

## National Security Clearances: What Does the Data Say and Where Can it be Found?

Pursuant to the Intelligence Authorization Act (IAA) for Fiscal Year (FY) 2010, the President is required to annually report to Congress on security clearance determinations. The report must include the number of United States Government employees and contractors who held a security clearance at each level as of 1 October of the preceding year. The Office of the Director of National Intelligence (ODNI), National Counterintelligence and Security Center (NCSC) prepares the report, latest edition of which was the <u>Fiscal Year 2017 Annual Report on Security Clearance Determinations</u>.

As of fiscal year 2017, there were 4,030,625 individuals found eligible to hold a clearance. This number reflected those eligible "in access" and "not in access." During the same fiscal year, there were 597,423 security clearance approvals representing a combination of initial clearances and re-investigations of existing clearances. Unfortunately, data is not readily available regarding either the number of clearance denials or existing clearance revocations, or the number of appeals pursuant to those denials or revocations. However, what is available is Carnegie Mellon University's (CMU) *Data Analysis of Security Clearance Appeal Decisions* report published in 2018 and the <u>Defense Office of Hearings and Appeals</u>.

The Department of Defense funded and support CMU's work forming the basis of the report which aimed to provide insight into the clearance process using case information from industrial security appeal decisions. Security clearances are adjudicated pursuant to thirteen guidelines delineated in the <u>Security Executive Agent Directive 4 (SEAD 4)</u>. The report summarized findings from 20,514 appeals filed from 1996 to 2016. Overall, individuals were denied a security clearance on appeal in 68% of the cases, while 31% were granted a clearance, and the outcome of the remaining one percent was unknown.

Among the cases submitted for appeal, none involved Adjudicative Guideline A. Allegiance to the U.S. As can be seen below borrowed from CMU's report, the majority of cases involved security concerns arising from financial considerations followed by personal conduct, criminal conduct, foreign influence, and drug involvement (quantities and percentages are based on total number of cases and cases can involve more than one guideline). Knowing the frequency of guidelines forming the subject of a case can help assess likelihood of an individual's security clearance being denied or revoked when they have experienced or are beginning to experience circumstances giving rising to specific security concerns identified with the guidelines. This in turn allows for proactive actions to be potentially identified and undertaken to mitigate the security concerns thereby reducing the risk of losing the privilege of a security clearance.



| B. Foreign Influence                     | 3,526  | 17.2 |
|--|--------|------|
| C. Foreign Preference                    | 1,632  | 8.0  |
| D. Sexual Behavior                       | 483    | 2.4  |
| E. Personal Conduct                      | 7,344  | 35.8 |
| F. Financial Considerations              | 10,720 | 52.3 |
| G. Alcohol Consumption                   | 1,865  | 9.1  |
| H. Drug Involvement                      | 2,211  | 10.8 |
| I. Psychological Conditions              | 71     | 0.3  |
| J. Criminal Conduct                      | 3,714  | 18.1 |
| K. Handling Protected Information        | 59     | 0.3  |
| L. Outside Activities                    | 58     | 0.3  |
| M. Use of Information Technology Systems | 52     | 0.3  |

As always, the devil is in the details and this is where the case repository of the <u>Defense Office of Hearings and Appeals</u> (DOHA) comes into play. The archive is readily available online and should be explored when evaluating likely outcomes of a security clearance determination. Screen shot of DOHA's main page is included below with sub-link highlighted to where one can search the case records.



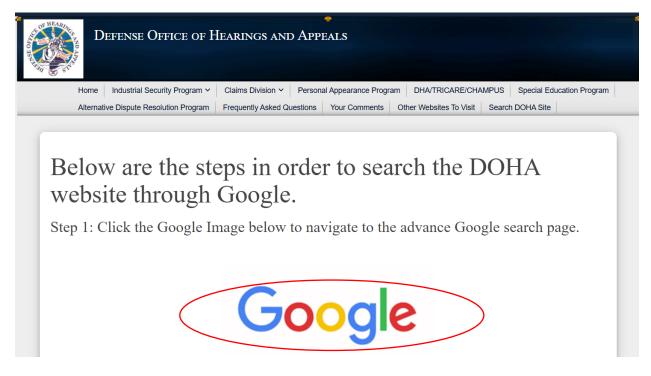
The Defense Office of Hearings and Appeals (DOHA), the largest component of the Defense Legal Services Agency, provides hearings and issues decisions in personnel security clearance cases for contractor personnel doing classified work for all DoD components and 28 other Federal Agencies and Departments; conducts personal appearance hearings and issues decisions in security clearance cases for DoD civilian employees and military personnel; settles claims for uniformed service pay and allowances, and claims of transportation carriers for amounts deducted from them for loss or damage; conducts hearings and issues decisions in cases filed under the Individuals with Disabilities Education Act (IDEA) relating to early intervention, special education or related services delivered by the DoD, and addresses claims filed with the Defense Health Agency (DHA) under TRICARE/CHAMPUS rules seeking payment for medical services; and functions as the Center for DoD Alternative Dispute Resolution and Conflict Management activities within the DoD and as a source of third party neutrals for such activities.

## DOHA Toll Free Office Number: 1-866-231-3153 E-Mail: osd.pentagon.ogc.mbx.doha-status@mail.mil

| Frequently Asked Questions         | Personal Appearance Program            | Special Education Program                     |
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| Office Of the General Counsel Home | Search the DOHA Webpage                | Your Comments                                 |



Upon clicking on the "Search the DOHA Webpage" link, one will be taken to another page with the Google icon front and center. The Google icon is an actual link that directs the visitor to the actual query page.



A screen shot of the DOHA query page is included below. It is fairly straightforward and user friendly.



## Advanced Search

| Find pages with             |                           | To do this in the search box   |
|-----------------------------|---------------------------|--|
| all these words:            | 1                         | Type the important words: tricolor rat terrier   |
| this exact word or phrase:  |                           | Put exact words in quotes: "rat terrier"   |
| any of these words:         |                           | Type OR between all the words you want: miniature OR standard  |
| none of these words:        |                           | Put a minus sign just before words you don't want:<br>-rodent, -"Jack Russell"                           |
| numbers ranging from:       | to                        | Put 2 periods between the numbers and add a unit of measure: 1035 lb, \$300\$500, 20102011               |
|                             |                           |  |
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| language:                   | any language 👻            | Find pages in the language you select.   |
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Entering the query "Guideline F" in the "all these words" search box, will generate a page similar to the one captioned below. Clicking on one of the results will then initiate a download of the case decision in a PDF format.

| Google    | guideline f site:https://doha.ogc.osd.mil/   | × | Ļ | 0 | ٩     |
|-----------|--|---|---|---|-------|
|           | All Shopping Images Videos News Short videos Forums : More   |   |   |   | Tools |
|           | osd.mil<br>https://doha.ogc.osd.mil > SEAD4_20170608 PDF :   |   |   |   |       |
|           | National Security Adjudicative Guidelines<br>Dec 10, 2016 — F. EFFECTIVE DATE: This Directive becomes effective 180 days after the date of<br>signature. James Delapper. Security Executive Agent.   |   |   |   |       |
|           | Defense Office of Hearings and Appeals (.mil) https://doha.ogc.osd.mil > FileId PDF  |   |   |   |       |
|           | Guideline F<br>On April. 9, 2019, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that<br>decision—security concerns raised under Guideline F (  |   |   |   |       |
|           | Defense Office of Hearings and Appeals (.mil) https://doha.ogc.osd.mil > FileId PDF  |   |   |   |       |
|           | An applicant who entrusts serious financial responsibilities<br>Failure to file and pay taxes falls within the scope of Guideline F. Such failure suggests that an applicant<br>has a problem with abiding by well-established   |   |   |   |       |
| $\langle$ | Defense Office of Hearings and Appeals (.mil)<br>https://doha.ogc.osd.mil>Filed PDF :<br>Guideline F DIGEST: Applicant argues that the Judge<br>Applicant raised the following issue on appeal: whether the Judge's adverse decision was arbitrary,<br>capricious, or contrary to law. The Judge's favorable |   |   |   |       |



The PDF file when opened will have a typical format, such as the two below:

| KEYWORD: Guideline E; Guideline F  | SO HEARING   |
|--|--|
| DIGEST: Applicant argues that the Judge should have sua sponte taken administrative notice of<br>policies and procedures of another Federal agency and then proceeds to provide information<br>about those purported matters. In the past, the Appeal Board has stated a party that does not ask<br>a Judge to take administrative notice of a specific matter at the hearing has a heavy burden on<br>appeal of demonstrating that the Judge's inaction was arbitrary, capricious, or contrary to law.<br>Adverse decision is affirmed. | DEPARTMENT OF DEFENSE<br>DEFENSE OFFICE OF HEARINGS AND APPEALS  |
| CASE NO: 19-00337.al   | In the matter of:  |
| DATE: 05/06/2020   | ) ISCR Case No. 20-03456   |
|  | Applicant for Security Clearance   |
|  | Appearances  |
| DATE: May 6, 2020  | For Government: Tara Karoian, Esq., Department Counsel<br>For Applicant: Alan Edmunds, Esq., Applicant's Counsel   |
| )  | July 7, 2022   |
| In Re: )   | Decision   |
| Applicant for Security Clearance   | CEFOLA, Richard A., Administrative Judge:  |
|  | Statement of the Case  |
| APPEAL BOARD DECISION  | On March 16, 2021, in accordance with DoD Directive 5220.6, as amended<br>(Directive) the Denadment of Defense issued Applicant a Statement of Reasons (SOR) |

The value in searching and reviewing case records is it provides detailed context regarding underlying circumstances giving rise to security concerns identified in the adjudicative guidelines, additional factors which mitigate those concerns, the application of the whole person concept, reference to relevant policies, outline of the analysis, and the formal findings. Although each individual's case is unique, there are lessons to be learned and perspective to be gained which will assist any individual or organization in not only evaluating probability of a determination in favor of eligibility for access to national security information, but also in understanding the reasoning behind such determinations.

While proactive research is always recommended, it should be viewed as a tool to inform courses of action and not as a substitute for employing a professional when actual problems arise.