



**DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of:

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ISCR Case No. 24-01841

Applicant for Security Clearance

**Appearances**

For Government: Cynthia Ruckno, Esq., Department Counsel

For Applicant: *Pro se*

11/21/2025

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**Decision**

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HARVEY, Mark, Administrative Judge:

Security concerns arising under Guidelines J (criminal conduct) and E (personal conduct) are mitigated; however, Guideline G (alcohol consumption) security concerns are not mitigated. Eligibility for access to classified information is denied.

**Statement of the Case**

On January 28, 2022, Applicant completed and signed a security clearance application (SCA). (Government Exhibit (GE) 1) On January 2, 2025, the Defense Counterintelligence and Security Agency (DCSA) issued a statement of reasons (SOR) to Applicant under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry*, February 20, 1960; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), January 2, 1992; and Security Executive Agent Directive 4, establishing in Appendix A the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), effective June 8, 2017. (Hearing Exhibit (HE) 2)

The SOR detailed reasons why the DCSA did not find under the Directive that it is clearly consistent with the interests of national security to grant or continue a security clearance for Applicant and referred the case to an administrative judge to determine

whether a clearance should be granted, continued, denied, or revoked. Specifically, the SOR set forth security concerns arising under Guidelines G, J, and E. (HE 2) On January 23, 2025, Applicant provided a response to the SOR and requested a hearing. (HE 3) On February 19, 2025, Department Counsel was ready to proceed.

On June 18, 2025, the case was assigned to me. On June 25, 2025, the Defense Office of Hearings and Appeals (DOHA) issued a notice scheduling the hearing for July 31, 2025. (HE 1) The hearing was held as scheduled.

Department Counsel offered 14 exhibits into evidence; Applicant offered 6 exhibits into evidence; there were no objections, except to GE 3; and all proffered exhibits were admitted into evidence. (Tr. 17-24; GE 1-GE 14; Applicant Exhibit (AE) A-AE F) Applicant expressed some concerns about the contents of GE 3, a psychological report from Dr. S; however, those comments go to the weight and not the admissibility of GE 3. (Tr. 22) On August 12, 2025, DOHA received a transcript of the hearing. Six post-hearing exhibits were received from Applicant on September 29, 2025, and admitted without objection. (AE G-AE L) The record closed on September 30, 2025. (Tr. 76, 82) On October 10, 2025, a request for a technical review was received from Applicant; however, it was not admitted because it was probably sent by mistake. (AE M) It is attached to the record.

Some details were excluded to protect Applicant's right to privacy. Specific information is available in the cited exhibits and transcript.

### **Findings of Fact**

In Applicant's SOR response, she admitted the SOR allegations in ¶¶ 1.a through 1.j, 2.a, and 3.a. She also provided comments and clarifications. Her admissions are accepted as findings of fact.

Applicant is 54 years old, and she has worked as a project analyst for three and a half years. (Tr. 9-10) In 1989, she graduated from high school, and in 1994, she received a bachelor's degree in political science. (Tr. 8-9) She needs three more credits to complete her master's degree in health policy management. (Tr. 9) She has four professional certifications. (AE A at 3) She has never married, and she does not have any children. (Tr. 10) She has never served in the military. (Tr. 10) She disclosed her criminal charges and convictions on her SCA. (GE 1 at 37-43) In the 2003 to 2005 period, she was a nationally ranked athlete in her sport, and she won three national titles. (AE A) She indicated she was diagnosed with "very mild" bipolar mood disorder in 2017. *Id.* at 36.

Applicant provided information about her alcohol abuse as follows:

In the summer of 2010 I had my first DUI and lost my license for 3 months. Until that point, I'd never had any interaction with the law. To me, this marked the beginning of a downward spiral lasting 8 years. I was dealing with aging parents, a severely mentally ill sibling, and an unfamiliar lack of personal and professional identity. In April of 2011, I was laid off from my job due to the economy which added additional stress. This contributed to

the instability I was already feeling, and compounded issues as I struggled to navigate the uncertainty of my professional future and an unstable job market.

In early 2012 I saw things slip further. My parents were aged 76 and 75 at the time. My mother suffered from advanced Parkinson's Disease (diagnosed for over 15 years at that point) and we had recently learned that my father's leukemia had returned (Chronic Lymphocytic Leukemia). As I watched my father's health decline, I received a 2nd and 3rd DUI in rapid succession that summer (June and August 2012). My father passed away shortly after (October 2012) and we moved my mother into Assisted Living. Losing my father was absolutely devastating to me as he was my closest confidant and support. The loss was profound and I did not handle it well. We also moved my oldest brother (who suffers from severe mental illness) into a group home. It's more than apparent that I didn't handle the stress of these events well, and overdrinking compounded my problems making them worse. This was accompanied by poor life choices that carried serious legal consequences. The 2nd and 3rd DUIs caused me to lose my license for 3 full years. Not only did this create major barriers professionally, not having a license and car in a rural state [state omitted] produced obstacles beyond driving. I ended up dropping out of Graduate School in early 2013, as I was not in a state to complete the coursework. (AE A at 1-2)

Applicant's personal statement provides additional details about her background, life experiences, and plans. (AE A)

### **Alcohol consumption, criminal conduct, and personal conduct**

SOR ¶ 1.a alleges that in June 2024, a licensed psychologist, Dr. S, diagnosed Applicant with alcohol use disorder, moderate, in full remission. Dr. S did not give her a favorable prognosis. Dr. S had the information from DCSA about her arrests and convictions; however, there is no evidence that Dr. S had the police reports from her alcohol-related driving arrests.

Dr. S also diagnosed Applicant with major depressive disorder, recurrent, moderate, with anxious distress, in full remission, and alcohol use disorder, moderate, in full remission. (GE 3 at 7) He indicated her current level of alcohol consumption was as follows, "She did not practice abstinence after 2018 but limited her drinking to social events or gatherings where she would drink 1-2 glasses of wine. She currently drinks on the weekends and the last time she was intoxicated was on her birthday." (GE 3 at 2) Dr. S's diagnostic impression included the following comment:

[Applicant] has been charged in 4 alcohol-related incidents and 1 felony during the span of 8 years (2010-2018). Based upon her reporting and the information within her case paperwork, it is clear that she met criteria for an alcohol use disorder during that time. She also experienced symptoms of depression and anxiety that ran concurrent to that timeframe and were likely

comorbidly related to her alcohol use. There is mention of her possibly suffering from a bipolar disorder in her medical record, but she denied the most classic symptoms of mania and does not appear to have ever suffered from a discreet manic episode. (GE 3 at 6)

Dr. S made the following comments in his prognosis:

[Applicant] has shown marked improvement since approximately 2019 that coincides with her gaining meaningful employment, reducing her alcohol use, and engaging with her social environment. As a result of these positive events, and her adherence to her psychiatric medication regimen, her psychological health appears to be relatively stable. However, she continues to endorse a pattern of alcohol use that includes drinking to intoxication. There does not appear to be any functional impairment from her current drinking pattern, but it is still worthy of concern and illustrates a lack of judgment for her to continue drinking. [Applicant] has never successfully completed a period of sustained abstinence despite multiple recommendations for her to abstain from drinking which brings the concern that her previous pattern of problematic alcohol use could easily return should she experience negative situations or a destabilizing event. The fact that the major problems in her life have either involved or been the result of alcohol use again highlights a flaw within her judgment and places her at risk for future decompensation. As such, the Evaluator is unable to provide a favorable recommendation at this time. Consideration for a favorable recommendation would require [Applicant] to continue to show stability in all relevant areas while also completing a period of sustained abstinence (1 year or more) from any alcohol or drug use. (GE 3 at 7)

As for Dr. S's evaluation, Applicant said:

My interview with Dr. [S] was over a year ago now. I agree with his assessment that I have a history of exercising poor judgement around alcohol use, and this has negatively impacted my life in the past. However, I would assert that he is incorrect in his analysis that I am at risk for future "decompensation", and that I "endorse a pattern of alcohol use". I do, and have, practiced sobriety. I provided Dr. [S] with full access to my medical records through my treating provider at [V] to encourage review of medical/psychiatric records from my current treating clinician(s) who have provided care for me consistently since 2017. They have familiarity with my historic state, my present state, and my general psychiatric well-being. I don't believe that one-time zoom meeting can offer the same insight – particularly when we covered 53 years of my life in a sub-2 hour session. I have completed an extended period of total abstinence. I am also confused with Dr. [S's] statement that I'm "in full remission" while also stating "at risk for decompensation". Those two terms seem at odds with each other. (AE A at 3-4)

Department Counsel provided a copy of The *Diagnostic and Statistical Manual of Mental Disorders 5th Edition (DSM 5)* related to alcohol-use disorder. (GE 13) The *DSM 5* criteria for diagnosis of alcohol-use disorder for mild (presence of 2-3 symptoms), moderate (presence of 4-5 symptoms), and severe (presence of 6 or more symptoms) are as follows:

- A. A problematic pattern of alcohol use leading to clinically significant impairment or distress as manifested by at least two of the following, occurring within a 12-month period:
1. Alcohol is often taken in larger amounts or over a longer period than was intended.
  2. There is a persistent desire or unsuccessful efforts to cut down or control alcohol use.
  3. A great deal of time is spent in activities necessary to obtain alcohol, use alcohol, or recover from its effects.
  4. Craving, or a strong desire or urge to use alcohol.
  5. Recurrent alcohol use resulting in a failure to fulfill major role obligations at work, school, or home.
  6. Continued alcohol use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of alcohol.
  7. Important social, occupational, or recreational activities are given up or reduced because of alcohol use.
  8. Recurrent alcohol use in situations in which it is physically hazardous.
  9. Alcohol use is continued despite knowledge of having a persistent or recurrent physical or psychological problem that is likely to have been caused or exacerbated by alcohol.
  10. Tolerance, as defined by either of the following:
    - a. A need for markedly increased amounts of alcohol to achieve intoxication or desired effect.
    - b. A markedly diminished effect with continued use of the same amount of alcohol.
  11. Withdrawal, as manifested by either of the following:
    - a. The characteristic withdrawal syndrome for alcohol (refer to Criteria A and B of the criteria set for alcohol withdrawal, pp. 499-500).
    - b. Alcohol (or a closely related substance, such as a benzodiazepine) is taken to relieve or avoid withdrawal symptoms (GE 13 at 2-3)

*DSM 5* defines early and sustained remission as follows:

In early remission: After full criteria for alcohol use disorder were previously met, none of the criteria for alcohol use disorder have been met for at least 3 months but for less than 12 months (with the exception that Criterion A4, "Craving, or a strong desire or urge to use alcohol," may be met).

In sustained remission: After full criteria for alcohol use disorder were previously met, none of the criteria for alcohol use disorder have been met

at any time during a period of 12 months or longer (with the exception that Criterion A4, "Craving, or a strong desire or urge to use alcohol," may be met). (GE 13 at 3)

SOR ¶ 1.b alleges from about 1983 until at least August 2023, Applicant consumed alcohol, at times in excess and to the point of intoxication. Applicant's longest period of sobriety from 2010 to 2018 was about three months. (Tr. 61) She said her longest period of sobriety in the last 10 years was about 12 months in the 2022 to 2023 period. (Tr. 66) She consumes alcohol during special events. (Tr. 70-71) On November 20, 2024, Applicant completed DOHA interrogatories, and she stated she consumes alcohol twice a month; she usually consumes two drinks; her most recent alcohol consumption was on November 9, 2024; and she was most recently intoxicated in August 2023. (GE 4 at 18) At her hearing, she made a statement, which was consistent with her response to DOHA interrogatories. She said she has not consumed any alcohol since her birthday in November of 2024, a period of eight months, and she has not been intoxicated since August of 2023. (Tr. 61, 66-67; GE 4) She is not in alcohol treatment. (Tr. 61) She sees a psychiatrist every two months for medication management. (Tr. 61, 65) She has alcohol in her residence; however, it is her boyfriend's alcohol. (Tr. 69)

SOR ¶ 1.c alleges from about October 2018, Applicant was charged with and found guilty of profane swearing and public intoxication. In 2018, she was in a serious bicycle accident; she was unable to work; and she was financially stressed. (Tr. 54) She had a "pretty bad period of depression and anxiety -- massive anxiety." (Tr. 55) She was intoxicated and yelling. (Tr. 56) She said she got into the back of her car and went to sleep. (Tr. 56) The police arrived and took her into custody. (Tr. 56-57) Her probation officer required her to continue in alcohol counseling, and she checked in with him more frequently. (Tr. 57-58)

SOR ¶ 1.d alleges in about January 2017, Applicant was charged with and pleaded guilty to felony conspiracy to obstruct justice. (GE 5) She was sentenced to a fine and five years of probation. (GE 4 at 4; GE 5) In agreeing to a reduction in sentence, the prosecutor noted her history of alcohol abuse, which, in part, appeared related to her "decision to participate in the instant offense. . . ." (GE 5) A special condition of her probation was that she was not to drink alcohol. Applicant was discharged from probation around 2020 or 2021 because the goals of probation were achieved. (Tr. 59; GE 2 at 10) Conspiracy to obstruct justice is a felony offense. (Tr. 49)

Applicant provided the facts supporting the indictment at her hearing. Applicant's boyfriend was indicted and ordered not to leave the state where the indictment was issued. (Tr. 46) He did not tell Applicant about the indictment or restrictions on his movements. (Tr. 46) Applicant and her boyfriend left the state. (Tr. 47) When they returned, he asked her to write an affidavit to the authorities falsely stating he did not leave the state. (Tr. 47) She was aware that he was charged when she signed the affidavit. (Tr. 48) The affidavit said it was an earlier trip before he was restricted if people saw pictures. (Tr. 48-49) The authorities saw a picture from their trip on her and her boyfriend's social media. The authorities found video of her and her boyfriend in another state at the time he was under travel restrictions. (Tr. 49; GE 4 at 4) Her boyfriend was

sentenced to prison for 120 months for fraud and other offenses. (GE 5) There is no evidence Applicant had any connection to her boyfriend's fraud.

SOR ¶ 1.e alleges and Applicant admitted in about September 2017, she received court-ordered mental health and substance abuse treatment. (HE 3) She was diagnosed with Alcohol Use Disorder, Severe. (HE 3) She was advised to remain abstinent from alcohol. (HE 3)

SOR ¶ 1.f alleges Applicant violated the terms of her probation as described in SOR ¶ 1.d. above, when she continued to consume alcohol, and when she was arrested for public intoxication as described in SOR ¶ 1.c. above. Applicant occasionally consumed alcohol during the probation period; however, she said she considerably reduced her level of alcohol consumption after she was charged with conspiracy to obstruct justice. (Tr. 52)

In 2013, Applicant successfully completed a 28-day alcohol counseling and treatment program. (Tr. 64) She resumed alcohol consumption shortly after completion of the program in 2013. From about 2017 to early 2019, Applicant had an ignition interlock device with a camera on her vehicle for about two years, and she attended an alcohol group therapy program two or three nights a week after work. (Tr. 52-54) From 2019 to 2020, she received individual therapy. (Tr. 63) Since 2020, she has primarily received medication management. (Tr. 64)

SOR ¶¶ 1.g and 1.h allege in about May of 2012 and August of 2012, Applicant was charged with operating a motor vehicle while under the influence of alcohol (OUI). (GE 2 at 17-19) For her May 11, 2012 OUI, she was found guilty of OUI. (GE 11 at 10) She consumed some alcohol, and drove to purchase a sandwich. (Tr. 36) At her hearing, she said she shut her vehicle engine off and was sleeping for about 20 minutes. (Tr. 36-37) However, the police report states that Applicant's vehicle was in a parking lot with the lights on and the engine was running. (GE 10 at 28) Applicant was passed out "behind the wheel" with her seatbelt on. *Id.* The police officer had to bang on the window more than once with his flashlight before she groggily responded. *Id.* The vehicle keys were in the ignition. (Tr. 36) She told the police officer she had not been drinking. (Tr. 37; GE 10 at 28-29) Her breathalyzer blood alcohol-content (BAC) was .27 percent. (GE 10 at 26, 30) She was sentenced on November 29, 2012, to a \$1,000 fine, 7 days incarceration, and suspension of her driver's license for three years. (GE 11 at 10)

Applicant's August of 2012 OUI violated a condition of release from her May of 2012 OUI. Her OUIs in May of 2012 and August of 2012 were tried in the same time frame. (Tr. 38) Applicant remembered one of her breathalyzer test results, and she said her BAC was about .20 percent. (Tr. 69) For the August of 2012 charge of OUI, her BAC was .15 percent. (GE 10 at 77, 82) On December 18, 2012, she was found guilty of OUI and the probation violation charge was dismissed. She was sentenced to a \$700 fine, incarceration for 180 days (173 days suspended), driver's license suspended for three years, and one year of probation. (Tr. 38-41; GE 11 at 12) In a court filing relating to the August of 2012 OUI, the prosecutor said, "that the defendant has violated a Court imposed deferment agreement by failing to refrain from engaging in new criminal conduct, failing to refrain from consuming alcohol and failing to provide proof of counseling to the

District Attorney's office every sixty (60) days." (GE 10 at 21, 33, 49, 78) She attended an alcohol class and a four-month outpatient alcohol counseling program in connection with the two OUIs. (Tr. 40, 61)

SOR ¶ 1.i alleges in about January 2012, Applicant was charged with theft by unauthorized taking or transfer, in which she took an alcoholic beverage from a store shelf and consumed it in the store without paying for it. (GE 2 at 15-17)<sup>1</sup> She left the empty wine bottle on a shelf in the store. (Tr. 33; GE 12 at 4-6) She went to the store on more than one occasion while she was intoxicated. (Tr. 32) In January 2012, she was drinking a bottle of wine most days. (Tr. 34) One theft charge was dismissed because she pled to other charges. (GE 10 at 37; GE 11 at 4-7) The other theft charge was resolved with deferred adjudication. (GE 10 at 38) She successfully completed the deferred adjudication, and the charge was dismissed in January 2014. (GE 10 at 47)

SOR ¶ 1.j alleges in about July 2010, Applicant was charged with OUI. (GE 2 at 14) She said she had about four drinks before getting into her vehicle. (Tr. 27) She drank a beer and then probably a mixed drink of some type. (Tr. 27) She said she did not recall having an open bottle of beer in her vehicle. (Tr. 28) The police report for the OUI states "(1) the vehicle almost struck a cement barrier traveling Southbound at about 60 MPH; (2) then the vehicle struck a cone and dragged it underneath the car; (3) then the vehicle struck a safety barrel; [and] (4) then the vehicle went down into a ditch and back into the right lane." (GE 9 at 6) The police officer who stopped her vehicle said:

I could see an open bottle of Rolling Rock beer in the middle console. I asked her to produce it and saw that it was empty with a slight amount of liquid at the bottom. I asked her how much she had had to drink tonight and she replied "nothing." As she spoke directly at me, I could detect a moderate odor of intoxicants emanating from her breath. I asked her again how much she had had to drink and she replied, "One beer." I asked her how long ago she drank that beer and she replied, "eight hours." (GE 9 at 2)

Later, the police officer's statement said, "I asked [Applicant] again how much she had had to drink. She now told me she drank "two beers three or four hours ago, not even,' at her parents' house." (GE 9 at 3)

Applicant received a breathalyzer at the police station, and her BAC was .23 percent. (Tr. 28; GE 9 at 5) She stayed overnight in jail; and she was charged with and convicted of OUI. (Tr. 28) She attended some alcohol education and group-type counseling. (Tr. 30) In 2010, before her OUI arrest, she drank and drove a couple of times, but didn't get caught. (Tr. 31) On January 4, 2011, she was found guilty of OUI, fined \$600, incarcerated for 72 hours, and her driver's license was suspended for 90 days. (GE 11 at 3-4) She received community service, and she may have been placed on probation.

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<sup>1</sup> An indictment in the file states Applicant was charged with theft by taking cosmetics from a supermarket on July 15, 2011. (GE 10 at 12) This offense was not discussed at her hearing. It will not be considered in this decision.

(Tr. 28-29; GE 1) After her OUI, she drank alcohol two or three times a week and two or three drinks on each occasion. (Tr. 30)

SOR ¶ 2.a cross alleges a criminal conduct security concern in ¶¶ 1.c, 1.d, 1.f, 1.g, 1.h, 1.i, and 1.j, *supra*. SOR ¶ 3.a cross alleges a personal conduct security concern in ¶¶ 1.b, 1.c, 1.d, 1.f, 1.g, 1.h, 1.i, and 1.j, *supra*.

## **Character Evidence**

Applicant's three most recent performance reviews are excellent. (AE D-AE F) Her supervisor provided detailed descriptions of her efforts and contributions to her employer. She was awarded the highest performance rating. (AE D-AE F) In 2024, she received a timely awards plan award. (AE C) In July of 2025, she received a promotion at work. (AE B) Applicant's sister said:

I would like to vouch for [Applicant's] reliability and trustworthiness during her review for increased security clearance. [She] is fiercely loyal, dependable and hardworking. In the last 7 years she has bought, renovated, rented and sold several properties. She has provided support and expert financial advice for family members experiencing crises. She has worked her way from customer service retail jobs to securing positions with a reputable company where she earns a significant salary. (AE I)

Applicant's current manager told Dr. S:

[Applicant's] manager had daily contact with her. [Applicant] was "a great team member" who always completed her tasks in a timely manner. She was very intelligent and was a quick learner. [He] denied any knowledge of [Applicant] having any interpersonal issues with other peers or management. Source denied any knowledge of [Applicant] having any disciplinary or conduct-related issues. [He] denied any knowledge of [her] suffering from mental health or substance related issues. [He] believes that [her] judgement, reliability, and trustworthiness are intact and recommends her. (GE 3 at 6)

Applicant's supervisor at a previous employment made a similar statement of support concerning Applicant to Dr. S. (GE 3 at 6)

## **Policies**

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, "no one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to "control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy" to have access to such information. *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicants eligibility for

access to classified information “only upon a finding that it is clearly consistent with the national interest to do so.” Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge’s overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information. Clearance decisions must be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See Exec. Or. 10865 § 7. Thus, this decision should not be construed to suggest that it is based on any express or implied determination about applicant’s allegiance, loyalty, or patriotism. It is merely an indication the applicant has not met the strict guidelines the President, Secretary of Defense, and Director of National Intelligence have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant’s security suitability. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his [or her] security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

## **Analysis**

### **Alcohol Consumption and Criminal Conduct**

AG ¶ 21 describes the security concern about alcohol consumption, “Excessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses and can raise questions about an individual’s reliability and trustworthiness.”

AG ¶ 30 describes the security concern about criminal conduct, “Criminal activity creates doubt about a person’s judgment, reliability, and trustworthiness. By its very nature, it calls into question a person’s ability or willingness to comply with laws, rules, and regulations.”

AG ¶ 22 provides alcohol consumption conditions that could raise a security concern and may be disqualifying in this case as follows:

- (a) alcohol-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, regardless of the frequency of the individual’s alcohol use or whether the individual has been diagnosed with alcohol use disorder;
- (c) habitual or binge consumption of alcohol to the point of impaired judgment, regardless of whether the individual is diagnosed with alcohol use disorder;
- (d) diagnosis by a duly qualified medical or mental health professional (e.g., physician, clinical psychologist, psychiatrist, or licensed clinical social worker) of alcohol use disorder;
- (e) the failure to follow treatment advice once diagnosed;
- (f) alcohol consumption, which is not in accordance with treatment recommendations, after a diagnosis of alcohol use disorder; and
- (g) failure to follow any court order regarding alcohol education, evaluation, treatment, or abstinence.

AG ¶ 31 provides two criminal conduct conditions that could raise a security concern and may be disqualifying in this case:

- (a) a pattern of minor offenses, any one of which on its own would be unlikely to affect a national security eligibility decision, but which in combination cast doubt on the individual’s judgment, reliability, or trustworthiness; and

(b) evidence (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.

AG ¶¶ 22(a), 22(c) through 22(g), 31(a), and 31(b) are established. Discussion of the disqualifying conditions is in the mitigating section *infra*.

AG ¶ 23 lists four conditions that could mitigate alcohol consumption security concerns:

(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.

AG ¶ 32 lists four conditions that could mitigate criminal conduct security concerns:

(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.

Applicant was charged in eight alcohol-related incidents, one felony, and seven misdemeanors during the span of eight years (2010-2018) (three OUIs, one theft, one bail violation, one probation violation, one disorderly conduct, and one conspiracy to obstruct justice). One OUI was in 2010 and two OUIs were in 2012. After her May of 2012 OUI, she was released on bail with an order not to consume alcohol and not commit a criminal offense. In August of 2012, she was arrested for OUI, which constituted a violation of the conditions of her release.

Applicant's BACs for her OUIs were as follows: 2010 (.23 percent); May of 2012 (.27 percent); and August of 2012 (.15 percent). Her BACs are of sufficient magnitude to establish binge-alcohol consumption. She was intoxicated when she committed a theft offense of a bottle of wine in January of 2012. In January 2017, she was charged with conspiracy to obstruct justice in federal court; she pleaded guilty; and she was sentenced to five years of probation. The prosecutor for the conspiracy to obstruct justice said the offense was related to her alcohol consumption. In about October of 2018, she was charged with profane swearing and public intoxication (disorderly conduct). This criminal offense and consumption of alcohol violated her probation from her conspiracy to obstruct justice sentence. The October of 2018 offense was her most recent criminal offense.

In about September 2017, Applicant received court-ordered mental health and substance abuse treatment. She was diagnosed with alcohol use disorder, severe. She was advised to remain abstinent from alcohol. She continued to consume alcohol.

In June of 2024, Dr. S diagnosed Applicant with major depressive disorder, recurrent, moderate, with anxious distress, in full remission, and alcohol use disorder, moderate, in full remission. *DSM 5* defines "sustained remission" as follows: After full criteria for alcohol use disorder were previously met, none of the criteria for alcohol use disorder have been met at any time during a period of 12 months or longer (with the exception that Criterion A4, "Craving, or a strong desire or urge to use alcohol," may be met). (GE 13 at 3)

A determination of "sustained remission" in the context of alcohol use disorder in *DSM 5* is a positive development; however, it has different and less expansive criteria than a determination of reliability, responsibility, and good judgment in the context of access to classified information. Sustained remission focuses on current alcohol-related symptoms and mitigation under the alcohol-consumption guideline considers the history of alcohol abuse, judgment concerns, and patterns of alcohol consumption. Previous periods of sobriety or abstinence followed by resumptions of alcohol consumption, and responses to stressors are important in the alcohol-consumption analysis, and they are not mentioned in the *DSM 5* definition of sustained remission.

In ISCR Case No. 22-02391 at 4 (App. Bd. Oct. 17, 2023), the Appeal Board said:

Police reports, which are admissible both as an official record under Directive ¶ E3.1.20 and as a public record under Federal Rule of Evidence 803(8), are presumed to be reliable by virtue of the government agency's duty for accuracy and the high probability that it has satisfied that duty. See,

e.g., ISCR Case No. 15-02859 at 3 (App. Bd. Jun. 23, 2017); ISCR Case No. 16-03603 at 4 (App. Bd. May 29, 2019).

Applicant did not provide accurate information to the police officers who arrested her for her July of 2010 and May of 2012 OUIs, and at her hearing when she discussed these two offenses. At her hearing, for her July of 2010 OUI, she said she had about four drinks before getting into her vehicle. She drank a beer and then probably a mixed drink of some type. The police officer who stopped her vehicle said:

I asked her how much she had had to drink tonight and she replied "nothing." As she spoke directly at me, I could detect a moderate odor of intoxicants emanating from her breath. I asked her again how much she had had to drink and she replied, "One beer." I asked her how long ago she drank that beer and she replied, "eight hours." (GE 9 at 2)

Later, the police officer's statement said, "I asked [Applicant] again how much she had had to drink. She now told me she drank 'two beers three or four hours ago, not even,' at her parents' house." (GE 9 at 3) Applicant received a breathalyzer at the police station, and her BAC was .23 percent. Her statement at her hearing about consuming four drinks minimized the amount of alcohol she consumed before her July of 2010 OUI arrest.

For her May 11, 2012 OUI, Applicant said she consumed some alcohol, and drove to purchase a sandwich. (Tr. 36) She shut her vehicle engine off and was sleeping for about 20 minutes. (Tr. 36-37) However, the police report states that Applicant's vehicle was in a parking lot with the lights on and the engine was running. Applicant was passed out "behind the wheel" with her seatbelt on. *Id.* The police officer had to bang on the window more than once with his flashlight before she groggily responded. *Id.* The vehicle keys were in the ignition. (Tr. 36) She told the police she had not been drinking. Her BAC was .27 percent.

Applicant's inaccurate statements to the police and at her hearing about drinking and the circumstances of her arrests were not alleged in the SOR. In ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006), the Appeal Board listed five circumstances in which conduct not alleged in an SOR may be considered stating:

- (a) to assess an applicant's credibility; (b) to evaluate an applicant's evidence of extenuation, mitigation, or changed circumstances; (c) to consider whether an applicant has demonstrated successful rehabilitation; (d) to decide whether a particular provision of the Adjudicative Guidelines is applicable; or (e) to provide evidence for whole person analysis under Directive Section 6.3.

*Id.* (citing ISCR Case No. 02-07218 at 3 (App. Bd. Mar. 15, 2004); ISCR Case No. 00-0633 at 3 (App. Bd. Oct. 24, 2003)). See also ISCR Case No. 12-09719 at 3 (App. Bd. Apr. 6, 2016) (citing ISCR Case No. 14-00151 at 3, n. 1 (App. Bd. Sept. 12, 2014); ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006)). These non-SOR allegations (inaccurate information to the police and at her hearing) will be considered in the credibility

assessment, their effect on mitigation, and under the whole-person concept. They will not be considered for disqualification purposes.

Applicant's criminal offenses are not recent. The most recent criminal offense was in October of 2018. Her criminal offenses are unlikely to recur and do not cast doubt on her current reliability, trustworthiness, and good judgment.

Dr. S said in his June of 2024 evaluation:

[Applicant] has never successfully completed a period of sustained abstinence despite multiple recommendations for her to abstain from drinking which brings the concern that her previous pattern of problematic alcohol use could easily return should she experience negative situations or a destabilizing event. The fact that the major problems in her life have either involved or been the result of alcohol use again highlights a flaw within her judgment and places her at risk for future decompensation. As such, the Evaluator is unable to provide a favorable recommendation at this time. Consideration for a favorable recommendation would require [Applicant] to continue to show stability in all relevant areas while also completing a period of sustained abstinence (1 year or more) from any alcohol or drug use. (GE 3 at 7)

Dr. S's conclusions are supported by the evidence and warrant considerable weight. Applicant's statement that she abstained from alcohol consumption for eight months before her hearing is a positive development, and she has shown stability in all relevant areas, especially in her record of good employment. However, her inaccurate statements about the circumstances of two of her OUIs, her continued consumption of alcohol up to November of 2024, her resumption of alcohol consumption in the past after periods of abstinence up to one year (in 2022 to 2023), her failure to follow previous recommendations of abstinence, and the seriousness of her criminal incidents, especially her submission of a false affidavit in connection with the conspiracy to obstruct justice, continue to cast doubt on her reliability, trustworthiness, and good judgment with respect to her alcohol consumption under Guideline G. Criminal conduct security concerns are mitigated; however, alcohol consumption security concerns are not mitigated at this time.

## **Personal Conduct**

AG ¶ 15 explains why personal conduct is a security concern stating:

Conduct 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 information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process. . . .

AG ¶ 16 lists one personal conduct disqualifying condition that is potentially relevant in this case as follows, "(e) 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. Such conduct includes: (1) engaging in activities which, if known, could affect the person's personal, professional, or community standing."

The record establishes AG ¶ 16(e). Further details will be discussed in the mitigation analysis, *infra*. AG ¶ 17 lists personal conduct mitigating conditions which are potentially applicable:

- (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; and
- (f) the information was unsubstantiated or from a source of questionable reliability.

SOR ¶ 3.a cross alleges a personal conduct security concern in relation to the alcohol consumption security concerns in SOR ¶¶ 1.b, 1.c, 1.d, 1.f, 1.g, 1.h, 1.i, and 1.j, *supra*. These allegations under Guideline G are sufficient to disqualify Applicant for a security clearance without consideration under Guideline E. Applicant's conduct and alcohol-related issues are known to security officials, courts, law enforcement, medical personnel, and her family and could not be used to coerce her. AG ¶ 17(e) applies. The personal conduct security concern is mitigated.

## **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all the circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

- (1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), “[t]he ultimate determination” of whether to grant a security clearance “must be an overall commonsense judgment based upon careful consideration of the guidelines” and the whole-person concept. My comments under Guidelines G, J, and E are incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under those guidelines but some warrant additional comment.

Applicant is 54 years old, and she has worked as a project analyst for three and a half years. In 1994, she received a bachelor's degree in political science. She needs three more credits to complete her master's degree in health policy management. She has four professional certifications. She disclosed her criminal charges and convictions on her SCA. In the 2003 to 2005, she was a nationally-ranked athlete in her sport, and she won three national titles. She is an excellent employee at her current and immediately preceding employments. Her character evidence supports approval of her access to classified information

The disqualifying and mitigating information is discussed in the alcohol consumption, criminal conduct, and personal conduct analysis sections, *supra*. The reasons for denial of Applicant's access to classified information are more persuasive at this time than the mitigating information she presented.

It is well settled that once a concern arises regarding an applicant's security clearance eligibility, there is a strong presumption against granting a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990). “[A] favorable clearance decision means that the record discloses no basis for doubt about an applicant's eligibility for access to classified information.” ISCR Case No. 18-02085 at 7 (App. Bd. Jan. 3, 2020) (citing ISCR Case No. 12-00270 at 3 (App. Bd. Jan. 17, 2014)).

I have carefully applied the law, as set forth in *Egan*, Exec. Or. 10865, the Directive, the AGs, and the Appeal Board's jurisprudence to the facts and circumstances in the context of the whole person. Applicant mitigated criminal conduct and personal conduct

security concerns; however, alcohol consumption security concerns are not fully mitigated at this time.

This decision should not be construed as a determination that Applicant cannot or will not attain the state of reform necessary for award of a security clearance in the future. In the future, she may provide additional mitigating information, and she may well be able to demonstrate persuasive evidence of her security clearance worthiness.

### **Formal Findings**

Formal findings For or Against Applicant on the allegations set forth in the SOR, as required by Section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline G:	AGAINST APPLICANT
Subparagraphs 1.a through 1.j:	Against Applicant
Paragraph 2, Guideline J:	FOR APPLICANT
Subparagraph 2.a:	For Applicant
Paragraph 3, Guideline E:	FOR APPLICANT
Subparagraph 3.a:	For Applicant

### **Conclusion**

Considering all the circumstances presented by the record in this case, it is not clearly consistent with the interests of national security to grant Applicant eligibility for access to classified information. Eligibility for access to classified information is denied.

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Mark Harvey  
Administrative Judge