



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



In the matter of: )  
)  
) ISCR Case No. 19-00878  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Tara Karoian, Esq., Department Counsel  
For Applicant: *Pro se*

09/05/2019  
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**Decision**  
\_\_\_\_\_

WESLEY, ROGER C. Administrative Judge

Based upon a review of the case file, pleadings, exhibits, and testimony, Applicant mitigated foreign influence concerns relating to her connections to Jordan, Iraq, and Israel. Eligibility for access to classified information or to hold a sensitive position is granted.

**Statement of the Case**

On April 26, 2019, the Department of Defense (DoD) Consolidated Central Adjudication Facility (CAF) issued a statement of reasons (SOR) to Applicant detailing reasons why under the foreign influence guideline the DoD could not make the preliminary affirmative determination of eligibility for granting a security clearance, and recommended referral to an administrative judge to determine whether a security clearance should be granted, continued, denied, or revoked. The action was taken under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960); 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.

Applicant responded to the SOR on May 4, 2019, and requested a hearing. The case was assigned to me on July 16, 2019. A hearing was scheduled for August 26, 2019, and heard on the scheduled date. At the hearing, the Government's case consisted of two exhibits. (GEs) Applicant relied on eight exhibits and four witnesses (including herself). The transcript (Tr.) was received on September 4, 2019.

Besides its two exhibits, the Government requested administrative notice of facts contained in three attachments related to the country of Jordan; seven documents related to the country of Israel; and six attachments related to the country of Iraq. Administrative or official notice is the appropriate type of notice used for administrative proceedings. See ISCR Case No. 16-02522 at 2-3 (App. Bd. July 12, 2017); ISCR Case No. 05-11292 at 4 n. 1 (App. Bd. Apr. 12, 2007); ISCR Case No. 02-24875 at 2 (App. Bd. Oct. 12, 2006) (citing ISCR Case No. 02-18668 at 3 (App. Bd. Feb. 10, 2004).

Administrative notice is appropriate for noticing facts or government reports that are well known. See Stein, Administrative Law, Sec. 25.01 (Bender & Co. 2006). For good cause shown, administrative notice was granted with respect to the above-named background reports addressing the geopolitical situations in Jordan, Iraq, and Israel.

Administrative notice was extended to the documents themselves, consistent with the provisions of Rule 201 of Fed. R. Evid. This notice did not foreclose Applicant from challenging the accuracy and reliability of the information contained in the reports addressing the current status of Iraq, Jordan, and Israel.

### **Procedural Issues**

Before the close of the proceedings, Applicant moved to amend the SOR to substitute the alleged location of property referenced in SOR ¶ 1.c from Jordan to Iraq. For good cause shown, Applicant's substitution request was granted. With the substitution, Applicant changed her denial of the allegations contained in SOR ¶ 1.c to an admit.

### **Summary of Pleadings**

Under Guideline B, Applicant allegedly (a) has a half-brother who is a dual citizen of Israel and Jordan and is a resident of Israel; (b) has a half-sister who is a citizen and resident of Israel; (c) owns property in Jordan with an approximate value of \$500,000 USD (amended to place the property in Iraq); (d) owns property in Jordan with an approximate value of \$24,011 USD; and (e) has a spouse who will receive retirement benefits from an employee's union in Jordan valued at \$340 monthly, in approximately 2020.

In her response to the SOR, Applicant admitted all of the allegations (inclusive of the allegations contained in SOR ¶1.c as amended). She added no claims or explanations.

## Findings of Fact

Applicant is a 49-year-old financial analyst for a defense contractor who seeks a security clearance.

### Background

Applicant is a U.S. citizen by birth and a naturalized dual citizen from Jordan. She became a naturalized Jordanian citizen in January 2006 through her husband's Jordanian citizenship and remains a dual citizen with Jordan. (GE 1; Tr. 163-165) She received a Jordanian passport in 2006 and used it on six occasions to visit her husband and relatives in Jordan between May 2006 and January 2010. (GE 1) Her Jordanian passport expired in 2011, and she has never renewed it. (Tr. 163) Should her retained Jordanian citizenship pose problems with her security clearance eligibility, she is willing to renounce it. (Tr. 165)

Applicant's parents are naturalized U.S. citizens who held dual citizenship with Jordan. (GE 1) Her mother became a naturalized U.S. citizen in 1972 and currently resides with Applicant and her husband. (GE 1; Tr. 68-69) Her mother's U.S. passport expired in 1985 and has not been renewed. (GE 1 and AE A; Tr. 68-69) Applicant's father passed away in December 2014. (GE 1 and AE A; Tr. 67)

Applicant's husband is a Jordanian citizen by birth who immigrated to the United States from Jordan in 1985, applied for U.S. citizenship the same year, and became a naturalized U.S. citizen in 1991. (GEs 1-2; Tr. 67) His parents became naturalized U.S. citizens in the early 1990s, hold dual citizenship with Jordan, and have resided in the United States. (GE 1 and AE A) His father passed away in December 1993. (GE 1 and AE A; Tr. 77, 158) His mother recently renewed her U.S. passport and resides with Applicant and himself. (GE 2 and AE A; Tr. 68, 77)

Applicant married in August 1987 and has three children (ages 30, 29, and 15), who are U.S. residents and citizens by birth. (GE 1; Tr. 64, 150-152, 160-162) She earned bachelor's and master's degrees with honors from a respected university in her state of residence in December 1995 and December 2012, respectively, with excellent software skills. (GE 1) and AE C. She reported no prior military service.

Since March 2019, Applicant has been employed by her current defense contractor. (GE 1; Tr. 140) She has been employed contemporaneously as a part-time adjunct lecturer at a local university (her alma mater) since January 2016. (GE 1 and AE A) Between August 2018 and March 2019, she was employed as a litigation financial analyst for a federal agency. (GE 1; Tr. 140-141) And, between May December 2012 and August 2018, she worked for a local municipal government agency as an accounting and financial division chief. (GE 1 and AE A)

While in college completing her master's degree (2010-2012), Applicant held a temporary position for part of her academic tenure. (GE 1 and AE A) Applicant has not previously held a security clearance. (Tr. 143-145)

Between March 1991 and August 2005, Applicant's husband worked as a senior transportation civil engineer (design manager) for a transportation agency in Applicant's state of residence. (AE E; Tr. 73-74) He took a leave of absence from his state agency position from August 2005 to December 2007 to serve as a transportation engineer for Iraq's reconstruction ministry and transportation attaché to the U.S. Department of State. (AE E; Tr. 72-74) While serving in Iraq, he possessed a security clearance and diplomatic passport. (Tr. 72) Returning to the United States, he has worked for the same state transportation agency from January 2008 to the present. (AE E)

### **Family connections with Jordan, Israel, and Iraq**

Applicant has two sisters. One is a U.S. citizen who has resided with her husband and four children in Jordan since returning to the country in 2007. (GEs 1-2; Tr. 50-51, 128-129) The other sister is a Jordanian citizen who resides in the United States. (GEs 1-2; Tr. 50-51, 128)

Applicant has a half-brother who is a dual citizen of Israel and Jordan, and a resident of Israel. (GEs 1-2 and AE A; Tr. 86-87, 146-147) Applicant last saw her half-brother in 2011 at a wedding of one of her nieces in Israel. (GE 1; Tr. 146-147) More recently, she saw her half-brother in 2017, while traveling to Jordan for another niece's wedding. (Tr.148) Applicant has maintained infrequent contact with him since her return to the United States from Jordan in 2010. (GE 1; Tr. 146-148)

Besides her half-brother, Applicant has a half-sister, who is also a citizen and resident of Israel. (GE 1; Tr. 146-148) She saw her half-sister in 2010 while attending her niece's wedding in Israel and saw her half-sister more recently in Jordan (in 2017) at the wedding of another niece. (GE 1; Tr. 146-148)

Except for her two visits to Jordan in 2010 and 2017, she has had no personal contact with either her half-brother or half-sister and maintains infrequent contact with both of them since returning to the United States in 2010. (GEs 1-2; Tr. 148) Applicant has no close bonds, ties, or connections with either of her half siblings.(Tr. 45, 146-148)

Altogether, Applicant has 38 family members, 35 of which are U.S. citizens. (GEs 1-2; Tr. 128) Her three family members who are not U.S. citizens are her stepmother and two of her stepmother's three children. (Tr. 130-131)

### **Financial condition**

Applicant and her husband own real estate in Iraq, which they estimated to approximate \$500,000 USD in value. (GE 2 and AEs A-B; Tr. 74-78) The Iraq property consists of a large tract (hundreds of acres) of undivided land originally owned by his grandfather. (Tr. 75) This property was later deeded to Applicant's father and five other siblings in six undivided interests years ago. (Tr. 75-76) After his father passed away in 1993, Applicant's husband and his siblings inherited his father's undivided interest in the tract of land. (Tr. 75-76) Neither Applicant's husband nor his five siblings have any

control over sale decisions, and in 2019, Applicant's husband received \$150,000 as his share of the proceeds of a small section of the Iraqi tract of land. (AE B; Tr. 75-76, 81-84) He has no say in future dispositions of all or part of the Iraqi property and, for this reason, he cannot make any safe predictions of if or when he and the other 40 members of his extended family holding interests in the tract might elect to sell off some or all of the remaining sections of the tract that the latter deeded to his father and five siblings. (Tr. 81, 119, 137) With his cashing out of his share of the sale proceeds, he estimates to have approximately \$350,000 USD worth of ownership remaining in the property. (Tr. 119)

The only other real estate owned by Applicant and her husband is a small tract of property in Jordan they purchased in 2007 for investment purposes that is worth approximately \$24,011 USD. (GE 2 and AE B; Tr. 119, 153-156) Most of Applicant's personal and real estate assets are situated in the United States. (AE C; Tr. 133-138) She reports ownership in her U.S. residence, which is worth \$855,481 according to a reliable real estate source, and carries a mortgage in the amount of \$409,725. (AE C) She reported personal assets as follows: U.S. bank deposits of \$150,000 for herself and \$377,418 for her husband, an estimated monthly state retirement balance for her husband in the amount of \$8,847, projected monthly social security benefits of over \$2,900 for her husband (based on an assumed retirement age of 67), and invested funds exceeding \$167,000. (AE C; Tr. 157) Applicant reported annual income for herself of \$122,468 and \$162,439 for her husband. (AE C)

Applicant has excellent credit and estimates her U.S.-based net worth to be approximately \$1,313,000. (AEs C and H; Tr. 133, 136) She neither provides nor receives any financial support from her half siblings residing in Israel and does not "have any real dealings with them." (Tr. 131-132, 144-45)

### **Country status of Jordan**

The Hashemite Kingdom of Jordan (Jordan) is a constitutional monarchy ruled by King Abdullah II bin Hussein. See Request for Administrative Notice, Hashemite Kingdom of Jordan; Country Reports on Human Rights Practices for 2018: Jordan, U.S. Department of State (2019).

Ever since it established diplomatic relations with Jordan in 1949, the United States and Jordan have enjoyed a long history of cooperation and friendship. See *U.S. Relations with Jordan: Bilateral Relations Fact Sheet*, (January 2020) The United States and Jordan share the mutual goals of comprehensive, just, and lasting peace in the Middle East and an end to violent extremism that threatens the security of Jordan, the region, and the entire globe. (id.)

From 1949 to 1967, Jordan administered the West Bank. Since the 1967 war between Israel and several Arab states, Israel has maintained control of this territory. The United States continues to believe that the final status of the West Bank can be determined only through negotiations among the concerned parties based on UN Security Council Resolutions 242 and 338. See id.

In 2017, the United States provided Jordan \$1.7 billion in bilateral foreign assistance and over \$200 million in DoD support. In addition to bilateral assistance, the United States has provided nearly \$1.1 billion in humanitarian assistance to support Syrian refugees in Jordan. (id.) In 2018, the United States and Jordan signed a non-binding Memorandum of Understanding (MOU) to provide \$6.375 billion in bilateral foreign assistance to Jordan over a five-year period, pending the availability of funds. The MOU serves to reinforce the U.S. commitment to broaden cooperation and dialogue between the two countries in various areas. Examples include improving health indicators, road and water networks, building of schools, educating Jordanians, providing improved access to water, resource management and conservation, providing energy loan guarantees, and allowing Jordan access to affordable financing from international capital markets. See *id.*

The U.S.-Jordan free trade agreement (FTA), the United State's first FTA with an Arab country, has expanded the trade relationship by reducing barriers for services, providing cutting-edge protection for intellectual property, ensuring regulatory transparency, and requiring effective labor and environmental enforcement. See *U.S. Relations with Jordan: Bilateral Relations Fact Sheet, supra*. The United States and Jordan have an "open skies" civil aviation agreement; a bilateral investment treaty; a science and technology cooperation agreement; and a memorandum of understanding on nuclear energy cooperation. Such agreements bolster efforts to help diversify Jordan's economy and promote growth. Jordan and the United States belong to a number of the same international organizations, including the United Nations, International Monetary Fund, World Bank, and World Trade Organization. Jordan also is a Partner for Cooperation with the Organization for Security and Cooperation in Europe.

The U.S. Department of State assesses the threat of terrorism in Jordan as high; with the capital of Amman currently assessed as a high-threat location for terrorist activity directed at or affecting official U.S. Government interests. See Request for Administrative Notice, Hashemite Kingdom of Jordan, *supra*; *Jordan 2018 Crime and Safety Report*, U.S. Department of State (April 2019).

Transnational and indigenous terrorist groups in Jordan have demonstrated the capability to plan and implement attacks. Violent extremist groups in Syria and Iraq, including the Islamic State of Iraq and the Levant (ISIL) (also known as the Islamic State of Iraq and Syria, or ISIS) and Jabhat al-Nusra, have conducted attacks in Jordan and continue to plot against local security forces, U.S. and Western interests, and soft targets such as high-profile public events, hotels, places of worship, restaurants, schools, and malls. Jordan's prominent role in the effort to defeat ISIS, and its shared borders with Iraq and Syria, increase the potential for future terrorist incidents. See *id.*

Although Jordan has remained a committed partner on counterterrorism and countering violent extremism, numerous terrorist incidents reflect the current security situation in Jordan: throughout 2017-2019, multiple vehicle-borne improvised explosive devices detonated in and around a refugee camp in Syria near the Jordanian border; and in October 2017, two homemade explosive devices were found in another refugee

camp in Jordan. See *Request for Administrative Notice, supra*, at 2-3. Also in October 2017, the State Security Court (SSC) prosecuted six people for sympathizing with ISIS, after they created social media accounts to find Jordanian supporters for ISIS and promote terrorist activity. (*id.*) In September 2017, the SSC charged 16 people with a terrorist plot involving the use of automatic weapons to carry out terrorist attacks against public security services; and the Jordanian General Intelligence Directorate arrested a 10-person ISIS cell that was planning to attack security forces and tourist locations using explosive suicide belts. (*id.*)

U.S. involvement in Iraq and Syria, and the U.S. Government's policies on Israel, have fueled anti-American feelings in Jordan. Recent surveys reflect that over 80% of the Jordanian population has an unfavorable view of the U.S. Government. See *Request for Administrative Notice, Hashemite Kingdom of Jordan, supra*. The U.S. Department of State has assessed Amman as being a high-threat location for political violence directed at or affecting official U.S. Government interests. In December 2017, protests took place at the U.S. Embassy for 27 days after the announcement that the U.S. Embassy in Tel Aviv would move to Jerusalem.

As a regional leader in the Global Coalition to Defeat ISIS, Jordan played an important role in Coalition successes in degrading the terrorist group's territorial control and operational reach. During 2016, Jordanian authorities took legal action against numerous individuals accused of terrorism under Jordanian law.

On July 13, 2016, the Jordanian State Security Court filed charges against 21 suspected ISIS affiliates in connection with the pre-emptive March raid on an alleged ISIS safe house in Irbid. The Department of State assesses that the potential for terrorist activity is heightened as Jordan participates in the coalition against ISIS. Extremist groups have carried out terrorist activities against U.S. and Jordanian government targets in Jordan.

Terrorist groups often do not distinguish between U.S. Government personnel and private U.S. citizens, and may target areas frequented by Westerners, such as tourist sites, hotels, restaurants, shopping malls, and transportation hubs. See *Jordan International Travel Information*, at 7-10, U.S. Department of State (Dec. 2018)

According to the Department of State 2018 Human Rights Report, Jordan's most significant continuing human rights problems include allegations of torture by security and government officials; arbitrary arrest and detention, including of activists and journalists; infringements on privacy rights; restrictions on freedom of expression; and restrictions on freedom of association and assembly. Impunity remained widespread, and the government did not take sufficiently strong steps to investigate, prosecute, or punish officials who committed abuses. See *Country Reports on Human Rights Practices for 2018: Jordan, supra*.

The Jordanian State Security Court (SSC) took legal action against numerous individuals deemed to be terrorists under local law, including the arrest and prosecution of men accused of seeking to join Al-Nusra Front (ANF) and ISIS. Other arrests and

prosecutions involved supporting/recruiting for ISIS and attempted travel to/from Syria in support of extremist activities and also for “propagating ISIL ideology,” a charge often used for online activity. See *Jordan 2018 Crime and Safety Report, supra*, at 4-5)

## **Country Status of Israel**

Israel is a multi-party parliamentary democracy. See Request for Administrative Notice-Israel, at 2 (April 2019) and *Israel and the Golan Heights 2018 Human Rights Report*, U.S. Department of State (March 2019). Israel is a close ally of the United States. Although it has no constitution, Israel’s unicameral 120-member Knesset, has enacted a series of “Basic Laws” that enumerate fundamental rights. Implementation of certain fundamental laws, orders, and regulations legally depend on the existence of a “state of emergency,” which has been in effect since 1948. Under the Basic Laws, the Knesset has the power to dissolve the government and mandate elections. The nationwide Knesset elections in 2015, which were considered free and fair, resulted in a coalition government led by Prime Minister Benjamin Netanyahu. The Knesset voted on December 26 to dissolve itself and set April 9, 2019, as the date for national elections. See Request for Administrative Notice, Israel, *supra*.

The United States and Israel participate in joint military planning and training and have collaborated on military research and weapons development. There have been incidents of illegal export, actual or attempted, of dual-use technology from the United States to Israel.

The United States has disagreed with Israel about its sale of U.S. and Israeli technologies to other countries, such as China and Russia. Israel has been subjected to numerous attacks from the Palestinians operating from the Gaza strip. See Request for Administrative Notice-Israel. *supra*, at 2; *Summary of Major U.S. Export Enforcement Economic Espionage, Trade Secret and Embargo-related Criminal Cases*, U.S. Department of Justice at 42-45, 51, and 84 (Jan. 2015) and *Don’t Let this Happen to You! Actual Investigations of Export Control and Anti-boycott Violations*. (U.S. Department of Commerce (November 2018). Verified reports are documented of export-controlled technologies being illegally sent to Israel, including (1) parts used in fighter jets; (2) a product containing trietanolamine, a Schedule 3 chemical precursor controlled for chemical/biological, antiterrorism, and chemical weapons reasons; (3) pressure transducers controlled for nuclear non-proliferation reasons; and (4) encryption software for national security reasons. See cases *supra*.

## **Country Status of Iraq**

The Federal Republic of Iraq (Iraq) is a constitutional parliamentary republic. The outcome of the 2014 parliamentary elections generally met international standards of free and fair elections and led to the peaceful transition of power from former prime minister Nuri al-Maliki to prime minister Haider al-Abadi. See Request for Administrative Notice-Federal Republic of Iraq (Iraq) at 2 and *2018 Crime and safety Report: Baghdad*, U.S. Department of State (Fen 2018).



In 2003, a U.S.-led coalition invaded Iraq and succeeded in removing Saddam Hussein and his Ba'athist regime from military and political power. See *the World Factbook: Iraq*, U.S. Central Intelligence Agency (Feb. 2018); *Background Note, Iraq*, at 3, U.S. Dept. of State (Feb. 2008). After two years of operations under a provisional authority, Iraq's new government assumed office in March 2006 (with the approval of the U.S. government), following free elections. (*id*)

Since March 2006, the government of Iraq has been comprised of a broad coalition of political alliances representing the Shiite, Sunni, and Kurdish blocs. See *the World Factbook: Iraq, supra*, at 2; *Background Note, Iraq, supra*, at 8. While elections have been held, none of the key constituent groups have been able to form a government, adopt an oil law, establish and maintain effective security throughout the provinces, or neutralize sectarian divisions. In this still very fragile political environment in Iraq, there are substantiated reports of human rights abuses that continue to underscore a still pervasive climate of tension and violence.

Iraq's economy continues to be dominated by the oil sector, as it has for the past half century since the completion of new pipelines to Lebanon in 1949, and to Syria in 1952. See *the World Factbook: Iraq, supra*; *Background Note, Iraq, supra*. As a result of the U.S.-led invasion in 2003, much of Iraq's oil-refining capabilities were shuttered. The rebuilding of oil infrastructure and utilities infrastructure has continued to expand since 2004 with U.S. aid and support, despite setbacks from insurgent activity.

Proposed oil revenue-sharing legislation among the three war-hardened ethno-sectarian divisions (Shia, Sunni, and Kurds) still awaits passage after four years of stalled negotiations, and at the moment, there are no good estimates of when such legislation will be approved and implemented. See *Statement of the Record, Worldwide Threat Assessment of the U.S. Intelligence Community*, U.S. Director of National Intelligence (Jan. 2019). For the foreseeable future, the national government can be expected to continue to seek the passage and implementation of a revenue sharing law to strengthen and encourage the development of this important sector.

Despite Iraq's producing 4.3 million barrels of oil per day, according to published reports, Iraq's population remains poor. See *Putting Iraq-KRG's Oil Relations on Solid Ground*, the Washington Institute on Near East Policy (July 2018). Currently, the case brought by the federal government of Iraq against the KRG in 2012 over the legality of the KRG's oil contracts and independent exports remains pending with no predictable outcome in the near future. See *id*.

Past budget laws passed by Iraq's national parliament requiring the KRG to contribute certain export earnings in the country's overall exports (a law that would seem to legitimate the KRG's ownership claims to Kirkuk oil) have never led federal authorities to export Kirkuk-produced oil. In so doing, Iraq's federal authorities have severely limited Iraq's northern export outlet via the Kurdish pipeline to Turkey. Breaking the oil-stalemate that existed for years between the KRG and Iraq's federal government can have major positive ramifications for not only Iraq and its oil exports, but for the United States and other Western interests as well.

## Terrorism and human rights issues

Despite recent developments in its security enforcement efforts, Iraq remains a very dangerous, volatile, and unpredictable country. The U.S. State Department continues to strongly warn U.S. citizens against traveling to Iraq. See Request for Administrative Notice, Iraq, at 3-4; *Travel Advisory-Iraq*, U.S. Department of State (May 2019) The State Department assessed Iraq as being a critical-threat location for crime directed at or affecting official U.S. interests. See *2019 Crime and Safety Report: Baghdad at 2-3*, U.S. Department of State (Feb 2019). While crime statistics and crime reporting mechanisms are incomplete and inconsistent, the vast majority of individuals under contract with, or employed by, the U.S. Government in Iraq are required to travel with a protective security detail, so as to limit potential criminal threats against them. (id.)

Attacks against military and civilian targets throughout Iraq continue and include sites and facilities where foreign tourists frequently visit: hotels, restaurants, police stations, check points, foreign diplomatic missions, international organizations, and other locations with expatriate personnel. See Request for Administrative Notice, Iraq, *supra*; *Travel Advisory-Iraq*, *supra*. The U.S. Embassy's ability to provide consular services to U.S. citizens outside Baghdad is extremely limited under the security environment that still exists in Iraq. See Request for Administrative Notice, Iraq, *supra*; *Country Information: Iraq: Safety and Security*, U.S. Dept. of State (June 2018). The U.S. Government considers the potential personal security threats to U.S. personnel in Iraq to be serious enough to require them to live and work under strict security guidelines. To deal with expanded terrorist attacks against U.S. citizens in Iraq, temporary movement restrictions on U.S. Embassy personnel (both inside and outside the international zone) have been imposed. See *Iraq 2019 Crime and Safety Report*, *supra*.

In December 2015, President Obama signed into law the Visa Waiver Program Improvement and Terrorist Travel Protection Act of 2015, which amended the existing Waiver Program. See Request for Administrative Notice, *supra*, at 4-5. Under the 2015 amendment, citizens of Iran, Iraq, Sudan, and Syria are ineligible to travel or be admitted to the United States under the Visa Waiver Program.

Iraq's human rights record remains a poor one. Based on the U.S. State Department's most recent annual human rights report, violence continued throughout 2017-2018, largely fueled by the actions of the Islamic state in Iraq (ISIS). See Request for Administrative Notice, Iraq, *supra*, at 3-4; *Statement for the Record, Worldwide Threat Assessment of the U.S. Intelligence Community*, U.S. Director of National Intelligence (Jan. 2019). After liberating all territory taken by ISIS by the end of 2017, Iraqi Security Forces (ISF) have continued to pursue and restrict ISIS forces still active in Iraq.

Reports of human rights abuses also include allegations of unlawful killings by some members of the ISF (particularly by some members of the Popular Mobilization

forces), torture, harsh and life-threatening conditions in detention and prison facilities, criminalization of libel and other limits on freedom of expression, widespread corruption, greatly reduced penalties for so-called honor killings, coerced or forced abortions imposed by ISIS on its victims, legal restrictions imposed on the freedom of movement of women, and trafficking in persons. See Request for Administrative Notice, Iraq, supra; Country Reports on Human Rights Practices for 2018: Iraq, U.S. Department of State (March 2019)

### **Current U.S. Relations with Iraq**

The U.S. mission in Iraq remains dedicated to building a strategic partnership with Iraq and the Iraqi people. See *U.S. Relations with Iraq* at 1-2, U.S. Department of State (July 2018). In coordination with the Global Coalition to defeat ISIS, the United States assisted Iraq's efforts to achieve the long-sought goal of liberating all of Iraqi territory from ISIS. The Strategic Framework Agreement (SFA) between Iraq and the United States provides the basis of the United States' bilateral relationship with Iraq and covers a wide range of bilateral issues, including political relations and diplomacy, defense and security, trade and finance, energy, judicial and law enforcement issues, services, science, culture, education, and environment. (id.)

U.S. bilateral assistance to Iraq is considerable and stresses economic reform, assistance to vulnerable groups, and democracy and governance. See *U.S. Relations with Iraq, supra*. U.S. security assistance supports the development of modern, accountable, fiscally sustainable, and professional Iraqi military resources capable of defending Iraq and its borders. The United States has designated Iraq as a beneficiary developing country under the Generalized System of Preferences Program and has been proactive in the promotion of two-way trade between the United States and Iraq. (id., at 2)

Noteworthy, Iraq's re-integration into the international community has been marked by their demonstrated cooperation with international institutions, including the United Nations, International Monetary Fund, World Bank, and the Arab League. (id.) Based on a consideration of the developed record, heightened risks associated with Applicant's husband's ownership interest of land in Iraq are insubstantial.

Recent attacks by Iranian militia groups on the U.S. Embassy in Baghdad strongly illustrate the threat that Iran poses to U.S. security interests in Iraq. See R. Burns & E. Knickmeyer, *Attack on the U.S. Embassy in Baghdad Demonstrates Tough Choices for President Trump*, Time (Jan. 2020) In a public statement, President Trump held Iran fully responsible for the attack, but stopped short of suggesting any military retaliation would be forthcoming. (id.) The breach of the U.S. Embassy compound in early January 2020, which prompted the United States to send military reinforcements, but caused no known U.S. casualties or evacuations, also revealed growing strains between the United States and Iraq and raised questions and concerns about the future of the U.S. military mission in the country. Currently, the United States has about 5,200 troops in Iraq, whose mission lies mainly in training Iraqi forces and helping them combat ISIS extremists in the region. (id.)

Tensions with Iran have escalated since the Embassy breach, with the directed drone strike by President Trump that killed Iraq's top general Quasem Soleimani and his deputy (Abu Mahdi al-Muhandis), a leading Iraqi militia leader, along with eight people. See *Wall Street Journal* and other news accounts of the drone strike. Iran has responded to the drone strike with threats of harsh revenge on U.S. military installations.

Anticipating retaliatory attacks on U.S. diplomatic and military personnel in the region, the United States announced its intended deployments of additional troops to meet whatever retaliatory challenges the United States may face from Iran. See *Wall Street Journal* and other news accounts. Secretary of State Pompeo and other high-ranking DoD officials have characterized the drone strike as defensive action to protect U.S. diplomatic and military personnel abroad, and reaffirmed U.S. commitments to de-escalation. See *CNN* and other news reports.

In a region still on edge from the killing of Iran's most prominent military leader, Iranian officials and President Trump traded threats of escalating military action. Other accounts from Iraq confirmed that the killing of Soleimani on Iraqi soil and the earlier U.S. airstrikes that killed 25 members of the Kataib Hezbollah militia have fueled calls for the expulsion of U.S. troops from Iraq. See *CNN* and other news accounts of unfolding events in Iraq. Published suggestions of a U.S. troop withdrawal in response to a previous passage of a non-binding Iraq resolution calling for the expelling of all foreign troops from Iraq have since been reversed by the Pentagon. See *Wall Street Journal* and *CNN* reports and other news sources. And, in Iran, reports have circulated that a successor to General Soleimani as Iran's Quds force commander has been appointed. (id.)

Keeping with its threats to mount retaliatory attacks against U.S. military facilities, Iran struck the highly fortified U.S.-Iraq Green Zone of Baghdad with a barrage of rockets before pulling back. See *Wall Street Journal* and other news sources. While both the United States and Iran can claim strategic returns as they pulled back from the brink of war, the longstanding competing goals of these longstanding adversaries remain. The United States wants Iran to return to the table to renegotiate the Joint Comprehensive Plan of Action (JCPOA) regarding Iran's nuclear program that the United States, its allies, and Iran agreed to in April 2015. Iran and its proxies, by contrast, seek the expelling of U.S. forces from not only Iraq, but the entire Middle East region. See *Wall Street Journal* and other news sources. Their stated goals are not easily reconcilable and will require sustained efforts on both sides to revise their structures of conflict and diplomatic disconnects. Only time will tell what, when, and how they can reconcile their differences in accordance with international norms of state conduct.

### **Character references**

Applicant is highly regarded by her supervisors, colleagues, friends, and family members who know her and are aware of her situation. Uniformly, they credit her with

honesty, reliability, and trustworthiness. (AEs D-F; Tr. 39-55) Former senior U.S. attorneys in her state of residence with knowledge of her circumstances describe her as an exemplary former colleague who provided excellent work as a senior financial analyst. (AE F) She reported excellent performance evaluations for her 2018 calendar year with her current employer. (AE D) Her peer-reviewed evaluations from her students in the courses she teaches at a local university reflect outstanding ratings in all aspects of her teaching knowledge, skills and communication techniques. (AE G) Students surveyed expressed appreciation for the educational experiences they derived from her classes. (AE G)

## **Policies**

By virtue of the jurisprudential principles recognized by the U.S. Supreme Court in *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988), “no one has a ‘right’ to a security clearance.” 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. Eligibility for access to classified information may only be granted “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 AGs list guidelines to be considered by judges in the decision-making process covering DOHA cases. These guidelines take into account factors that could create a potential conflict of interest for the individual applicant, as well as considerations that could affect the individual’s reliability, trustworthiness, and ability to protect classified information. These guidelines include conditions that could raise a security concern and may be disqualifying (disqualifying conditions), if any, and all of the conditions that could mitigate security concerns, if any. These guidelines must be considered before deciding whether or not a security clearance should be granted, continued, or denied. Although, the guidelines do not require judges to place exclusive reliance on the enumerated disqualifying and mitigating conditions in the guidelines in arriving at a decision.

In addition to the relevant AGs, judges must take into account the pertinent considerations for assessing extenuation and mitigation set forth in ¶ 2(a) of the AGs, which are intended to assist the judges in reaching a fair and impartial, commonsense decision based on a careful consideration of the pertinent guidelines within the context of the whole person. The adjudicative process is designed to examine a sufficient period

of an applicant's life to enable predictive judgments to be made about whether the applicant is an acceptable security risk.

When evaluating an applicant's conduct, the relevant guidelines are to be considered together with the following ¶ 2(a) factors: (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 of the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Viewing the issues raised and evidence as a whole, the following individual guidelines are pertinent herein:

### **Foreign Influence**

*The Concern:* Foreign contacts and interests, including but not limited to, business, financial, and property interests, are a national security concern if they result in divided allegiance. They may also be a national security concern if they create circumstances in which the individual may be manipulated or induced to help a foreign person, group, organization, or government in a way inconsistent with U.S. interests or otherwise made vulnerable to pressure or coercion by any foreign interest. Assessment of foreign contacts and interests should consider the country in which the foreign contact or interest is located, including, but not limited to, considerations such as whether it is known to target U.S. citizens to obtain classified or sensitive information or is associated with a risk of terrorism.

### **Burdens of Proof**

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. See *also* Exec. Or. 12968 (Aug. 2, 1995), § 3.1.

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 (4<sup>th</sup> 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**

Applicant and her husband are U.S. citizens: Applicant by birth and her husband by naturalization. She has a half-brother who is a dual citizen and resident of Israel and Jordan and a half-sister who is a citizen and resident of Israel. Applicant's husband owns an inherited interest in one-third of one-sixth of an undivided large tract of land in Iraq, whose estimated worth is \$500,000 USD. Applicant has no control (either individually or jointly with his siblings) over the management and sales of the property and cannot estimate when additional acreage of the tract might be sold.

Additionally, Applicant and her husband own a small piece of property in Jordan that they purchased in 2011. This property is modestly valued at around \$24,000 USD and remains in the possession and control of Applicant and her husband. Besides their property interests in Iraq and Jordan, Applicant's husband has a pension entitlement (valued at \$340 a month USD) from an employee's union in Jordan that he expects to begin receiving payments from in 2020. Security concerns are raised under the foreign influence guideline due to Applicant's longstanding family ties to Israel and Jordan, and due to her husband's real estate interests in Iraq and pension expectancy in Jordan.

Key to the Government's foreign influence concerns are Applicant's extended family members (a half-brother and half-sister) who reside in Israel. Despite encouraging developments in Jordan, Iraq and Israel, each of the countries presents certain heightened risks. In Jordan and Iraq, terrorist attacks and human rights abuses have considerable histories. Terrorist attacks from the Palestinians operating from the Gaza strip have long plagued Israel, and there have been verified incidents of illegal I exporting of dual-use technology by Israel. Because the three countries involved (Jordan, Israel, and Iraq) all present some heightened security risks for applicants who have family and property interests in some or all of the countries, Applicant is exposed to authorities in these countries who might use improper and/or illegal means to obtain classified information in Applicant's possession or control through her half siblings and husband with ties to one or all of the respective countries.

While Applicant's contacts with her half-siblings are infrequent, they are longstanding. And, there is a rebuttable presumption that a person with immediate family members in a foreign country has ties of affection for, or obligation to, her immediate family members, and this presumption covers in-laws (to include Applicant's extended family members residing in Jordan and Iraq) and half siblings who reside in Israel. ISCR case No. 07-06030 at 3 (app. Bd. June 19, 2008); ISCR Case No. 05-00939 at 4 (May 15, 2018)(citing ISCR Case No. 01-03120 at 4 (App. Bd. Feb. 20, 2002)

To be sure, the risk of coercion, persuasion, or duress is significantly greater if the foreign country has an authoritarian government, the government ignores the rule of law including widely accepted civil liberties, a family member is associated with or dependent upon the government, the government is engaged in a counterinsurgency, terrorists cause a substantial amount of death or property damage, or the country is known to conduct intelligence collection operations against the United States. With respect to Jordan, Israel, and Iraq, none of these countries are free from risks of potential hostage taking. Each of these countries, though, maintains strong bilateral relations with the United States and recognizes democratic principles of governance.

Taken together, the personal and financial relationships Applicant has with Jordan, Israel, and Iraq, and the situations that exist in those countries, places a significant burden of persuasion on Applicant to demonstrate that her relationship with any family member living in those countries and property interests she and her husband have in them do not pose irreconcilable security risks. Such risks that cannot be reconciled or otherwise mitigated could potentially place her in a position of having to choose between loyalty to the United States and a desire to assist a relative living in or visiting Jordan, Israel, or Iraq, or to take actions to protect her property interests (directly or indirectly) in any of these countries.

Further, while Applicant's husband's property interests in Iraq and jointly held property in Jordan are relatively small by comparison to their corresponding property interests in the United States, they still present some potential for irreconcilable conflicts of interest. For these reasons, the Government urges security concerns over risks that Applicant and her family and property interests in Jordan, Israel, and Iraq might be subject to exploitation, coercion or duress by civilian or military authorities in these countries to access classified information in Applicant's possession or control. Applicant's family ties and property interests (both direct and indirect through her husband) warrant some application of two of the disqualifying conditions of the foreign influence guideline DC ¶¶ 7(a), "contact, regardless of method, with a foreign family member, business or professional associate, friend, or other person who is a citizen of or resident in a foreign country if that contact creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion" and 7(b), "connections to a foreign person, group, government, or country that create a potential conflict of interest between the individual's obligation to protect classified or sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information or technology."



Applicable, too, to Applicant's situation is ¶ 7(f), "substantial business, financial, or property interests in a foreign country, or in any foreign-operated business that could subject the individual to a heightened risk of foreign influence or exploitation or personal conflict of interest." The reported property interest of Applicant's husband in an undivided one-third of one-sixth tract of land in Iraq that he shares with his sister and brother (both U.S. citizens) is worth in excess of \$500,000 USD, and has netted him \$150,000 USD this year in distributed proceeds from his relatives in Iraq who control the property and any distributions of proceeds netted from sales. Neither Applicant's husband nor siblings have any control over this tract of land.

Potentially covered as well by ¶ 7(f)'s conflict of interest disqualifier are Applicant's residence purchased by Applicant's husband in Jordan for investment purposes in 2011 (worth \$24,011 USD) and the prospective retirement benefits (valued at \$340 USD a month) that Applicant's husband expects to receive in 2020 from an employee's union in Jordan. Neither of these property interests represent significant property interests and warrant only partial application of ¶ 7(f).

True, none of Applicant's half-siblings in Israel have any history to date of being subjected to any coercion or pressure. These historical antecedents limit the risk of any potential conflict situation. And, while the absence of any past coercive measures taken by Israeli authorities does not absolve Applicant from any coercive risks in the future given Israel's checkered history of collection interests in the United States, the risks of any coercive measures being taken against these half-siblings minimizes any potential risks.

Still, the nature of the foreign government (Jordan, Israel, and Iraq in this case), the intelligence-gathering and human rights history of the country (or countries) in issue, and the country's government relations with the United States are among the most important considerations to be considered when assessing risks associated with an applicant's family ties and property interests in that country. See ISCR Case No. 16-02435 at 3 (May 15, 2018)(citing ISCR Case No. 15-00528 at 3 (App. Bd. March 13, 2017) Each of the three countries at issue have maintained good bilateral relations with the United States. While the recent reports of attacks and counterattacks on Iraqi targets raise concerns over the future of the U.S. presence in the country in the wake of Iraq's being drawn into the unfolding military recriminations from the U.S. drone strikes on Soleimani on Iraqi soil, to date the status of the United States presence and role in Iraq has not been reversed or changed in any manifest way.

Although, Applicant's family and property interests in Jordan, Israel, and Iraq, respectfully, place her in a position of having to carry her burden of persuasion that none of her family or property interests in those countries pose any irreconcilable security risks, she should not be forced to choose between loyalty to the United States and a desire to assist or maintain contact with a relative living in any of these countries, or retain property interests in any of these countries that are not shown to present a realistic risk of a conflict.

Mitigation is available to Applicant under the foreign influence guideline of her AGs. Based on her case-specific circumstances, mitigating condition (MC) ¶ 8(a), “the nature of the relationships with foreign persons, the country in which these persons are located, or the persons or activities of these persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interests of a foreign individual, group, organization, or government and the interests of the United States,” applies to Applicant’s situation.

The resident status of Applicant’s half-siblings in Israel, the ownership interests of Applicant’s husband in Iraq and Jordan, and the relatively small pension benefits that her husband stands to receive from an employees union in Jordan, beginning in 2020, create no more than remote risks of a conflict situation that could place Applicant in a position that could force her to choose between her personal interests and the security interests of the United States. Given the substantial financial and family ties that Applicant and her husband enjoy in the United States, any potential conflicts that Applicant could potentially face with her half-siblings in Israel, her husband’s property interests in Iraq, her joint property interest in Jordan, and her husband’s relatively small pension benefit from Jordan, respectively, promise to be minor and reconcilable with Applicant’s sizable family and personal financial interests in the United States.

Because neither Applicant’s relationships with her half-siblings nor her property interests in any of these countries (direct or indirect through her husband) are significant, the risks of her having to make personal choices incompatible with U.S. security interests are minimal. Based on the evidence compiled in this record, safe predictions can be made about the future safety of Applicant’s half-siblings in Israel and her ability to protect the property interests of herself and her husband against any economic pressures brought to bear on her by government officials from any of the three countries addressed.

Other mitigating conditions available to Applicant are ¶¶ 8(c), “contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation,” and 8(f), “the value or routine nature of the foreign business, financial, or property interests is such that they are unlikely to result in a conflict and could not be used effectively to influence, manipulate, or pressure the individual.” In Applicant’s case, she has demonstrated little contact with her half-siblings residing in Israel (last seen at a wedding in Jordan in 2017). And, the property interests she and her husband share in Iraq and Jordan respectively, are relatively small when compared with the values of her residence, retirement benefits, and her husband’s pension benefits from his work in their state of residence. With an estimated net worth of over \$1.3 million, Applicant’s financial interests in the United States leave her husband and herself with too much to gain from their chosen state of residence to leave them vulnerable to risks of foreign influence, manipulation, or pressure.

In sum, Applicant’s connections to her relatives living in Israel and property interest in Jordan and Iraq, respectively, are less significant than her connections to her family members and financial interests in the United States. Her husband’s past support

of the U.S. Government as a transportation engineer for the U.S. State Department assisting the Iraqi government in its reconstruction efforts, the U.S. birth citizenship of herself and two of her children, and the naturalized U.S citizenship of her husband and third child are important factors in weighing the merits of mitigating foreign influence-based security concerns.

To be sure, Applicant has not visited her relatives in Israel and Jordan in over two years and maintains infrequent contact with them. Her husband has no control over decisions on the tract of land he shares ownership with other family members in Iraq, and the property she owns with her husband in Jordan is relatively small. Given these collective circumstances, Applicant's substantial connections to the United States when considered together with her foreign connections are sufficient to overcome the foreign influence security concerns under Guideline B.

### **Whole-person assessment**

Whole-person assessment of Applicant's foreign influence risks to ascertain whether they are fully compatible with eligibility requirements for holding a security clearance takes account of the U.S. citizenship of Applicant, her husband, and her three children. Applicant is a 49-year-old financial analyst for a defense contractor with two half-siblings: one a dual citizen of Israel and Jordan and another who is a citizen and resident of Israel. While she owns property interests in Iraq and Jordan through her husband, most of her financial interests are situated in the United States. Applicant maintains infrequent contact with her half-siblings in Israel and neither provides nor receives financial support from them.

Based on the evidence presented, there is no evidence that her relatives residing in Israel are government employees or military personnel. Nor do any of these half-siblings have any ties or connections to Israel or Jordan. Applicant's husband's honorable service to the U.S. State Department as a transportation attaché in Iraq is well noted and a good indicator of his loyalties to the United States.

A Guideline B decision concerning Jordan, Israel, and Iraq must take into consideration the geopolitical situation and dangers in all three countries. Jordan and Iraq are still countries that pose some heightened risks despite their strong bilateral relationships with the United States. Terrorists continue to threaten the interests of the United States in these countries, and Israel remains a reported major collector of intelligence information in the United States and its allies, and those who cooperate and assist the United States. Jordan and Iraq do not fully comply with the rule of law or protect civil liberties in many instances. Still, based on the developed record, all three governments of these countries remain allies in the war on terrorism.

I have carefully applied the law, as set forth in *Department of Navy v. Egan*, 484 U.S. 518 (1988), Exec. Or. 10865, the Directive, and the AGs, to the facts and circumstances in the context of the whole person. I conclude foreign influence security concerns are mitigated. Eligibility for access to classified information is granted.

## **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 B: FOR APPLICANT

Subparagraphs 1.a through 1.e: For Applicant

## **Conclusion**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

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Roger C. Wesley  
Administrative Judge