DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS

In the matter of:	)	
	)	
	)	ISCR Case No. 12-03914
	)	
	)	
Applicant for Security Clearance	)	

Appearances

For Government: Eric H. Borgstrom, Esq., Department Counsel
For Applicant: *Pro se*

04/25/2013

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Decision

_____

MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant is on probation under an accelerated pretrial rehabilitation program until April 26, 2013, for felonious drug-related criminal conduct, including cultivation of marijuana in 2010. She reported her arrest on her November 2011 security clearance application, but she falsely claimed that her boyfriend (current fiancé) had been growing marijuana without her knowledge. Her belated admission to being an active participant in the cultivation is not enough to overcome the drug involvement, criminal conduct, and personal conduct concerns. Clearance denied.

Statement of the Case

On September 21, 2012, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant, detailing the security concerns under Guideline H (Drug Involvement), Guideline E (Personal Conduct), Guideline J (Criminal Conduct) and explaining why it was unable to find that it is clearly consistent with the national interest to grant her a security clearance. The DOD took action under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended;

DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within the DOD on September 1, 2006.

Applicant submitted a notarized Answer to the SOR allegations on November 27, 2012. She requested a decision on the written record without a hearing. On December 19, 2012, the Government asked for a hearing pursuant to ¶ E3.1.7 of the Directive. On February 7, 2013, the case was assigned to me to conduct a hearing to determine whether it is clearly consistent with the national interest to grant or continue Applicant's security clearance. I scheduled a hearing for March 25, 2013.

At the hearing, four Government exhibits (GEs 1-4) were admitted without objection. Applicant testified, as reflected in a transcript (Tr.) received on April 4, 2013.

Findings of Fact

The SOR alleged under Guideline H (SOR 1.a), and cross-alleged under Guideline J (SOR 3.a), that Applicant pleaded guilty and was placed on probation until April 2013 on September 2010 drug charges: sale of a controlled substance (felony), possession of a hallucinogen (felony), use of drug paraphernalia (misdemeanor), and production/preparation of a controlled substance without a license.[1] The SOR also alleged under Guideline H that Applicant's cohabitant cultivated marijuana plants in her residence with her knowledge (SOR 1.b). Under Guideline E, Applicant allegedly falsified a November 2011 Electronic Questionnaire for Investigations Processing (e-QIP) when she indicated that her boyfriend had been growing cannabis without her knowledge (SOR 2.a). Applicant admitted the allegations without explanation. Her admissions are incorporated as findings of fact. After considering the pleadings, exhibits, and transcript, I make the following additional findings of fact.

Applicant is a 43-year-old plant protection officer (security guard), who has worked for her present employer, a defense contractor, for about nine years. (GE 1; Tr. 23, 26-27.) She seeks her first security clearance. (GE 1; Tr. 44-45.)

In August 1999, Applicant bought a home, which she still owns. She moved into her current residence sometime after November 2011. (GE 1.) She works long hours, around 80 per week, to afford her two mortgages. Applicant is hoping to sell her previous residence in the near future. (Tr. 23-24.)

In April 2009, Applicant and her then boyfriend (now fiancé) began cohabiting. (GE 4.) Around late spring 2010, Applicant obtained marijuana seeds from a friend, and she and her fiancé began growing about 12 marijuana plants in the basement of their residence. (Tr. 28-29.) Applicant took an active role in cultivating the marijuana by watering the plants and ensuring that the grow lights were on. (Tr. 32.) Applicant claims that neither

[1] The SOR did not allege whether the production/preparation of a controlled substance without a license was a misdemeanor or a felony. Available information indicates it is a felony offense. (GEs 1, 3.)

she nor her fiancé used or sold marijuana. (Tr. 24, 29, 32.) Because buying marijuana was too expensive, she suggested to her fiancé that they cultivate marijuana for her mother, who was suffering from cancer. (Tr. 24-25, 30.) Applicant's mother died in 2010, before the plants matured. (Tr. 24, 29, 32.) Applicant and her fiancé kept the plants after her mother's death.[2]

In August 2010, the police came to Applicant's home with an arrest warrant for her fiancé, allegedly on a child support issue. (GE 4; Tr. 30.) The police smelled marijuana and confiscated about 12 marijuana plants, some smoking pipes, and a small scale from the home.[3] (GE 4.) They also seized $800 cash and two guns from Applicant.[4] (Tr. 22.) Applicant and her fiancé were both arrested on drug charges.[5] On September 10, 2010, Applicant was charged with three felony offenses: sale of a controlled substance; possession of a hallucinogen—over four ounces of marijuana; and production/preparation of a controlled substance without a license. She was also charged with misdemeanor use of drug paraphernalia. (GEs 1-4; Tr. 27.) Around April 2011, Applicant was granted accelerated pretrial rehabilitation and placed on probation under the supervised custody of the court support services division for two years. (Tr. 22.)

On November 22, 2011, Applicant completed and certified an e-QIP for a security clearance. In response to section 22 concerning any police record, Applicant listed her arrest in August 2010 "for growing cannabis," and she disclosed the September 2010 drug charges. Applicant added that she was "sent to Accelerated Rehab because [her] boyfriend had been growing the cannabis without [her] knowledge," and that "the charges were dropped upon completion of the Accelerated Rehabilitation program." (GE 1.)

On March 13, 2012, Applicant was interviewed by an authorized investigator for the Office of Personnel Management (OPM) about her arrest. Applicant explained the police smelled the marijuana in her basement from the door of her residence when they came to serve a warrant on her fiancé for child support. The police found about 12 marijuana plants, some smoking pipes, and a small scale during a search, and she and her boyfriend were both arrested. Applicant added that in court around September 2010, she pleaded guilty and was placed on two years of probation. Regarding the accelerated rehabilitation reported on her e-QIP, Applicant indicated that she was referring to a required drug

[2] When asked why they kept the plants if their sole reason was to grow marijuana for her mother, Applicant initially responded, "I never even thought about it." (Tr. 30.) She denied that she continued to cultivate the plants, claiming that "they were done." (Tr. 31.) Later, when confronted about her plan for the plants if neither she nor her fiancé intended to smoke the drug or sell it, Applicant testified, "See how they came out, I guess. I never grew it before. It was my first time ever—just curiosity to see how they came out. I'll never do it again. It's a lot of work—too much time." (Tr. 43.)

[3] According to Applicant, the police smelled marijuana even though no one had smoked marijuana in the home ("It was just the smell from the plants . . . The plants smell."). Her fiancé was not home at the time. (Tr. 31.)

[4] Applicant testified that the guns were seized because her fiancé has a felony conviction. She is hoping to get her guns returned to her at her upcoming court date on April 26, 2013. (Tr. 22-23.)

[5] The evidentiary record does not include the specific drug charges filed against her fiancé. Applicant testified that her fiancé was on probation when he was arrested for growing marijuana in 2010. (Tr. 36.)

evaluation to determine whether she needed treatment, and treatment was not required. Applicant denied any use of marijuana or sales. She claimed she was not involved in the cultivation of marijuana, but she admitted knowing that the plants were in her basement. (GE 4.)

At her March 25, 2013, hearing, Applicant admitted to the Government that she knew her fiancé had been growing marijuana in their basement, and that she had taken an active role in the cultivation. Asked about why she denied knowing about the cultivation when she completed her e-QIP, Applicant initially responded that she misunderstood and was confused. She thought she had indicated on her e-QIP that she knew about the marijuana in her basement. (Tr. 33-34.) Applicant later acknowledged that she lied on her e-QIP when she claimed to have had no knowledge of the cultivation. (Tr. 34.)

Applicant is still cohabiting with her fiancé, although as of March 25, 2013, he was incarcerated. He has been jailed for the last five months on drunk driving charges as well as the 2010 drug charges. (Tr. 34-35.) Applicant has no ongoing contact with the friend who gave her the marijuana seeds because he moved to another state. (Tr. 38.)

Applicant has not informed anyone at work about her drug arrest in 2010. Applicant denies that she is concerned about anyone at work finding out about the drug charges because the off-duty drug involvement had nothing to do with her job. She reports to work on time and works long hours. (Tr. 39-40.) She has received automatic raises at work but no promotions. (Tr. 40.)

Policies

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has in regulating access to information pertaining to national security, emphasizing that "no one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are required to be considered in evaluating an applicant's eligibility for access to classified information. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge's overall adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the "whole-person concept." The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security." In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence

contained in the record. Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . ." The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk that 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. Section 7 of Executive Order 10865 provides that decisions shall be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." *See also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline H, Drug Involvement

The security concern for drug involvement is set out in AG ¶ 24:

> Use of an illegal drug or misuse of a prescription drug can raise questions about an individual's reliability and trustworthiness, both because it may impair judgment and because it raises questions about a person's ability or willingness to comply with laws, rules, and regulations.

Under AG ¶ 24(a), drugs are defined as "mood and behavior altering substances," and include:

> (1) Drugs, materials, and other chemical compounds identified and listed in the Controlled Substances Act of 1970, as amended (e.g., marijuana or cannabis, depressants, narcotics, stimulants, and hallucinogens),[6] and
>
> (2) inhalants and other similar substances.

Under AG ¶ 24(b), drug abuse is defined as "the illegal use of a drug or use of a legal drug in a manner that deviates from approved medical direction."

[6]Schedules I, II, III, IV, and V, as referred to in the Controlled Substances Act, are contained in 21 U.S.C. § 812(c).

Applicant and her fiancé were caught growing marijuana in their home around August 2010. Applicant denies that she, her fiancé, or anyone else, had smoked marijuana in the home. She would have the Government believe that she and her fiancé grew marijuana, at her suggestion, solely for her mother, who was dying of cancer. The evidentiary record suggests drug involvement by Applicant, or her fiancé, or both, more extensive than cultivation solely for palliative purposes. Two months after her mother's death, Applicant and her fiancé still had the marijuana plants. When asked why she kept them, Applicant testified she "never even thought about it." She denied any effort to continue to water and heat the plants after her mother died ("they were done"). Yet, when then asked whether she ever gave marijuana to her mother, Applicant responded, "No. It wasn't ready." (Tr. 31-32.) Furthermore, when the police came to her residence, they smelled marijuana. According to Applicant, the plants in the basement emanated enough of an odor to give the police at her door probable cause to search her home. It is more likely that Applicant, or her spouse (who she testified was not home at the time), or someone else, had recently smoked marijuana. Whether the odor came from the plants or from burning marijuana, or a combination, the plants were not "done." Moreover, the police found a scale, which tends to suggest drug sales in the absence of any reasonable alternative explanation. The evidence falls short of establishing AG ¶ 25(a), "any drug abuse," by Applicant, but AG ¶ 25(c), "illegal drug possession, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia," clearly applies. Applicant was actively engaged in the cultivation of marijuana, if not also complicit in other drug activity at the residence (e.g., sales). Applicant bears a heavy burden to overcome the Guideline H security concerns, given it was her idea to grow marijuana, and she obtained the seeds. Marijuana is a Schedule I controlled substance under the Controlled Substances Act (21 U.S.C. § 812). Under federal law, Schedule I controlled substances are those drugs or substances which have a high potential for abuse, no currently accepted medical use in treatment in the United States, and lack accepted safety for using the drug under medical supervision.

Apparently because Applicant had no prior convictions, she was placed in an accelerated rehabilitation program for two years. Her probationary period had not expired as of her March 25, 2013 hearing. Under those circumstances, mitigating condition AG ¶ 26(a), "the behavior happened so long ago, was so infrequent, or happened under such circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or good judgment," is not satisfied.

Applicant denies any intent to grow marijuana in the future. AG ¶ 26(b), "a demonstrated intent not to abuse any drugs in the future," can be shown by:

> (1) disassociation from drug-using associates and contacts; (2) changing or avoiding the environment where drugs were used; (3) an appropriate period of abstinence; or (4) a signed statement of intent with automatic revocation of clearance for any violation.

AG ¶ 26(b) addresses drug use specifically, but it is logically extended to illegal drug possession and cultivation. Applicant may have no ongoing contact with the friend who

provided her with the marijuana seeds, but she and her fiancé are still together. They cohabit when he is not incarcerated. Irrespective of whether he smoked marijuana, he knowingly cultivated it. AG 26(b)(1) is not satisfied. Similarly, AG ¶ 26(b)(2), which requires a change in environment, is not pertinent. As for an appropriate period of abstinence under AG ¶ 26(b)(3), 2.5 years have passed since Applicant's arrest with no evidence of recurrence of drug involvement. Applicant benefits from the passage of time under AG ¶ 26(b)(3), but she has not yet fulfilled her accelerated rehabilitation. Furthermore, given her lack of complete candor about her drug involvement (*see* Guideline E, *infra*), which includes her patently unbelievable and contradictory explanations for why she failed to discard the plants after her mother's death, her case for mitigation under AG ¶ 26(b)(3) falls considerably short. In addition, AG ¶ 26(b)(4) is not implicated in the absence of a signed statement to foreswear any drug involvement in the future.

AG ¶ 26(c) applies to the abuse of prescription drugs and is factually inapplicable. Applicant has not received any drug treatment, although apparently she underwent an evaluation for her accelerated rehabilitation program and no treatment was ordered. To the extent that the evaluation can be considered a favorable prognosis, Applicant has not had any drug treatment that would justify application of AG ¶ 26(d), "satisfactory completion of a prescribed drug treatment program, including but not limited to rehabilitation and aftercare requirements, without recurrence of abuse, and a favorable prognosis by a duly qualified medical professional."

Applicant's expressed motivation for not growing any illegal drug in the future is that it was too much trouble. She showed little insight into the illegality of her drug involvement, despite the seriousness of the criminal drug charges, or the incompatibility of her drug cultivation with her responsibilities to her defense contractor employer. Applicant denies any vulnerability to coercion or pressure should anyone at work find out about her marijuana cultivation because she does not see where it affects her work. The drug involvement concerns are not fully mitigated, despite Applicant's compliance with the terms of her accelerated rehabilitation.

Guideline E, Personal Conduct

The security concern for personal conduct is set out in AG ¶ 15:

> 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.

Although Applicant listed the September 2010 drug charges on her November 2011 e-QIP, she falsely stated that she had no knowledge that her fiancé was cultivating marijuana plants in their home. Applicant also claimed that the charges had been dropped on her completion of an accelerated rehabilitation program. The evidence shows that

Applicant not only knew that marijuana was being grown in her home, but also that she was the instigator and an active participant in its cultivation. Moreover, she is still on probation until at least April 26, 2013. When Department Counsel asked her about her response to the police record inquiries on the e-QIP, Applicant initially claimed that she was confused and thought she had indicated on the form that she knew about the cultivation. She subsequently admitted that she had lied on her e-QIP when she claimed to have had no knowledge of the marijuana cultivation. Applicant's deliberate misrepresentation on her e-QIP raises personal conduct concerns under AG ¶ 16(a):

> (a) deliberate omission, concealment, or falsification of relevant 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.

Furthermore, her active concealment raises vulnerability concerns under AG ¶ 16(e):

> (e) personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress, such as (1) engaging in activities which, if known, may affect the person's personal, professional, or community standing.

Mitigating condition AG ¶ 17(a), "the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts," cannot fully apply. Although Applicant discussed her arrest during her OPM interview in March 2012, and she admitted to the OPM investigator that she knew about the marijuana that was in her basement, she denied any involvement in growing it. Her claim of a passive role in the cultivation of marijuana could have been alleged as disqualifying in its own right under AG ¶ 16(b), "deliberately providing false or misleading information concerning relevant facts to an employer, investigator, security official, competent medical authority, or other official government representative."

Applicant falsely certified that all of her statements on the e-QIP were true, complete, and correct to the best of her knowledge and belief, despite being advised of the criminal penalties for violating 18 U.S.C. § 1001. Her decision to conceal her active drug involvement has negative implications for her judgment and reliability. This intentional false statement is too serious to qualify for mitigation under AG ¶ 17(c), "the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment." She deliberately falsified her e-QIP less than two years ago, and there are concerns about her credibility generally. In addition to her denial during her OPM interview of any personal participation in the cultivation of marijuana, Applicant did not appear to be fully forthcoming at the hearing about her motive for keeping the marijuana plants after her mother's death.

AG ¶ 17(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 caused untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur," applies to the extent that Applicant now admits her culpability in suggesting to her fiancé that they cultivate marijuana, in obtaining the seeds, and then in helping to grow the plants. However, Applicant has not been upfront about her motives in possessing marijuana after her mother's death or in concealing her active cultivation of marijuana when she applied for a security clearance. Common sense would lead one to believe that Applicant did not want the Government or her employer to know about her illegal drug involvement because it could adversely affect her job or security clearance eligibility or both. Applicant denies any concern should someone at work find out about the serious drug charges, but she has made no effort to inform even her security officer about the drug charges. Consequently, her employer is continuing to sponsor her for a security clearance without knowing of adverse information that could potentially affect her security eligibility. AG ¶ 17(e), "the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress," also does not apply.

Guideline J, Criminal Conduct

The security concern about criminal conduct is set out in AG ¶ 30:

> 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.

As a first offender, Applicant was granted accelerated pretrial rehabilitation following her guilty plea to three felony drug offenses and one misdemeanor.[7] Her drug-related criminal conduct establishes disqualifying concerns under AG ¶ 31(a), "a single serious crime or multiple lesser offenses," and ¶ 31(c), "allegation or admission of criminal conduct, regardless of whether the person was formally charged, formally prosecuted or convicted." The felonious nature of her misconduct is clear, even though the state granted her accelerated pretrial rehabilitation permitted under law when the charges are not considered serious.

[7] Under § 54-56e of the state's criminal procedure statutes, accelerated pretrial rehabilitation may be granted by the court at its discretion for persons accused of a crime or crimes or a motor vehicle violation or violations for which a sentence to a term of imprisonment may be imposed if the crimes or violations are not of a serious nature. Accelerated pretrial rehabilitation may be invoked on motion of the defendant or state in cases involving defendants, whom the court believes will probably not reoffend, have no previous criminal conviction, and whom have not been previously granted accelerated pretrial rehabilitation. Once accepted into the program, the defendant is required to pay a participation fee of $100 and to agree to a tolling of the statute of limitations with respect to the crime and waiver of the right to a speedy trial. Under conditions ordered by the court, the defendant is released to the custody of the court support services division. If the defendant violates the court's conditions, the case shall be brought to trial. The period of probation, or supervision, or both shall not exceed two years. If the defendant released to the custody of the court support services satisfactorily completes his or her probation, the defendant may apply for dismissal of the charges.

Concerning AG ¶ 31(d), "individual is currently on parole or probation," Applicant testified that she was placed on two years of probation. The only court record available (GE 3.) shows that she is on accelerated pretrial rehabilitation awaiting final disposition of the charges. While the state's accelerated pretrial rehabilitation is distinguishable from a probationary sentence following a criminal conviction, any violation of her probation under the accelerated rehabilitation would result in her case being brought to trial. AG ¶ 31(d) applies in that Applicant is under court supervision through at least her next court date of April 26, 2013.

Concerning factors in possible mitigation, AG ¶ 32(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," cannot reasonably be satisfied. Applicant is still under the court's supervision. AG ¶ 32(b), "the person was pressured or coerced into committing the act and those pressures are no longer present in the person's life," is not established because it was Applicant's idea to grow marijuana. AG ¶ 32(c), "evidence that the person did not commit the offense," clearly is not pertinent in light of Applicant's active role in the cultivation of marijuana, even assuming that she was not complicit in other drug activity. Applicant has been employed in her position for the past nine years. While her performance has been unremarkable in terms of special recognition, she works long hours. A good work record is some evidence of successful rehabilitation under AG ¶ 32(d), "there is evidence of successful rehabilitation; including but not limited to the passage of time without recurrence of criminal activity, remorse or restitution, job training or higher education, good employment record, or constructive community involvement." Applicant denies any intent of future illegal drug involvement, but her reform is incomplete without an appropriate expression of remorse or meaningful acknowledgement of its illegality. The criminal conduct concerns are not fully mitigated by a promise not to grow marijuana again because it is too much work and takes too much time.

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 her conduct and all relevant circumstances in light of the nine adjudicative process factors listed at AG ¶ 2(a).[8] Applicant gave no thought to the illegality of marijuana possession and cultivation when she suggested to her fiancé that they grow marijuana. She and her fiancé kept the plants after her mother's death. Among the drug paraphernalia seized from her home in 2010 was a small scale, which would be consistent with drug sales or at least the intent to

[8]The factors under AG ¶ 2(a) are as follows:

> (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.

sell marijuana. Despite such incriminating evidence, Applicant continues to maintain that her drug involvement was well-intentioned. Her concealment of her active participation in the cultivation of marijuana on her e-QIP continues to raise doubts about her judgment, reliability, and trustworthiness. Based on the circumstances, I cannot conclude that it is clearly consistent with the national interest to grant her security clearance eligibility at this time.

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 H:	AGAINST APPLICANT
Subparagraph 1.a:	Against Applicant
Subparagraph 1.b:	Against Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraph 2.a:	Against Applicant
Paragraph 3, Guideline J:	AGAINST APPLICANT
Subparagraph 3.a:	Against Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

Elizabeth M. Matchinski
Administrative Judge