



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of: )  
 )  
 [Name Redacted] ) ISCR Case No. 19-03737  
 )  
 Applicant for Security Clearance )

**Appearances**

For Government: Bryan Olmos, Esq., Department Counsel  
For Applicant: *Pro se*

05/27/2022

**Decision**

LYNCH, Noreen A., Administrative Judge:

This case involves security concerns raised under Guideline B (Foreign Influence) and Guideline C (Foreign Preference). Applicant has mitigated both guideline concerns. Eligibility for access to classified information is granted.

**Statement of the Case**

Applicant submitted a security clearance application (SCA) on September 14, 2016. On June 1, 2020, the Defense Counterintelligence and Security Agency Consolidated Adjudications Facility (DCSA CAF) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guidelines B, foreign influence, and C, foreign preference explaining why it was unable to grant or continue a security clearance for him. The DCSA CAF took the action under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AG) effective within the DOD on June 8, 2017.

On March 4, 2021, Applicant responded to the SOR allegations and requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). Referral of the case to the Hearing Office was delayed because of the COVID 19 pandemic. On November 2, 2021, I was assigned to conduct a hearing to determine whether it is clearly consistent with the interests of national security to grant or continue security clearance eligibility for Applicant. A notice of hearing was issued on January 20, 2022, scheduling the hearing for February 24, 2022. I convened the hearing as scheduled.

At the hearing, two Government exhibits (GEs 1-2) and 10 Applicant exhibits (AEs A-J) were admitted in evidence without any objections. At the Government's request, I indicated that I would accept a Request for Administrative Notice – Israel, dated February 11, 2022, as a hearing exhibit (HE 1), subject to any comments or objections by Applicant. Applicant and his co-worker testified, as reflected in a hearing transcript (Tr.) received on March 3, 2022.

### **Ruling on Request for Administrative Notice**

At the hearing, the Government submitted a request for administrative notice concerning Israel dated February 11, 2022. The Government request for administrative notice was based on five publications of the U.S. State Department: *2020 Country Reports on Human Rights Practices – Israel, West Bank, and Gaza*, dated March 30, 2021; *Israel, The West Bank and Gaza Travel Advisory*, dated April 26, 2021; *Israel 2020 Crime & Safety Report*, dated May 4, 2020; *Israel, the West Bank and Gaza Country Information*, dated April 26, 2021; and *Country Reports on Terrorism 2019*, dated June 24, 2020.

Also, in accord with my obligation to take note of current conditions in the country at issue in a Guideline B case, I reviewed an updated travel advisory from the U.S. State Department, *Israel, The West Bank and Gaza Travel Advisory*, dated November 22, 2021, and, for background information regarding relations between Israel and the United States, I reviewed the State Department's Bilateral Relations Fact Sheet, *U.S. Relations with Israel*, dated January 20, 2021. Both publications were accessed online at [www.state.gov](http://www.state.gov).

### **Findings of Fact**

Applicant is 37 years old. He has been married to his wife since 2012. They have two young sons (Tr. 12) In 2007, he earned a bachelor's degree of science in mathematics and physics and his doctorate in 2018, both from U.S. universities. Applicant worked for various companies in the United States, on a post doctorate fellowship for a federal government agency, and performed research for that U.S. government agency from 2017 to 2018. He has been employed with his current employer since February 2020, and is sponsored for a security clearance. (Tr. 40) This is Applicant's first application for a security clearance, dated 2016. (GE 1)

Applicant was born in the United States to U.S. parents who are citizens and residents of the United States, but possess dual citizenship with Israel. In 1985, when Applicant was nine months old, his parents moved to Israel because they were idealistic in nature, not because they were unhappy with the United States. (Tr. 29) Thus, Applicant is a dual citizen of the United States and Israel, and has a U.S. passport and an Israeli passport. (GE 1) Applicant's family had never lived in Israel prior to that time. Any Jewish person is allowed to go to Israel and claim a right of Israeli citizenship. Applicant and his family travelled back to the United States annually and maintained close ties with their extended family, most of whom remain based in America. Applicant is close to his grandparents, aunts, uncles, and cousins who reside in the United States. (Tr. 16) When Applicant was 16, his parents decided it was time to move back to the United States permanently to care for their aging parents.

After Applicant's, graduation from a U.S. undergraduate school in 2007, he felt a longing to return to Israel for the culture of his youth. (Tr. 27, 30) He wanted to travel around Europe and Morocco and wanted to go to Israel for a sense of adventure. (Tr. 32) He lived with his cousin who is also an immigrant from the United States. He obtained a job in Israel, but was drafted by the Israeli Defense Forces (IDF) from about April 2008 until November 2008. (SOR 1.b) Applicant had the choice to serve this mandatory requirement or be sent to jail. While in the IDF, he served as a truck driver. (Answer to SOR) Applicant has no plans on serving in the IDF in the future, but if drafted, while in Israel, he will have no choice but to serve or be jailed. SOR 1.c (GE 2)

During his time in Israel, Applicant enrolled in a two-year master's program at an Israeli Institute of Technology. This Institute is sponsored, in part, by private donations from American Jews. (Tr. 34) He met his girlfriend, who later became his wife. She is an American citizen and was studying abroad in Israel. He stayed there to be with her. (Tr. 32) Applicant returned to the United States in 2011. Upon his return to the United States. Applicant did some work and research for U.S. government agencies.

Applicant's wife does not possess dual citizenship. (Tr. 40) She is a cantor in a temple in the United States. (Tr. 40) Their two children were born in the United States, but do have dual citizenship. (Tr. 42) Other than the period from 2007 and 2011, Applicant has been based in the United States. (Tr. 26) His wife occasionally takes students who are sponsored by private donations to visit Israel and experience what it is like. (Tr.41) The purpose of the short visit is to introduce young Jews to their heritage. The trips may occur every two years. (Tr. 42) She has never lived in Israel.

Applicant was adamant that he maintains his Israeli citizenship out of emotional and spiritual ties not because he has a preference for Israel over the United States. (SOR 1.a). His family, along with other American-Jewish persons are fully devoted to the United States. His grandfather served in the U.S. military and is a veteran. His other grandfather served on the national energy committee of President Carter. In tandem, they each served various leadership positions in their local Jewish communities and advocated for the state of Israel. (AE F)

The last time Applicant visited Israel was in 2018 to attend a wedding. (Tr. 25, GE 1) He had been travelling from about 2010 to 2015 to see family. (Tr. 48) He noted that he spent a month in 2013 to trek across the desert with his brother. (GE 1)

Applicant explained that due to professional and personal ties to the United States, it is highly unlikely that he would move back to Israel for any extended period of time. (Tr. 44) From a practical point of view, neither his wife nor he, could get professional positions in Israel. She is a cantor in a temple and they do not allow female cantors in Israel. He is involved in a nuclear energy program for the DOD. (Tr. 44)

Applicant's top priority is his immediate family, all of whom live in the United States. His parents live nearby and his children are deeply committed to their grandparents. His wife's parents are in the United States and are U.S. citizens, and do not have dual citizenship. His siblings live in the United States. Applicant's wife has some cousins in Israel with whom she has no contact. (Tr. 48) Applicant no longer has contacts with the people he met in the IDF. His last communication was in 2016. He has no friends or family who serve within the IDF. (Tr. 51)

Applicant and his wife own a home in the United States of considerable value. (AE J) They both have good salaries. Applicant has investments in the United States worth about \$84,000. (AE J) He provided documentation to prove his assertions. (AE J) Applicant has one account in Israel with a few hundred dollars. He did not close it, but never invested money in it. Israel charges fees for the account, so he may have a negative balance. He stands to inherit nothing in Israel.

Applicant would not have access to Israeli healthcare benefits because he has not paid Israeli taxes for the last ten years. The taxes allow you to benefit from the Israeli health care. This is true even if you are not living in Israel. Applicant would not gain any immediate benefit or financial gain by returning to Israel. He receives no pension from his IDF service. He is willing to give up his Israeli passport. (GE 1)

When Applicant completed his September 14, 2016 SCA, and his DOHA interrogatories, he disclosed people who he knew from the IDF. Now, he no longer keeps in contact with them. (GE 2) He listed his trips to Israel and the number of days he was in Israel. (GE 1) He listed the employer he worked for when in Israel. Applicant no longer has contact with the people he knew in the IDF since so many years have gone by. The SCA also contained his other trips to Europe for tourism. (GE 1) He responded negatively to an inquiry into whether he has had, within the last seven years, any close or continuing contact with a foreign national to whom he was "bound by affection, influence, common interests, and/or obligation." (GE 1.) Applicant did not think of friends as foreign nationals because he became friends with them in childhood.

On September 17, 2018, Applicant was interviewed by an authorized investigator for the Office of Personnel Management (OPM). He was asked a question about his allegiance to Israel or the U.S.. He does not remember the question exactly but, stated he had never been in a position to choose. (SOR 1.a) Applicant further stated that he

maintains his Israeli citizenship out of emotional ties, and he is not willing to renounce his Israeli citizenship because it would be spiritually disruptive. (SOR 1.a) The OPM summarized interview states:

Subject contemplated a moment so that he could respond to the question. He stated that he has never had any conflicts with any sense of allegiance to Israel or the United States. He admits to saying that at the time. He does feel connected to Israel and allegiance to the United States. He maintains his Israeli citizenship out of emotional ties. Applicant also answered that the report does not accurately reflect the information provided during the interview. He stated that at the time, he was considering the possibility of returning to Israel but at the present time, due to both personal and professional reasons, he is committed to remaining in the United States and serving as a loyal citizen thereof.

Applicant told the investigator that he served in the IDF, which is mandatory. That has already been discussed earlier in the decision. (SOR 1.b) As to allegation SOR 1.c, that Applicant has a standing obligation to the IDF and he intends on fulfilling this obligation, Applicant stated that this statement is incomplete. (Answer to SOR), not in any specialized (combat, intelligence) position. Applicant stated that he has no plans to serve again in the IDF. He served as a truck driver. (GE 2) While he lived in Israel, he had a standing obligation to the IDF. That is not the case now, (GE 2) He has no rights, privileges, or benefits owed to or received from Israel. (GE 2) He stated: "I have no plans to move to Israel. I am full devoted to the United States, and my feelings for my Jewish heritage in Israel do not conflict." (Tr. 63)

At the hearing, Applicant related that this narrative is common among American Jews. Although religiously affiliated with Israel, we are no less than fully devoted U.S. citizens. (Tr. 63) He stated that he has never received encouragement from any companies foreign intelligence or security service companies urging him to engage in industrial espionage. (GE 2)

On June 1, 2020, the DCSA CAF issued an SOR to Applicant alleging foreign influence security concerns because of his extended relatives who are citizens and residents of Israel. (SOR 2.a) "I want to emphasize again that the only reason I listed friends as foreign contacts is because I met them when they lived in the US, as Americans." (GE 2.) Otherwise stated, Applicant has no reportable foreign contacts beyond these friends, who were living in the United States when he met them. Some were actually from other European countries when he was studying in Israel. (GE 1)

Applicant's brother and sister live in the United States. His mother and father, and his wife's parents live in the United States. They have strong ties to the United States. He has many cousins living in the United States. (Tr. 45) Applicant's wife has second cousins living in Israel. (Tr. 47) She does not maintain close contact with them. The contacts are on an irregular basis by email, text, or phone.(GE 1 pg 69-71) Applicant's aunt and uncle live in Israel, but are U.S. citizens.( Tr.73)

Applicant's work colleague testified on his behalf. He has a security clearance and testified that he works closely with Applicant. (Tr. 77) The project that they work on for the DOD is to enable the United States to reduce reliance on oil sources overseas. (Tr. 78) The team benefits highly from Applicant's work. (Tr. 82) He recommends Applicant and attests to the fact that he would never reveal proprietary or classified information on the project. (Tr. 84) The witness has been to Applicant's home and met his family. (Tr.90)

Applicant has no preference for Israel. He intends to "serve [our] country for the rest of [his] life." He is grateful to be able to use his skills to contribute to the national security and considers himself fortunate to work for his employer. (AE K.) He is familiar with his reporting responsibilities with regard to foreign contacts and attempts at foreign influence. He asserts that if either friend X or friend Y were to ask any probing questions about the nature of his work or attempt to influence him, he would report it immediately and follow appropriate security procedures. (AE A; Tr. 53.) (AE A-E)

As the lead designer, developer, and tester for the search-based operations component of a complex project, Applicant had another great year during his time at the laboratory in 2020. (AE G.) Applicant was the first one of his work group ever to be selected for their employer's highly competitive scholar's program. (Tr. 27.) When Applicant left the project to pursue his master's degree, his group was "sad" to lose him to graduate school, but knew the laboratory would benefit. (AE G.) Applicant's employer paid his full tuition plus a portion of his salary while he was pursuing his graduate degree. Applicant earned his master's degree in one year and returned to work at the laboratory in May 2021. (AE K; Tr. 27-28.)

### **Administrative Notice**

Administrative notice is not taken of the source documents in their entirety, but of specific facts properly noticed and relevant and material to the issues. I take administrative notice of the facts requested by the Government in HE I and of other facts set forth in the source publications from the U.S. State Department, including the updated travel advisory.

Israel is a vibrant parliamentary democracy with a modern economy. Despite the instability and armed conflict that have marked Israel's relations within the region since the country came into existence, Israel has developed a robust, diversified, and technologically-advanced market economy. The relationship between Israel and the United States is friendly and yet complex. Since 1948, the United States and Israel have had a close friendship based on common democratic values, religious affinities, and security interests. Israel is considered a critical ally and friend of the United States. Successive U.S. Administrations and Congress have demonstrated a commitment to Israel's security and to maintaining close bilateral ties. Israel and the United States signed a 10-year \$38 billion memorandum of understanding in 2016 ensuring robust defense cooperation. The United States recognized Jerusalem as Israel's capital in December 2017 without taking a position on Israel's sovereign boundaries. The United States is

Israel's largest single-country trading partner. Israel is a leading recipient of U.S. foreign aid and is a frequent purchaser of major U.S. weapons systems.

In addition to security assistance, the United States participates in a variety of exchanges with Israel, including joint military exercises, research, and weapons development. Through an annual joint counterterrorism group and regular strategic dialogues, the United States and Israel work together to counter a range of regional threats. As of January 20, 2021, the U.S. State Department reported that the "unbreakable bond between [the] two countries has never been stronger." Yet, the interests of the two countries are not always aligned. The United States is committed to promoting a comprehensive and lasting solution to the Israeli-Palestinian conflict and to encouraging increased cooperation and normalization of ties between Israel and Arab and Muslim majority states.

The security situation remains complex in Israel, the West Bank, and Gaza. The U.S. recognition of Jerusalem as Israel's capital in December 2017 and of Israel's sovereignty over the Golan Heights in March 2019, and the U.S. failure to condemn as illegal Israeli settlements in the West Bank, have led to a recent rise in anti-U.S. sentiment, especially in the West Bank. Several demonstrations occurred at U.S. government facilities, and designated foreign terrorist organizations called for the targeting of U.S. persons. Throughout 2019, hostile organizations associated with designated terrorist groups (Lebanese Hizb'allah, the Popular Front for the Liberation of Palestine (PFLP), Hamas, and the Palestinian Islamic Jihad (PIJ)) and Iran launched mortars, rockets, and incendiary devices into Israel. The U.S. State Department currently advises travelers to reconsider travel to Israel due to COVID-19 and to exercise increased caution in Israel due to terrorism and civil unrest. Travel to the West Bank is to be avoided due to COVID-19, and U.S. travelers are warned to exercise increased caution in the West Bank. All travel to Gaza is to be avoided due to COVID-19, terrorism, civil unrest, and armed conflict. Terrorist groups and lone-wolf terrorists continue plotting possible attacks in Israel, the West Bank, and Gaza. Terrorists may attack with little or no warning, targeting tourist locations, transportation hubs, markets/shopping malls, and local government facilities. The U.S. State Department notes that there has been a marked increase in demonstrations throughout Israel, some with little or no warning. The security infrastructure in Gaza is under the control of Hamas, a U.S.-designated foreign terrorist organization, and the environment within Gaza and on its borders is dangerous and volatile.

Persons seeking to enter or depart Israel, the West Bank, or Gaza were reminded as of January 2021 that they are subject to immigration and security screening, possibly including prolonged questioning and physical searches, and that they may be denied entry or exit. Israeli security officials have on occasion requested access to travelers' personal email accounts or other social media accounts as a condition of entry. Travelers were advised that they should have no expectation of privacy for any data stored on their devices or in their accounts under those circumstances.

Civilian authorities in Israel maintained effective control over security services in Israel in 2020. Significant human rights issues in Israel in 2020 included reports of unlawful or arbitrary killings, including targeted killings of Israeli citizens and soldiers. The Israeli Defense Forces reported 190 instances of rocket fire from Gaza into Israeli territory. The Israeli Security Agency foiled 423 significant terror attacks in the West Bank and Jerusalem in 2020. Israeli forces engaged in conflict throughout the year with Palestinian militants in Gaza in response to rocket attacks, incendiary balloons, and attempted infiltrations. The Israeli military and civilian justice systems found that members of the security forces committed human rights abuses on occasion. However, Israel's government took steps to prosecute and punish officials who committed abuses within Israel regardless of rank or seniority. There is no indication that the Israeli government has used coercive methods on its resident citizens to obtain U.S. sensitive information. Nor are there any reports of direct involvement by the Israeli government in targeting the United States.

### **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 as to potential, rather than actual, risk of compromise of classified information. Section 7 of EO 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 *a/so* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## **Analysis**

### **Guideline C (Foreign Preference)**

The SOR alleges that in a 2018 subject interview Applicant stated he did not know if he held allegiance to Israel or the United States, because he had never been in a position to choose and maintains Israeli citizenship out of emotional ties because it would be spiritually disruptive (SOR ¶ 1.a), and he served in the Israeli Defense Force from April 2008 to about November 2008 (SOR ¶ 1.b), and he has a standing obligation to the Israeli Defense Force draft and intends on fulfilling his obligation (SOR ¶ 1.c). The security concern under Guideline C (Foreign Preference) is set out in AG ¶ 9, as follows:

When an individual acts in such a way as to indicate a preference for a foreign country over the United States, then he or she may provide information or make decisions that are harmful to the United States be prone to provide information or make decisions that are harmful to the interests of the United States .Foreign involvement raises concerns about an individual’s judgement, reliability, and trustworthiness when it is in conflict with the U.S. national interests or when the individual acts to conceal it. By itself, the fact that a U.S. citizen is also a citizen of another country is not disqualifying without an objective showing of such conflict or attempt at concealment. The same is true for a U.S citizen’s exercise of any right or privilege of foreign citizenship and any action to acquire or obtain recognition of a foreign citizenship.

Three disqualifying conditions under this guideline are potentially relevant:

AG ¶ 10 (a): applying for and/or acquiring citizenship in another country; and

AG ¶ 10 (d): participation in foreign activities, including but not limited to:

- (1) Assuming or attempting to assume any type of employment, position, or political office in a foreign government or military organization.

Applicant's dual citizenship is not, by itself, a disqualifying condition.<sup>1</sup> Under Guideline C, "the issue is not whether an applicant is a dual national, but rather whether an applicant shows a preference for a foreign country through actions."<sup>2</sup> Thus, the fact that Applicant's parents, both U.S. citizens took him to Israel when he was nine months old was not a deliberate action that he took, after being born as a U.S. citizen. This does not establish AG ¶ 10(a).

Applicant returned to Israel because of his heritage. He was drafted by the IDF and served six months as a truck driver. AG ¶ 10(d)(1) is not established.

Applicant has established the mitigating condition in AG ¶ 11(a) and 11(b) because the dual citizenship is based on his parental citizenship. AG ¶ 11(e) applies because he no longer has the entitlements and benefits as an Israeli citizen (foreign citizenship) that present a national security concern. These actions do not indicate a preference for Israel over the United States. The concerns alleged in SOR under Guideline C are mitigated. Therefore, I resolve SOR ¶¶ 1.a, 1.b, and 1.c in favor of Applicant.

### **Guideline B: Foreign Influence**

The security concern relating to the guideline for foreign influence is articulated in AG ¶ 6:

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 that is 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.

During his childhood and adolescence, Applicant was in Israel because his U.S. parents took him at the age of nine months. Applicant and his parents returned to the United States where they now live. His immediate family and his wife live in the United States and are U.S. citizens. His aunt and uncle live in Israel.

Review of Applicant's foreign contacts and connections is warranted to determine whether they present a heightened risk under AG ¶ 7(a) or create a potential conflict of interest under AG ¶ 7(b). Those disqualifying conditions provide:

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<sup>1</sup> ISCR Case No. 99-0454 at 5, 2000 WL 1805219 (App. Bd. Oct. 17, 2000).

<sup>2</sup> ISCR Case No. 98-0252 at 5 (App. Bd. Sep. 15, 1999).

(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

(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.

Not every foreign contact or tie presents the heightened risk under AG ¶ 7(a). The "heightened risk" denotes a risk greater than the normal risk inherent in having a family member or friend living under a foreign government. The nature and strength of the familial or friendship ties and the country involved (*i.e.*, the nature of its government, its relationship with the United States, and its human rights record) are relevant in assessing whether there is a likelihood of vulnerability to government coercion. The risk of coercion, persuasion, or duress is significantly greater if the foreign country has an authoritarian government; a close friend or family member is associated with, or dependent on, the foreign government; or the country is known to conduct intelligence operations against the United States. In considering the nature of the foreign government, the administrative judge must take into account any terrorist activity in the country at issue. *See generally* ISCR Case No. 02-26130 at 3 (App. Bd. Dec. 7, 2006).

Israel and the United States have long had a close friendship. The United States is committed to Israel's security. However, Guideline B concerns are not limited to countries hostile to the United States. Even friendly nations may have interests that are not completely aligned with the United States. The Appeal Board has long held that "[t]he United States has a compelling interest in protecting and safeguarding classified information from any person, organization, or country that is not authorized to have access to it, regardless of whether that person, organization, or country has interests inimical to those of the United States." *See* ISCR Case No. 02-11570 (App. Bd. May 19, 2004). There is no recent report showing direct involvement by the Israeli government targeting the United States. However, the interests of the two countries have not always been aligned.

There is no evidence that Israel has used coercive methods on its resident citizens to obtain U.S. sensitive information. However, it does not eliminate the *possibility* that Israel would employ some non-coercive measures in an attempt to exploit a relative, friend, or acquaintance. Israel faces threats by jihadist groups, other terrorist organizations, and some states in the region that are avowedly anti-Israel. Within Israel, many of those attacks are directed at Jewish or Israeli interests. Israel attempts to prevent the indiscriminate acts of violence against its citizens or tourists in Israel and strictly enforces security measures designed to combat and minimize the risk presented by terrorism. Nonetheless, the risk of terrorism and civil unrest in Israel have led the U.S.

State Department to continue to advise travelers to exercise increased caution when in Israel.

Applicant maintains some relationship with three cousins who live in Israel but are U.S. citizens. He sees them at weddings, but does not keep in close contact with them. AG ¶ 7(a) applies.

Three mitigating conditions under AG ¶ 8 apply in whole or in part with respect to Applicant's foreign ties and contacts. They are:

(a) the nature of the relationships with foreign persons, the country in which these persons are located, or the positions or activities of those 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;

(b) there is no conflict of interest, either because the individual's sense of loyalty or obligation to the foreign person, or allegiance to the group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the United States, that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest; and

(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.

Applicant ended his communications with the friends he made while in the IDF. The friends that he has are dual citizens. Some live in the United States. His wife is a U.S. citizen. His immediate family live in the United States. However, it is difficult to fully apply AG ¶ 8(a) in mitigation, given the very real risk of terrorism faced by Israeli resident citizens. AG ¶ 8(c) has some applicability in mitigation in that their current contact is casual and infrequent.

In evaluating whether Applicant has "such deep and longstanding relationships and loyalties in the United States" to trigger AG ¶ 8(b) in mitigation, it is noted that, despite spending a gap year studying in Israel, Applicant has not exhibited or expressed any desire or intent to move to Israel. Applicant was raised and educated mainly in the United States, and he has chosen to pursue his career here as a scientist contributing to the U.S. defense effort. He enjoys an excellent reputation for good character and integrity by those persons who have had the opportunity to interact with him on a regular basis. He is not likely to jeopardize his spouse's security or risk his professional reputation by succumbing to any undue foreign influence that could potentially be exerted through his friendships with friends from childhood and adolescence who have chosen to live as Israeli resident citizens. Applicant's clear preference for his life in the United States weighs favorably in

assessing whether he can be expected to resolve any conflict of interest for the United States. AG ¶ 8(b) applies.

### **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 his conduct and all relevant circumstances in light of the nine adjudicative process factors listed at AG ¶ 2(d). Those factors 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.

Those factors have been considered in my evaluation of the Guideline B concerns, but some warrant additional comment. When Applicant completed his SF 86 in 2016, he disclosed many personal contacts living in Israel. None of whom he communicates with now. He now has a better appreciation of the risk of undue foreign influence. While Applicant cannot control the actions of the Israeli government or of foreign actors that may seek to obtain classified or sensitive information from him by pressuring his friends, he can control his response. He credibly asserts that, if his friends in Israel were to ask any probing questions about his work or attempt to exert any foreign influence, he would immediately report it and follow security protocols. After considering the evidence of record, I am persuaded that Applicant can be counted on to fulfill his security obligations.

### **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 C:	FOR APPLICANT
Subparagraphs 1.a-1.c:	For Applicant
Paragraph 2, Guideline B:	For Applicant
Subparagraphs 2.a-2.b:	For Applicant

## **Conclusion**

In light of all of the circumstances, it is clearly consistent with the interests of national security to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

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Noreen A. Lynch  
Administrative Judge