



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



In the matter of:

SSN: -----

Applicant for Security Clearance

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ISCR Case No. 06-19732

Appearances

For Government: Jeffrey A. Nagel, Esquire, Department Counsel
For Applicant: *Pro Se*

September 30, 2008

Decision

WESLEY, Roger C., Administrative Judge:

HISTORY OF CASE

On November 19, 2007, the Defense Office of Hearings and Appeals (DOHA), pursuant to Executive Order 10865 and Department of Defense Directive 5220.6 (Directive), dated January 2, 1992, issued a Statement of Reasons (SOR) to Applicant, which detailed reasons why DOHA could not make the preliminary affirmative finding under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for Applicant, and recommended referral to an administrative judge to determine whether clearance should be granted, continued, denied or revoked.

Applicant responded to the SOR on May 7, 2008, and requested a hearing. The case was assigned to me on July 14, 2008, and was scheduled for hearing on July 29, 2008. A hearing was held on July 29, 2008, for the purpose of considering whether it would be clearly consistent with the national interest to grant, continue, deny, or revoke Applicant's security clearance. At hearing, the Government's case consisted of three exhibits; Applicant relied on one witness (himself) and no exhibits. The transcript (R.T.)

was received on August 6, 2008. Based upon a review of the case file, pleadings, exhibits, and testimony, eligibility to access classified information is granted.

Besides its two exhibits, the Government requested administrative notice of seven documents: *Background Note: Pakistan*, U.S. Department of State (May 2007); *Country Specific Information: Pakistan*, U.S. Department of State (September 2007); *Country Reports on Human Rights Practices - 2007, Pakistan*, U.S. Department of State (March 2008); *Travel Warning, Pakistan*, U.S. Department of State (September 2007); *CRS Report to Congress: Pakistan-U.S. Relations* (April 2008); *CRS Report to Congress, Weapons of Mass Destruction: Trade Between North Korea and Pakistan* (November 2006); *Annual Threat Assessment of the director of the National Intelligence* (January 2007).

Administrative or official notice is the appropriate type of notice used for administrative proceedings. See ISCR Case No. 05-11292, at 4 n.1 (App. Bd. April 12, 2007); ISCR Case No. 02-24875, at 2 (App. Bd. October 12, 2006). Administrative notice is appropriate for noticing facts or government reports that are well known. See *Stein*, Administrative Law, Sec. 25.01 (Bender & Co. 2006). For good cause shown, administrative notice was granted with respect to the above-named background reports addressing the geopolitical situation in India. *Administrative notice was extended to the documents themselves*, consistent with the provisions of Rule 201 of Fed. R. Evid. This notice did not foreclose Applicant from challenging the accuracy and reliability of the information contained in the reports addressing Pakistan's current state.

SUMMARY OF PLEADINGS

Under Guideline B, Applicant is alleged to (a) have a mother who is a citizen of Pakistan and resides in the U.S.; (b) have a brother who is a citizen of Pakistan and resides in the U.S., (c) have at least one sister who is a citizen of Pakistan and is a resident of the U.S., (d) have at least one sister who is a citizen and resident of Pakistan, (e) have a sister who is a citizen of Pakistan and a resident of India, (f) be friends with and keep in contact with an important Pakistan government person's (VIP) son, who he visits when he travels to Pakistan, and (g) traveled to Pakistan in 1998 and 2003.

For his answer, Applicant admitted most of the allegations in the SOR with explanations. He claimed his mother could not apply for U.S. citizenship because she is old and has been in a coma for nine months and is struggling for her life. He claimed his brother residing in the U.S. is a legal U.S. resident who holds a green card and will be applying for U.S. citizenship when he is eligible. He claimed his sister residing in the U.S. is a law abiding resident of the U.S.. He claimed to have little contact with his other sisters (one residing in Pakistan and the other residing in India). He claimed his friendship with the son of a Pakistan VIP traces to his college years, and his only meeting with him in Pakistan was in 2003, when their families were visiting Pakistan. And Applicant claimed he traveled to Pakistan in 1998 to visit his sister and again in 2003 on a family vacation.

FINDINGS OF FACT

Applicant is a 43-year-old employee of a defense contractor who seeks a security clearance. The allegations covered in the SOR and admitted by Applicant are adopted as relevant and material findings. Additional findings follow.

Applicant's background

Applicant was born in Pakistan to parents of Pakistan ancestry and raised in that country. He immigrated to the U.S. in 1984 at the age of 19 to pursue his education. While enrolled in college, he decided to apply for U.S. citizenship (R.T., at 48, 72, 76). He became a naturalized citizen in July 1990 (see ex.1). He earned both his undergraduate and graduate degrees in the field of engineering (see exs. 1 and 2; R.T., at 48, 77).

Applicant met his first wife (W1), a U.S. citizen by birth, in college and married her in March 1986 (see exs. 1 and 2). They divorced in May 1992 (ex. 1; R.T., at 79). He has no children from this marriage. Applicant remarried in November 1999. She (W2) was born in Afghanistan and became a naturalized U.S. citizen around 1992 (R.T., at 79-80, 109). Applicant has one child from this marriage (R.T., at 80).

Applicant's father was born in India and passed away some years ago. His mother (a Pakistan citizen by birth) came to live with Applicant in 1993 and has resided with Applicant for most of the time since her arrival in the U.S. (R.T., at 49, 92-93). She has a green card, but does not speak much English. She is currently bed-ridden in a semi-comatose state (R.T., at 49-50, 91-92).

Applicant has four living siblings: a brother and three sisters. His brother is a Pakistani citizen who has resided in the U.S. since 1993 (R.T., at 54, 94). His brother has a green card that entitles him to work in the U.S. (see ex. 3; R.T., at 50, 94). His brother intends to apply for U.S. citizenship once the Immigration Service grants him permanent residence status (R.T., at 54-56).

Applicant has one sister (S1) who is both a citizen and resident of Pakistan (see ex. 2). S1's spouse is a physics professor. They have plans to move to the U.S. once their son and daughter become university eligible to attend U.S. colleges (R.T., at 57-60). Neither S1 nor her husband have any ties to the Pakistan government or national groups (ex. 2; R.T., at 95).

Applicant has a second sister (S2) who is a Pakistani citizen, residing in India (R.T., at 60, 94-95). She has been married for 20 years and has one child. She and her husband also plan to immigrate to the U.S. when their child is university eligible (R.T., at 60-62). She frequently visits the U.S. to see their mother.

Applicant's third sister (S3) is a nationalized U.S. citizen and a homemaker; she and her husband have expressed no desire to return to Pakistan (R.T., at 64, 94-95).

Applicant's fourth sister is deceased (see ex. 1; R.T., at 62). Besides his immediate family members, Applicant has an aunt and many cousins who reside in the U.S. (R.T., at 78).

While in college, Applicant established a close friendship with the son (A) of a Pakistan VIP at the time of the hearing (see ex. 2; R.T., at 65, 101). Applicant and A roomed together for two college semesters. Applicant was a senior at the time; while A was a freshman. Applicant had a school scholarship but supported himself with various jobs. A found these jobs of Applicant to be particularly interesting (R.T., at 101-04). A expressed reluctance to return to Pakistan while his father was a VIP of the country. Although Applicant has maintained periodic contact with A (including a brief visit with him in the U.S. in 2005), he realizes that he cannot share work-related information with him, or any other friends and contacts (R.T., at 67-70). Applicant does not know A's father, and to the best of his knowledge, A's father does not know anything about Applicant (see ex. 2; R.T., at 105).

Since becoming a U.S. citizen, Applicant has traveled to Pakistan on two occasions to see his family: once in 1998 and again in 2003. On the 2003 trip, Applicant and W2 made social contact with A and his wife (R.T., at 65-66). He has no plans to return to Pakistan (R.T., at 89). He provides no financial support to either of his sisters residing abroad and currently maintains periodic contact with both of them only once or twice a year (ex. 2; R.T., at 95-99).

Applicant has been fully briefed on protecting classified information and has never been written up for a security violation (R.T., at 74, 106). He affirmed his loyalty to the U.S. and assures he would bear arms in behalf of the U.S. if called upon (R.T., at 73). He would never do anything to jeopardize U.S. security interests.

Applicant believes the current Pakistan coalition (at the time of the hearing) is following the same pro-western policies of the then president, and is a friend of the U.S. (R.T., at 113-15). While he has little knowledge of the current coalition running Pakistan, he believes that the coalition considers the primary source of terrorism lies in the tribal areas of the northwest territories (R.T., at 109-15). His statements correspond with unclassified position papers issued by the U.S. State Department.

Applicant has no financial interests in Pakistan. He has considerable cash and a home with substantial equity in the U.S. (R.T., at 81-82). He has a 401(k) retirement account in the U.S. that is well diversified in U.S. stocks and worth in excess of \$400,000.00 (R.T., at 83).

Pakistan's country status

Pakistan is a parliamentary federal republic located in Southeast Asia, with a population of nearly 170 million. See *Background Note: Pakistan*, U.S. Department of State (May 2007). Pakistan's government is comprised of an executive (the president), a prime minister (the functioning head of government), a bicameral parliament, and a

judiciary. The judiciary includes a supreme court, provincial high courts, and a federal Islamic (or Sharia) court (see *id.*).

Background

Pakistan's historical roots trace back 4,500 years. Alexander the Great included the Indus Valley in his empire in 326 B.C., and his ancestors founded the Indo-Greek kingdom of Backria (which includes what is today's Afghanistan), and extended control over Peshawar. (see *Background Note: Pakistan, id.*, at 2).

Pakistan achieved its independence from Great Britain in August 1947. Still disputed is the independent state of Kashmir (*id.*, at 3). Concerned over incursions of Pakistan tribesmen, the Maharajah of Kashmir sought assistance from India (*id.*). He signed accession papers with India in October 1947 that permitted Indian accession of Kashmir. Pakistan refused to recognize Kashmir's accession, and the legal status of Kashmir remains in dispute to this day. See *Country Specific Information: Pakistan*, U.S. Department of State, at 3 (September 2007). While direct military hostilities between India and Pakistan across the line of control (LOC) have ceased, militant insurgent groups from the Indian side of the LOC have active bases and supporters operating from the Pakistani side (according to State Department reports) and pose considerable threats to American visitors of the region (*id.*).

The U.S. and Pakistan established diplomatic relations in 1947, following Great Britain's declaration in June 1947 that it would bestow full dominion status of two successor states: India and Pakistan (see *Background Note: Pakistan, id.*, at 3). Pakistan (comprised of West Pakistan and its provinces of Punjab, Sindh, Balochistan, and the Northwest Frontier province and East Pakistan with its Bengal province) became independent on August 14, 1947 (*id.*).

Pakistan's independence proved fragile and rife with political and economic instability following the death of the country's first head of state (Muhammad Ali Jinnah) in 1948 and the ensuing assassination of its first prime minister (Liaqat Ali Khan) in 1951. In October 1958, President Iskander Mirza (with military support) suspended his country's constitution (adopted just two years before), imposed martial law, and canceled the scheduled elections (see *Background Note: Pakistan id.*). President Mirza's action resulted in a military coup, his arrest, and the establishment of a military dictatorship under the rule of General Mohammad Ayub Khan.

Political and economic turmoil followed and new governments were installed over the next 20 years: some as the result of general elections (such as the Pakistan People's Party or PPP which swept Zulfikar Ali Bhutto into power). It was under Ali Bhutto's civilian leadership that Pakistan emerged as a nuclear power in the 1970s. India's nuclear test in 1974 injected further uncertainty and concern into Pakistan's relationship with India, and is generally credited as the principal impetus behind President Ali Bhutto's decision to make Pakistan a nuclear state (see *Background Note: Pakistan id.* at 10).

Political tensions and economic unrest in Pakistan also produced military interventions before the close of the 20th century. Disputed national elections that marred Bhutto's declared victory in 1977 spurred anti-government unrest and ultimately prompted a military takeover of the Bhutto government in July 1977 and installation of Army chief of staff, Muhammad Zia ul-Haq) as the chief martial law administrator (see *Background Note: Pakistan id.* at 4). When Zia assumed power, his military government arrested Bhutto, tried him on conspiracy charges and hanged him in April 1979 (*id.*).

With Zia's untimely death in August 1988, the political parties of Benazir Bhutto and Muhammad Mawaz Sharif competed for the formation of coalition governments to lead Pakistan. Each party's efforts were marked ethnic conflict, fragmentation within their coalitions, corruption and nepotism, which stoked political tensions, created gridlock, and contributed to the deterioration of law and order (*id.*, at 5-6).

Following the ouster of Prime Minister Sharif in October 1999, Pakistan's military, led by President Pervez Musharraf, declared a state of emergency and issued the provisional constitutional order that suspended the federal and provincial parliaments, placed the constitution in abeyance, and designated Musharraf as chief executive (see *Background Note: Pakistan, id.*, at 6). Musharraf's presidency was extended for five years by referendum in (see *Country Specific Information, id.*, 1). After the terrorist attacks on U.S. soil in September 11, 2001, Pakistan has pledged and provided its support to the U.S. in its coalition efforts to confront Al Qaida terrorists and Taliban fugitives. See *CRS Report to Congress: Pakistan-U.S. Relations* (April 2008).

Political unrest, human rights, and travel warnings

Anti-American sentiment is widespread among a coalition of Islamic parties in Pakistan's parliament (see *CRS Report to Congress: Pakistan-U.S. Relations, id.*, at 14). This coalition controls approximately 20 per cent of the national assembly (long noted for their adamant expression of anti-American sentiment against the U.S. (see *id.*, at 14). These groups have called for "jihad" against U.S. interests, which they view as a threat to Pakistan sovereignty.

There can be no question but that the presence of extremist groups operating within Pakistan continue to target Americans and other western interests, as well as high level Pakistan government officials and members of minority, indigenous, and religious groups (see *CRS Report to Congress: Pakistan-U.S. Relations, id.*, at 48). Continued tensions in the Middle East also serve to increase the possibilities of violence against Western citizens living and/or working in Pakistan (see *Country Specific Information: Pakistan, supra*, at 2; see also, *Travel Warning, Pakistan*, U.S. Department of State, at 1 (September 2007)).

The U.S. Department of State continues to warn U.S. citizens against non-essential travel to Pakistan (especially in the border regions) out of concern for terrorist threats in the country (see *Travel Warning, Pakistan, id.* at 2). Terrorists and their sympathizers have shown a willingness (based on State Department reports) to attack

targets where Americans are known to congregate and visit. Past attacks have included (but are not limited to) suicide operations, bombing (including vehicle-borne explosives and improvised explosive devices), assassinations, car-jacking, assault, or hostage-taking (see *id.*). Noted past incidents involved American fast food restaurants and other companies in Karachi in 2005 (resulting in several deaths and multiple injuries) and the killing of an American diplomat, his driver and three others in a suicide bombing in March 2006 (*id.*). Fatal bomb attacks have occurred in Islamabad, Peshawar, Quetta, Lahore, and other Pakistan cities in 2006 and 2007 (see *Country Specific Information: Pakistan, supra*, at 2-3).

Country reports on Pakistan reveal a poor Pakistani human rights record. Reported human rights problems include extrajudicial killings, torture, rape by security forces, lack of judicial independence, arbitrary arrest and detention, wide-spread corruption, disappearance and imprisonment of political opponents, and trafficking in women and children. See *Country Reports on Human Rights Practices - 2007, Pakistan*, at 19-31, U.S. Department of State (March 2008). Pakistan's human rights situation worsened in 2007 in the wake of President Musharraf's decision to impose a 42-day state of emergency (SOE), suspend the constitution, and dismiss the Supreme Court and High Provincial Courts operating in the country (*id.*, at 1). During this 42-days of SOE, the government imposed curbs on the media and arrested and/or detained over 6,000 lawyers, judges, political party workers/leaders, and civil society activists (*id.*).

Heightened security risks are extant in Pakistan, too, because of recent weapons technical transfers and weapons technology competition with various countries. See *CRS Report to Congress, Weapons of Mass Destruction: Trade Between North Korea and Pakistan*, at 2-4, 13 (November 2006). Among the countries that Pakistan has supplied nuclear technology to are Iran and Libya (see *id.*, at 2). Pakistan, in turn, has sought assistance from both North Korea and China for its own weapons programs (*id.* at 4).

U.S.-Pakistan relations

Despite its poor human rights record, terrorists threats, and active weapons programs, Pakistan remains a principal ally of the U.S. in the war on terror. After the terrorist attacks on U.S. soil on September 11, 2001, Pakistan pledged and provided material support to the U.S. in its coalition efforts to confront Al Qaida terrorists and Taliban fugitives. See *CRS Report to Congress: Pakistan-U.S. Relations* (April 2008). President Bush and President Musharraf affirmed a long-term strategic partnership.¹ In

¹ Since the hearing, President Musharraf has stepped down as President of Pakistan. Pakistan's recently elected president (Asif Ali-Zardari) and widower of the late Benazir Bhutto, who heads one of the country's coalition partners (the Pakistan's People's Party), is on record of being in full support of Pakistan's (a) transition from authoritarianism to democracy and (b) continued allied support of the U.S. war on terrorism. Neither party to these proceedings has asked to reopen the record to explore the potential impact of Pakistan's political changes in their parliament and executive. These changes, though, do not appear to offer any foreseeable prospects of alteration of the strategic partnership between Pakistan and the U.S. at this time. Absent any noticeable shifts in the fundamentals of the state-to-state relationship, there is insufficient reason to reopen the record *sua sponte* to explore the political significance of the reported changes in Pakistan's political structure.

2004, the U.S. recognized closer bilateral ties with Pakistan by designating Pakistan as a major non-NATO ally (see *Background Note: Pakistan, supra*, at 13). During a presidential visit to Pakistan in March 2006, President Bush joined President Musharraf in reaffirming their shared commitment to a broad and lasting strategic partnership (*id.*).

Today, cross-border Muslim insurgency linked to Afghanistan's Taliban continues to pose military and political risks for the U.S. in its ongoing war against radical Al Qaida and Taliban groups operating in Pakistan's tribal areas. Counter-insurgency missions will doubtlessly require a good deal of coordinated efforts between the U.S. and its NATO allies and Pakistani military forces. Human rights issues will continue to hamper Pakistan's efforts to achieve respected democracy for so long as the country's Supreme Court make-up remains in limbo. Patience will be required of Pakistan's friends, including the U.S. during this critical transitional period.

Policies

The revised Adjudicative Guidelines for Determining Eligibility for Access to Classified Information (effective September 2006) list Guidelines to be considered by administrative judges in the decision-making process covering DOHA cases. These Guidelines require the administrative judge to consider all of the "Conditions that could raise a security concern and may be disqualifying" (Disqualifying Conditions), if any, and all of the "Mitigating Conditions," if any, before deciding whether or not a security clearance should be granted, continued or denied. The Guidelines do not require the administrative judge to assess these factors exclusively in arriving at a decision. In addition to the relevant Adjudicative Guidelines, administrative judges must take into account the pertinent considerations for assessing extenuation and mitigation set forth in E.2.2 of the Adjudicative Process of Enclosure 2 of the Directive, which are intended to assist the administrative judges in reaching a fair and impartial common sense decision.

Viewing the issues raised and evidence as a whole, the following adjudication policy factors are pertinent herein:

Foreign Influence

The Concern: Foreign contacts and interests may be a security concern if the individual has divided loyalties or foreign financial interests, may be manipulated or induced to help a foreign person, group, organization, or government in a way that is not in U.S. interests, or is vulnerable to pressure or coercion by any foreign interest. Adjudication under the this Guideline can and should considered the identity of the foreign country in which the foreign contact or financial interest is located, including, but not limited to, such considerations as whether the foreign country is known to target United States citizens to obtain protected information and/or is associated with a risk of terrorism See revised Adjudicative Guidelines (AG), ¶ 6.

Burden of Proof

By virtue of the precepts framed by the Directive, a decision to grant or continue an Applicant's request for security clearance may be made only upon a threshold finding that to do so is clearly consistent with the national interest. Because the Directive requires administrative judges to make a common sense appraisal of the evidence accumulated in the record, the ultimate determination of an applicant's eligibility for a security clearance depends, in large part, on the relevance and materiality of that evidence. As with all adversary proceedings, the Judge may draw only those inferences which have a reasonable and logical basis from the evidence of record. Conversely, the Judge cannot draw factual inferences that are grounded on speculation or conjecture.

The Government's initial burden is twofold: (1) It must prove any controverted fact[s] alleged in the Statement of Reasons, and (2) it must demonstrate that the facts proven have a material bearing to the applicant's eligibility to obtain or maintain a security clearance. The required showing of material bearing, however, does not require the Government to affirmatively demonstrate that the applicant has actually mishandled or abused classified information before it can deny or revoke a security clearance. Rather, consideration must take account of cognizable risks that an applicant may deliberately or inadvertently fail to safeguard classified information.

Once the Government meets its initial burden of proof of establishing admitted or controverted facts, the burden of proof shifts to the applicant for the purpose of establishing his or her security worthiness through evidence of refutation, extenuation or mitigation of the Government's case.

Analysis

Born and raised in Pakistan, Applicant became a naturalized U.S. citizen in 1990. He married his wife in 1986 and (following a short marriage and divorce from W1) remarried in 1999. Like Applicant, W2 is a naturalized U.S. citizen. Security concerns focus on Applicant's mother and siblings who are Pakistani citizens by birth, and a longtime friend from college who is the son of a Pakistani VIP. Applicant's mother resides in the U.S. with Applicant and is currently quite ill. One of his three sisters is a naturalized U.S. citizen residing in the U.S. His brother (while not yet naturalized as a U.S. citizen) resides in the U.S. His two other sisters (both citizens of Pakistan) reside in Pakistan and India, respectively.

Applicant and his family have deep roots in Pakistan, a country rich in history and socio/political traditions. Pakistan also has a checkered history with authoritarian government, poor human rights, cross-border terrorist activity, and some nuclear technology exchanges with active and potential adversaries of the U.S. Despite encouraging efforts in the development of strategic partnerships between Pakistan and the U.S. in recent years, there have been cited instances of serious human rights abuses, the weakening of legal and judicial safeguards, cross-border terrorist attacks on U.S.

forces operating in Afghanistan by terrorist groups from the tribal areas, and potentially harmful exchanges of nuclear technology.

The Government urges security concerns over risks that Applicant's mother, siblings/spouses residing in Pakistan, and cited friend (of a Pakistani VIP) might be subject to undue foreign influence by Pakistani government authorities to access classified information in Applicant's possession or control. Because Applicant and his immediate family members who have Pakistani citizenship by birth and reside currently in Pakistan, or have close connections with high-ranking political officials in Pakistan (like Applicant's college friend's father), they present potential heightened security risks covered by disqualifying condition (DC) ¶ 7(a), "contact 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," of the AG guidelines for foreign influence. The citizenship/residence status of two of his sisters (one residing in Pakistan and the other in India) pose some potential concerns for Applicant because of the risks of undue foreign influence that could compromise sensitive or classified information under Applicant's possession and/or control.

To be sure, none of Applicant's family members have any identified prior military or government service. However, his identified college friend's father clearly does. Consequently, some consideration of DC ¶ 7(b), "connection to a foreign person, group, government, or country that create a potential conflict of interest between the individual's obligation to protect sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information," is warranted. Applicant, however, has maintained only occasional contact with A (to include his social visit to Pakistan in 2003), has no Pakistani passport, and has no plans to travel to Pakistan in the foreseeable future.

From what is known from the presented evidence, none of Applicant's immediate family residing in Pakistan have any political affiliations with the Pakistani government or military establishments. Nor do they have any history to date of being subjected to any coercion or influence, or appear to be vulnerable to the same.

The citizenship status and presence in Pakistan of one of Applicant's siblings poses some risk because of the political and economic uncertainty that exists in Pakistan, despite the strong government-to-government relationship between the U.S. and Pakistan. These risks are manageable, though, and reconcilable with U.S. security interests. Applicant's contacts with his family members and college friend are infrequent (no more than a couple of times a year). Applicant has demonstrated strong loyalties to the U.S. and manifest commitments to protect this country's security interests and resist any family pressures that could weaken his fiducial duties to protecting classified information. Applicant's own commitments are reinforced by Pakistan's strong strategic partnership with the U.S. on the war on terrorism and emergent signs of becoming a fully successful constitutional democracy. This abiding strategic relationship makes it much

less likely that it would use its government and military resources to pressure any relative of Applicant to as a means of acquiring U.S. secrets.

The Adjudicative Guidelines governing collateral clearances do not dictate *per se* results or mandate particular outcomes for applicants with relatives who are citizens/residents of foreign countries in general. What is considered to be an acceptable risk in one foreign country may not be in another. While foreign influence cases must by practical necessity be weighed on a case-by-case basis, guidelines are available for referencing in the supplied materials and country information about Pakistan.

The new AGs do take into account the country's demonstrated relations with the U.S. as an important consideration in gauging whether the particular relatives with citizenship and residency elsewhere create a heightened security risk. The geopolitical aims and policies of the particular foreign regime involved do matter.

As historically demonstrated, Pakistan has long been known to be a country with friendly ties to the U.S. While the reports of cross-border strikes, human rights abuses, and nuclear technology exchanges have been a matter of some security concern to the U.S., Pakistan's emergent status as a strategic partner of the U.S. in battling terrorist elements operating in the Afghanistan/Pakistan border regions is an important political development that serves to promote political solidarity, and reduce security risks and concerns between the two nuclear powers.

Based on his case-specific circumstances, MC ¶ 8(a), "the nature of the relationships with foreign persons, the country in which these persons are located, or the persons or activities of these persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interests of a foreign individual, group, organization, or government and the interests of the U.S." is somewhat applicable to Applicant. Neither Applicant, his college friend, nor his immediate family residing in Pakistan are in any way connected to the Pakistan government or military and pose no likelihood of being pressured, compromised, or influenced. Further, in the hypothetical situation where any of his family members were to be pressured, Applicant's strong loyalties and security commitments to the U.S. make it very unlikely that he would permit himself to be pressured into compromising classified information.

Of benefit to Applicant, too, is MC 8(b), "there is no conflict of interest, either because the individual's sense of loyalty or obligation to the foreign person, group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the U.S., that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest." Applicant's demonstrated loyalty, patriotism, and professional commitments to the U.S., are well demonstrated and enough under these circumstances to neutralize all potential conflicts that are implicit in his relationships with his immediate family members and college.

MC ¶ 8(c), “contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create risk for foreign influence or exploitation,” has some applicability, too, based on Applicant own infrequent contacts with his family members residing in Pakistan and college friend (and son of a former Pakistan president). Applicant’s contacts with his sisters are infrequent (once or twice a year). His contacts with A have been minimal, too, since he (Applicant) became a naturalized U.S. citizen. His social visit with A in 2003 in Pakistan in 2003 is exceptional, and not likely to be repeated.

One other mitigating condition has mixed application to Applicant’s situation. MC ¶ 8(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,” has some prospective value. Albeit, there is really no documented record of Applicant’s prior reporting of his contacts with members of his family and friend, respectively, to warrant any more than minimal consideration at this time.

Whole person assessment is available also to minimize Applicant’s exposure to conflicts of interests with his Pakistani family members. Most importantly, Applicant is not aware of any risks of coercion, pressure, or influence that any of his family members of friend (A) might be exposed to. So, in Applicant’s case, the potential risk of coercion, pressure, or influence being brought to bear on him and his identified friend is minimal and mitigated.

Overall, any potential security concerns attributable to Applicant's relations with family members residing in Pakistan and the U.S., are sufficiently mitigated to permit safe predictive judgments about Applicant's ability to withstand risks of undue influence attributable to his familial relationships in Pakistan. Both his own longstanding residence and citizenship in the U.S., and those of his wife and most of his immediate family in the U.S., and his demonstrated loyalties and commitments to protecting U.S. security interests, make it highly unlikely he would succumb to any foreign influence brought to bear on himself or his family members by Pakistani government or military officials. Favorable conclusions warrant with respect to the allegations covered by Guideline B.

In reaching my recommended decision, I have considered the evidence as a whole, including each of the factors and conditions enumerated in E2.2.2 of the Adjudicative Process of Enclosure 2 of the Directive.

Formal Findings

In reviewing the allegations of the SOR in the context of the findings of fact, conclusions, and the factors and conditions listed above, I make the following separate formal findings with respect to Applicant's eligibility for a security clearance.

GUIDELINE B: (FOREIGN INFLUENCE):

FOR APPLICANT

Sub-paras 1.a through 1.g: FOR APPLICANT

Conclusions

In light of all the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or continue Applicant's security clearance. Clearance is granted.

Roger C. Wesley
Administrative Judge