



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



In the matter of: )  
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----- ) ISCR Case No. 13-00623  
 )  
Applicant for Security Clearance )

**Appearances**

For Government: Gina Marine, Esquire, Department Counsel  
For Applicant: *Pro se*

06/06/2014

**Decision**

HARVEY, Mark, Administrative Judge:

In 2012, Applicant received a telephone call from a person who said he was Applicant’s cousin (MZ). MZ said that he is a high-ranking military officer in the Afghan Army. Applicant reported the telephone call to security and did not attempt to verify the caller’s identity. This is the only contact that Applicant had with MZ since 1976. Applicant has served honorably as a linguist in a dangerous environment, and he has substantial connections to the United States. Foreign influence security concerns are mitigated, and eligibility for access to classified information is granted.

**Statement of the Case**

On August 8, 2012, Applicant submitted an Electronic Questionnaires for Investigations Processing (e-QIP) version of security clearance application (SF 86). (GE 1) On February 25, 2014, the Department of Defense (DOD) issued an SOR to Applicant, pursuant to Executive Order 10865, *Safeguarding Classified Information Within Industry*, dated February 20, 1960, as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), dated January 2, 1992, as amended; and the adjudicative guidelines (AG) promulgated by the President on December 29, 2005. The SOR alleged security concerns under Guideline B (foreign influence). The SOR recommended referral to an administrative judge to determine whether Applicant’s clearance should be granted, continued, denied, or revoked. (HE 2)

On March 26, 2014, Applicant responded to the SOR allegation and waived his right to a hearing. (HE 3) On April 14, 2014, Department Counsel requested a hearing. (Tr. 22) Department Counsel was ready to proceed on April 25, 2014. On April 28, 2014, the case was assigned to me to conduct a hearing and determine whether or not it is clearly consistent with the national interest to grant a security clearance to Applicant. On May 7, 2014, the Defense Office of Hearings and Appeals (DOHA) issued a hearing notice, scheduling Applicant's hearing for May 28, 2014. Applicant's hearing was held as scheduled using video teleconference. Department Counsel offered six exhibits into evidence, which were admitted without objection. (Tr. 22-23; GE 1-6) Applicant did not offer any exhibits into evidence. (Tr. 15) Applicant made a statement on his own behalf. The transcript was received on June 6, 2014.

### **Procedural Rulings**

Department Counsel offered six exhibits for administrative notice concerning foreign influence security concerns raised by connections to Afghanistan. (Tr. 17-18; Ex. I-VI) Applicant did not object to me taking administrative notice of the proffered documents, and Department Counsel's request is granted. (Tr. 18-20) I have also taken administrative notice of the U.S. Department of State, *Background Note: Afghanistan*, Nov. 28, 2011 and the Afghanistan-related comments of President Obama's May 28, 2014 speech to the U.S. Corps of Cadets at West Point, New York because they contain information about Afghanistan's relationship with the United States, and they emphasize the U.S. diplomatic and military goals in Afghanistan.<sup>1</sup> I provided my statement of facts concerning Afghanistan, *infra*, to the parties (HE 4), and no objections were received. (Tr. 18-20, 58-59; HE 4)

### **Findings of Fact<sup>2</sup>**

Applicant admitted the allegation in SOR ¶ 1.a, and he provided explanations and mitigating information. (HE 3) His admissions are incorporated herein as findings of fact. After a complete and thorough review of the evidence of record, I make the following findings of fact.

Applicant is a 61-year-old linguist, who has been employed by a government contractor since July 2012. (Tr. 7; GE 1) He was born in Afghanistan, and he graduated from high school in Afghanistan in 1971. (Tr. 8, 25) He received his bachelor's degree in Afghanistan in 1977, his master's degree in Europe in 1979, and his Ph.D. in Europe in

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<sup>1</sup>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. 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).

<sup>2</sup>The facts in this decision do not specifically describe employment, names of witnesses, names of other groups, or locations in order to protect Applicant and his family's privacy. The cited sources contain more specific information.

1982. (Tr. 7-8, 25) His post-graduate degrees were in engineering fields. (Tr. 8-9) He married in 1983, and he was divorced in 1984. (Tr. 9) He married his current spouse in 1993 in the United States, and his children are ages 15, 17, and 20. (Tr. 9; GE 1) His spouse was born in Afghanistan. (GE 1) His spouse and three children are U.S. citizens, and they live in the United States. (GE 1) He has not served in the U.S. military or any foreign military. (GE 1) Aside from linguist duties on behalf of the U.S. Army, he has not returned to Afghanistan after 1978. (GE 3, 5)

Applicant immigrated to the United States in 1982, and he became a U.S. citizen in 1988. (Tr. 25-26; GE 1) Applicant's parents and parents-in-law are deceased. (GE 1) His two brothers and five siblings-in-law live in the United States; and one sister and two brothers live in Europe. (Tr. 47; GE 1, 6) He talked to his sister living in Europe in 2012, after his mother died. (GE 2, 6) He most recently talked to one of his brothers in 2008, and he gave his brother some money in 2009. (Tr. 48) He does not communicate with any family members living in Afghanistan. (Tr. 50)

In 2012, Applicant volunteered to be a linguist in Afghanistan. (Tr. 27-28) In April 2012, Applicant's mother died. (Tr. 28) Shortly after her death, Applicant received a telephone call on his cell phone from someone who said he was offering condolences because Applicant's mother had recently died. (Tr. 28) The caller said he was Applicant's cousin, MZ. (Tr. 28)<sup>3</sup> MZ said he was a high-ranking military officer in the Afghan Army. (Tr. 28-29) MZ did not ask for any classified information. (Tr. 41) The conversation duration was about five minutes. (Tr. 38) Shortly after the telephone conversation, Applicant called security, and the Office of Personnel Management (OPM) provided a summary of his description of his conversation with MZ. (Tr. 29; GE 3) Applicant has not had any subsequent contact with MZ, and he did not take any action to verify the identity of the person who called him. (Tr. 30, 53) He had the same cell phone from about 2006 to 2012; however, he does not have that cell phone now. (Tr. 35-37, 41) MZ did not disclose how he obtained Applicant's cell phone number. (Tr. 40)

Prior to the call in 2012 from MZ, Applicant was acquainted with a cousin with the same name as MZ, who lived with Applicant's immediate family for about 10 years. (Tr. 32) MZ married and moved out of Applicant's family home in about 1973. (Tr. 32) Applicant's most recent contact before 2012 with MZ was in 1976. (Tr. 30, 32) MZ is about 66 to 70 years old. (Tr. 32, 52) In 1976, Applicant's cousin MZ was a junior officer in the Afghan Army. (Tr. 30)

## **Character Evidence**

Applicant provided character references from a manager where he works, an Army infantry first lieutenant, an Army special forces major, and an Army infantry lieutenant colonel.<sup>4</sup> The military officers served closely with Applicant for extended periods under combat conditions and dangerous circumstances. They described his service in Afghanistan as meticulous, precise, intelligent, professional, diligent, calm

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<sup>3</sup> MZ is a very common name in Afghanistan. (Tr. 51-53)

<sup>4</sup> The sources for the information in this paragraph are four statements. (GE 2)

under stress, reliable, and honest. (GE 2) He is “an irreplaceable asset” and a “valuable addition” to any team. There is no evidence that Applicant has engaged in criminal activity, abused alcohol or illegal drugs, or committed any security violations.

## **Afghanistan**

Afghanistan is a country in Southwestern Asia. It is approximately the size of Texas (249,935 square miles). Pakistan borders it on the east and the south. Iran borders it on the west and Russia to the north. It is a rugged and mountainous country which has been fought over by powerful nations for centuries. In 2009, the population was about 28 million people with about 3,000,000 Afghans living outside Afghanistan.

Afghanistan is presently an Islamic Republic with a democratically elected president. Afghanistan has had a turbulent political history, including an invasion by the Soviet Union in 1979. After an accord was reached in 1989, and the Soviet Union withdrew from Afghanistan, fighting continued among the various ethnic, clan and religious militias. By the end of 1998, the Taliban rose to power and controlled 90% of the country, imposing aggressive and repressive policies.

In October 2001, U.S. forces and coalition partners led military operations in the country, forcing the Taliban out of power by November 2001. The new democratic government took power in 2004 after a popular election. Despite that election, terrorists including al-Qaeda, the “Haqqani Network,” Lakshar-e-Tayyiba (LET), and the Taliban continue to assert power and intimidation within the country. Safety and security are key issues because these terrorist organizations target United States and Afghan interests by suicide operations, bombings, assassinations, car-jacking, assaults, and hostage taking. During 2012, insider or “green on blue” attacks by Taliban infiltrators or terrorists disguised as allied soldiers caused many deaths. At this time, the risk of terrorist activities remains extremely high. The country’s human rights record remains poor, corruption is widespread, and violence is rampant. According to recent reports from the U.S. Department of State, insurgents continue to plan attacks and kidnappings of Americans and other Western nationals. Travel warnings are ongoing. No section of Afghanistan is safe or immune from violence.

The United States-Afghan relationship is summarized as follows:

After the fall of the Taliban, the U.S. supported the emergence of a broad-based government, representative of all Afghans, and actively encouraged a [United Nations] role in the national reconciliation process in Afghanistan. The U.S. has made a long-term commitment to help Afghanistan rebuild itself after years of war. The U.S. and others in the international community currently provide resources and expertise to Afghanistan in a variety of areas, including humanitarian relief and assistance, capacity-building, security needs, counter-narcotic programs, and infrastructure projects.

During his December 1, 2009 speech at West Point, President Barack Obama laid down the core of U.S. goals in Afghanistan: to disrupt, dismantle, and defeat al-Qaeda and its safe havens in Pakistan, and to prevent their return to Afghanistan. . . . [T]he United States plans to remain politically, diplomatically, and economically engaged in Afghanistan for the long term.

U.S. Department of State, Background Note: Afghanistan, Nov. 28, 2011 at 13. In 2012 and 2013, the United States had more combat troops deployed to Afghanistan than to any other foreign country. On May 28, 2014, President Obama emphasized the importance of Afghanistan to our national security in a speech to the U.S. Corps of Cadets at West Point, New York:

We are winding down our war in Afghanistan. Al Qaeda's leadership on the border region between Pakistan and Afghanistan has been decimated, and Osama bin Laden is no more. . . . We need partners to fight terrorists alongside us. And empowering partners is a large part of what we have done and what we are currently doing in Afghanistan. . . . Together with our allies, America struck huge blows against al Qaeda core and pushed back against an insurgency that threatened to overrun the country. But sustaining this progress depends on the ability of Afghans to do the job. And that's why we trained hundreds of thousands of Afghan soldiers and police. Earlier this spring, those forces, those Afghan forces, secured an election in which Afghans voted for the first democratic transfer of power in their history. And at the end of this year, a new Afghan President will be in office and America's combat mission will be over.

On May 2, 2012, the United States and Afghanistan signed the Enduring Strategic Partnership Agreement. This agreement demonstrates the United States' long-term commitment to strengthen Afghanistan's sovereignty and stability, in support of the goal of suppression of terrorism. The United States' extraordinary commitment to Afghanistan is balanced against the inherent dangers of the ongoing conflict in Afghanistan to its citizens and residents of Afghanistan and Afghan Government problems developing and complying with the rule of law. The United States and Afghan Governments are in the final process of establishing an agreement that will govern their relationships, cooperation, training, and support in the ongoing war against terrorism.

## **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. See also Executive Order 12968 (Aug. 2, 1995), § 3.1. Thus, nothing in this Decision should be construed to suggest that I have based this decision, 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 and the Secretary of Defense 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 (4<sup>th</sup> Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant’s security suitability. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

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

[I]f the individual has divided loyalties or foreign financial interests, [he or she] 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 this Guideline can and should consider 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.

AG ¶ 7 indicates two conditions that could raise a security concern and may be disqualifying in this case:

- (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; 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 sensitive information or technology and the individual’s desire to help a foreign person, group, or country by providing that information.

Applicant received a telephone call from a person who said he was Applicant’s cousin MZ. MZ told Applicant that he is a high-ranking military officer in the Afghan Army. The telephone call’s duration was about five minutes. Applicant believed the person who called was his cousin, MZ. The person who called knew that Applicant’s mother had recently died.

There are widely documented safety issues for residents of Afghanistan because of terrorists and insurgents. Applicant has voluntarily shared in those dangers, and he is willing to do so in the future. Hundreds of Afghan linguists, supporting U.S. forces, have family living in Afghanistan. Thousands of U.S. and coalition armed forces and civilian contractors serving in Afghanistan are targets of terrorists or the Taliban, along with Afghan civilians who support the Afghan Government and cooperate with coalition forces.

The mere possession of close family ties with a family member living in Afghanistan, is not, as a matter of law, disqualifying under Guideline B. However, if an applicant has a close relationship with even one relative, 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 *Generally* ISCR Case No. 03-02382 at 5 (App. Bd. Feb. 15, 2006); ISCR Case No. 99-0424 (App. Bd. Feb. 8, 2001).

The nature of a nation's government, its relationship with the United States, and its human rights record are relevant in assessing the likelihood that an applicant's family members 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 counterinsurgency, terrorists cause a substantial amount of death or property damage, or the country is known to conduct intelligence collection operations against the United States. The relationship of Afghanistan with the United States, places a significant, but not insurmountable burden of persuasion on Applicant to demonstrate that his relationships with his family members living in Afghanistan do not pose a security risk. Applicant should not be placed into a position where he might be forced to choose between loyalty to the United States and a desire to assist a family member living in Afghanistan.

Guideline B is not limited to countries hostile to the United States. "The United States has a compelling interest in protecting and safeguarding classified information from any person, organization, or country that is not authorized to have access to it, regardless of whether that person, organization, or country has interests inimical to those of the United States." ISCR Case No. 02-11570 at 5 (App. Bd. May 19, 2004). Furthermore, friendly nations can have profound disagreements with the United States over matters they view as important to their vital interests or national security. Finally, we know friendly nations have engaged in espionage against the United States, especially in the economic, scientific, and technical fields. See ISCR Case No. 00-0317, 2002 DOHA LEXIS 83 at \*\*15-16 (App. Bd. Mar. 29, 2002).

While there is no evidence that intelligence operatives or terrorists from Afghanistan seek or have sought classified or economic information from or through Applicant or his family, nevertheless, it is not possible to rule out such a possibility in the future. International terrorist groups are known to conduct intelligence activities as effectively as capable state intelligence services, and Afghanistan has an enormous problem with terrorism. Applicant's telephone call and familial relationship with MZ creates a potential conflict of interest because MZ contacted Applicant, and MZ is a high-ranking officer in the Afghan Army. Department Counsel produced substantial evidence of Applicant's contact with MZ and has raised the issue of potential foreign pressure or attempted exploitation. AG ¶¶ 7(a) and 7(b) apply, and further inquiry is necessary about potential application of any mitigating conditions.

AG ¶ 8 lists six 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 U.S.;

(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;

(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 cognizant security authority;

(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.

AG ¶¶ 8(a) to 8(c) apply. From 1976 to present, Applicant communicated once with MZ for about five minutes. Applicant does not know for certain that MZ is actually in the Afghan Army, let alone a high-ranking Afghan Army officer. However, I find that MZ is Applicant's cousin, and he is a high-ranking Afghan Army officer. Nevertheless, there is "little likelihood that [Applicant's relationship with MZ] could create a risk for foreign influence or exploitation." A key factor in the AG ¶ 8(b) analysis is Applicant's "deep and longstanding relationships and loyalties in the U.S." Applicant immigrated to the United States in 1982, and he became a U.S. citizen in 1988. His two brothers live in the United States. His spouse and three children live in the United States and are U.S. citizens. He has five siblings-in-law that live in the United States. Aside from the 5-minute telephone call from MZ in 2012, he does not communicate with any family members living in Afghanistan.

Applicant's years of support to the U.S. Army in Afghanistan as a linguist, including the dangers that service entailed, weigh towards mitigating security concerns. Applicant is willing to return to Afghanistan to assist U.S. Armed Forces in a dangerous combat environment. He has offered to continue to risk his life to support the United States' goals in Afghanistan. He has shown his patriotism, loyalty, and fidelity to the United States.

Applicant's relationship with the United States must be weighed against the potential conflict of interest created by his relationship with MZ, who lives in Afghanistan and is a high-ranking Afghan Army officer. There is no evidence, however, that terrorists, criminals, the Afghan Government, or those conducting espionage have approached or threatened Applicant or MZ in Afghanistan to coerce Applicant or MZ for classified or sensitive information.<sup>5</sup> As such, there is a reduced possibility that Applicant or MZ would be specifically selected as targets for improper coercion or exploitation. On the other hand, Applicant and MZ, like every other resident living in Afghanistan, are already at risk from terrorists and the Taliban.

While the Government does not have any burden to prove the presence of such evidence, if such record evidence were present, Applicant would have a heavier evidentiary burden to mitigate foreign influence security concerns. It is important to be mindful of the United States' huge investment of manpower and money in Afghanistan, and Applicant has supported U.S. goals and objectives in Afghanistan. Applicant and MZ are potential targets of terrorists and the Taliban, and Applicant's potential access to classified information could theoretically add risk to MZ from lawless elements in Afghanistan.

AG ¶¶ 8(d) and 8(e) do not fully apply. The U.S. Government has not encouraged Applicant's involvement with MZ. Applicant reported his contact with MZ. However, while Applicant's timely report of the contact with MZ is another mitigating factor supporting approval of Applicant's access to classified information, it is insufficient to fully mitigate all security concerns by itself.

AG ¶ 8(f) has limited application because there is no evidence that Applicant has any interest in property or bank accounts in Afghanistan. However, this mitigating condition can only fully mitigate the disqualifying condition under AG ¶ 7(e), which provides, "a substantial business, financial, or property interest in a foreign country, or in any foreign-owned or foreign-operated business, which could subject the individual to heightened risk of foreign influence or exploitation." All of Applicant's assets are in the United States.

In sum, Applicant's connections to MZ are relatively insignificant, and his connections to the United States are strong. His employment in support of the U.S. Government, performance of linguist duties in a combat zone, and over 25 years of U.S. citizenship are important factors weighing towards mitigation of security concerns. His connections to the United States taken together are sufficient to fully overcome the foreign influence security concerns under Guideline B raised by his 2012 contact with MZ. Foreign influence concerns under Guideline B are mitigated.

### **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

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<sup>5</sup>There would be little reason for U.S. enemies to seek classified information from an applicant before that applicant has access to such information or before they learn of such access.

conduct and all the circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

(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), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. I have incorporated my comments under Guideline B in my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under that guideline, but some warrant additional comment.

Applicant presented some important evidence weighing towards approval of his access to classified information. Applicant immigrated to the United States in 1982 more than 30 years ago. His two brothers live in the United States. His three children and spouse live in the United States and are U.S. citizens. He has five siblings-in-law that live in the United States. In 1988, he became a U.S. citizen and took an oath of allegiance to the United States. There is no evidence that Applicant has engaged in criminal activity, abused alcohol or illegal drugs, or committed any security violations.

Applicant provided four letters, establishing his dedication, loyalty, responsibility, and trustworthiness supporting the U.S. Army as a linguist in combat operations in Afghanistan. One Army officer called him an "irreplaceable asset" to his unit in Afghanistan. He served in a U.S. designated combat zone, and he made contributions to the U.S. military at personal risk. He is willing to continue to serve in Afghanistan in support of U.S. Armed Forces as a linguist, risking his life as part of his duties on behalf of the U.S. combat forces in Afghanistan. He is fully aware of the risks to himself. All these circumstances increase the probability that Applicant will recognize, resist, and report any attempts by a foreign power, terrorist group, or insurgent group to coerce or exploit him. See ISCR Case No. 07-00034 at 2 (App. Bd. Feb. 5, 2008). Applicant does not own property in Afghanistan. His past honorable service as a linguist in Afghanistan, desire for continued employment as a translator, and oath of allegiance to the United States document his loyalty, trustworthiness, and reliability, and they weigh heavily towards approval of his security clearance.

A Guideline B decision concerning Afghanistan must take into consideration the geopolitical situation and dangers there.<sup>6</sup> Afghanistan is a very dangerous place because of violence from the Taliban and terrorists. The Taliban and terrorists continue

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<sup>6</sup> 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).

to threaten the Afghan Government, the interests of the United States, U.S. Armed Forces, and those who cooperate and assist the United States. The Afghan Government does not fully comply with the rule of law or protect civil liberties in many instances. The United States and Afghan Governments are allies in the war on terrorism. The United States is committed to the establishment of a free and independent Afghan Government. Afghanistan and the United States have close relationships in diplomacy and trade.

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

### **Formal Findings**

Formal findings For or Against Applicant on the allegations set forth in the SOR, as required by Section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline B:	FOR APPLICANT
Subparagraph 1.a:	For Applicant

### **Conclusion**

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

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Mark Harvey  
Administrative Judge