

DATE: December 21, 2005

In re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 03-25828

DECISION OF CHIEF ADMINISTRATIVE JUDGE

ROBERT ROBINSON GALES

APPEARANCES

FOR GOVERNMENT

James Norman, Esquire, Deputy Chief Department Counsel

FOR APPLICANT

Steve S. Salsberry, Personal Representative

SYNOPSIS

The security concerns raised by a 45-year-old Vietnam-born naturalized U.S. citizen Applicant (with four siblings and four children who are U.S. citizens) with three siblings who are citizens and residents of Vietnam and one sibling who is a citizen and resident of Hong Kong, with whom he does not maintain close ties of affection or obligation--none of whom are agents of Socialist Republic of Vietnam, the Hong Kong Special Administrative Region, or the Peoples Republic of China, or in a position to be exploited by those foreign governments--have been mitigated by the evidence developed herein. Clearance is granted.

STATEMENT OF THE CASE

On April 7, 2005, the Defense Office of Hearings and Appeals (DOHA), pursuant to Executive Order 10865, *Safeguarding Classified Information Within Industry*, dated February 20, 1960, as amended and modified, and Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), dated January 2, 1992, as amended and modified, issued a Statement of Reasons (SOR) to Applicant. The SOR 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 a clearance should be granted, continued, denied, or revoked.

In a sworn written statement, dated May 4, 2005, Applicant responded to the allegations set forth in the SOR, and requested a hearing. The case was processed and, on October 25, 2005, Department Counsel indicated he was ready to proceed. The case was assigned to me on October 28, 2005. A notice of hearing was issued that same day, scheduling the hearing for November 17, 2005. The hearing was held as scheduled. Two government exhibits and the testimony of two Applicant witnesses (including the Applicant) were received. The transcript (Tr.) was received on December 1, 2005.

RULINGS ON PROCEDURE

During the proceeding, Department Counsel conceded Applicant had mitigated one of the allegations (subparagraph 1.a.) of foreign influence under Guideline B and moved to withdraw it. There being no objection, I granted the motion. (1) In addition, Department Counsel moved to amend two other allegations (subparagraphs 1.b. and 1.d.) of the SOR by adding the identities of specific individuals to each allegation. Once again, there being no objection, I granted the motions. (2)

Under Rule 201(b)(2), *Federal Rules of Evidence*, Department Counsel requested that official notice be taken of certain adjudicative facts as set forth in the following documents furnished for consideration: U.S. Department of State, Bureau of Consular Affairs, *Consular Information Sheet on Hong Kong SAR*, dated June 23, 2005, consisting of 6 pages; U.S. Department of State, Bureau of East Asian and Pacific Affairs, *Background Note: Hong Kong*, dated October 2005, consisting of 5 pages; Interagency OPSEC Support Staff, *Intelligence Threat Handbook*, undated, pages 1-5, 69-81; U.S. Department of State, Bureau of East Asian and Pacific Affairs, *Background Note: China*, dated March 2005, consisting of 18 pages; U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, *Country Reports on Human Rights Practices - 2004: China (includes Tibet, Hong Kong, and Macau)*, dated February 28, 2005, consisting of 59 pages; U.S. Congress, House Report 105-851, *Report of the Select Committee on U.S. National Security and Military/Commercial Concerns with The People's Republic of China: All-Volume Overview*, dated June 14, 1999, consisting of 37 pages; U.S. Department of State, Bureau of Consular Affairs, *Consular Information Sheet on Vietnam*, dated May 9, 2005, consisting of 7 pages; U.S. Department of State, Bureau of East Asian and Pacific Affairs, *Background Note: Vietnam*, dated April 2005, consisting of 8 pages; and U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, *Country Reports on Human Rights Practices - 2004: Vietnam*, dated February 28, 2005, consisting of 19 pages. There being no objection by Applicant, I took the requested official notice. (3)

FINDINGS OF FACT

Applicant has admitted most of the factual allegations pertaining to foreign influence under Guideline B (subparagraphs 1.b., a portion of 1.c., 1.d., and 1.e.). Those admissions are incorporated herein as findings of fact.

After a complete and thorough review of the evidence, and upon due consideration of same, I make the following additional findings of fact:

Applicant is a 45-year-old employee of a defense contractor, and he is seeking to retain the SECRET security clearance previously granted to him which was reduced to an interim clearance, and subsequently to a "red badge." (4)

He was born in 1960 in what was then the Republic of Vietnam (RVN) to ethnic-Chinese parents, both of whom were born in what was then the Republic of China. (5) Applicant, his parents, five brothers, and three sisters were all citizens and residents of RVN and the subsequent Socialist Republic of Vietnam (SRVN). (6) He attended school in SRVN, but because the family was poor, he could only complete middle school while there. (7)

The government of RVN collapsed in 1975, coinciding with the establishment of the Communist SRVN.

In 1980, the first members of Applicant's family started emigrating when an older married sister, born in 1944 (referred to as sibling #5), (8) and her entire family immigrated to the U.S. (9) An older brother, born in 1953 (referred to as sibling #8), (10) managed to leave SRVN that same year and went through Cambodia to a refugee camp in Thailand before immigrating to the U.S. (11) In November 1980, Applicant, then 23 years of age, and another older brother, born in 1955 (referred to as sibling #9), (12) both looking for freedom, (13) managed to escape by boat--as "boat people"--to Malaysia where they remained in a refugee camp for about seven months. (14) They transferred to another refugee camp in the Philippines where they awaited sponsorship into the U.S. (15) Four months later, the sponsorship by their sister (sibling #5) was approved and they immigrated to the U.S., arriving in November 1981. (16) Another older brother, born in 1956 (referred to as sibling #10), (17) and their mother, immigrated to the U.S. in 1990. (18) His father immigrated to the U.S. in 1990 as well. (19)

Three of Applicant's siblings--a brother born in 1942 (referred to as sibling #4), (20) a sister born in 1950 (referred to as sibling #6), (21) and a brother born in 1951 (referred to as sibling #7) (22)--remained in SRVN. One older sister, born in 1940 (referred to as sibling #3), (23) immigrated to Hong Kong with her family in 1977. (24)

Applicant's parents are both deceased. (25)

Applicant applied for U.S. citizenship as soon as he was eligible to do so. (26) In June 1987, he became a naturalized U.S. citizen. (27) He renounced his Vietnamese citizenship when he became a naturalized citizen of the U.S. and pledged his loyalty to protect and defend the interests of the U.S. He is not a dual citizen and considers himself to be a citizen of only the U.S. (28)

At some point prior to July 1988, Applicant was introduced by mail to a woman residing in the Peoples Republic of China (PRC). (29) Her relatives introduced them. He married her during a visit to PRC and brought her back to the U.S. They resided in the U.S. but their personalities did not mesh, so in August 1993, they were divorced. (30) She is a naturalized U.S. citizen. (31) They have not maintained any contact with each other since the divorce, (32) and he has no further relationship or contact with her family. (33) In March 1994, he married his second wife--a native of Hong Kong, but a naturalized citizen of the U.S.--and they eventually had four children (born in 1992, 1997, and twins in 1999, respectively) all native-born U.S. citizens. (34) During one week in February 1998, Applicant traveled to Hong Kong--by then a Special Administrative Region (SAR) of PRC--to attend his father-in-law's funeral. (35) In November 2004, Applicant and his second wife were divorced. (36) She resides in the U.S. with the three youngest children, and he resides in the U.S. with his oldest child. (37)

Applicant owns his own residence in the U.S. and maintains bank accounts and retirement accounts in the U.S. (38) He has no investments overseas. (39)

Although he was born in RVN, Applicant has no desire to return to Vietnam even to visit or to show his children where he was born. (40) He maintains little affection for the country or the Vietnamese people because ethnic Chinese are treated badly. (41)

The SOR reflects the government's interest in the following immediate family members or persons to whom Applicant purportedly has close ties of affection or obligation:

SOR ¶	RELATIONSHIP	CITIZENSHIP	RESIDENCE	OCCUPATION	LAST CONTACT
1.a.	sister (sibling #5)	U.S.	U.S.	housewife	1995 (42)
1.b.	sister (sibling #3)	Hong Kong	Hong Kong	widow in 2000 (43)	Feb 2005 (44)
1.c.	ex mother-in-law	Hong Kong	Hong Kong	unspecified	Nov 2004 (45)
1.d.	ex brother-in-law	Hong Kong	Hong Kong	student in US (46)	1991-92 (47)
1.e.	brother (sibling #4)	SRVN	SRVN	electrician (48)	1995 (49)
1.e.	sister (sibling #6)	SRVN	SRVN	wife/vendor (50)	1990 (51)
1.e.	brother (sibling #7)	SRVN	SRVN	machinist (52)	1995 (53)

None of Applicant's immediate or extended members are affiliated with any foreign government, military, or foreign intelligence service. Moreover, they are not agents of any foreign government.

When Applicant's mother passed away in 1995, a conflict arose when only Applicant and his brother (sibling #10) paid for the funeral themselves and the remaining siblings failed to contribute anything. (54) As a result of that dispute, their

relationships suffered and he no longer maintains close contact with them.

As noted above, the government of RVN collapsed in 1975, coinciding with the establishment of the Communist SRVN. Freedom of speech, freedom of the press, freedom of assembly, and freedom of association are significantly restricted in SRVN, and that government's human rights record remains poor. Nevertheless, full diplomatic relations were established between the U.S. and SRVN in 1995, and, in 2001, a bilateral trade agreement between the two countries finally commenced. Under that agreement, *temporary*--later modified to *conditional*--normal trade relations (formerly known as most-favored nation status) were extended by the U.S. SRVN has also given the U.S. modest support in the war against terrorism. While SRVN has a Communist totalitarian government which seemingly encourages technology transfers from the Vietnamese expatriate intellectuals abroad, the Department Counsel has offered no evidence to indicate SRVN conducts intelligence operations or economic espionage against the United States.

In July 1997, PRC resumed the exercise of sovereignty over Hong Kong and established the Hong Kong Special Administrative Region. Hong Kong has a high degree of autonomy in all matters except foreign and defense affairs, and has retained its political, economic, and judicial systems since 1997. "Hong Kong remains a free and open society where human rights are respected, courts are independent, and there is well established respect for the rule of law. . . ." ⁽⁵⁵⁾ Furthermore, Hong Kong is a strong ally of the U.S. in the global coalition against terrorism.

PRC--a Communist party-led authoritarian state--is an extremely aggressive collector of economic, technical, and scientific classified and proprietary information by a variety of means, with particular emphasis on exploiting expatriates. It is directly and indirectly actively involved in illegal technology transfer operations and economic and industrial espionage. Despite periods of tensions brought about by PRC's internal human rights policies and external political and military policies, the U.S. and PRC have initiated hundreds of cooperative programs under the 1979 bilateral Agreement on Cooperation in Science and Technology. The U.S. is PRC's second-largest trading partner. The PRC is an important partner of U.S. counter terrorism efforts.

Applicant received a certificate from a technical or vocational school in November 1997. He commenced his employment with his current employer in September 2002, and he is now a chill water operator. ⁽⁵⁶⁾ His immediate supervisor has characterized Applicant as trustworthy, honorable, hard working, responsible, and very diligent, and strongly supports his application for a security clearance.

POLICIES

Enclosure 2 of the Directive sets forth adjudicative guidelines which must be considered in the evaluation of security suitability. In addition to brief introductory explanations for each guideline, the adjudicative guidelines are divided into those that may be considered in deciding whether to deny or revoke an individual's eligibility for access to classified information (Disqualifying Conditions) and those that may be considered in deciding whether to grant an individual's eligibility for access to classified information (Mitigating Conditions).

An administrative judge need not view the adjudicative guidelines as inflexible ironclad rules of law. Instead, acknowledging the complexities of human behavior, these guidelines, when applied in conjunction with the factors set forth in the Adjudicative Process provision set forth in Section E.2.2., Enclosure 2, of the Directive, are intended to assist the administrative judge in reaching fair and impartial common sense decisions.

Because the entire process is a conscientious scrutiny of a number of variables known as the "whole person concept," all available, reliable information about the person, past and present, favorable and unfavorable, should be considered in making a meaningful decision. The Adjudicative Process factors which an administrative judge should consider are: (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 voluntariness of participation; (6) the presence or absence of rehabilitation and other pertinent 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.

Based upon a consideration of the evidence as a whole, I find the following adjudicative guideline most pertinent to an evaluation of the facts of this case:

GUIDELINE B - FOREIGN INFLUENCE: A security risk may exist when an individual's immediate family, including cohabitants, and other persons to whom he or she may be bound by affection, influence, or obligation are: (1) not citizens of the United States or (2) may be subject to duress. These situations could create the potential for foreign influence that could result in the compromise of classified information. Contacts with citizens of other countries or financial interests in other countries are also relevant to security determinations if they make an individual potentially vulnerable to coercion, exploitation, or pressure.

Conditions that could raise a security concern and may be disqualifying, as well as those which could mitigate security concerns, are set forth and discussed in the Conclusions section below.

Since the protection of the national security is the paramount determinant, the final decision in each case must be arrived at by applying the standard that the issuance of the clearance is "clearly consistent with the interests of national security," [\(57\)](#) or "clearly consistent with the national interest." For the purposes herein, despite the different language in each, I have concluded both standards are one and the same. In reaching this decision, I have drawn only those conclusions that are reasonable, logical and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

In the decision-making process, the burden of producing evidence initially falls on the government to establish a case which demonstrates, in accordance with the Directive, it is not clearly consistent with the national interest to grant or continue an applicant's access to classified information. If the government meets its burden, the heavy burden of persuasion then falls upon the applicant to present evidence in refutation, explanation, extenuation or mitigation sufficient to overcome the doubts raised by the government's case, and to ultimately demonstrate it is clearly consistent with the national interest to grant or continue the applicant's clearance.

A person who seeks access to classified information enters into a fiduciary relationship with the government predicated upon trust and confidence. It is a relationship that transcends normal duty hours and endures throughout off-duty hours as well. It is because of this special relationship that the government must be able to repose a high degree of trust and confidence in those individuals to whom it grants access to classified information. Decisions under this Directive include, by necessity, consideration of the possible risk that an applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

One additional comment is worthy of note. Applicant's allegiance, loyalty, and patriotism are not at issue in these proceedings. Section 7 of Executive Order 10865 specifically provides industrial security clearance decisions shall be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." Security clearance decisions cover many characteristics of an applicant other than allegiance, loyalty, and patriotism. Nothing in this Decision should be construed to suggest I have based this decision, in whole or in part, on any express or implied decision as to Applicant's allegiance, loyalty, or patriotism.

CONCLUSIONS

Upon consideration of all the facts in evidence, an assessment of credibility, and after application of all appropriate legal precepts, factors, and conditions, including those described briefly above, I conclude the following with respect to each allegation set forth in the SOR:

The government has established its case under Guideline B. Applicant has been portrayed as a person who is a potential security risk because members of his immediate family or persons to whom he is bound by affection, influence, or obligation--in this instance, several of his siblings and his former mother-in-law and brother-in-law--are residents and citizens of either SRVN or Hong Kong and may be subject to duress. These situations raise the potential for Applicant's vulnerability to coercion, exploitation, or pressure, and the exercise of foreign influence that could result in the compromise of classified information. However, the mere possession of family ties with a person in a foreign country is

not, as a matter of law, disqualifying under Guideline B:

The language of [Guideline] B (Foreign Influence) in the Adjudicative Guidelines makes clear that the possession of such family ties *may* pose a security risk. Whether an applicant's family ties in a foreign country pose a security risk depends on a common sense evaluation of the overall facts and circumstances of those family ties. *See* ISCR Case No. 98-0419 (April 30, 1999) at p. 5. [\(58\)](#)

The government is primarily concerned about the citizenship and residency status of two of Applicant's brothers (siblings #4 and #7) and one of his sisters (sibling #6) in SRVN, as well as his sister (sibling #3), former mother-in-law, and former brother-in-law, in Hong Kong. The government in SRVN is a Communist totalitarian country that is no longer involved in open military hostilities with the U.S., and its interests are not necessarily inimical to the U.S. It is currently engaged in normal trade relations with the U.S. The government in Hong Kong is a democratic special administrative region of PRC with a free and open society where human rights are respected, the courts remain independent, and there is well established and longstanding respect for the rule of law. Those circumstances facilitate an analysis involving the adjudicative guidelines and the various applicable conditions set forth therein. While Applicant, his children, and several of his siblings are U.S. citizens and residents, the continuing foreign citizenship and residency of the remaining four siblings raises the issue of potential foreign influence. In this regard, see Foreign Influence Disqualifying Condition (FI DC) E2.A2.1.2.1. (*an immediate family member, or a person to whom the individual has close ties of affection or obligation, is a citizen of, or resident or present in, a foreign country*).

After an examination of the evidence, I determine that Applicant's former mother-in-law and former brother-in-law are no longer considered immediate family members or persons with whom he maintains close ties of affection or obligation. He has not had contact with his former brother-in-law since about 1991-92, and has had no contact with his former mother-in-law since before his divorce from his wife in November 2004. Under these circumstances, I believe Applicant has, through evidence of extenuation and explanation, successfully rebutted and overcome the government's case with respect to allegation 1.c. of the SOR.

It is with some interest that I note that no evidence has been offered by the government indicating any sinister Hong Kong or SRVN intentions or activities, such as industrial espionage or active collection of foreign economic information, directed towards the United States. While I acknowledge PRC is active in such activities, the U.S. Department of State description of Hong Kong reverberates resoundingly: "Hong Kong remains a free and open society where human rights are respected, courts are independent, and there is well established respect for the rule of law." Likewise, I have seen no indication in the materials submitted for official notice commenting on any such activities or threats posed by Hong Kong or SRVN.

Also applicable, in this instance, is Foreign Influence Mitigating Condition (FI MC) E2.A2.1.3.1. (*a determination that the immediate family member(s), (spouse, father, mother, sons, daughters, brothers, sisters), cohabitant, or associate(s) in question are not agents of a foreign power or in a position to be exploited by a foreign power in a way that could force the individual to choose between loyalty to the person(s) involved and the United States*). The lingering concern regarding Applicant's three siblings in SRVN and one sibling in Hong Kong may be put to rest. The government has conceded the allegation regarding sibling #5 (subparagraph 1.a. of the SOR) as she is a naturalized U.S. citizen residing in the U.S. Under these circumstances, Applicant has, through evidence of extenuation and explanation, successfully rebutted and overcome the government's case with respect to allegation 1.a. of the SOR.

The remaining siblings, considering their citizenship and residency status, do not constitute an unacceptable security risk. There is little evidence to indicate they have what could be construed as continuing close ties of affection or obligation. He has had no contact with two of the three siblings residing in SRVN since 1995--10 years ago--when their mother passed away, and no contact with the remaining sibling in SRVN since 1990. His recent contact with the sibling in Hong Kong was occasioned solely by his efforts to acquire information for his security clearance review process. Their personal relationships with each other have no security significance. Moreover, none of Applicant's siblings are agents of SRVN, Hong Kong or PRC, or in a position to be exploited by any of those entities. Considering the absence of any scintilla of evidence that they are targets of any intelligence gathering efforts, their citizenship and residency status does not establish any doubts regarding possible duress. Under these circumstances, I believe Applicant has, through evidence of extenuation and explanation, successfully rebutted and overcome the government's case with

respect to allegations 1.b. and 1.d. of the SOR.

The government's only other alleged foreign influence concern relates to Applicant's having taken a trip to Hong Kong and PRC in 1998, an action which it asserts raises FI DC E2.A2.1.2.6. (*conduct which may make the individual vulnerable to coercion, exploitation, or pressure by a foreign government*). In his SF 86, Applicant had indicated the trip included visits to both entities, but during the hearing he clarified and corrected his earlier statement. The 1998 trip to attend his father-in-law's funeral was to Hong Kong, not to PRC, and he only included PRC as a destination because of the July 1997 PRC resumption of the exercise of sovereignty over Hong Kong and the establishment of the Hong Kong Special Administrative Region. In fact, he did not travel to PRC in 1998. An analysis of the potential vulnerability to Applicant because of this trip reveals little such vulnerability as he has no immediate family in PRC, other than Hong Kong SAR, through whom coercion, exploitation, or pressure could be exerted. Under these circumstances, Applicant has, through evidence of extenuation and explanation, successfully rebutted and overcome the government's case with respect to allegation 1.e. of the SOR.

Applicant's absence of foreign investments or financial interests, including bank accounts or real estate, in SRVN, raises FI MC E2.A2.1.3.5. (*foreign financial interests are minimal and not sufficient to affect the individual's security responsibilities*). Applicant did not simply casually relocate from his home in SRVN, but managed to escape by fleeing the country in a boat. His "financial interests" were zero when he fled the country, not invested there. On the other hand, his diligence and hard work have enabled him to reach the plateau where his U.S. holdings are significant and he has educated his children. Thus, I conclude Applicant has, through evidence of extenuation and explanation, successfully mitigated and overcome the Government's case with respect to Guideline B. Accordingly, allegations 1.a. through 1.e. of the SOR are concluded in favor of Applicant.

For the reasons stated, I conclude Applicant is eligible for access to classified information.

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 THE APPLICANT

Subparagraph 1.a.: Conceded/For the Applicant

Subparagraph 1.b.: For the Applicant

Subparagraph 1.c.: For the Applicant

Subparagraph 1.d.: For the Applicant

Subparagraph 1.e.: For the Applicant

DECISION

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 a security clearance for Applicant. Clearance is granted.

Robert Robinson Gales

Chief Administrative Judge

1. Tr. 62-64.

2. *Id.*

3. Tr. 23.

4. Tr. 72.
5. Government Exhibit 1 (Security Clearance Application (SF 86), dated September 16, 2002), at 4-5.
6. *Id.*, at 4-6.
7. Tr. 33.
8. Government Exhibit 1, *supra* note 5, at 5.
9. Tr. 45.
10. Government Exhibit 1, *supra* note 5, at 5.
11. Tr. 50.
12. Government Exhibit 1, *supra* note 5, at 6.
13. Tr. 33.
14. Applicant offered differing estimates to the question regarding the length of his stay in Malaysia. At one point, the duration was 7 months (Tr. 59) and in another point, it was 18 months (Tr. 28). Considering the dates of emigration (November 1980) and immigration (November 1981), it appears the lower estimate was more accurate.
15. Tr. 59.
16. Tr. 58.
17. Government Exhibit 1, *supra* note 5, at 6.
18. Tr. 52-53.
19. Tr. 29.
20. Government Exhibit 1, *supra* note 1, at 5.
21. *Id.*
22. *Id.*
23. Government Exhibit 1, *supra* note 1, at 5.
24. Government Exhibit 2 (Applicant's Answers to DOHA Interrogatories, dated March 4, 2005), at 2; Tr. 40.
25. Government Exhibit 1, *supra* note 1, at 4-5.
26. Tr. 43.
27. Government Exhibit 1, *supra* note 1, at 1.
28. *Id.*
29. Tr. 66.
30. Tr. 66.

31. Government Exhibit 1, *supra* note 1, at 4.

32. Tr. 67.

33. Tr. 67.

34. *Id.*, at 6-7.

35. Tr. 27, 65.

36. Tr. 29.

37. Tr. 2930.

38. Tr. 31.

39. Tr. 32.

40. Tr. 35.

41. Tr. 35.

42. Tr. 46

43. Tr. 41.

44. Tr. 41.

45. Tr. 47.

46. Tr. 47.

47. Tr. 47.

48. Tr. 37.

49. Tr. 38.

50. Tr. 54.

51. Tr. 55.

52. Tr. 39.

53. Tr. 40.

54. Tr. 47.

55. U.S. Department of State, Bureau of East Asian and Pacific Affairs, *Background Note: Hong Kong Profile*, dated October 2005), at 3.

56. Tr. 25.

57. Exec. Or. 12968, "*Access to Classified Information;*" as implemented by Department of Defense Regulation 5200.2-R, "*Personnel Security Program,*" dated January 1987, as amended by Change 3, dated November 8, 1995. However, the Directive uses both "clearly consistent with the national interest" (Sec. B.3; Sec. C.2.; and Sec. D.2.; Enclosure 3, Sec. 1.; and Sec. 25), and "clearly consistent with the interests of national security" (Enclosure 2 (Change 3),

Adjudicative Guidelines, at 2-2).

58. ISCR Case No. 98-0507 (Appeal Board Decision and Reversal Order, May 17, 1999), at 10.