

Administrative Judge in this matter, and I subsequently conducted an administrative review hearing. At the hearing, the Individual presented the testimony of her counselor and testified on her own behalf. The LSO presented the testimony of the Psychologist. The Individual submitted six exhibits, marked Exhibits A through F. The LSO submitted thirteen exhibits, marked Exhibits 1 through 13.²

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 basis for concern regarding the Individual's eligibility to possess a security clearance. Exhibit (Ex.) 1.

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.* Conditions that could raise a security concern include:

...

- (b) Deliberately providing false or misleading information; or concealing 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. The SSC recounts that the Individual failed to report, per DOE Order 472.2, that on August 2, 2021, she was charged by law enforcement with Aggravated Battery (Household Member) and she failed to disclose or report it to investigators despite being contacted on the day after her arrest and on five separate occasions thereafter. Ex. 1 at 5.³ The cited information justifies the LSO's invocation of Guideline E.

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.” Adjudicative Guidelines at ¶ 21. Conditions that

² References to the LSO exhibits are to the exhibit number and the Bates number located in the top right corner of each exhibit page.

³ DOE Order 472.2 states that “[a]ll individuals applying for or in possession of a DOE security clearance . . . have a specific obligation to report personnel security-related matters as they occur . . . within two (2) working days after the event.” DOE O 472.2 4.u.(1)–(2) (enacted 2011, and in effect at the time of the Individual's conduct). The circumstances that constitute a reportable personnel security-related matter are defined in Attachment 4 to the Order and include “[a]ny arrest, criminal charges (including charges that are dismissed), . . . summons[,] or detentions by . . . law enforcement authorities for violations of law within . . . the U.S.” DOE O 472.2, Attachment 4.

could raise a security concern include “[a]lcohol-related incidents away from work, such as driving while under the influence, fighting, child or spouse abuse, disturbing the peace, or other incidents of concern, . . .”; “binge consumption of alcohol to the point of impairment . . .”; and “[d]iagnosis by a duly qualified medical or mental health professional (e.g., physician, clinical psychologist, psychiatrist . . .) of alcohol use disorder . . .” *Id.* at ¶ 22(a), (c), and (d). The SSC cited the following information. The Psychologist reported on September 25, 2023, that the Individual met the *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision*, criteria for Alcohol Use Disorder (AUD), mild, without adequate evidence of rehabilitation or reformation, and he also opined that she had engaged in binge consumption of alcohol. Ex. 1 at 5–6. In June 2023, the Individual was arrested and charged with DUI after consuming two-and-a-half shots of liquor within ninety-minutes of her arrest. *Id.* at 6. In August 2021, the Individual was charged with Aggravated Battery (Household Member) after consuming three bottles of alcoholic lemonade and two shots of whiskey. *Id.* And in March 2019, the Individual was charged with Criminal Damage/Tamper, Criminal Trespass, and Disorderly Conduct/Fighting after consuming a pint of whiskey prior to her arrest. *Id.* The cited information justifies the LSO’s invocation of Guideline G.

Under Guideline J, “[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.* Conditions that could raise a security concern include “[e]vidence (including, but not limited to, a credible allegation, an admission, and matters of official record) of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted[.]” *Id.* at ¶ 31(b). The SSC recited the same arrest information cited above under Guideline G. The cited information justifies the LSO’s invocation of Guideline J.

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 record indicates that in March 2019 the Individual was arrested and charged with Criminal Damage/Tamper, Criminal Trespass, and Disorderly Conduct/Fighting. Ex. 13 at 377–78. The Individual told an investigator that she was arrested and taken to jail on those charges after getting into a physical altercation in a motel room with another individual. *Id.* at 287–88. In a follow-up interview, she told the investigator that she consumed “one and one half cans of beer prior to the argument” and that alcohol had no influence on her behavior. *Id.* at 301. However, the arrest details indicate that she “kicked the door open . . . and flipped a table[,] . . . threw a TV breaking it[,] . . . and scratched at [a witness to the event], [who] had scratches . . . on his face.” *Id.* at 341. The Psychologist reported that the Individual initially resisted explaining her behavior during the clinical interview before disclosing that she became violent after the “people she was with repeatedly blamed her for the breakup of her relationship with her oldest daughter’s father,” she believed the reason for the breakup was his violence toward her, she was intoxicated, and she “became violent to make them stop.” Ex. 10 at 62. At the hearing, the Individual testified that she had actually consumed a pint of whiskey before getting into the argument. Hearing Transcript, OHA Case No. PSH-24-0026 (Tr.) at 30–31.

The Individual disclosed her 2019 arrest in the Questionnaire for National Security (QNSP) she certified on July 14, 2021. Ex. 12 at 174. Her disclosure was in response to the questions that asked whether, in the last seven years, she had “been arrested” or “charged, convicted, or sentenced of a crime in any court” *Id.*

On August 2, 2021, the Individual was involved in another physical altercation after consuming alcohol in a hotel that led to the hotel security calling the police. Tr. at 32–34. According to court records, she was charged with Aggravated Battery on a household member. Ex. 9 at 55. She testified that she was intoxicated at the time of the 2021 incident. Tr. at 55. She also testified that the altercation turned physical because her romantic partner falsely accused her of taking his phone and she had to defend herself from his aggressive behavior, including his attempt to keep her in a hotel room closet. *Id.* at 33. The record indicates that the Individual failed to report her 2021 charge for Aggravated Battery despite having recently submitted her QNSP in July 2021 and participating in multiple interviews with investigators after her arrest as part of her application for security clearance. *Compare* Ex. 9 at 55 (state court records listing charges) *with, e.g.,* Ex. 10 at 289–91 (documenting that the Individual was interviewed on August 3, 2021, and August 17, 2021, by an investigator and did not report her August 2, 2021, arrest). The Individual testified at the hearing that she did not go to jail for the incident, and she did not disclose the arrest and criminal charges because she did not realize she had to disclose arrests that did not result in being taken to jail. Tr. at 40.

The Individual eventually disclosed to DOE the 2021 arrest in response to a question in a 2023 Letter or Interrogatory (LOI) that asked her to report whether she had ever been charged, arrested, or detained for “any additional alcohol-related incidents.” Ex. 8 at 37, 47. At the hearing, the Individual testified that, as a result of the administrative review process, she now understands that she is required to report all new criminal charges even if they do not result in being jailed. Tr. at 69.

The Individual resolved the 2021 criminal charges by attending a twelve-week domestic intervention program that consisted of one-on-one counseling. Tr. at 34–35. The intervention program included discussing her triggers for anger, including alcohol use, and she successfully completed the program. *Id.* at 45, 37; *see also* Ex. E (certificate of completion for the domestic intervention program).

The final and most recent criminal charge cited in the SSC occurred in June 2023 when the Individual was arrested and charged with DUI. The Individual testified that on the date of the DUI she went for a ride with a friend after they had both consumed alcohol together. Tr. at 38. The Individual testified that the friend began driving erratically, which scared the Individual, so the Individual asked to be dropped off at her own car. *Id.* The Individual said she intended to drive home at that point, but the friend pleaded with the Individual to follow her home instead, which the Individual agreed to, and the police stopped the Individual for speeding. *Id.* at 39. In her LOI response, the Individual reported that she had consumed two-and-a-half alcoholic beverages within an hour and a half prior to driving. Ex. 8 at 37. The citation from the incident states that she had a blood alcohol level of “.13.” Ex. 7 at 29–30.

At the request of the LSO, the Psychologist evaluated the Individual on September 13, 2023. Ex. 10 at 59. In the Psychologist’s report, produced after evaluating the Individual, the Psychologist noted that the Individual provided conflicting information regarding her alcohol consumption. *See, e.g.*, Ex. 10 at 62 (noting the Individual reported in the LOI that she had consumed a pint of whiskey before the 2019 arrest but told police she had only had “three shots” and told an investigator she had “one and one-half cans of beer prior to this incident”). The Psychologist also opined that, based on the Individual’s weight and height, the Individual “likely underreported the amount of alcohol she consumed prior to being pulled over” at the time of the 2023 DUI. Ex. 10 at 61.

During the evaluation, the Individual told the Psychologist that she had not consumed alcohol since June 9, 2023. Ex. 10 at 63. The Individual underwent a Phosphatidylethanol (PEth) test⁴ to determine whether she had consumed a measurable amount of alcohol within the previous twenty-eight days, and the test came back negative, which corroborated her report for the period covered by the test. *Id.* at 66.

As a result of the evaluation, the Psychologist diagnosed the Individual as meeting the criteria of AUD, mild. *Id.* at 67. The Psychologist also reported that the Individual had engaged in binge consumption of alcohol because “she has multiple reported episodes of consuming the equivalent of four or more standard drinks of alcohol on a single occasion and to a level of intoxication that is markedly and episodically higher than what is typical for her.” *Id.* He also noted that she “stated

⁴ A PEth result of a certain level is considered evidence of moderate to heavy ethanol consumption. Ex. 10 at 88.

that she drinks to excess approximately once every six months.” *Id.* at 62. Finally, the Psychologist reported that the Individual had been an “unreliable informant regarding her alcohol use,” which “calls into question her judgment, trustworthiness, and reliability.” *Id.* The Psychologist recommended that the Individual enroll and complete an intensive outpatient treatment program (IOP) and continue in an aftercare program for at least one year, remain abstinent for at least a year, and document her abstinence by monthly PEth tests. *Id.* at 68.

At the hearing, the Individual testified that, as a result of her 2023 DUI, she had to complete one year of probation, which was ongoing, and it included the condition that she abstain from consuming any alcohol and complete community service. Tr. at 39. The Individual testified that since her DUI, she completed her employer’s employee assistance program (EAP) alcohol awareness and education course. *Id.* at 42. She explained that the EAP course provided education on alcohol use and how to calculate a person’s blood alcohol level based on their level of consumption. *Id.* at 42. She also said the EAP course covered triggers for alcohol use and how to avoid them. *Id.* After the EAP course, the Individual followed the recommendation of some of her coworkers and enrolled in a treatment program offered by her now-counselor. *Id.* at 44.

The Individual’s counselor testified that the Individual contacted the counselor on June 15, 2023, and completed the intake assessment in July. *Id.* at 14. The counselor testified that the Individual was diagnosed with AUD, mild, as a result of the assessment, and the counselor recommended individual, weekly treatment sessions to help the Individual identify and cope with stress. *Id.* at 14–15. The counselor explained that the treatment curriculum included “the basic disease concept of addictions, relapse prevention, [and] intervention” *Id.* at 16. The counselor reported that the Individual was “very consistent and very mindful of maintaining all of her appointments.” *Id.* at 17. The Individual completed the initial treatment program on October 27, 2023. *Id.* at 18. The Individual then continued with weekly aftercare. *Id.* at 18–19. The counselor testified that while the aftercare program typically lasts three months, the Individual requested and continues to receive aftercare treatment. *Id.* at 21–22. The counselor testified that the Individual “transitioned from being able to identify relapse triggers and behaviors,” and the aftercare deals with the Individual “dealing with emotions associated with being away from family . . . in a constructive way.” *Id.* at 19. The counselor testified that the Individual also benefited from extracurricular activities such as sewing and volunteering at a place where she feels close to the “natural environment where she comes from.” *Id.* at 20. She also testified that the Individual had identified a positive and supportive social network. *Id.* at 19. The counselor testified that the volunteer organization has been “very supportive of [the Individual] [and] encouraged her.” *Id.* at 24. The counselor testified that the Individual has stated that her goal is to remain totally abstinent. *Id.* at 21.

The Individual testified that the purpose of the counselor’s program was to identify risks and triggers and learn “how to replace consuming alcohol with other activities” *Id.* at 45. The Individual testified that, while she “may not have been drinking a lot,” she realized that she had “been drinking for . . . the wrong reasons.” *Id.* at 65. She testified that she learned that she had been consuming alcohol as a result of being stressed and having “too much on [her] plate” *Id.* She testified that they identified her triggers as “mainly stress” from “being away from family” since her dad, aunt, and children are located in a different state. *Id.* at 45. The Individual testified that she also completed the court-required community service as a consequence of her 2023 arrest.

Id. at 46–47. She confirmed that she “picked up sewing” as another activity and uses the skill to makes clothing for coworkers. *Id.* at 47–50. Lastly, she stated that she is working part-time on the weekends to help with her living expenses. *Id.* at 50, 58.

The Individual testified that she last consumed alcohol on June 9, 2023. *Id.* at 50–51. She testified that if she had cravings, she could call the counselor or others for support. *Id.* at 52. She testified that she wants to stop consuming alcohol because she wants to go to school and obtain a certificate in engineering. *Id.* at 52. She testified that she handles her triggers by calling and speaking with her family on a daily basis, which has “helped a lot . . .” *Id.* at 46. She also seeks out social interactions that do not involve alcohol. *Id.* at 66. She continues to volunteer with the same location where she completed her community service because she finds it supports her sobriety: the staff there checks in on her abstinence and she enjoys the work because it reminds her of “back home.” *Id.* at 46–47. The Individual submitted into the record the results of four PEth tests taken in the months of November and December 2023 and January and February 2024. Ex. B at 1–4. All four test results are negative for PEth. *Id.*

The Psychologist testified that his opinion at the time of the evaluation that the Individual met the criteria for AUD was based on the Individual’s “history of recurrent use of alcohol resulting in failure to fulfill major role obligations at work, school[,] or home,” that “she continued to use alcohol despite problems caused by her use of alcohol,” and she “used alcohol in more than one occasions in situations where it is physically hazardous . . .” Tr. at 74.

The Psychologist testified that he recommended an IOP because it would help the Individual to “develop the skill set and the awareness of how alcohol use is negatively impacting [her] life.” *Id.* at 75. He also explained that he recommended the year of sobriety and aftercare because the Individual “has a history of not using alcohol for extended periods of time and then reusing,” and the recommendation was calculated to help her “get past that six-month period of not using and then binge drinking.” *Id.* The Psychologist testified that the treatment the Individual received from the counselor satisfied his recommendation that she complete an IOP. *Id.* at 76–77. The Psychologist further testified that the Individual had been consistent in her treatment, she had continued aftercare past the termination point recommended by the counselor, she has not consumed alcohol since June 9, 2023, and she had found “ways to stay more engaged with her family and her children . . .” *Id.* at 77.

However, the Psychologist expressed concern that the Individual had not internalized her treatment. *Id.* at 78. For example, he stated that she did not explain how a particular trigger affected her, the choice she had made as a result of that trigger, and how she can avoid the trigger in the future. *Id.* He explained that internalization makes an individual more resistant to external pressure. *Id.* at 79. In addition, the Psychologist testified that the Individual had not yet completed a year of treatment or abstinence from alcohol. *Id.* He therefore concluded that she had not yet demonstrated rehabilitation or reformation and gave her a fair prognosis. *Id.* But he did update her diagnosis to AUD, mild, in remission. *Id.* at 82. He also testified that the Individual was still within the “historical window of abstention and then binge drinking” and that “she’s still at risk” of binge consumption. *Id.* at 83. He testified that upon reaching a year of treatment and abstinence she would garner a better prognosis because “even if there’s not that internalization of the treatment

program, she's still showing commitment, she's still showing a willingness to continue to participate and benefit from it[,]" which indicates a greater chance for success. *Id.* at 81.

V. ANALYSIS

A. Guideline E Considerations

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

- (a) The individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;
- (b) The refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by advice of legal counsel or of a person with professional responsibilities for advising or instructing the individual specifically concerning security processes. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;
- (c) The offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;
- (d) The individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur;
- (e) The individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress;
- (f) The information was unsubstantiated or from a source of questionable reliability; and
- (g) Association with persons involved in criminal activities was unwitting, has ceased, or occurs under circumstances that do not cast doubt upon the individual's reliability, trustworthiness, judgment, or willingness to comply with rules and regulations.

Adjudicative Guidelines at ¶ 17.

I conclude that none of the above mitigating conditions apply to resolve the Guideline E concerns.

Paragraph 17(a) does not apply to resolve the concerns because the Individual's eventual disclosure of the 2021 arrest two years after it occurred, in 2023, was not prompt.

Paragraph 17(b) is inapplicable because the Individual did not indicate that her conduct was caused or contributed to by advice of legal counsel or any other person.

As for ¶ 17(c), I conclude that the severity of the Individual's behavior, the passage of time since it occurred, the frequency of the behavior, and the circumstances surrounding it do not indicate that it is unlikely to recur. The Individual's failure to disclose her 2021 arrest and criminal charges despite having several opportunities to correct it after submitting her QNSP is not minor. While she was being investigated for a security clearance, she had to resolve her charges in court by completing, among other things, the domestic violence intervention program. These are significant events for a person applying for a security clearance, especially a person who had already reported a prior arrest and criminal charges in her initial security clearance paperwork and provided detail regarding that incident to an investigator. I note that the Individual did not deny any knowledge of her obligation to report criminal conduct that involved law enforcement; she instead testified that she believed she only had to report an arrest if she was jailed. But it is not clear why she believed that being jailed was the determining factor for that obligation. Indeed, a mere month before the August 2021 arrest, she completed and certified her July 2021 QNSP in which she reported her prior arrest and criminal charges based on the wording of questions therein that asked whether in the last seven years she had been "charged" with a crime or "arrested." The term "jailed" is noticeably absent from those questions. I am therefore skeptical of her excuse. Not only is her proffered understanding unreasonable based on the wording of DOE Order 472.2 and the security clearance paperwork, but she also failed to provide any detail or insight as to how or why she arrived at her erroneous interpretation.

In reaching my conclusion, I have considered that the Individual proactively disclosed her 2023 DUI, during which she was jailed, and eventually self-reported her 2021 criminal charges in response to the LOI question that asked whether she had been charged with any other alcohol-related crimes. These facts provide evidence of her present willingness and ability to disclose accurate information when required. Her testimony also establishes that she learned through the administrative process that her previous understanding of her obligation was mistaken, and she expressed an understanding that she must report criminal charges irrespective of whether she has been jailed. However, these facts do not overcome my above analysis and doubt concerning her reliability, trustworthiness, or good judgment: especially regarding her willingness or ability to exercise good judgment in interpreting the full spectrum of obligations of a clearance holder. Accordingly, I find that none of the remaining factors articulated in ¶ 17(c) apply to resolve the concern.

Based on my above findings, I conclude that ¶ 17(d) also does not apply to resolve the concerns. I remain concerned that the Individual has not taken sufficient steps to address the stressors, circumstances, or factors that contributed to her untrustworthy and unreliable behavior. Because the Individual did not indicate any stressors or circumstances that led to her misunderstanding of the reporting requirements, I am unable to assess whether or not she has addressed them.

The remaining conditions do not apply to resolve the Guideline E concerns for the following reasons. Paragraph 17(e) is inapplicable because there is no allegation in the SSC that the Individual's conduct created a security concern due to her particular vulnerability to exploitation,

manipulation, or duress. Paragraph 17(f) is inapplicable because there is no evidence in the record to indicate that the information cited in the SSC is unreliable. Lastly, ¶ 17(g) is inapplicable because the Individual's association with persons involved in criminal activities is not at issue. Accordingly, I find that the Individual has not resolved the Guideline E concerns.

B. 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.

Paragraph 23(b) applies to resolve the Guideline G concerns. First, the evidence demonstrates that the Individual acknowledged her maladaptive alcohol use. At the hearing, she admitted that she had consumed alcohol for the wrong reasons and expressed her realization that she had used alcohol as a coping mechanism.

Second, I find that the Individual has taken significant action to overcome her problem. After the DUI, she successfully completed the EAP education program; she completed the counselor's treatment program, which the Psychologist agreed constituted an IOP; she began participating in the counselor's aftercare program and continued her participation beyond the recommended treatment timeline; and she successfully stopped consuming alcohol.

Finally, I find that the Individual established a pattern of abstinence in accordance with treatment recommendations. The record demonstrates that the Individual successfully maintained abstinence for nine months leading up to the hearing date, and her abstinence is corroborated by several negative PEth tests. Furthermore, the counselor's testimony and the Individual's testimony demonstrate that the Individual maintained her pattern of abstinence while participating in the counselor's IOP and the aftercare program.

While the Psychologist opined that the Individual did not demonstrate reformation or rehabilitation and provided only a fair prognosis, I am not persuaded by his opinion for the following reasons. First, the Psychologist based his opinion, in part, on his observation that the Individual failed to demonstrate that she had internalized the treatment lessons, which is a conclusion based on his observation that the Individual only testified generally regarding her triggers. However, I find the record demonstrates that she did provide detail regarding her triggers and how she addresses them.

The Individual and the counselor both identified the Individual's specific triggers as stress and separation from family. They explained how the triggers were identified in the treatment program and detailed how the Individual took action to address those triggers. She increased communication with her family and used extracurricular activities to support her sobriety. For example, the Individual continues to volunteer with an organization that provides a supportive environment, including people who ask questions about her progress to hold her accountable. She also benefits from using her sewing skills to help her coworkers as an activity to replace alcohol consumption. In short, this evidence represents more than "general statements" regarding triggers; it demonstrates that she identified triggers in treatment and continues to specifically address them through positive actions in accordance with her treatment regimen. And, importantly, her efforts have been successful.

Second, while the Psychologist testified that an additional three months of sobriety are needed to demonstrate the Individual's commitment and therefore justify a more positive prognosis, I find that the nine months of successfully maintaining abstinence given her positive efforts identified above demonstrates the Individual is committed to addressing her alcohol misuse.

For the reasons stated above, I find that the evidence satisfies ¶ 23(b). Because I find that the Individual has put forth sufficient evidence to mitigate the concerns that stem from her AUD, mild, I also find she has resolved the concerns based on her past binge consumption of alcohol and those that stem from her alcohol-related conduct. I therefore conclude that the Individual has resolved the Guideline G security concerns.

C. 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 ¶ 32(d) applies to resolve the concerns. The record reflects that the Individual has not engaged in criminal conduct since she received her 2023 DUI. While the passage of time since then may be relatively brief, I find that the Individual's criminal conduct was inextricably linked to her problematic consumption of alcohol. The record demonstrates that the three instances of criminal conduct all involved the excessive consumption of alcohol. There is no evidence that she has engaged in criminal or violent behavior separate from the excessive consumption of alcohol. My findings in the preceding section demonstrate that the Individual has abstained from alcohol for nine months by following treatment recommendations, and she put forward sufficient evidence to resolve the Guideline G concerns. I also find that she completed a domestic intervention program, and there is evidence the program made an impact on her behavior because her most recent alcohol-related incident did not involve any allegations of violence. Finally, the record demonstrates the Individual continues constructive community involvement by continuing to engage in community service. Given the passage of time coupled with the completed counseling, voluntary community service, and successful resolution of the alcohol-related concerns, I find that the Individual has demonstrated successful rehabilitation, and the criminal conduct is therefore unlikely to recur. Accordingly, I conclude that the Individual has 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 E, Guideline G, and 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 find that the Individual brought forth sufficient evidence to resolve the Guideline G and J security concerns set forth in the SSC. However, the Individual has not brought forth sufficient evidence to resolve the Guideline E 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