when reporting the incident to security personnel, he made no mention of the same to the police officer. Additionally, the police officer described the scratches on the Individual's face as "superficial" while the Individual reported to security personnel that the attack left him bloody. This tends to demonstrate that he likely made up the self-defense theory after he made his report to the police and exaggerated his injuries when reporting the incident to security personnel. There are other inconsistencies present in the different narratives the Individual provided when compared with the police report. For example, the police officer made no mention of the Individual being in violation of a TOP as the reason for his arrest, which indicates that the Individual likely fabricated that fact in an attempt to avoid the consequences to his security clearance that might result if it were determined he was instead arrested for physically assaulting his former romantic partner. Similarly, the fact that the Individual first reported to security personnel that the argument with the former romantic partner began after he ended the relationship with her the same night

after consuming alcohol together but at the hearing he indicated that the romantic partner came to his home uninvited prior to the incident also undermines his credibility given the inconsistency. This likely represents another attempt by the Individual to alter the facts in order to represent himself in a more positive light by painting his former romantic partner as an uninvited visitor who damaged his property and then attacked him as opposed to somebody he got drunk with and assaulted and injured during an argument. I also note that it was not until he responded to the LOI after his initial report to personnel security that he first disclosed that he had been consuming alcohol prior to his arrest. When these inconsistencies are viewed in light of the inconsistencies outlined above regarding the 2026 incident, it further demonstrates that the Individual's testimony is not credible. I therefore conclude that the circumstances surrounding the 2023 incident do not indicate that his alcohol-related behavior is unlikely to recur, and the Individual has not resolved the resulting concerns regarding his reliability, trustworthiness, and judgment under ¶ 23(a).

I further find that ¶ 23(b) does not apply. Even if I were to take at face value the fact the Individual acknowledged his pattern of maladaptive alcohol use by admitting he has a problem with alcohol, the Individual has provided no evidence to corroborate his claimed attendance at AA meetings, and there is no indication that he has taken any other positive action, including treatment, to resolve the concerns.

Lastly, I find that ¶ 23(c) does not apply because the Individual is not participating in counseling or a treatment program, and ¶ 23(d) does not apply because the Individual has not successfully completed a treatment program or required aftercare. Accordingly, I conclude that the Individual has not resolved the Guideline G security concerns.

B. 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. The first mitigating condition does not apply to resolve the concerns because relatively little time has passed since the Individual's recent DUI, and it did not happen under unusual circumstances

other than what was directly the consequence of the Individual's exercise of extremely poor judgment. As I determined in the preceding section, I find his explanation for his behavior to be without merit. I also conclude that while he denies he committed the alleged assault of his former romantic partner, the police report from that incident, like the police report and State Trooper testimony for the 2026 incident, provides credible observations by law enforcement that contradict the Individual's uncorroborated claims. Finally, with respect to the unlawful behavior that supported the issuance of the TOPs, he admitted that he violated at least one of the TOPs and also provided evidence that actually tends to show he had the opportunity to commit the acts that supported the court issuing the TOPs on behalf of his ex-wife and child. Given that I find his testimony generally unreliable, I conclude that his criminal behavior is not mitigated based on the factors outlined in ¶ 32(a). The fact that he paid his 2018 citation does not disturb my conclusion.

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 due to my above reasoning. The evidence in the record that the Individual committed the criminal offenses cited in the SSC is reliable.

Lastly, I conclude that ¶ 32(d) does not apply because the Individual has not demonstrated successful rehabilitation. In addition to my analysis under ¶ 32(a), less than a year has passed since his most recent criminal charge, his recent charges are still pending, and I find his statements to security personnel in the LOI and his testimony regarding the same to represent his most recent attempts to, unsuccessfully, avoid responsibility for this criminal conduct. Accordingly, I conclude that the Individual has not resolved the Guideline J security concerns.

VI. CONCLUSION

In the above analysis, I found that there was sufficient derogatory information in the possession of the DOE that raised security concerns under Guideline G and Guideline J, but not Guideline E, 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 security concerns. 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.

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