

DATE: November 30, 2006

In re:

SSN: -----

Applicant for Security Clearance

CR Case No. 05-11175

DECISION OF ADMINISTRATIVE JUDGE

CAROL G. RICCIARDELLO

APPEARANCES

FOR GOVERNMENT

Eric Borgstrom, Esq., Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant is 42 years old and has worked for two years for a federal contractor in industrial maintenance. He has substantial delinquent debt that remains unpaid, although he recently sought financial counseling and provided a couple of post-dated checks to cover small debts. Applicant deliberately failed to list his financial delinquencies and his two larceny convictions on his security clearance application. His testimony was repeatedly evasive, unbelievable and untruthful. Applicant failed to mitigate the security concerns raised under Guideline F, financial consideration, Guideline J, criminal conduct, and Guideline E, personal conduct. Clearance is denied.

STATEMENT OF THE CASE

The Defense Office of Hearings and Appeals (DOHA) declined to grant or continue a security clearance for Applicant. On June 12, 2006, under the applicable Executive Order⁽¹⁾ and Department of Defense Directive,⁽²⁾ DOHA issued a Statement of Reasons (SOR), detailing the basis for its decision-security concerns raised under Guideline F, (financial considerations), Guideline J (criminal conduct), and Guideline E (personal conduct) of the Directive. Applicant answered the SOR in writing on July 5, 2006, and elected to have a hearing before an administrative judge. In his Answer, Applicant admitted the allegations under SOR ¶¶ 1.a, 1.b, 1.d, 1.e, 1.f, 1.i, 1.j, 1.k, 1.l, 1.m, and 2.a. He failed to respond to SOR ¶¶ 1.c, 1.g, 1.h, 1.o, 2.c, 3.a, and 3.b. He denied SOR ¶¶ 1.n and 2.b. The Government Counsel filed a Motion to Amend the SOR and attached it to the discovery documents that were served on Applicant on August 7, 2006. Applicant received the documents. The motion added two allegations to the SOR listed as ¶¶ 3.c and 3.d, under Guideline E.⁽³⁾ The motion was unopposed and granted. The case was originally assigned to another administrative judge on August 8, 2006, and reassigned to me on October 2, 2006. A notice of hearing was issued on October 13, 2006, scheduling the hearing for November 2, 2006. I conducted the hearing as scheduled to consider whether it is clearly consistent with the national interest to grant or continue a security clearance. The Government offered eleven exhibits for admission in the record and were marked as Government Exhibits (GE) 1-11. The exhibits were admitted into evidence without objection. Applicant testified on his own behalf, and offered thirty-one exhibits for admission into the record. They were marked as Applicant's Exhibits A-EE and were admitted into evidence without objection. DOHA

received the hearing transcript (Tr.) on November 16, 2006. On November 22, 2006, Department Counsel forwarded an additional exhibit that was submitted by Applicant after the record was closed. Department Counsel did not object to it being considered. The letter from Department Counsel was marked as an administrative document (AD I). Applicant's additional exhibit was marked as AE FF. [\(4\)](#)

FINDINGS OF FACT

Applicant's admissions to the allegations in the SOR, are incorporated herein. In addition, after a thorough and careful review of the pleadings, exhibits, and testimony, I make the following findings of fact:

Applicant is 42 years old, single and has no children. He has worked for his current employer, a federal contractor for approximately two years in the maintenance department as an industrial cleaner. Prior to this employment he has had sporadic employment and unemployment. Applicant served in the Army for two years, but did not complete his enlistment. He originally claimed he "opted" to get out. When questioned further he stated it was a combination of personal reasons and breach of contract. After further questioning Applicant admitted he was given an administrative discharge board and discharged due to "inability to adapt." [\(5\)](#) It is unclear whether Applicant received a general discharge under honorable conditions or an honorable discharge. Applicant was evasive and lacked candor on this issue..

Applicant has a history of financial delinquencies. The following chart lists Applicant's debts and their status:

Debt	Nature & Amount	Current Status	Record
SOR 1.a.	Military loan obtained in 1999, balance as of 10/23/2006 \$1,083.	Not paid, in collection.	GE 3, GE 6, AE B, Tr. 48-49.
SOR 1.b.	Military lending loan obtained in 1999, amount \$889.	Not paid. Charged off by creditor.	GE 3, GE 6, AE C, Tr. 50-52.
SOR 1.c, 1.d, 1.e (all the same)	Medical bill, amount \$111, owed since November 2000.	Sold to collection, not paid. Applicant provided copy of check, no evidence it cleared. (6)	GE 5, GE 6, AE D, Tr. 44, 53, AE FF.
SOR 1.f.	Credit card, amount \$2,377, owed since March 2001.	Applicant claims this is a duplicate account, but failed to provide documentation. Sold to collection, not paid.	GE 3, GE 5, GE 6, GE 7, AE E, Tr. 40.
SOR 1.g.	Judgment, \$189, owed since September 2001, medical debt.	Claims balance is \$139. Applicant copy of check dated November 10, 2006. No evidence check cleared. (7)	GE 6, GE 11, AE F, Tr. 56-57, AE FF..
SOR 1.h.	Credit card, bought computer September 2001.	Claims duplicate with SOR1.f, no substantiation. Government has no evidence on this debt. Applicant admits not paid.	AE E, Tr. 55-56.
Sor 1 i.	Debt for pizza delivery, owed since May 2003, for \$41.	Copy of post-dated check to show payment. No evidence check cleared. (8)	GE 7, AE H, Tr. 39, Tr. 57-58, AE FF.
SOR 1.j.	Debt for pizza delivery, owed since May 2003, for \$42.	Copy of post-dated check to show payment. No evidence check cleared.	GE 7, AE H, Tr. 39.
SOR 1. k.	Federal tax debt, year 2004, includes taxes, penalties, interest, \$704.	Installment payments of \$35/month arranged after declared delinquent.	GE 4, AE I through AE Y, Tr. 59-64.
SOR 1.l.	Federal tax debt, year 2005, includes taxes, penalties,	Installment payments of \$35/month arranged after declared delinquent. Amount owed reduced by payments.	GE 4, AE I through AE Y,

	interest, \$1,115.		Tr. 59-64.
SOR 1.m.	State tax owed \$240, including penalties and interest.	Installment payments started in October 2006 for \$40/month. Copy of post-dated check to show payment. No evidence check cleared. (9)	GE 4, AE Z, Tr. 45-47, 66-67, AE FF.

Applicant owes approximately \$18,000 in student loans. He attended school from 1995-1996, made payments on his school loan for a period, then stopped and the loan became delinquent. He later sought and was granted a forbearance on the loan, until February 2007. (10) On Applicant's personal financial statement dated April 12, 2005, he lists one payment made to an automobile company. No other payments are reflected on the financial statement showing payments towards his delinquent debts. On this statement he lists a net monthly remainder of \$785.

Applicant received a \$30,000 inheritance when his grandmother died in 2002. He received it in three installments in years 2003, 2004, and 2005. He could not remember how much he received each year, but the total was \$30,000. This inheritance created a tax liability. Applicant was unaware of the tax consequences, and when he became aware he set up an installment payment plan. Applicant used the money to pay off other debts owed.

Sometime in July or August 2006, Applicant set up an appointment for consumer counseling. He was told to gather his paperwork and obtain a credit report to determine how much he owed and how much income he earned. He gathered all of his information and intends to set up appointment in the future. The counseling office was relocating so he has not made an appointment. On November 22, 2006, after the record was closed, Applicant provided AE FF, which shows a post dated check for December 10, 2006 to a credit counseling service and a copy of a proposed budget dated November 20, 2006.

Applicant was arrested in August 1983 and charged with larceny in the sixth degree. He pled guilty and was fined \$50. He did not remember this charge, but asserted he did not steal anything. His testimony was evasive and he would not explain the circumstances of the case. He then claimed he was charged with making a false 911 call. (11) His testimony was incredible and evasive.

Applicant was arrested on November 21, 2000, and charged with (1) larceny in the second degree, a felony, and (2) larceny in the fourth degree. He pled guilty to both counts and was sentenced to one year in jail with one year suspended, fined \$1,221.43, and awarded three years probation. The felony charge was reduced to a misdemeanor. He had been receiving welfare checks after he started working which he cashed. At this hearing he testified he returned the checks, but in a previous sworn statement he admitted he cashed them. (12) He claimed the statement was not complete and he did not read the statement before signing it because he was under a "great deal of duress." (13) Applicant's testimony was unbelievable, incredible and untruthful.

Applicant completed a security clearance application (SCA) on August 17, 2004, and answered "No" to Questions 38 and 39. (14) Both questions inquired whether Applicant had any delinquent debts. He was aware he had delinquent debts but did not know the extent of them. and deliberately failed to divulge them in his SCA. Although Applicant claims he did not intentionally falsify his SCA, I find his testimony is not credible. He stated he did not list his debts because he needed a job and he was overwhelmed. (15) He claimed he wanted to pay his debts and not be a "deadbeat." (16) Applicant intentionally falsified his SCA. He acknowledged he made mistakes, and out of fear made bad choices.

On his SCA, in response to Question 21, Applicant failed to list he had been charged on November 21, 2000, with a larceny in the second degree, a felony. (17) In response to Question 26, Applicant failed to list that he had been charged with the November 21, 2000 larceny in the second degree, which was later changed to larceny in the fourth degree. (18) Applicant insists he did not list his conviction under Question 21 because he believed he was charged with a misdemeanor. Applicant intentionally falsified his SCA when he failed to list he had been charged and convicted of larceny in 2000. Applicant claimed he trusted the investigator who interviewed him, but felt he was under duress and stress when he signed and initialed his statement. He acknowledged being told why a statement was being taken and that it was voluntary. I find, based on all the testimony provided by Applicant that his statement was voluntary.

Applicant provided character letters from supervisors and customers that consider him extremely persistent and tenacious. He can be counted on to work as many hours as needed to achieve a goal. He has good attendance and will work overtime, when it is available. He is considered honest and well intentioned with developing job skills. He is also considered a hard worker, reliable and conscientious.⁽¹⁹⁾ One commented that Appellant could be trusted and he had not seen him act in a dishonest or unprofessional manner.⁽²⁰⁾ His landlord verified that Applicant paid his rent on time and was an excellent resident.⁽²¹⁾ He was also commended for his work.⁽²²⁾ Applicant provided letters of recognition while serving in the Army, professional schools attended and completed, certificates of appreciation and other recognition.⁽²³⁾

POLICIES

Enclosure 2 of the Directive sets forth adjudicative guidelines to be considered in evaluating a person's eligibility to hold a security clearance. Included in the guidelines are disqualifying conditions (DC) and mitigating conditions (MC) applicable to each specific guideline. Additionally, each security clearance decision must be a fair and impartial commonsense decision based on the relevant and material facts and circumstances, the whole-person concept, along with the factors listed in the Directive. Specifically these are: (1) the nature and seriousness of the conduct and surrounding circumstances; (2) the frequency and recency of the conduct; (3) the age of the applicant; (4) the motivation of the applicant, and the extent to which the conduct was negligent, willful, voluntary, or undertaken with knowledge of the consequences; (5) the absence or presence of rehabilitation; and (6) the probability that the circumstances or conduct will continue or recur in the future. Although the presence or absence of a particular condition or factor for or against clearance is not outcome determinative, the adjudicative guidelines should be followed whenever a case can be measured against this policy guidance.

The sole purpose of a security clearance determination is to decide if it is clearly consistent with the national interest to grant or continue a security clearance for an applicant.⁽²⁴⁾ The government has the burden of proving controverted facts.⁽²⁵⁾ The burden of proof is something less than a preponderance of evidence.⁽²⁶⁾ Once the government has met its burden, the burden shifts to an applicant to present evidence of refutation, extenuation, or mitigation to overcome the case against him.⁽²⁷⁾ Additionally, an applicant has the ultimate burden of persuasion to obtain a favorable clearance decision.⁽²⁸⁾

No one has a right to a security clearance⁽²⁹⁾ and "the clearly consistent standard indicates that security clearance determinations should err, if they must, on the side of denials."⁽³⁰⁾ Any reasonable doubt about whether an applicant should be allowed access to sensitive information must be resolved in favor of protecting such sensitive information.⁽³¹⁾ The decision to deny an individual a security clearance is not necessarily a determination as to the loyalty of an applicant.⁽³²⁾ It is merely an indication that the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Based upon consideration of the evidence, I find the following adjudicative guidelines most pertinent to the evaluation of the facts in this case:

Guideline F- Financial Considerations-A security concern exists when a person has significant delinquent debts. An individual who is financially overextended is at risk of having to engage in illegal or unethical acts to generate funds to meet financial obligations. Similarly, an individual who is financially irresponsible may also be irresponsible, unconcerned, or careless in their obligation to protect classified information. Behaving responsibly or irresponsibly in one aspect of life provides an indication of how a person may behave in other aspects of life.

Guideline E-Personal Conduct is a security concern when an individual's conduct involves questionable judgment, untrustworthiness, unreliability, lack of candor, dishonesty, or unwillingness to comply with rules and regulations that could indicate that the person may not properly safeguard classified information.

Guideline J-Criminal Conduct is a security concern because a history or pattern of criminal activity creates doubt about a person's judgment, reliability, and trustworthiness. Willingness to abide by rules is an essential qualification for

eligibility for access to the nation's secrets. A history of illegal behavior indicates an individual may be inclined to break, disregard, or fail to comply with regulations, practices, or procedures concerning safeguarding and handling classified information.

Conditions that could raise a security concern and may be disqualifying, as well as those which would mitigate security concerns, pertaining to the adjudicative guidelines are set forth and discussed in the conclusions below.

CONCLUSIONS

I have carefully considered all the facts in evidence and the legal standards. The government has established a *prima facie* case for disqualification under Guidelines F, J and E.

Based on all the evidence, Financial Considerations Disqualifying Condition (FC DC) E2.A6.1.2.1 (*A history of not meeting financial obligations*), and FC DC E2.A6.1.2.3 (*Inability or unwillingness to satisfy debts*), apply in this case. Applicant has long history of accumulated delinquent debts that are unpaid.

I have considered all of the Financial Considerations Mitigating Conditions (FC MC), and especially considered FC MC E2.A6.1.3.1 (*The behavior was not recent*), FC MC E2.A6.1.3.2 (*It was an isolated incident*), FC MC E2.A6.1.3.3 (*The conditions that resulted in the behavior were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation)*), FC MC E2.A6.1.3.5 (*The person has received or is receiving counseling for the problem and there are clear indications that the problem is being resolved or is under control*), and FC MC E2.A6.1.3.6 (*The individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts*).

Applicant has many debts that remain delinquent and therefore are recent. FC MC E2.A6.1.3.1 and FC MC E2.A6.1.3.2 do not apply. Some of Applicant's delinquent debts accrued while he was in the Army and receiving a regular paycheck. He took out loans as far back as 1999 and has not made payments on them. It appears he has had some periods of unemployment and was on public assistance during a period of time. I have considered FC MC E2.A6.1.3.3 and the fact that Applicant did have periods of unemployment, however I have also considered that some of his debts he accumulated while he was in the Army, being paid regularly, and he has not made any payment on those debts. Applicant is not married and does not have children, and therefore does not have other obligations. He received a \$30,000 inheritance and although he claims he used the money to pay off other debts, he still owes a substantial amount of delinquent debts. I find FC MC E2.A6.1.3.3 does apply, due to his periods of unemployment, but it is not enough to overcome Applicant's financial troubles. Applicant offered no reasonable explanation for why he has so much debt and why it has been delinquent so long.

Applicant provided post-dated checks for some very small pizza delivery debts. He also has an installment plan for back taxes. With regard to the tax debt, he has made some effort to repay back taxes. I have also considered the additional information Applicant provided after the record was closed. With regard to his post-dated checks that have not cleared and have been delinquent for years, I find his efforts do not reflect a genuine effort to resolve his financial problems, but merely an attempt to do something positive to gain a security clearance. Applicant's untimely efforts cannot be considered a good faith effort to repay his creditors. He did seek some type of financial counseling in August 2006, but has not been aggressive in establishing a repayment plan. These efforts only came after Applicant became aware of his security clearance issues. Applicant provided a document after the record was closed from a consumer debt company that showed a budget. Applicant's check to the company was post-dated for December 10, 2006, and no evidence was offered to show Applicant had executed the plan prior to his security clearance becoming an issue. Applicant's other debts remain unpaid. Therefore, I find FC MC E2.A6.1.3.6 does not apply.

Criminal Conduct Disqualifying Condition (CC DC) E2.A10.1.2.1 (*Allegations or admissions of criminal conduct, regardless of whether the person was formally charged*), and CC DC E2.A10.1.2.2 (*A single serious crime or multiple lesser offenses*) apply. Applicant was convicted of larceny in 2000 for cashing public assistance checks he was not entitled to because he was working. He also has a larceny conviction in 1983. Applicant deliberately provided false answers on his SCA, a felony violation under 18 U.S.C. § 1001.

I have considered all of the mitigating conditions and especially considered Criminal Conduct Mitigating Condition (CC

MC) E2.A10.1.3.1 (*The criminal behavior was not recent*), CC MC E2.A10.1.3.2 (*The crime was an isolated incident*), and CC MC E2.A10.1.3.6 (*There is clear evidence of successful rehabilitation*). Applicant's testimony was not credible about his 2000 larceny conviction. He claimed he kept receiving checks after he started working, when in reality he actually took the checks he received and cashed them. He was evasive about the circumstances. Recently, Applicant has another larceny conviction from 1983. Applicant failed to provide truthful information on his sworn SCA, which is a felony violation under 18 U.S.C. § 1001. These actions, along with his other criminal convictions are recent and not isolated. I find none of the criminal conduct mitigating conditions apply. Applicant's criminal offenses raise serious questions about his judgment, credibility, reliability, trustworthiness and honesty. There is no clear evidence that Applicant has taken responsibility for his actions and is successfully rehabilitated.

Based on all the evidence, I have considered Personal Conduct Disqualifying Condition (PC DC) E2.A5.1.2.2 (*The deliberate omission, concealment or falsification of relevant and material facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities*). Applicant falsified four questions on his SCA. He claimed he did not have any delinquent debts over 90 or 180 days, when clearly the statement was false and he admitted he was aware he had delinquencies. He also failed to list his past criminal conduct, claiming he believed because one of his larceny convictions was reduced to a misdemeanor he did not have to list it. However, Question 26 is a catch-all question where Applicant, even if confused about the gravity of his conviction, was still required to list it in response to this question. Applicant failed to provide a reasonable explanation for his actions, other than he was concerned about his job. He said he felt stressed, but admitted he was advised as to the purpose of the statement and its voluntary nature. Applicant's testimony was not believable. He intentionally deceived and concealed his background.

I have considered all of the mitigating conditions and especially considered Personal Conduct Mitigating Condition (PC MC) E2.A5.1.3.2 (*The falsification was an isolated incident, was not recent, and the individual has subsequently provided correct information voluntarily*), PC MC E2.A5.1.3.3 (*The individual made prompt, good-faith efforts to correct the falsification before being confronted with the facts*), and PC MC E2.A5.A.3.5 (*The individual has taken positive steps to significantly reduce or eliminate vulnerability to coercion, exploitation, or duress*) and conclude none apply. Applicant deliberately falsified four questions on his SCA because he needed the job. He did not correct the falsifications before being confronted with the facts. He failed to provide any indication of positive steps he has taken to reduce his vulnerability to coercion and exploitation.

The Whole Person

In all adjudications, the protection of our national security is the paramount concern. The objective of the security-clearance process is the fair-minded, commonsense assessment of a person's life to make an affirmative determination that the person is eligible for a security clearance. Indeed, the adjudicative process is a careful weighing of a number of variables in considering the "whole person" concept. It recognizes that we should view a person by the totality of their acts, omissions, motivations and other variables. Each case must be adjudged on its own merits, taking into consideration all relevant circumstances, and applying sound judgment, mature thinking, and careful analysis.

I considered the whole person and specifically Applicant's age and periods of unemployment. I considered what actions he has taken to resolve his financial problems, the fact he recently sought financial counseling, the number of debts, and the length of their indebtedness. I also considered Applicant's two criminal offenses were for larceny and the later for cashing welfare checks he was not entitled to. I considered Applicant's repeated and deliberate attempts to hide his past, and his evasive, unbelievable and untruthful answers and failure to provide answers. I considered all the letters and exhibits he provided. After a careful review of all the evidence, I find Applicant failed to mitigate the security concerns under Guideline F, financial considerations, Guideline J, criminal conduct, and Guideline E, personal conduct. Therefore, I am persuaded by the totality of the evidence in this case, that it is not clearly consistent with the national interest to grant Applicant a security clearance. Accordingly, Guidelines F, J and E are decided against Applicant.

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 F: AGAINST THE APPLICANT

Subparagraph 1.a: Against the Applicant

Subparagraph 1.b: Against the Applicant

Subparagraph 1.c: Against the Applicant

Subparagraph 1.d: Against the Applicant

Subparagraph 1.e: Against the Applicant

Subparagraph 1.f: Against the Applicant

Subparagraph 1.g: Against the Applicant

Subparagraph 1.h: Against the Applicant

Subparagraph 1.I: Against the Applicant

Subparagraph 1.j: Against the Applicant

Subparagraph 1.k: For the Applicant

Subparagraph 1.l: For the Applicant

Subparagraph 1.m: For the Applicant

Subparagraph 1.n: Against the Applicant

Paragraph 2. Guideline J: AGAINST THE APPLICANT

Subparagraph 2.a: Against the Applicant

Subparagraph 2.b: Against the Applicant

Subparagraph 2.c: Against the Applicant

Paragraph 3. Guideline E: AGAINST THE APPLICANT

Subparagraph 3.a: Against the Applicant

Subparagraph 3.b: Against the Applicant

Subparagraph 3.c: Against the Applicant

Subparagraph 3.d: Against the Applicant

DECISION

In light of all of the circumstances in this case, it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance is denied.

Carol G. Ricciardello

Administrative Judge

1. Exec. Or. 10865, *Safeguarding Classified Information within Industry* (Feb. 20, 1960) as amended and modified.
2. Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Jan. 2, 1992), as amended and modified.
3. These two allegations alleged Applicant deliberately falsified his answers on the SCA to Questions 21 and 26.
4. This exhibit consists primarily of copies of checks and a letter from Applicant claiming certain debts have been paid. None of the checks show proof that they have cleared. No proof was provided from the creditors showing the debts are satisfied. Applicant provided an additional copy of the post dated checks that were offered during his hearing, but no proof the checks cleared. Other checks were written on November 10, 2006, November 17, 2006, December 10, 2006.
5. Tr. 79-82.
6. On November 22, 2006, after the record was closed, Applicant provided AE FF. This document consists of a letter from Applicant stating that this account is paid in full. However, there is no documented proof that the check cleared. The check is dated November 10, 2006.
7. On November 22, 2006, after the record was closed, Applicant provided AE FF. This document consists of a letter from Applicant stating that this account is paid in full. However, there is no documented proof that the check cleared. The check is dated November 10, 2006.
8. On November 22, 2006, after the record was closed, Applicant provided AE FF. This document consists of a letter from Applicant stating that this account is paid in full. However, there is no documented proof that the check cleared.
9. On November 22, 2006, after the record was closed, Applicant provided AE FF. This document consists of a letter from Applicant stating that this account is paid in full. However, there is no documented proof that the check cleared.
10. AE BB; Tr. 70-73.
11. Tr. 76-79.
12. GE 3, Tr. 67-70, 88.
13. Tr. 88-91.
14. Question 38 reads: *Your financial delinquencies-180 Days In the last 7 years, have you ever been over 180 days delinquent on any debt(s)?* Question 39 reads: *Your financial delinquencies-90 Days Are you currently over 90 days delinquent on any debt(s)?*
15. Tr. 97, 98, 104.
16. *Id.*
17. Question 21 reads: *Your Police Record-Felony Offenses Have you ever been charged with or convicted of any felony offense? For this item, report information regardless of whether the record in your case was "sealed" or otherwise stricken from the record. The single exception to this requirement is for certain convictions under the Federal Controlled substances Act for which the court issued an expungement order under the authority of 21 U.S.C. 844 or 18 U.S.C. 3607.*
18. Question 26 reads: *Your Police Record-other Offenses In the last 7 yeas, have you been arrested for chaerged with, or convicted of any offense(s) not listed in modules 21, 22, 23, 24, or 25? (Leave out traffic fines of less than \$150 unless the violation was alcohol or drug related.) For this item, report information regardless of whether the recored in your case has been "sealed" or otherwise stricken from the record. The single exception to this requirement is for*

certain convictions under the Federal Controlled Substances Act for which the court issued an expungement order under the authority of 21 U.S.C. 844 or 18 U.S.C. 3607.

19. AE CC.

20. *Id.*

21. *Id.*

22. *Id.*

23. *Id.*

24. ISCR Case No. 96-0277 at 2 (App. Bd. Jul 11, 1997).

25. ISCR Case No. 97-0016 at 3 (App. Bd. Dec. 31, 1997); Directive, Enclosure 3, ¶ E3.1.14.

26. *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988).

27. ISCR Case No. 94-1075 at 3-4 (App. Bd. Aug. 10, 1995); Directive, Enclosure 3, ¶ E3.1.15.

28. ISCR Case No. 93-1390 at 7-8 (App. Bd. Jan. 27, 1995); Directive, Enclosure 3, ¶ E3.1.15.

29. *Egan*, 484 U.S. at 531.

30. *Id.*

31. *Id.*; Directive, Enclosure 2, ¶ E2.2.2.

32. Executive Order 10865 § 7.