



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



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 24-01118

**Appearances**

For Government: Andrew Henderson, Esq., Department Counsel

For Applicant: *Pro se*

05/07/2025

**Decision**

HARVEY, Mark, Administrative Judge:

Guideline F (financial considerations) security concerns are mitigated; however, Guideline B (foreign influence) security concerns are not mitigated. Eligibility for access to classified information is denied.

**Statement of the Case**

On August 1, 2023, Applicant completed an Electronic Questionnaires for Investigations Processing or security clearance application (SCA). (Government Exhibit (GE) 1) On October 2, 2024, the Defense Counterintelligence and Security Agency (DCSA) issued a statement of reasons (SOR) to Applicant under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960); Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive) (January 2, 1992), as amended; 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 Defense Office of Hearings and Appeals (DOHA) 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 Guidelines F and B. (HE 2) On November 7, 2024, Applicant provided his response to the SOR. (HE 3) On December 2, 2024, Department Counsel was ready to proceed. On December 11, 2024, the case was assigned to me. On December 30, 2024, DOHA issued a notice setting the hearing for February 3, 2025. (HE 1) On February 3, 2025, DOHA issued an amended notice scheduling the hearing for February 21, 2025. The hearing was held as scheduled.

During the hearing, Department Counsel offered 12 exhibits into evidence, and Applicant offered one exhibit into evidence. (Tr. 11, 14-17; GE 1-GE 12; Applicant Exhibit (AE) A (11 pages)) All proffered exhibits were admitted into evidence. (Tr. 14-15) On March 3, 2025, DOHA received a copy of the transcript. Applicant provided one post-personal appearance exhibit, which was admitted into evidence without objection. (AE B) The record closed on March 20, 2025. (Tr. 50, 54)

## **Legal Issue**

Department Counsel requested administrative notice concerning the Republic of Iraq (Iraq). (Tr. 15; HE 5) Applicant did not object, and I granted Department Counsel's motion. (Tr. 15) 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). The government's administrative notice document is substantially quoted in the Iraq section with minor changes and deletion of the substantial list of human rights issues, *infra*. Footnotes and references have been omitted.

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 the SOR allegations in ¶¶ 1.a, 1.b, 1.c, and 2.a through 2.d. He did not deny any of the SOR allegations. He also provided mitigating information. His admissions are accepted as findings of fact.

Applicant is a 48-year-old commercial truckdriver who wishes to resume his employment as linguist or interpreter. (Tr. 6, 8, 17, 47) In 1999, he graduated from high school, and in 2006, he received a bachelor's degree. (Tr. 6) His majors in college were education and the future. (Tr. 6) He received his high school diploma and bachelor's degree in Iraq. (Tr. 6) In 2018, he married, and his child is six years old. (Tr. 7; GE 1) His

spouse is a U.S. citizen, and she is employed as a teacher. (Tr. 43; GE 1) His spouse and child live in the United States. He served in the Iraqi military for about four months. (Tr. 7) He did not serve in the U.S. military. (GE 1)

## **Financial Considerations**

SOR ¶ 1.a alleges and Applicant admitted he has a charged-off credit-card account owed to a bank for \$14,121. (Tr. 38; SOR response) On November 3, 2024, he said he “reached out” to the creditor; however, he did not receive an answer. The creditor said the account was closed. (SOR response) At his hearing, he said the creditor was unable to locate information about the debt. (Tr. 42) The creditor told him not to worry about the debt, and he would receive notification if the creditor elected to pursue collection of the debt. (Tr. 43)

SOR ¶¶ 1.b and 1.c allege Applicant admitted that he has two charged-off credit-card accounts owed to the same bank for \$9,935 and for \$5,460, respectively. (Tr. 38; SOR response) The creditor reduced the amounts of the debts by 50 percent in a settlement agreement. (Tr. 45-46) From September 2023 to May 2024, Applicant made about 15 \$219 payments to address the SOR ¶ 1.b account. (Tr. 41-42; SOR response) As of December 26, 2024, he owed the SOR ¶ 1.b creditor \$4,512. (AE A) In September and October 2024, he made two \$119 payments to address the other account. (Tr. 41) Some of the receipts are illegible. (SOR response) He expects to use his federal income tax refund to reduce the balance owed on the debts, and he intends to pay off both debts in 2026. (Tr. 45)

Applicant timely filed his federal income tax returns. His adjusted gross income for the last five tax years rounded to the nearest thousand are as follows: 2019 (\$28,000); 2020 (\$41,000); 2021 (\$48,000); 2022 (\$70,000); and 2023 (\$78,000). (AE B) He had some periods of unemployment and underemployment when he came to the United States. (GE 1) His April 17, 2024, and November 27, 2024 credit bureau reports show the three SOR debts as currently delinquent, and numerous debts in paid, current, or paid as agreed status. (GE 10, GE 11)

Applicant’s spouse has about \$15,000 in her checking account, and she has purchased some land, which is valued at about \$15,000. (Tr. 44) They are financially responsible.

## **Foreign Influence**

Applicant worked with U.S. armed forces in Iraq from 2006 to 2009, and in 2009, he immigrated to the United States from Iraq as a refugee due to threats in Iraq. (Tr. 18, 36-37) In 2014, he was naturalized as a U.S. citizen. (Tr. 18) In 2017, he brought his fiancée to the United States. (Tr. 18) From 2015 to 2017, several companies employed him as an interpreter in Iraq. (Tr. 35)

SOR ¶ 2.a alleges and Applicant admitted his mother and father are citizens and residents of Iraq. (Tr. 24-25) His father worked for the Iraqi government, and he is now

retired and receiving a pension from the Iraqi government. (Tr. 25) His parents came to the United States as refugees because there were threats or dangers to them in Iraq due to Applicant's U.S. Army employment. (Tr. 25-26) His mother is a U.S. permanent resident. (Tr. 36) His parents returned to Iraq, which is where they currently reside. (Tr. 26-27) He communicates with his parents about once a month. (Tr. 47)

SOR ¶ 2.b alleges and Applicant admitted his five siblings; three brothers and two sisters are all citizens and residents of Iraq. (Tr. 19-24)

SOR ¶ 2.c alleges and Applicant admitted that the Iraqi government or an Iraqi state government employs one of his sisters and three of his brothers. (Tr. 19-24) Another sister and one brother-in-law work for an Iraqi state government. (Tr. 23-24) He communicates with his siblings about once a month or bimonthly. (Tr. 47)

SOR ¶ 2.d alleges and Applicant admitted that his mother-in-law and father-in-law are citizens and residents of Iraq. (Tr. 27) His father-in-law is an Iraqi government employee. (Tr. 27) He has quarterly contact with his parents-in-law. (GE 1) The frequency of his spouse's contacts with her parents is not part of the record.

Applicant previously held a top secret clearance with access to sensitive compartmented information, when he was working as a linguist. (Tr. 33, 53) He argued that the same family members were in his life when he worked as a linguist and held these levels of access to classified information. (Tr. 53)

## **Iraq**

Iraq is a constitutional parliamentary republic. The October 2021 parliamentary elections were generally considered technically sound and credible. The elections were observed by the European Union and domestic civil society organizations and monitored by the United Nations Assistance Mission for Iraq. Domestic and international elections observers cited procedural and transparency improvements to the 2018 electoral process. They noted, however, that violence and intimidation by paramilitary militia groups in the months ahead of the elections likely affected voters' choices and voter turnout. The elections occurred because of widespread protests that began in October 2019 and led to the resignation of former Prime Minister Adil Abd al-Mahdi in December 2019. On October 13, 2019, Iraqi Council of Representatives members elected Abdulatif Jamal Rashid as the president of Iraq. President Rashid named Mohammed Shiaa al-Sudani as the prime minister designate. On October 27, 2019, the Council of Representatives confirmed Sudani as prime minister along with 21 of 23 of his cabinet ministers. On December 3, 2019, the Council of Representatives confirmed Sudani's two remaining cabinet ministers.

The U.S. Department of State travel advisory for Iraq is Level 4: Do not travel to Iraq due to terrorism, kidnapping, armed conflict, civil unrest, and Mission Iraq's limited capacity to provide support to U.S. citizens. On April 1, 2024, the Department terminated the Ordered Departure status for U.S. Embassy Baghdad and U.S. Consulate General Erbil.

Terrorist and insurgent groups regularly attack Iraqi security forces and civilians. Anti-U.S. militias threaten U.S. citizens and international companies throughout Iraq. Attacks using improvised explosive devices, indirect fire, and unmanned aerial vehicles occur in many areas of the country, including Baghdad and other major cities. Demonstrations, protests, and strikes occur frequently throughout the country. These events can develop quickly without prior notice, and sometimes turn violent. Do not travel near Iraq's northern borders due to the continued threat of attacks by terrorist groups, armed conflict, aerial bombardment, and civil unrest. U.S. citizens should especially avoid areas near armed groups in northern Iraq, which have been targeted with aerial strikes by neighboring countries' militaries.

The human rights situation worsened during the year 2023 due to increased federal and Kurdistan Regional Government restrictions on fundamental freedoms and civic space. There were intermittent attacks by the Islamic State of Iraq and Syria and its affiliated cells and sporadic fighting between the Iraqi Security Forces and the Islamic State of Iraq and Syria in remote areas. Other violent actions in Iraq involved Turkish military operations against Kurdistan Workers Party bases in Iraq; conflict with militias, including Iran-aligned Popular Mobilization Forces units; and sectarian, ethnic, and financially motivated violence. Numerous significant human rights violations continue to occur in Iraq.

Terrorist groups and those inspired by such organizations are intent on attacking U.S. citizens abroad. Terrorists increasingly use less-sophisticated methods of attack, including knives, firearms, and vehicles – to target crowds at venues such as: high-profile public events (sporting contests, political rallies, demonstrations, holiday events, celebratory gatherings, etc.); hotels, clubs, and restaurants frequented by tourists; places of worship; schools; parks; shopping malls and markets; public transportation systems, including subways, buses, trains, and scheduled commercial flights. Female U.S. citizens have been subject to threats, kidnappings, abuse, and extortion by their family, including loss of custody of children or forced marriage. U.S. laws do not protect U.S. citizens when they are outside of the United States. The Iraqi police and legal system may offer little protection.

Islamic State in Iraq and Syria, also known as ISIS, ISIL or Da'esh, is a designated terrorist organization, which is active in Syria and near the Iraq border. ISIS and its associated terrorist groups indiscriminately commit attacks and violent atrocities in Iraq despite improved Iraqi government control. ISIS, militia groups, and criminal gangs target U.S. citizens for attacks and hostage-taking.

Ten years after capturing Mosul, ISIS appeared to be diminishing in numbers but continued to conduct mainly small-scale attacks in Iraq and Syria. The U.S. Central Command (USCENTCOM) said that ISIS is on pace to more than double the total number of attacks claimed in 2023, an indication that the group is attempting to reconstitute. The commander of Coalition forces said that the conditions that led to ISIS's rise in 2014 remained in Iraq and Syria. He said that while Coalition forces can disrupt ISIS's capabilities, the Coalition cannot resolve the underlying instability that supports ISIS's growth. ISIS displayed little change in its day-to-day operations, continuing to sporadically

conduct low-level attacks. ISIS conducted two notable, high-casualty attacks in Salah ad-Din province in May 2024.

During 2022, the primary terrorist threats within Iraq are the remnants of ISIS's Iraq province and Iran-aligned militia groups (IAMGs), which include U.S.-designated Kata'ib Hezbollah, Asa'ib Ahl al-Haq, and Harakat al-Nujaba. The U.S.-designated Kurdistan Workers' Party, headquartered in the mountains of northern Iraq, operates in the vicinity of Sinjar, Ninewa province, in the Iraqi Kurdistan Region (IKR).

There was a significant decrease in terrorist attacks in 2022, compared with the previous two years, thanks to the increasing effectiveness of the Iraqi Security Forces (ISF) in combating terrorism. The ISF generally acted decisively in engagements and demonstrated increasing capabilities in counterterrorism (CT) planning, operations, and investigations. After the killing of ISIS leaders Abu Ibrahim al-Qurayshi in February and Abu al-Hasan al-Hashimi al-Qurayshi in October, new ISIS leader Abu al-Husayn al-Husayni al-Qurayshi assumed control of the group in November per ISIS social media accounts. Despite the decline in ISIS's ability to carry out large attacks in Iraq, it maintained operational outposts in locations along the border of Syria. During 2022, ISIS continued to conduct operations, but at a smaller scale, particularly in the North and the West of Iraq and in rural areas with limited ISF presence.

Iraqi counterterrorism functions are principally executed by the Counterterrorism Service (CTS), a Cabinet-level entity reporting directly to the prime minister, as well as by various security forces under the Ministries of Defense and Interior and the Kurdish Peshmerga. In limited instances, Popular Mobilization Forces (PMF) augment Iraqi Army- and CTS-led operations. While all PMF are required by law to operate as part of the ISF, many PMF groups continued to defy central government command and control and engaged in violent and destabilizing activities in Iraq and neighboring Syria. Attacks by IAMGs against U.S. interests in Iraq decreased in 2022.

During 2022 Iraq saw a decrease in the volume of terrorist attacks, but ISIS and other groups continued to execute attacks using complex tactics. Iraq's CTS estimates that 408 terrorist attacks occurred in 2022.

In February 2024, the Office of the Director of National Intelligence (ODNI) published the Annual Threat Assessment of the U.S. Intelligence Community, which provided the following assessment of the situation in Iraq. In Iraq, Iranian-aligned militias almost certainly will continue attacks against U.S. forces in Iraq and Syria. Since October 2023, Iran has encouraged and enabled its various proxies and partners—including Hizballah, Iranian-backed groups in Iraq and Syria, and the Houthis in Yemen—to conduct strikes against Israeli or U.S. interests in the region. Iran will continue to threaten U.S. interests, allies, and influence in the Middle East and intends to entrench its emergent status as a regional power while minimizing threats to the regime and the risk of direct military conflict. Decades of cultivating ties, providing support, funding, weapons, and training to its partners and proxies around the Middle East, including Lebanese Hizballah, the Houthis, and Iranian backed militias in Iraq and Syria, will enable Tehran to continue to demonstrate the efficacy of leveraging these members of the “Axis of

Resistance”, a loose consortium of like-minded terrorist and militant actors. Iran will remain a threat to Israel and U.S. allies and interests in the region well after the Gaza conflict. While Iran will remain careful to avoid a direct conflict with either Israel or the United States, it nonetheless enabled scores of militia rocket, missile, and UAV attacks against U.S. forces in Iraq and Syria.

On August 5, 2024, an Iran-aligned militia attacked U.S. forces stationed at Al-Asad Airbase in western Iraq. This marked a dangerous escalation and demonstrated Iran's destabilizing role in the region.

Iraq is among those countries effected by the Visa Waiver Program Improvement and Terrorist Travel Prevention Act of 2015. Under this Act, no foreign national may enter the United States without a visa if they have “been present, at any time on or after March 1, 2011,” in Iraq, Syria, or any country designated by the U.S. Government as either a state sponsor of terrorism or as a “country of concern.” As defined in the Act, “countries of concern” include those which have “a significant [foreign terrorist organization] presence,” provide “a safe haven for terrorists,” and/or present other conditions such that an individual’s “presence . . . increases the likelihood that [they are] a credible threat to the national security of the United States.”

## **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 [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**

### **Financial Considerations**

AG ¶ 18 articulates the security concern for financial problems:

Failure to live within one’s means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual’s reliability, trustworthiness, and ability to protect classified or sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds.

The Appeal Board explained the scope and rationale for the financial considerations security concern in ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012) (citation omitted) as follows:



This concern is broader than the possibility that an applicant might knowingly compromise classified information in order to raise money in satisfaction of his or her debts. Rather, it requires a Judge to examine the totality of an applicant's financial history and circumstances. The Judge must consider pertinent evidence regarding the applicant's self-control, judgment, and other qualities essential to protecting the national secrets as well as the vulnerabilities inherent in the circumstances. The Directive presumes a nexus between proven conduct under any of the Guidelines and an applicant's security eligibility.

AG ¶ 19 includes disqualifying conditions that could raise a security concern and may be disqualifying in this case:

- (a) inability to satisfy debts; and
- (c) a history of not meeting financial obligations.

The record establishes the disqualifying conditions in AG ¶¶ 19(a) and 19(c), requiring additional inquiry about the possible applicability of mitigating conditions. Discussion of the disqualifying conditions is contained in the mitigation section, *infra*.

The financial considerations mitigating conditions under AG ¶ 20 which may be applicable in this case are as follows:

- (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;
- (b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;
- (c) the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control;
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts; and
- (e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

The Appeal Board in ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013) explained Applicant's responsibility for proving the applicability of mitigating conditions as follows:

Once a concern arises regarding an Applicant's security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). After the Government presents evidence raising security concerns, the burden shifts to the applicant to rebut or mitigate those concerns. See Directive ¶ E3.1.15. The standard applicable in security clearance decisions is that articulated in *Egan, supra*. "Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security." Directive, Enclosure 2 ¶ 2(b).

Applicant provided some important mitigating information. He has had periods of unemployment and underemployment. These issues adversely affected his finances. However, "[e]ven if [an applicant's] financial difficulties initially arose, in whole or in part, due to circumstances outside his [or her] control, the [administrative judge] could still consider whether [the applicant] has since acted in a reasonable manner when dealing with those financial difficulties." ISCR Case No. 05-11366 at 4 n.9 (App. Bd. Jan. 12, 2007) (citing ISCR Case No. 03-13096 at 4 (App. Bd. Nov. 29, 2005); ISCR Case No. 99-0462 at 4 (App. Bd. May 25, 2000); ISCR Case No. 99-0012 at 4 (App. Bd. Dec. 1, 1999)). The circumstances beyond his control are not recent, and they did not have a significant effect on his current finances. AG ¶ 20(b) is not established.

A security clearance adjudication is not a debt-collection procedure. It is designed to evaluate an applicant's judgment, reliability, and trustworthiness. See ISCR Case No. 09-02160 (App. Bd. Jun. 21, 2010). Applicants are not required "to be debt-free in order to qualify for a security clearance. Rather, all that is required is that an applicant act responsibly given his or her circumstances and develop a reasonable plan for repayment, accompanied by 'concomitant conduct' that is, actions which evidence a serious intent to effectuate the plan." ISCR Case No. 15-02903 at 3 (App. Bd. Mar. 9, 2017) (denial of security clearance remanded) (citing ISCR Case No. 13-00987 at 3, n. 5 (App. Bd. Aug. 14, 2014)). There is no requirement that an applicant make payments on all delinquent debts simultaneously, nor is there a requirement that the debts alleged in the SOR be paid first. See ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008).

Applicant established mitigation under AG ¶ 20(d). He showed good faith in his overall handling of his finances. Applicant provided evidence that he has been paying two of the three SOR debts in ¶¶ 1.b and 1.c, and the payments started on one of them in 2023 before the SOR was issued. The SOR creditor in ¶ 1.c charged off the debt and failed to provide information to Applicant on a settlement or payment plan. He has numerous debts in paid, current, or paid as agreed status. His income has been increasing, and he has used the increased funds to establish and maintain his financial responsibility.

I found Applicant's statement at his hearing to be candid and credible. Future delinquent debts are unlikely to recur, and there are clear indications his financial problems are in the process of being resolved. His handling of his finances does not cast doubt on his current reliability, trustworthiness, and judgment. Financial considerations security concerns are mitigated.

## **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; 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.

AG ¶¶ 7(a) and 7(b) are established. Additional discussion is in the foreign influence mitigation section, *infra*.

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.

Applicant's parents, five siblings, and parents-in-law are all citizens and residents of Iraq. The Iraqi government or an Iraqi state government employs one of Applicant's sisters and three of his brothers. He communicates with his parents on a monthly basis and his siblings about once a month or bimonthly.

There is insufficient evidence that Applicant is close to his parents-in-law to cause a security concern. Security concerns in SOR ¶ 2.d are mitigated.

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.

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).

The DOHA Appeal Board has indicated the security concerns raised by relationships or connections to persons who are high-level political officials (HLPOs) in foreign governments or militaries stating:

[A]n applicant's ties, either directly or through a family member, to persons of high rank in a foreign government or military are of particular concern, insofar as it is foreseeable that through an association with such persons the applicant could come to the attention of those interested in acquiring U.S. protected information. See, e.g., ISCR Case No. 08-10025 at 2 and 4 (App. Bd. Nov. 3, 2009) (Applicant's brother was a high-level foreign government official); ISCR Case No. 11-04980 at 2 and 6 (App. Bd. Sep. 21, 2012) (Applicant's sister-in-law was married to a retired high-ranking official in a foreign army); and ISCR Case No. 11-12632 at 2 and 5 (App. Bd. Feb. 2, 2015) (Applicant's niece was an employee of a high-ranking foreign government official). Given the facts in this case, it is foreseeable that the high-level governmental position of Applicant's sibling could become a means through which parties could attempt to exert pressure on him.

ISCR Case No. 17-01979 at 5 (App. Bd. July 31, 2019) (reversing grant of security clearance and noting, "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."). See also ISCR Case No. 11-12623 at 2, 5 (App. Bd. Feb. 2, 2015) (reversing grant of security clearance and noting "[a]pplicant's niece's employment by the Israeli government, working for a high-ranking official"; however, the niece had left that position by the time of her hearing, and the Applicant had not traveled to Israel for several years before his hearing).

The prominence of Applicant's siblings in the Iraqi government is unclear. Any relationship to a foreign government official adds to the foreign influence security concern. His siblings may become more or less prominent in the future. They may have connections with more prominent Iraqi officials, which may raise their profiles in Iraq. The Iraqi government pays the salaries for Applicant's siblings and his father's pension.

The Appeal Board addressed a case where an applicant had connections with a former foreign Russian government official and a current Russian government official. ISCR Case No. 19-02177 at 2 (App. Bd. Aug. 12, 2020). However, his communications with them were not recent and infrequent "about once every one to two years with the last time being in 2017" three years before his security clearance hearing. *Id.* The Appeal Board concluded these contacts were sufficient to raise a security concern and affirmed the denial of his security clearance. *Id.* at 2-3.

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 situation in Iraq involving terrorists, insurgents, and criminals 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. 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 Iraq.

The issue under Guideline B is whether Applicant has ties or contacts with friends, family, or associates in Iraq, which raise security concerns because those ties and contacts create a potential vulnerability that criminals, terrorists, or Iraqi government officials could seek to exploit 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 living in Iraq.

International terrorist groups and insurgents are known to conduct intelligence activities as effectively as capable state intelligence services, and Iraq has a significant problem with terrorism and crime. Applicant’s family living in Iraq “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 Iraq create a potential conflict of interest because terrorists, insurgents, the Iraqi government, or criminals 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 Iraq and of violence and criminal activity in Iraq.

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 Iraq. Applicant was born in Iraq. He worked with U.S. armed forces in Iraq from 2006 to 2009, and in 2009, he immigrated to the United States from Iraq as a refugee due to threats in Iraq. In 2014, he was naturalized as a U.S. citizen. In 2017, he brought his fiancée to the United States, and he was married in 2017. From 2015 to 2017, several companies employed him as an interpreter in Iraq. His spouse and child are U.S. citizens.

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 Iraq. There is no allegation that he would choose to help the terrorists, the Iraqi government, or criminals 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 Iraq 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 Iraq. 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 common-sense judgment based upon careful consideration of the guidelines" and the whole-person concept. My comments under Guideline F 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 a 48-year-old commercial truckdriver who wishes to resume his employment as linguist or interpreter. In 1999, he graduated from high school, and in 2006, he received a bachelor's degree. His majors in college were education and the

future. In 2017, he married, and his child is six years old. His spouse is a teacher. His spouse and child reside in the United States and are U.S. citizens.

The evidence supporting mitigation of financial considerations security concerns is detailed in the financial considerations section, *supra*. He paid some debts, established payment plans on others, and is current on other debts. He is acting in good faith with all of his creditors. He understands that he needs to pay his debts. He was sincere and credible at his hearing. His progress resolving his SOR debts has established a “meaningful track record” of debt re-payment. See ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008). I am confident he will maintain his financial responsibility.

The reasons for denying Applicant’s security clearance are more persuasive. A Guideline B decision concerning Iraq 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). Iraq is a dangerous place because of violence from terrorists, insurgents, and criminals. Terrorists continue to threaten the interests of the United States, and those who assist the United States.

Aside from his contacts with close relatives (his parents and siblings), the other contacts with his parents-in-law in Iraq are mitigated because they are unlikely to result in a risk of coercion from nefarious entities in Iraq.

Applicant has frequent contacts with his siblings and parents, who are citizens and residents of Iraq. Concern for and loyalty to family living in Iraq 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.

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. “[A] favorable clearance decision means that the record discloses no basis for doubt about an applicant’s eligibility for access to classified information.” ISCR Case No. 18-02085 at 7 (App. Bd. Jan. 3, 2020) (citing ISCR Case No.12-00270 at 3 (App. Bd. Jan. 17, 2014)).

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 mitigated financial considerations security concerns; however, he 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 F:	FOR APPLICANT
Subparagraphs 1.a, 1.b, and 1.c:	For Applicant
Paragraph 2, Guideline B:	AGAINST APPLICANT
Subparagraphs 2.a, 2.b, and 2.c:	Against Applicant
Subparagraph 2.d:	For Applicant

## **Conclusion**

Considering 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.

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Mark Harvey  
Administrative Judge