



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



In the matter of:

Applicant for Security Clearance

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)  
) ISCR Case No. 15-03561  
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**Appearances**

For Government: Carroll J. Connelley, Esq., Department Counsel  
For Applicant: *Pro se*

07/17/2017  
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**Decision**  
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Curry, Marc, Administrative Judge:

Applicant grew up in the United States unaware that the woman whom he considered his mother was actually his adoptive mother, not his biological mother. He also did not know that his actual birth mother and several half-siblings lived in Pakistan. Although he has since become acquainted with his family members living in Pakistan, his emotional bond remains stronger with his adoptive mother. This fact, considered together with Applicant's deep and longstanding ties to the United States show that he would resolve any conflict of interest in favor of the United States. Clearance is granted.

**Statement of the Case**

On November 4, 2015, the Department of Defense (DOD) Consolidated Adjudications Facility (CAF) issued a statement of reasons (SOR), alleging security concerns under Guideline B (foreign influence). The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1990), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG), which became effective on September 1, 2006.

The SOR further informed Applicant that, based on information available to the Government, DOD adjudicators could not make the affirmative finding that it is clearly consistent with the national interest to grant or continue Applicant's security clearance, and it recommended that his case be submitted to an administrative judge for a determination whether his clearance should be granted, continued, denied, or revoked.

On January 5, 2016, Applicant responded to the SOR, admitting the allegations and requesting a hearing. On February 13, 2017, the Defense Office of Hearings and Appeals (DOHA) assigned the case to me. On March 20, 2017, DOHA issued a notice of the hearing, setting the hearing for April 6, 2017. The hearing was held as scheduled. I received two Government exhibits (GE 1 and 2), the testimony of Applicant and two character witnesses, and four Applicant's exhibits. (AE A through AE D). In addition, at Department Counsel's request, I took administrative notice of the facts set forth in six documents (Hearing Exhibits (HE) I through HE VI). I received the transcript of the hearing on April 18, 2017.

While my decision was pending, Security Executive Agent Directive 4 was issued establishing National Security Adjudicative Guidelines (AG) applicable to all covered individuals who require initial or continued eligibility for access to classified information or eligibility to hold a sensitive position. The AG supersede the adjudicative guidelines implemented in September 2006 and are effective for any adjudication made on or after June 8, 2017. Accordingly, I have adjudicated Applicant's security clearance eligibility under the new AG.<sup>1</sup>

### **Findings of Fact**

Applicant is a 32-year-old married man. He graduated from a U.S. university in 2006. Since 2010, he has worked for a defense contractor as a consultant, testing health care management software. (Tr. 29) He has held a security clearance since 2006. (Tr. 38)

Applicant is highly respected on the job. According to his supervisor, "he has always been one of the people that [she] can trust most within the work environment to be able to identify something that is not right [and] he always brings those things to [her] attention." (Tr. 20).

Applicant was born in Pakistan. He immigrated with his father to the United States in 1988, when he was four years old. They returned to Pakistan in 1997, when Applicant was nine years old, then returned to the United States permanently in 1999. (GE 2) Applicant has been a naturalized citizen since 2001. (GE 2) He renounced his dual citizenship with Pakistan in 2006. (AE B)

Applicant's parents, both citizens of Pakistan from birth, divorced when he was two years old. Both parents remarried other people two years later. Applicant's father

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<sup>1</sup> Application of the AGs that were in effect as of the issuance of the SOR would not change my decision in this case.

had full custody of Applicant and “decided to establish [Applicant’s] stepmother as [his] legally recorded mother in all records.” (Tr. 16) He never told Applicant that the woman who helped raise him was actually his adoptive mother and not his birth mother. Consequently, Applicant grew up not knowing the existence of his natural mother and half-siblings. (Tr. 16) Applicant’s father and stepmother are naturalized U.S. citizens. (GE 1 at 37-38)

Applicant was introduced to his natural mother and one of his half-siblings on a trip to Pakistan in 1999, when he was 15 years old. (Tr. 37) Although they met again in 2001, they did not begin maintaining regular contact until 2008. (Tr. 37) Since then, Applicant talks to his birth mother once or twice per month. (Tr. 49) Contact with his half-siblings are limited to occasions when he calls his natural mother and they happen to be at her home visiting. (Tr. 49)

Applicant last traveled to Pakistan to visit his relatives in 2015. (Tr. 46) His birth mother has never traveled to the United States. Applicant does not provide financial support to any of his family members in Pakistan. (Tr. 49)

Applicant’s natural mother is a homemaker. Applicant’s half-siblings in Pakistan consist of one brother and four sisters. They range in age from 9 to 22. His three youngest half-siblings are children. His two oldest half-siblings are a homemaker and an elementary school teacher, respectively. (Tr. 35)

Applicant visited Pakistan three times in the past ten years, in 2015, 2013 and 2008. (Tr. 46) During those trips, he spent the majority of his time with his paternal grandparents. His grandmother passed away in 2015. (Tr. 30) His grandfather is a retired agricultural scientist. (Tr. 45) Applicant talks with him about once per month. The revelation that Applicant’s mother who raised him was actually his stepmother has strengthened their bond, as Applicant “realized that she raised [him] no differently than her own two biological children.” (Tr. 36) Over the years, Applicant has been active in his community, feeding the homeless and teaching Sunday school. (Tr. 51)

### **Administrative Notice**

Although Pakistan is a parliamentary federal republic, its human rights record remains poor. Pakistan is a critical counterterrorism partner; however, several terrorist groups operate in parts of Pakistan with impunity, and the U.S. Department of State considers parts of Pakistan to be terrorist safe havens. (HE II at 2) In April 2016, the U.S. Department of State renewed a warning to U.S. citizens to defer all nonessential travel to Pakistan, as the presence of several terrorist groups posed a potential danger to U.S. citizens through Pakistan. (HE 1)

In May 2011, U.S. forces killed Osama bin Laden, mastermind of the 9/11 attacks and numerous other terrorist attacks around the world. He had been living in hiding in an affluent suburb of Islamabad, Pakistan’s capital, in a home eight times larger than

any homes in the community, reinforced by extraordinary security measures including 12 to 18 foot walls topped with barbed wire and two security gates. (HE V at 5)

## **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.

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

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

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. “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531.

## Analysis

### Guideline B, Foreign Influence

Under this guideline, “foreign contacts and interests, including, but not limited to, business, financial, and property interests, are a national security concern if they result in divided allegiance.” (AG ¶ 6) Pakistan is an important counterterrorism partner; however, parts of Pakistan remain terrorist safe havens outside of the control of the Pakistani government. In addition, Pakistan continues to have a poor human rights record. Under these circumstances, Applicant’s relatives who reside in Pakistan, generate the following disqualifying conditions under AG ¶ 7:

- (a) contact, regardless of method, with a foreign family member, business or professional associate, friend, or other person who is a citizen of or resident in a foreign country if that contact creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion; and
- (b) connections to a foreign person, group, government, or country that create a potential conflict of interest between the individual’s obligation to protect classified or sensitive information or technology and the individual’s desire to help a foreign person, group, or country by providing that information or technology.

Applicant only talks with his grandfather once per month. Applicant spent most of his childhood in the United States, unaware of the existence of his birth mother and half-siblings living in Pakistan. He did not begin staying in touch with them until he was in his mid-twenties. He talks with his mother once or twice per month, and only talks to his half-siblings if they happen to be at his mother’s home when he calls. I conclude that AG ¶ 8(c), “contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create a risk of foreign coercion or exploitation,” applies to Applicant’s relationship with his grandfather and his half-siblings.

Although Applicant did not become acquainted with his birth mother until he was a teenager, he has been in regular contact with her since 2008. In light of the presumption that one’s relationship with parents is not casual, I conclude that AG ¶ 8(c) is not applicable to Applicant’s relationship with his birth mother.

Applicant has lived in the United States nearly his entire life. His wife, a naturalized citizen, lives with him. He is highly respected on the job, and has friends he has known since childhood who are United States citizens. In addition, Applicant is active in his community, periodically volunteering at homeless shelters and teaching Sunday school. He renounced his dual citizenship with Pakistan in 2006. Most important, although Applicant has enjoyed getting to know his birth mother over the years, he has a more profound emotional relationship with his adoptive mother. Under these circumstances, Applicant’s relationship with his birth mother presents no conflict

of interest because he has “such deep and longstanding relationships and loyalties in the U.S., that [he] can be expected to resolve any conflict of interest in favor of the U.S. interest,” applies. (AG ¶ 8(b)).

### **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
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Subparagraphs 1.a to 1.e:	For Applicant
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### **Conclusion**

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

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Marc Curry  
Administrative Judge