



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



In the matter of:)
)
) ISCR Case No. 23-01334
)
Applicant for Security Clearance)

Appearances

For Government: Jeff A. Nagel, Esq., Department Counsel
For Applicant: *Pro se*

07/18/2024

Decision

HARVEY, Mark, Administrative Judge:

Security concerns under Guideline B (foreign influence) related to Applicant's connections to Lebanon are not mitigated. Eligibility for access to classified information is denied.

Statement of the Case

On December 11, 2022, Applicant completed and signed an Electronic Questionnaires for Investigations Processing (SF 86) or security clearance application (SCA). (GE 1) On November 2, 2023, the Department of Defense (DOD) Counterintelligence and Security Agency (DCSA), Consolidated Adjudication Services (CAS), issued a statement of reasons (SOR) to Applicant 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. (Hearing Exhibit (HE) 2)

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

determine whether a clearance should be granted, continued, denied, or revoked. Specifically, the SOR set forth security concerns arising under Guideline B. (HE 2)

On December 4, 2023, Applicant provided a response to the SOR, and Department Counsel requested a hearing. (HE 3) On January 26, 2024, Department Counsel was ready to proceed. On February 6, 2024, the case was assigned to me. On February 12, 2024, the Defense Office of Hearings and Appeals (DOHA) issued a notice scheduling the hearing for March 26, 2024. (HE 1) The hearing was held as scheduled.

Department Counsel provided two exhibits, and Applicant did not provide any exhibits. (Transcript (Tr.) 11-12, 19; Government Exhibits (GE) 1-GE 2) There were no objections, and all exhibits were admitted into evidence. (Tr. 19) The transcript was received on April 6, 2024.

Legal Issue

Department Counsel requested administrative notice concerning Lebanon. (Tr. 19; HE 5) Applicant did not object, and I granted Department Counsel's motion. (Tr. 19-20) 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) and *McLeod v. Immigration and Naturalization Service*, 802 F.2d 89, 93 n. 4 (3d Cir. 1986)). Usually, administrative notice at ISCR proceedings is accorded to facts that are either well known or from government reports. See Stein, *Administrative Law*, Section 25.01 (Bender & Co. 2006) (listing fifteen types of facts for administrative notice).

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

Findings of Fact

In Applicant's SOR response, he admitted SOR ¶¶ 1.a, 1.c through 1.i, and 1.k with clarifications. (HE 3) He denied SOR ¶¶ 1.b and 1.j. (*Id.*) He also provided mitigating information. (*Id.*)

Applicant is 36 years old, and he is seeking a security clearance to enable him to resume his employment with a Defense contractor. (Tr. 7) In 2009, he received a General Education Diploma (GED). (Tr. 7) He has a bachelor's degree in international relations and a master's degree in engineering management. (Tr. 7-8) In 2018, he married, and his two children are ages one and four. (Tr. 8) He has not served in the U.S. military. (Tr. 9)

From 2016 to 2020, Applicant worked for a Defense contractor in an administrative position, and he did not require a security clearance. (Tr. 9) In 2020, some managers encouraged him to take a more technical role, and he became a customer liaison and later a maintenance lead. (Tr. 9) He had an interim security clearance, and he became unemployed when he did not receive a security clearance. (Tr. 58-59)

Foreign Influence

Applicant was born in Lebanon in 1988. (Tr. 16; GE 1) In 2000, Applicant witnessed the murder of his father by a terrorist. (Tr. 16) The terrorist received six months in jail for the murder. (Tr. 56) Applicant's mother wanted him to leave Lebanon because of concerns about possible harassment and persecution. (Tr. 16-17) In 2004, he immigrated to the United States. (Tr. 8-9, 16) He received asylum in 2006, and in 2014, he received U.S. citizenship. (Tr. 17)

From November 2014 to present, Applicant has lived in a country in Southwest Asia. (Tr. 17-18, 23) For the last seven years, he has worked for the same large Defense contractor. (Tr. 18)

Applicant lived in the United States for a total of about 10 years, and the compound where he was employed by a Defense contractor in Southwest Asia is largely comprised of U.S. citizens. (Tr. 24) He does not own any property in the United States; however, he has a retirement account with the Defense contractor, which contains about \$55,000. (Tr. 24-25) His bank account is with a U.S. bank. His two children live with Applicant in the Southwest Asian country, and his children are U.S. citizens. (Tr. 25)

In the previous seven years, Applicant stayed in Lebanon on 22 occasions and visited family and friends. (GE 10) On his most recent trip, Applicant, his spouse, and two children stayed for 20 days in Lebanon in August 2023. (Tr. 27)

SOR ¶ 1.a alleges Applicant's mother, spouse, sister, and brother are citizens and residents of Lebanon. Applicant's spouse lives with him in the Southwest Asian country. (Tr. 25) In December 2023, she received her permanent U.S. Visa or "green card." (Tr. 26) She intends to apply for U.S. citizenship as soon as she is eligible. (Tr. 26) Applicant's mother is a citizen and resident of Lebanon. (Tr. 28) She has owned a business unrelated to the government in Lebanon, which is valued at about \$100,000 for about 35 years. (Tr. 28) He talks to his mother at least once a week. (Tr. 29)

Applicant communicates with his brother and sister, who are a citizens and residents of Lebanon, "every couple of months" and when he goes to Lebanon, he visits them. (Tr. 32-34) He does not provide financial assistance to them. (Tr. 32-33) His sister's husband works for a nongovernmental organization. (Tr. 32) His brother works for his mother's business. (Tr. 33) His mother, brother, and sister live in an area of Lebanon, which is under the control of a major terrorist organization; however, the danger of a conflict in their specific village is low. (Tr. 33-34, 37-38, 52-53)

SOR ¶ 1.b alleges and the record establishes that Applicant's brother is a citizen of Lebanon and a resident of a Western European country. He has lived in a Western European country for 20 years. (Tr. 35) He communicates with his brother about every 10 weeks. (Tr. 35)

SOR ¶ 1.c alleges Applicant has continuing contact with about 57 in-laws, extended family, and friends who are citizens of Lebanon and who reside in multiple

foreign countries. Applicant's spouse communicates with her parents about once a week. (Tr. 37, 53-54) Applicant's parents-in-law live in the same area of Lebanon as his mother, brother, and sister. (Tr. 37) He speaks to his parents-in-law about every three months. (Tr. 37) Applicant and his spouse do not provide financial support to his parents-in-law. (Tr. 37) He does not maintain continuing contact with the other 55 persons cited in SOR ¶ 1.c. (Tr. 38-39)

SOR ¶¶ 1.d and 1.e allege Applicant's cousin and friend are citizens of a Western European country and residents of Southwest Asian countries. His cousin works in the same country as Applicant, and they have monthly contacts. (Tr. 40-41) The friend is his spouse's friend. (Tr. 41)

SOR ¶¶ 1.f and 1.g allege two of Applicant's cousins are citizens of Lebanon and one is an enlisted soldier and the other is a police officer in Lebanon. He communicates with the enlisted soldier about once a year. (Tr. 44)

SOR ¶ 1.h alleges seven of Applicant's relatives are citizens and residents of Lebanon and work for an international organization. Applicant admitted the allegation. (Tr. 46) They have worked for the international organization for 10 to 25 years. (Tr. 47) He visited two of them when he was in Lebanon in August 2023. (Tr. 48)

SOR ¶ 1.i alleges Applicant and his spouse own properties in Lebanon valued at about \$145,000. In 2015, Applicant inherited some property located in Lebanon. (Tr. 50) He is making monthly installment payments to pay for improvements to one property. (Tr. 50) He would like to sell the properties in Lebanon; however, the risk of conflict in the area makes selling property difficult. (Tr. 50)

SOR ¶ 1.j alleges Applicant provides annual support to his mother who is a citizen of Lebanon. He provided a total of about \$7,000 to his mother. (Tr. 30) In the future, he will provide financial assistance to her if she needs it. (Tr. 31)

SOR ¶ 1.k alleges Applicant provided about \$900 in support to his uncle, aunt, and two cousins who are citizens of Lebanon. He provided a total of about \$900 to his Lebanese relatives, not including his mother, on an as-needed basis. (Tr. 40) He gave the money to his mother, and she gave it to the relatives. (Tr. 40)

Applicant would love to return to his work for the Defense contractor or the U.S. Government. (Tr. 58) He said:

I became [a] U.S. citizen in 2014. I pledged allegiance under oath to the U.S. when I became a citizen in 2014. But I really felt like an American as soon as I moved to the U.S. in 2004 and I got assimilated into the U.S. culture, the people. I moved to the U.S. when I was 16, and I moved out, or moved away 10, 11, years later.

These are the years that I felt like, you know, I became a man, I became who I am today. I am a U.S. citizen only. I don't have a dual citizenship [to]

any other countries. I may have foreign contacts, but my allegiance is to the U.S. I am enrolled in the Selective Service and would defend the U.S. any time a need arises. (Tr. 57)

Lebanon

Lebanon is a parliamentary republic based on the 1943 National Pact, which apportions governmental authority among a Maronite Christian president, a Shia speaker of the Chamber of Deputies (parliament), and a Sunni prime minister. On May 15, 2022, the government conducted parliamentary elections that international observers considered free and fair.

The U.S. Department of State has issued a Level 3, Reconsider Travel advisory for Lebanon due to crime, terrorism, armed conflict, civil unrest, kidnapping and the U.S. Embassy has a limited capacity to provide support to U.S. citizens. Some areas have increased risk. The Department of State has issued notices not to travel for the following areas in Lebanon: to the border with Syria due to terrorism and armed conflict; to the border with Israel due to the potential for armed conflict; or to refugee settlements due to the potential for armed clashes.

Local security authorities in Lebanon have noted a rise in violent crimes, including political violence. Multiple unsolved killings in Lebanon may have been politically motivated. Terrorist groups continue plotting possible attacks in Lebanon. Terrorists may conduct attacks with little or no warning targeting tourist locations, transportation hubs, markets/shopping malls, and local government facilities. Kidnapping, whether for ransom, political motives, or family disputes, has occurred in Lebanon. Suspects in kidnappings may have ties to terrorist or criminal organizations.

There is potential for death or injury in Lebanon because of terrorist attacks. Violent extremist groups, including U.S. government-designated terrorist organizations, operate in Lebanon. ISIS and Al-Nusrah Front have claimed responsibility for suicide bombings in Lebanon. U.S. citizens have been the targets of terrorist attacks in Lebanon. The threat of anti-Western terrorist activity persists, as does the risk of death or injury to non-targeted bystanders. Clashes between Lebanese authorities and criminal elements continue to occur in areas of the Bekaa Valley and border regions. Hizballah maintains a strong presence in the Bekaa Valley, in addition to areas in southern Lebanon and south Beirut. Hizballah has been the target of attacks by other extremist groups for their support of the Assad regime in Syria.

Terrorist groups operating in Lebanon include U.S. government-designated foreign terrorist organizations such as Hizballah and ISIS. Hizballah continued armed militia activities in Iraq, Syria, and Yemen in collaboration with the Iranian regime. Lebanon's Palestinian refugee camps remained largely outside the control of Lebanese security forces and posed a security threat because of the potential for militant recruitment and terrorist infiltration. Several individuals on the FBI's most wanted list and the Department of State's Rewards for Justice list reportedly remained in Lebanon.

Iran continues to provide Hizballah with most of its funding, training, weapons, and explosives, as well as political, diplomatic, monetary, and organizational aid. Iran's annual financial backing to Hizballah - which has been estimated to be hundreds of millions of dollars annually-accounts for the overwhelming majority of the group's annual budget. This support has made Hizballah a dangerous terrorist partner with Iran and the most-capable terrorist organization in Lebanon. The Assad regime in Syria has provided training, weapons, and diplomatic and political support to Hizballah. Hizballah also receives funding in the form of private donations from some Lebanese Shia diaspora communities worldwide, including profits from legal and illegal businesses. These include smuggling contraband goods, passport falsification, narcotics trafficking, money laundering, and credit card, immigration, and bank fraud.

In its 2023 Annual Threat Assessment, the Office of the Director of National Intelligence assessed that Iran and Lebanese Hizballah remain committed to conducting terrorist attacks and could seek to do so on U.S. soil. While ISIS and al-Qa'ida suffered major leadership losses in 2022, degrading external operations and capabilities, both organizations' offshoots continue to exploit local conflicts and broader political instability to make territorial and operational gains. Lebanese Hizballah will continue to develop its global terrorist capabilities as a complement to the group's growing conventional military capabilities in the region.

Hizballah seeks to reduce U.S. influence in Lebanon and the broader Middle East. Hizballah maintains the capability to target U.S. persons and interests in the region, worldwide, and, to a lesser extent, in the United States. Iran could benefit strategically if Hizballah were to conduct terrorist activity on U.S. soil. The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) has imposed sanctions against multiple people and entities connected to Hizballah. The U.S. Department of Justice has prosecuted individuals connected to Hizballah for espionage, terrorism, and export violations. Significant human rights violations continue to occur in Lebanon.

Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, "no one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information." *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicant's eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so." Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge's

overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information. Clearance decisions must be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See Exec. Or. 10865 § 7. Thus, nothing in this decision should be construed to suggest that it is based, in whole or in part, on any express or implied determination about applicant’s allegiance, loyalty, or patriotism. It is merely an indication the applicant has not met the strict guidelines the President, Secretary of Defense, and Director of National Intelligence have established for issuing a clearance.

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

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his 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

Foreign Influence

AG ¶ 6 explains the security concern about “foreign contacts and interests” stating:

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.

AG ¶ 7 lists conditions that could raise a foreign influence security concern and may be disqualifying in this case:

(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;

(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;

(e) shared living quarters with a person or persons, regardless of citizenship status, if that relationship creates a heightened risk of foreign inducement, manipulation, pressure, or coercion; and

(f) substantial business, financial, or property interests in a foreign country, or in any foreign owned or foreign-operated business that could subject the individual to a heightened risk of foreign influence or exploitation or personal conflict of interest.

Applicant's mother, sister, and brother are citizens and residents of Lebanon. Applicant's spouse is a citizen of Lebanon, and she lives with him in a Southwest Asian country. In December 2023, his spouse received a permanent U.S. Visa or "green card." She intends to apply for U.S. citizenship as soon as she is eligible. He talks to his mother at least once a week, and he communicates with his brother and sister "every couple of months," and when he goes to Lebanon, he visits them.

Applicant lives with his spouse, and she communicates with her parents about once a week. They live in the same area of Lebanon as Applicant's mother, brother, and sister. He speaks to his parents-in-law about every three months. Applicant and his spouse own properties in Lebanon valued at about \$145,000. Applicant is making installment payments on one property.

The mere possession of close family ties with people living in a foreign country is not, as a matter of law, disqualifying under Guideline B. However, if an applicant, his or her spouse, or someone sharing living quarters with them, has such a relationship with

even one person living in a foreign country, this factor alone is sufficient to create the potential for foreign influence and could potentially result in the compromise of classified information. See ISCR Case No. 08-02864 at 4-5 (App. Bd. Dec. 29, 2009) (discussing problematic visits of that applicant's father to Iran).

In ISCR Case No. 17-01979 at 5 (App. Bd. July 31, 2019) the Appeal Board reversed the grant of a security clearance and noted, "Application of the guidelines is not a comment on an applicant's patriotism but merely an acknowledgment that people may act in unpredictable ways when faced with choices that could be important to a loved-one, such as a family member."

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 living under a foreign government. The nature and strength of the 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 coercion. "[T]he nature of the foreign government involved, and the intelligence-gathering history of that government are among the important considerations that provide context for the other record evidence and must be brought to bear on the Judge's ultimate conclusions in the case. The country's human rights record is another important consideration." ISCR Case No. 16-02435 at 3 (App. Bd. May 15, 2018) (citing ISCR Case No. 15-00528 at 3 (App. Bd. Mar. 13, 2017)). Another important consideration is the nature of a nation's government's relationship with the United States. These factors are relevant in assessing the likelihood that an applicant's family members or friends living in that country are vulnerable to government coercion or inducement.

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, terrorism causes a substantial amount of death or property damage, or the country is known to conduct intelligence collection operations against the United States. The relationship of Lebanon with the United States and the situations involving terrorists and insurgents in that country places a significant burden of persuasion on Applicant to demonstrate that his relationships with anyone living in that country does not pose a security risk because of the risks due to terrorist activities in that country. Applicant should not be placed into a position where he might be forced to choose between the protection of classified information and concerns about assisting someone living in Lebanon.

The issue under Guideline B is whether Applicant has ties or contacts with friends or associates in Lebanon, which raise security concerns because those ties and contacts create a potential vulnerability that criminals, or terrorists could seek to exploit in an effort to get unauthorized access to U.S. classified information that he has by virtue of a security clearance. Applicant may be vulnerable to influence or pressure exerted on, or through, his family.

International terrorist groups are known to conduct intelligence activities as effectively as capable state intelligence services, and Lebanon has a significant problem with terrorism and crime. Applicant's family living in Lebanon "could be a means through which Applicant comes to the attention of those who seek U.S. information or technology and who would attempt to exert coercion upon him." ADP Case No. 14-01655 at 3 (App. Bd. Dec. 9, 2015) (citing ISCR Case No. 14-02950 at 3 (App. Bd. May 14, 2015)).

Applicant's relationships with family living in Lebanon create a potential conflict of interest because terrorists could place pressure on them to attempt to cause Applicant to compromise classified information. Those relationships create "a heightened risk of foreign inducement, manipulation, pressure, or coercion" under AG ¶ 7. Department Counsel produced substantial evidence of Applicant's relationships with family living in Lebanon. Department Counsel also produced evidence of the bombings and other terrorist activity in Lebanon. AG ¶¶ 7(a), 7(b), 7(e), and 7(f) apply, and further inquiry is necessary about potential application of any mitigating conditions.

AG ¶ 8 lists conditions that could mitigate foreign influence security concerns including:

(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;

(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;

(d) the foreign contacts and activities are on U.S. Government business or are approved by the agency head or designee;

(e) the individual has promptly complied with existing agency requirements regarding the reporting of contacts, requests, or threats from persons, groups, or organizations from a foreign country; and

(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.

As indicated in the disqualifying conditions of the Foreign Influence section, *supra*, Applicant has relationships with family living in Lebanon. He also owns property in Lebanon. These issues increase the risk that family in Lebanon could be targeted to put pressure on Applicant to provide classified information.

The Appeal Board has concluded that contact every two months or three months constitutes “frequent contact” under AG ¶¶ 7 and 8. ISCR Case No. 14-05986 at 3-4 (App. Bd. Oct. 14, 2016). See *also* ISCR Case No. 04-09541 at 2-3 (App. Bd. Sept. 26, 2006) (finding contacts with applicant’s siblings once every four or five months not casual and infrequent and stating “The frequency with which Applicant speaks to his family members in Iran does not diminish the strength of his family ties.”). Frequency of contact is not the sole determinant of foreign interest security concerns.

Applicant’s SOR does not allege that he visited Lebanon 22 times from December 2014 to present, and that his spouse has frequent contacts with her parents who are citizens and residents of Lebanon. In ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006), the Appeal Board listed five circumstances in which conduct not alleged in an SOR may be considered, stating:

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

Id. (citing ISCR Case No. 02-07218 at 3 (App. Bd. Mar. 15, 2004); ISCR Case No. 00-0633 at 3 (App. Bd. Oct. 24, 2003)). See *also* ISCR Case No. 12-09719 at 3 (App. Bd. Apr. 6, 2016) (citing ISCR Case No. 14-00151 at 3, n. 1 (App. Bd. Sept. 12, 2014); ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006)). The non-SOR information discussed above will not be considered except for the five purposes listed above.

A key factor in the AG ¶ 8(b) analysis is Applicant’s “deep and longstanding relationships and loyalties in the U.S.” His relationship with the United States must be weighed against the potential conflict of interest created by his connections to Lebanon. Applicant was born in Lebanon, and he moved to the United States when he was 16 years old. In 2014, he was naturalized as a U.S. citizen. He was educated in the United States, and he resided in the United States for 10 years. His spouse intends to become a U.S. citizen. His two children are U.S. citizens. He has worked for the same Defense contractor for about seven years.

These factors are balanced against the security concerns outlined in the SOR. Applicant’s access to classified information could add risk to his family in Lebanon. There is no allegation that he would choose to help the terrorists against the interests of the United States. A Guideline B adjudication is not a judgment on an applicant’s character or loyalty to the United States. It is a determination as to whether an applicant’s circumstances foreseeably present a security risk. See ISCR Case No. 19-00831 at 5

(App. Bd. July 29, 2020). The concern here pertains to the risk to his family living in Lebanon and how that risk could be used to coerce Applicant. It does not relate to his loyalty or patriotism to the United States.

Applicant has not rebutted the concern arising from his relationships with family in Lebanon. His travels to Lebanon are also a factor indicating his care and concern for citizens and residents of Lebanon and his affection for them. His connections to the United States, taken together, are insufficient to overcome the foreign influence security concerns under Guideline B.

Whole-Person Concept

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

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

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

Applicant is 36 years old, and he is seeking to resume his employment with a Defense contractor. He has a bachelor's degree in international relations, and a master's degree in engineering management. In 2018, he married, and his two children are ages one and four. He has worked for the same Defense contractor for about seven years.

Applicant has important connections to the United States as discussed under Guideline B. His U.S. citizenship, his children's U.S. citizenship, his spouse's intention to apply for U.S. citizenship, and his contributions to DOD are some of his most important connections to the United States. He made a credible and sincere statement about his strong commitment to the United States.

The reasons for denying Applicant's security clearance are more persuasive. A Guideline B decision concerning Lebanon must take into consideration the geopolitical situation and dangers in that country. See ISCR Case No. 04-02630 at 3 (App. Bd. May 23, 2007) (remanding because of insufficient discussion of geopolitical situation and

suggesting expansion of whole-person discussion); ISCR Case No. 02-26130 at 3 (App. Bd. Dec. 7, 2006) (reversing grant of security clearance because of terrorist activity in the West Bank). Lebanon is a dangerous place because of violence from terrorists and criminals and the risk of war with Israel. Terrorists continue to threaten the interests of the United States, and those who cooperate and assist the United States.

Aside from his contacts with close relatives (his parents and siblings) and his spouse's contacts with close relatives (her parents), the other contacts with relatives and friends in Lebanon are mitigated because they are relatively infrequent and unlikely to result in a risk of coercion from nefarious entities in Lebanon.

Applicant visited Lebanon 22 times from December 2014 to present. He has frequent contacts with his mother and siblings who are citizens and residents of Lebanon. His spouse has frequent contacts with her parents. Concern for and loyalty to family living in Lebanon is a positive character trait. However, Applicant did not meet his burden of showing that he was unlikely to come to the attention of those interested in acquiring U.S. classified information. "Application of the guidelines is not a comment on an applicant's patriotism but merely an acknowledgment that people may act in unpredictable ways when faced with choices that could be important" to a family member. *See Generally* ISCR Case No. 17-01979 at 5 (App. Bd. July 31, 2019).

It is well settled that once a concern arises regarding an applicant's security clearance eligibility, there is a strong presumption against granting a security clearance. *See Dorfmont*, 913 F. 2d at 1401. I have carefully applied the law, as set forth in *Egan*, Exec. Or. 10865, the Directive, the AGs, and the Appeal Board's jurisprudence to the facts and circumstances in the context of the whole person. Applicant failed to mitigate foreign influence security concerns.

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:	AGAINST APPLICANT
Subparagraph 1.a:	Against Applicant
Subparagraph 1.b:	For Applicant
Subparagraph 1.c:	Against Applicant
Subparagraphs 1.d through 1.h:	For Applicant
Subparagraph 1.i:	Against Applicant
Subparagraphs 1.j and 1.k:	For Applicant

Conclusion

In light of all of the circumstances in this case, it is not clearly consistent with the interests of national security to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

Mark Harvey
Administrative Judge