BY MS. PASQUARELLA:

Q       So do you know why the agency decided
that it was important to launch the CARRP policy?
A       We wanted to ensure that we had a
consistent approach for identifying potential
national security concerns for reviewing those
cases, for documenting and working those cases
and for getting those cases to and through
adjudication.

Q       And was there something inconsistent
about the way national security cases were
handled prior to CARRP?

MR. KIPNIS: Objection; scope. You
can answer in your personal capacity.

THE WITNESS: Prior to CARRP, those
cases were, as I said, handled at headquarters,
and part of CARRP was returning responsibility of
those cases back to the field offices.

BY MS. PASQUARELLA:

Q       And why did they want to do that?

MR. KIPNIS: Objection. Go ahead and
answer.
THE WITNESS: Because the -- part of
the reason was that the local offices would have
greater familiarity with the A file, with the
case, possibly with the case agents and cases of
law enforcement activity, and that coordination
of the cases and, again, ultimately working with
adjudications would be facilitated by having the
vetting of the cases done in the local office.

BY MS. PASQUARELLA:

Q Okay. And who was involved in the
formulation of the CARRP policy?

A Within USCIS, it was led -- it was
FDNS, Fraud Detection and National Security
division, as part of our national security and
recordation directorate at the time, as well as
domestic operations, which oversaw the field
offices and service centers, and the refugee
asylum international operations directorate, as
well as our Office of Chief Counsel.

Q Did anyone outside of USCIS
participate in the formulation of CARRP?

A No.
Q  What information did the agency consider when it came up with its definition of national security concern that's contained in the 2008 CARRP policy?

A  We reviewed the Immigration and Nationality Act for the grounds of inadmissibility and removability to be included. The cases involving national security concerns were being worked at headquarters at the time. So the experience gained from working on those cases informed the development of CARRP policy.

Q  Okay. So the INA and your own on-the-job experience. Was there anything else that was considered?

A  No.

Q  And in the CARRP -- the 2008 CARRP policy defines national security concerns to include known or suspected terrorists, correct?

A  This is correct.

Q  We'll refer to that as KST, a known or suspected terrorist.
Are you aware of any other information that the agency considered in deciding to treat KSTs as national security concerns?

A    Besides what we discussed?

Q    Correct.

A    No.

Q    Okay. And did USCIS consider information about the accuracy of the KST designation in deciding to include KSTs as national security concerns in the CARRP policy?

A    What do you mean by "the accuracy"?

Q    Any information about whether or not the KST designation is accurate.

A    Besides our experience working on cases involving such individuals, no.

Q    And when you say "experience", you mean your on-the-job experience, correct?

A    Yes.

Q    Did it consider at the time the evidentiary standard that's used by the intelligence community in making the determination that somebody is a KST?
and security checks.

Additionally, there is a small section in the NaBISCOP that describes at a high level some parts of the CARRP policy for those officers who are running background and security checks but may not be otherwise familiar with the CARRP policy.

Q Who would those people be who are running the background checks that are not otherwise familiar with the CARRP policy?

A It might be Immigration Services officers who are doing the upfront background and security checks or who are otherwise running background checks on cases prior to adjudication.

Q Okay. And when an adjustment of status or a naturalization application is first filed, at what point are the background checks initially run?

A A number of the background checks are initiated fairly early in the process. The TECS checks are typically done -- TECS is one of our background and security checks and is required in
all adjustment and naturalization cases. That receipt of the application.

The FBI Name Checks are typically implemented sometime shortly after that. A FBI fingerprint check is typically also required for those applications, and that would be initiated sometime after we were able to capture the applicant's biometrics so those can be submitted.

So those are the background checks that are run very early on. Are there other background checks that are run at a later point?

There are other systems that officers may review as part of their adjudication, but those are the mandatory background checks that are run on all cases.

I see. So the TECS FBI Name Check and FBI fingerprint are the mandatory background checks that are run in every case?

Actually, I apologize. I will add that our officers also review, as part of the reviewing the information from the FBI
fingerprint check, information from the DHS database IDENT, which houses biometric typically entry information, as well as other biometric encounters. So that's part of the biometrics collection. But yes, TECS, FBI fingerprint, FBI Name Check, and IDENT.

Q  And then other database systems or background check systems may be run depending on the circumstances in a given case; is that right?

A  That is correct.

Q  But there are no other mandatory checks that are required. Am I getting that right?

A  That is correct.

Q  Okay. While we're on the subject of IDENT, IDENT is the DHS biometric database, correct?

A  That is correct.

Q  And what is USCIS's IDENT for?

A  For biometrically comparing the applicant information that we receive to other individuals in the system, to identify potential
1 fraud, as well as to identify other prior
2 collections, encounters with the applicant.
3     Q     When you say "encounters", do you
4 mean -- what do you mean by that?
5     A     Typically, I mean other biometric
6 collections by -- typically by DHS.
7     Q     Okay.
8     A     So their entry at the border, for
9 example, or at a port of entry.
10     Q     And are you familiar with the database
11 ADIS, A-D-I-S?
12     MR. KIPNIS:  Objection; scope.  You
13 can answer in your personal capacity.
14     THE WITNESS:  I am familiar with ADIS.
15     BY MS. PASQUARELLA:
16     Q     Is that -- is that database reviewed
17 through TECS?
18     MR. KIPNIS:  Objection; scope.
19     THE WITNESS:  No, I don't believe so.
20 Sorry.
21     BY MS. PASQUARELLA:
22     Q     Okay. And what is -- what's the
information that USCIS is looking -- is accessing when it -- when it accesses TECS?

A  Information in TECS would typically include prior encounters with law enforcement agencies. So it may include other encounters with Customs & Border Protection. It might include information about other law enforcement investigations for which the applicant is the subject, and it may also include information on whether or not the individual is listed as a known or suspected terrorist.

Q  Okay. Anything else?

A  It is a general law enforcement lookout communication system. So it may have other types of law enforcement lookouts and encounter information. But lookouts and encounters is broadly how I would categorize the rest of the information.

Q  Okay. And what information is USCIS accessing when it -- when it accesses the FBI fingerprint system?

A  The FBI's fingerprint system includes
information from the FBI on arrests, as well as
state-level information shared by those states
with the CJIS, Criminal Justice Information
System.

Q Would that be criminal history
information?

A Yes.

Q And the mandatory checks that we talked about, IDENT checks, FBI Name Check, FBI fingerprint, are those run at the National Benefits Center?

MR. KIPNIS: Objection; scope.

THE WITNESS: They are -- yes. The National Benefits Center runs -- initiates those -- well, no. I apologize.

So they do the upfront TECS checks, and they will submit the FBI Name Checks. The FBI fingerprint checks are initiated when an individual is -- submits their biometric information at one of our applications support centers, though the NBC may review the results of those background checks also.
BY MS. PASQUARELLA:

Q     But the initial checks that we talked

example, TECS, is that typically run by -- is

that the National Benefits Center that's running

them or who's running them?

A     Yes. The National Benefits Center

runs those.

Q     Okay. And when those initial checks

flag something that should be investigated, as a

potential indicator of a national security

concern, who -- who then investigates those

flags?

A     The NBC has officers who initially

triage --

MR. KIPNIS: I'm going to object -- go

ahead and answer. I'm sorry. Objection to

scope. You can answer.

THE WITNESS: I apologize.

MR. KIPNIS: No, it's my fault.
BY MS. PASQUARELLA:

Q      Okay. I want to talk now about KSTs. What's USCIS's understanding of what it means to be a KST?

A      A KST, a known or suspected terrorist, is an individual who is known or is reasonably suspected of being engaged in terrorist activity, of being a member of a terrorist organization or planning terrorist activity.

Q      And who makes the determination about who is a KST?

MR. KIPNIS: Based on USCIS's knowledge?

MS. PASQUARELLA: Yes.

THE WITNESS: Law enforcement and intelligence agencies nominate individuals for placement on the watchlist as a known or suspected terrorist.

BY MS. PASQUIRELLA:

Q      And then who decides who actually places them? Who gets to be placed on that watchlist?
MR. KIPNIS: Again, USCIS's knowledge on that question?

MS. PASQUARELLA: All of these questions are USCIS's knowledge, yes.

MR. KIPNIS: Well you're not framing them that way. So that's the issue. I'll make sure that you're getting the answer to the question you're giving.

THE WITNESS: The -- our understanding is that the nominating agency is responsible for determining that an individual is a KST.

BY MS. PASQUARELLA:

Q

A

Q

MR. KIPNIS: 

MS. PASQUARELLA: 

knowledge, yes.
THE WITNESS: There are guidelines for inclusion on the -- on the watchlist, and each agency may have its own processes for placing those nominations on the watchlist.

BY MS. PASQUARELLA:

Q Okay. But my question is, is it USCIS's understanding that a person who is nominated to the watchlist is in fact placed on the watchlist?

MR. KIPNIS: Objection on scope. This was not -- this is not listed in the topics. So he can answer based on his personal knowledge but --

MS. PASQUARELLA: This is Topic Number 8, Brian.

MR. KIPNIS: Yes. The question about how someone is placed on the watchlist or USCIS's knowledge of that is not part of the topic.

MS. PASQUARELLA: I disagree. It's about how -- what it means to be a KST and how they get there.

MR. KIPNIS: Well, I don't see the how
they get there. Anyway, go ahead and answer, if
you can, Kevin.

THE WITNESS: [redacted]

BY MS. PASQUARELLA:

Q    Does USCIS know what the evidentiary
standard is to nominate someone to the TSDB?

A    U.S. -- sorry.

MR. KIPNIS: Object to scope.

THE WITNESS: Sorry. USCIS understands that it is reasonable suspicion.

BY MS. PASQUARELLA:

Q    Okay. And what is USCIS's understanding of the reasonable suspicion is reasonable suspicion of what?

MR. KIPNIS: Objection; scope.

THE WITNESS: Reasonable suspicion that the individual has participated in -- is -- has conducted or is planning to conduct terrorist
1 activity.

2 BY MS. PASQUARELLA:

3      Q     And what is the definition that's used
4 of terrorist activity in finding that's there's
5 reasonable suspicion to place someone on the
6 watchlist?

7            MR. KIPNIS:  Objection; scope.
8            THE WITNESS:  I'm not sure --
9            COURT REPORTER:  What was that?
10            MR. KIPNIS:  I objected based on the
11 lack of foundation also.
12            THE WITNESS:  And I said I'm not sure
13 what that is.
14 BY MS. PASQUARELLA:

15      Q     Okay. Does being a KST satisfy
16 CARRP's articulable link standard?
17            COURT REPORTER:  I'm sorry. Can you
18 repeat the question?
19 BY MS. PASQUARELLA:

20      Q     Does being a KST satisfy CARRP's
21 articulable link standard?
22      A     Yes. We consider an individual who is
listed as a K -- is a confirmed KST to have an
articulable link to national security across
USCIS.

Q Why does USCIS think that being an KST
satisfies the articulable link standard?

A Because of the -- the -- a person is
nominated as a KST if there is a reasonable
suspicion, the person has been involved in
terrorist activities. Because of that and
because terrorist activities are included in INA
212, we consider that to be similar to our own
articulation of a national security concern for
non-KST security concerns.

Q But, again, USCIS doesn't know what
definition is applied to terrorist activity when
an agency nominates someone to the watchlist?

MR. KIPNIS: Objection; scope.

THE WITNESS: I'm sorry. I forget
exactly what the definition of terrorism is that
they use in the watchlist.

BY MS. PASQUARELLA:

Q So you don't know whether that
BY MS. PASQUARELLA:

Q

MR. KIPNIS: Objection; scope.

THE WITNESS:

MR. KIPNIS: Same objection.

THE WITNESS:

BY MS. PASQUARELLA:

Q
BY MS. PASQUARELLA:

Q

A

...