

EXHIBIT 8

~~FILED UNDER SEAL~~

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Page 1

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

-----x

ABDIQAFAR WAGAFE, et al., on :
behalf of themselves and :
others similarly situated, :
Plaintiffs, :

-vs- : No.

DONALD TRUMP, President of the: 17-cv-00094 RAJ
United States, et al., :
Defendants. :

-----x

CONFIDENTIAL UNDER THE PROTECTIVE ORDER

30 (B) (6) VIDEOTAPED DEPOSITION OF USCIS

BY AND THROUGH KEVIN QUINN

Thursday, September 3, 2020

10:09 a.m.

Job No.: 623013

Pages 1 - 312

Reported by: Tammy S. Newton

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Confidential videotaped deposition

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of KEVIN QUINN taken by Counsel for Plaintiffs,

4

held remotely before Tammy S. Newton, Notary

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Public, beginning at approximately 10:09 a.m.

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EST, when were present on behalf of the

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respective parties:

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A P P E A R A N C E S

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18

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21

22

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1 C O N T E N T S

2 EXAMINATION OF KEVIN QUINN PAGE:

3 By Ms. Pasquarella 8

4 By Mr. Kipnis 307

5

6 DEPOSITION EXHIBITS PAGE:

7 Number 1 - Notice of Deposition 9

8 Number 2 - Certified Administrative

9 Record 17

10 Number 3 - Training Module 4 166

11 Number 4 - Interoffice Memo 218

12 Number 5 - Training Module 4 221

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14 (All exhibits attached to transcript.)

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1 P R O C E E D I N G S

2 VIDEOTAPE OPERATOR: We are now on the
3 record. This begins Video 1 in the deposition of
4 Kevin Quinn in the matter of Abdiqafar Wagafe, et
5 al. versus Donald Trump, President of the United
6 States, et al. in the United States District
7 Court, Western Division of Washington at Seattle.

8 Today's date is Thursday, September
9 3rd, 2020. The time is 10:09 a.m. This
10 deposition is being taken remotely at the request
11 of Perkins Coie LLP. The videographer's name is
12 Dan Katz, and the court reporter is Tammy Newton,
13 both from Magna Legal Services. All counsel and
14 parties present will be noted on the stenographic
15 record. Will the court reporter please swear in
16 the witness.

17 COURT REPORTER: Does everyone
18 stipulate to the following: No party to the
19 litigation will object to the remote deposition
20 on the grounds that the stenographer may not have
21 the legal authority to swear in the witness.

22 MS. PASQUARELLA: Plaintiffs agree.

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1 MR. KIPNIS: So stipulate.

2 KEVIN QUINN,

3 after having been duly sworn remotely by the

4 stenographer, was examined and testified as

5 follows:

6 EXAMINATION BY COUNSEL FOR THE PLAINTIFF

7 BY MS. PASQUARELLA:

8 Q Good morning, Mr. Quinn.

9 A Good morning.

10 Q Can you please state your name and

11 spell it for the record.

12 A Sure. My name is Kevin Quinn. Last

13 name spelled Q-U-I-N-N. First name K-E-V-I-N.

14 Q And tell us your title.

15 A I am division chief for USCIS Fraud

16 Detection and National Security, National

17 Security and Public Safety Division.

18 Q How long have you been division chief?

19 A I have been a division chief for a

20 little over four years. I've been with the

21 National Security and Public Safety Division for

22 a little over a year.

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1 have to switch my head -- my phone situation.

2 MR. KIPNIS: Yes. I think that might
3 be make it better.

4 VIDEOTAPE OPERATOR: 10:27 a.m., we're
5 off the record.

6 (A brief recess was taken.)

7 VIDEOTAPE OPERATOR: 10:29 a.m., we're
8 on the record.

9 MS. PASQUARELLA: Great.

10 BY MS. PASQUARELLA:

11 Q Okay. So we were talking about the
12 index here. And does this -- I'm just scrolling
13 through this index. This lists 37 documents that
14 are contained in the certified administrative
15 record.

16 Do you see that?

17 A I do.

18 Q Okay. And based on your review of
19 the -- of the record, what documents are
20 contained to -- generally what documents are
21 contained in the record?

22 A Documents outlining the CARRP policy,

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1 as well as training documents for implementing
2 the CARRP policy.

3 Q Okay. So is it the agency's position
4 that the administrative record contains all of
5 the CARRP policies?

6 Do you understand the question, Mr.
7 Quinn?

8 MR. KIPNIS: Objection. The question
9 is vague. Policy is such an ambiguous word.
10 Jenn, maybe if you can clarify what you mean by
11 "policy."

12 BY MS. PASQUARELLA:

13 Q Are -- does this -- does the record
14 reflect -- does the administrative record contain
15 all of the official policies that fall within
16 CARRP that the agency has adopted?

17 A Can you scroll back down through it
18 again?

19 MR. KIPNIS: I'll renew the objection.

20 THE WITNESS: We -- administrative
21 record includes -- contains the national level
22 policies that directly relate to CARRP.

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1 Q Okay. And there's not any further
2 updates to those 2017 modules, correct?

3 A The 2017 is still the most current
4 version of those training slides.

5 Q Okay. Does this administrative record
6 contain information that was considered prior to
7 the adoption of CARRP?

8 I'm going to scroll up to the top.

9 A I'm not sure what you mean.

10 MR. KIPNIS: Objection; vague.

11 BY MS. PASQUARELLA:

12 Q Does the administrative record contain
13 any information, aside from the policy documents
14 and the training modules, that was considered by
15 the agency in deciding to adopt CARRP?

16 A Other than what's in the documents,
17 I -- I'm still not quite sure what you mean by
18 "considered".

19 Q Okay. We can move on.

20 What was the reason why CARRP was
21 first adopted?

22 A The agency wished to adopt a policy

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1 and practice that would standardize handling of
2 cases involving potential national security
3 concerns across the agency and move the
4 responsibility for vetting and adjudicating those
5 cases back into the local field offices, which
6 had jurisdiction over the pending application.

7 Q So how were applications presenting
8 national security concerns handled before CARRP
9 was adopted?

10 A They --

11 MR. KIPNIS: Objection. Objection to
12 scope.

13 COURT REPORTER: What was your
14 objection?

15 MR. KIPNIS: You can answer. You can
16 answer in your personal capacity.

17 MS. PASQUARELLA: Okay. I'm going to
18 respond to that. This is a 30(b)(6). He has
19 testified that he is prepared to testify about
20 all of the 26 topics. This topic in particular
21 is about the origin of CARRP, Topic Number 3.

22 Counsel, I assume that throughout this

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1 THE WITNESS: Because the -- part of
2 the reason was that the local offices would have
3 greater familiarity with the A file, with the
4 case, possibly with the case agents and cases of
5 law enforcement activity, and that coordination
6 of the cases and, again, ultimately working with
7 adjudications would be facilitated by having the
8 vetting of the cases done in the local office.

9 BY MS. PASQUARELLA:

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

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

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

22 A No.

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1 Q Okay. Did anyone outside of USCIS
2 provide input on CARRP either before or after it
3 was adopted?

4 A What do you mean by -- what do you
5 mean by "input"?

6 Q Did -- did any -- anyone outside of
7 USCIS provide feedback on the CARRP policy as it
8 was being developed?

9 A No.

10 Q Okay. And after the memo was --
11 was -- was written, did anyone outside of USCIS
12 provide feedback on the memo?

13 A I'm sorry. What do you mean by
14 "feedback"?

15 Q Any input, any advice, any commentary,
16 any recommendations?

17 A No.

18 Q And that includes no one else within
19 DHS had any involvement in the formulation of
20 CARRP, correct?

21 A Correct.

22 Q And no one in the law enforcement

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1 community had any involvement in the formulation
2 of CARRP, correct?

3 A Correct.

4 Q Were any studies performed by USCIS
5 prior to the adoption of CARRP in helping the
6 agency formulate the CARRP policy?

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

9 THE WITNESS: No.

10 BY MS. PASQUARELLA:

11 Q Were any reports written by the agency
12 to help it in its formulation of the CARRP
13 policy?

14 A No.

15 Q Were any reports reviewed by the
16 people formulating the CARRP policy in making its
17 decisions about how to design CARRP?

18 A No.

19 Q What information did the agency
20 consider when it came up with the definition of
21 national security concern in the CARRP policy?

22 A I'm sorry. Can you repeat the

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1 question?

2 Q What information did the agency
3 consider when it came up with its definition of
4 national security concern that's contained in the
5 2008 CARRP policy?

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

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

16 A No.

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

20 A This is correct.

21 Q We'll refer to that as KST, a known or
22 suspected terrorist.

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1 Are you aware of any other information
2 that the agency considered in deciding to treat
3 KSTs as national security concerns?

4 A Besides what we discussed?

5 Q Correct.

6 A No.

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

11 A What do you mean by "the accuracy"?

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

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

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

18 A Yes.

19 Q Did it consider at the time the
20 evidentiary standard that's used by the
21 intelligence community in making the
22 determination that somebody is a KST?

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1 A Yes.

2 Q And in what way does it consider that?

3 A Well, I mean, it was -- we were aware
4 of the evidentiary standard.

5 Q Okay. And what was the evidentiary
6 standard at the time?

7 A It was what they refer to it as the
8 reasonable suspicion standard.

9 Q And how did the agency know that?

10 A I'm sorry. I don't recall the
11 specific mechanism of that.

12 Q Okay. The other category of a
13 national security concern that's included in the
14 CARRP policy is the non-KST category; is that
15 right?

16 A Yes.

17 Q Okay. And the non-KST, what were
18 the -- what information did USCIS consider in
19 formulating the non-KST definition that's
20 included in the CARRP policy?

21 A The non-KST category is those
22 individuals who may be inadmissible under the INA

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1 person would not be listed as a KST at that
2 point, though they may still be inadmissible
3 because of their terrorism-related activities.

4 Q I see. And why does the agency think
5 that it was appropriate for them to make a
6 determination about whether someone was a non-KST
7 versus having somebody in the intelligence
8 community do that?

9 A It is USCIS's role and authority to
10 determine admissibility under the INA.

11 Q Anything else?

12 A No.

13 Q Okay. And -- okay. How did it --
14 what information did it consider when -- when it
15 formulated the policies around how to identify a
16 non-KST?

17 A You mean -- I'm sorry. Can you repeat
18 the question?

19 Q What information was considered by the
20 agency when it devised its policies and
21 procedures on how to identify a non-KST?

22 A Our knowledge and experience with our

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1 background and security checks and reviewing
2 alien files and related information informed that
3 decision.

4 Q Okay. Are you familiar with the
5 Attachment A document? Is that right?

6 A Yes, I am.

7 Q Okay. And is it correct to say that
8 the Attachment A is the -- the memo that
9 describes how one should identify a non-KST?

10 A Attachment A includes information to
11 help officers identify cases where there may be
12 indicators that an individual is a non-KST
13 national security concern.

14 Q And did any other agency participate
15 in the formulation of Attachment A?

16 A No.

17 Q Did USCIS ask for the input of anyone
18 in the law enforcement community in the
19 formulation of Attachment A?

20 A No.

21 Q And did USCIS receive input from
22 anyone in the law enforcement community about

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1 Q Okay. Well, let's take the example of
2 someone where -- sorry.

3 If USCIS concludes that there is an
4 articulable link under CARRP, does that mean that
5 they are inadmissible and, therefore, ineligible
6 for adjustment of status?

7 MR. KIPNIS: Objection; vague.

8 THE WITNESS: It would depend on the
9 facts of the case and the -- the -- it would
10 depend on the facts of the case. I don't know
11 that it would be a blanket yes or no in that.

12 BY MS. PASQUARELLA:

13 Q Okay. And how about for a
14 naturalization applicant? If USCIS determines
15 that a person is a national security concern
16 under CARRP, does that mean that they are also
17 ineligible to naturalize?

18 A No.

19 Q And why not?

20 A Again, it's going to depend -- depend
21 on the facts of the case and how the national
22 security concern, which we've articulated the

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1 link, might impact their eligibility for that
2 benefit.

3 Q Okay. So the determination of a
4 national security concern is not the same as a
5 person's eligibility for naturalization?

6 A No.

7 Q Okay. You're familiar with something
8 called NaBISCOP?

9 A I am.

10 Q What is NaBISCOP?

11 A NaBISCOP is the agency's primary
12 handbook for background and security checks that
13 are run in the adjudication process.

14 Q Who uses NaBISCOP? Who follows that
15 NaBISCOP handbook?

16 A Adjudications personnel in field
17 offices and service centers and -- in the field
18 offices and service centers, as well as -- I'm
19 sorry -- as well as FDNS officers for the --

20 COURT REPORTER: What was the last
21 part of your answer?

22 THE WITNESS: As well as FDNS

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1 results of those background checks.

2 BY MS. PASQUARELLA:

3 Q Okay. So is it fair to say that NBC
4 is primarily the ones who would, in most cases,
5 identify the CARRP concerns through the
6 background checks?

7 MR. KIPNIS: Objection; scope,
8 misstates the testimony. Go ahead and answer.

9 THE WITNESS: I don't -- I don't know
10 that I -- I don't know what "most" means in
11 context, but they have a primary role in that.

12 BY MS. PASQUARELLA:

13 Q Okay. What categories of USCIS
14 officers are trained on CARRP?

15 A FDNS immigration officers receive
16 training in CARRP as part of their FDNS officer
17 basic training program prior to working on CARRP
18 cases. Additionally, Immigration Services
19 officers who -- who will be responsible for
20 adjudicating CARRP cases also receive the CARRP
21 training.

22 Additionally, there is training for

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1 presented in that same ISO basic, but I'm not
2 sure when it is. Again, that would be scheduled
3 by the local offices.

4 Q And do you know how long it's been
5 true that Immigration Services officers were
6 provided this additional training on identifying
7 indicators?

8 A That additional training on
9 indicators, I believe, is from 2017 on.

10 Q Okay. And is that a training that
11 headquarters developed?

12 A Yes.

13 Q Okay. Does headquarters actually do
14 the training?

15 A No. It's done local.

16 Q Okay. Do you know if all ISOs across
17 the country have received the indicator training?

18 A I do not know.

19 Q Okay. And then how about for the FDNS
20 immigration officers, what's the training that
21 they receive on CARRP?

22 A The FDNS immigration officers receive

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1 the -- when we were going through the CAR index
2 before, it was the 2017 training slides, the six
3 or seven modules that are -- that make-up that
4 training.

5 Q Okay. And is that -- when does that
6 training take place?

7 A That takes place at our FDNS Office of
8 Basic Training, which is -- I believe it is a
9 requirement for -- was a requirement for FDNS
10 officers to attend within six months of
11 onboarding.

12 Q Is that still the requirement?

13 A The coronavirus has made our two-week
14 in-person training untenable right now.

15 Q Okay. And the FDNS basic training,
16 how many days are spent within that training
17 covering the -- covering CARRP?

18 A It is a three-day training.

19 Q And who -- who gets the training?

20 A The -- so FDNS officer basic training
21 program is provided by headquarters FDNS, and
22 headquarters FDNS oversees the presentation of

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1 all of the training modules. The individual
2 trainer for a course may be an officer from
3 headquarters FDNS or it may be an officer on loan
4 from a field office who has experience with CARRP
5 and with providing training.

6 Q Do members of law enforcement
7 participate in -- in the training of FDNS
8 officers on CARRP?

9 A No.

10 Q Do members of law enforcement
11 participate in the training of FDNS officers at
12 all?

13 MR. KIPNIS: Objection; scope. You
14 may answer in your personal capacity.

15 THE WITNESS: I -- outside of CARRP in
16 that training, I'm not -- I don't believe so. I
17 don't recall entirely.

18 BY MS. PASQUARELLA:

19 Q What other topics are covered in the
20 FDNS basic training aside from CARRP?

21 MR. KIPNIS: Objection; scope. Go
22 ahead and answer.

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1 A That is correct.

2 Q Okay. In reviewing the 2017 training
3 modules in preparation for the deposition, did
4 you notice anything that appeared inaccurate?

5 MR. KIPNIS: Objection; scope.

6 THE WITNESS: The -- no. Sorry.

7 BY MS. PASQUARELLA:

8 Q Have there been updates to CARRP since
9 those training slides were prepared that is not
10 included in the modules?

11 A CARRP -- no. No. And I -- I
12 apologize. I want to jump in here, and I was
13 hoping that maybe in the next 10 minutes or so we
14 could break for lunch. I know it's still early
15 out on the West Coast, but over here I've been
16 awake for about five hours.

17 Q Definitely. Let me just finish these
18 questions about training, and then we can break.
19 Does that work?

20 A Definitely.

21 Q And aside from the FDNS basic training
22 and the training that we talked about the same --

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1 review of the same modules that was provided to
2 the ISOs, are there any refresher courses on
3 CARRP that are provided to the FDNS IOs and the
4 ISOs that are handling CARRP cases?

5 A There are no stand-alone refresher
6 courses separate from the CARRP training itself,
7 but officers may attend the CARRP training when
8 it's provided locally as a refresher if they and
9 their supervisor wishes.

10 Q Okay. If there are updates or changes
11 made to the CARRP policy, how -- is that
12 communicated to officers that are handling CARRP
13 cases?

14 A Changes to policy and practice would
15 traditionally be communicated out through a
16 release of a policy memo or guidance or updating
17 standard operating procedures handbook.

18 Q And how would those changes be
19 communicated to the officers handling CARRP
20 cases?

21 A Typically, it would be done in a
22 global communication to relevant officers.

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1 Q What do you mean by "a global
2 communication"?

3 A For example, an e-mail to relevant
4 officers outlining the changes.

5 Q Okay. Are there any other
6 communications that are provided to officers
7 handling CARRP cases about -- about CARRP aside
8 from the trainings and any communication about
9 updates on policy or procedure?

10 A I mean, there may be communications
11 about individual cases if -- but not global, you
12 know, if officers were working on a case, but
13 global -- global changes to CARRP would go out
14 through -- through kind of global communications.

15 Q And I recall from your last deposition
16 we talked about these fliers, if you could
17 describe them that way, that the national
18 security division in FDNS puts out on particular
19 topics in CARRP. Do you know what I'm referring
20 to?

21 A I recall sort of one-page documents
22 that would be sent out by then the national

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1 BY MS. PASQUARELLA:

2 Q You don't -- you don't know, or no, it
3 doesn't?

4 A I don't know.

5 MR. KIPNIS: Same objection.

6 BY MS. PASQUARELLA:

7 Q When FDNS-DS -- excuse me. When FDNS
8 directed that the cultural sensitivity training
9 be created, was it for the specific purpose of
10 using it as part of the CARRP trainings?

11 A It was for -- for FDNS officers
12 generally, not just those working CARRP cases.

13 Q Okay. So -- got it. Are you aware of
14 any other, aside from the general CARRP training
15 modules and the cultural sensitivity training we
16 just talked about, is there any other training
17 provided to officers handling CARRP cases that is
18 providing anti-discrimination or anti-bias
19 training?

20 A Currently? No.

21 Q Okay. How about is there any training
22 provided to officers handling CARRP cases on

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1 Islam?

2 A No.

3 Q Is there any training provided to
4 CARRP officers who -- about Islamic charitable
5 giving?

6 A No.

7 Q Is there any training provided to
8 CARRP officers about country conditions?

9 COURT REPORTER: About what? I'm
10 sorry.

11 BY MS. PASQUARELLA:

12 Q Country conditions?

13 A Training? No -- well, for officers
14 working I-485s and N-400s, no.

15 Q Okay. Is any training provided to
16 officers handling N-400s and I-485s CARRP cases
17 by law enforcement?

18 A No.

19 Q Is there any other training other than
20 what we already talked about provided to officers
21 handling CARRP N-400s and I-485s on national
22 security intelligence issues?

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1 MR. KIPNIS: Objection; scope except
2 for insofar the -- you can answer for USCIS
3 insofar as the training is directed by USCIS
4 headquarters.

5 THE WITNESS: I'm sorry. Your
6 question was about national security intelligence
7 training?

8 BY MS. PASQUARELLA:

9 Q Correct.

10 A Provided by headquarters? No, not
11 that I'm aware of.

12 Q Okay. I want to talk now about the
13 four steps in the CARRP process. The first step
14 being the identification of a national security
15 concern.

16 Can you tell me what is the purpose of
17 that first step in the CARRP process?

18 A Sure. So that step contains our
19 definition of what constitutes a national
20 security concern, the grounds of the INA that are
21 encompassed therein. The Step 1 is about in the
22 course of reviewing adjudications information or

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1 A It has been incorporated into the
2 overall CARRP -- CARRP module and is relevant,
3 yes. The material in that is still provided to
4 officers.

5 Q Okay. And there's nothing that is
6 superseded or modified what's in Attachment A, is
7 that right, in terms of identifying national
8 security concerns?

9 A The NaBISCOP Appendix A includes the
10 material that was placed into the CARRP
11 Attachment A on potential indicators of a
12 national security concern that -- I believe that
13 has been updated over time in small ways.

14 Q Okay.

15 A But it's still -- the attachment --
16 the information in Attachment A is still part of
17 the CARRP policy.

18 Q Okay. But if you wanted to look at
19 the most up-to-date recitation of what the
20 criteria is for identifying a national security
21 concern, would you look at the Appendix A to the
22 NaBISCOP?

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1 A So, I -- I do want to be clear just
2 quickly that the Attachment A and Appendix A are
3 nonexclusive information about factors that might
4 indicate a potential national security concern.
5 But yes, the NaBISCOP Attachment A is the most
6 up-to-date version of that nonexclusive list.

7 Q And what do you mean when you say it's
8 nonexclusive?

9 A The Attachment A includes information
10 about types of records information that may
11 indicate a potential national security concern,
12 but it is -- it is not exclusive. There are
13 things that are outside of the information
14 provided in that appendix that -- that could
15 indicate a connection to those grounds of the
16 INA.

17 They are, in some cases, types of
18 records that are commonly encountered in the
19 national security context, but it is not an
20 exclusive list of ways that those grounds of the
21 INA could be implicated.

22 Q Okay. So how would an officer who's

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1 identifying a national security concern know what
2 else they can consider as a national security
3 concern?

4 A So our officers who are reviewing
5 these cases are primarily trained Immigration
6 Services officer adjudicators. They are trained
7 to review background checks, the A file, and
8 other information for eligibility and
9 admissibility purposes. So they could identify,
10 through their own training and experience,
11 information related to any of the 212 grounds of
12 the INA. And so it could be information related
13 to one of the CARRP-related grounds of 212 on a
14 fact pattern that we had not previously described
15 in Attachment A.

16 Q So eventually they could be reviewing
17 a case and see something that is not spelled out
18 in any of the CARRP policies on identifying
19 national security indicators that conclude in
20 their own personal that that is a national
21 security concern within the definition and find
22 it to be a national security concern?

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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

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1 listed as a K -- is a confirmed KST to have an
2 articulable link to national security across
3 USCIS.

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

6 A Because of the -- the -- a person is
7 nominated as a KST if there is a reasonable
8 suspicion, the person has been involved in
9 terrorist activities. Because of that and
10 because terrorist activities are included in INA
11 212, we consider that to be similar to our own
12 articulation of a national security concern for
13 non-KST security concerns.

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

17 MR. KIPNIS: Objection; scope.

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

21 BY MS. PASQUARELLA:

22 Q So you don't know whether that

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1 definition is the same as a definition in the
2 INA?

3 MR. KIPNIS: Objection; scope.

4 THE WITNESS: No. I'm sorry. I can't
5 say that right now.

6 BY MS. PASQUARELLA:

7 Q Okay. For USCIS's purposes, is it --
8 does it matter what the reasons are that a person
9 was placed in the TSDB?

10 A Does it matter for what purposes?

11 Q For USCIS's purposes in adjudicating
12 immigration benefits.

13 A Sorry. Repeat the question.

14 Q For USCIS's purposes, does it matter
15 what the reasons are that a person was placed
16 into the TSDB?

17 A When you say "reasons", do you mean
18 like the facts or allegations?

19 Q Correct, why it was that they were
20 made a KST.

21 A That ultimately may have an impact on
22 the adjudication of the case. If they were

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1 placed a person on the TSDB because they would
2 like to give us information.

3 Q Outside of external vetting and
4 deconfliction, how is that information made
5 available to USCIS?

6 A Individual --

7 MR. KIPNIS: Objection --

8 THE WITNESS: Sorry.

9 MR. KIPNIS: I just objected to the
10 term like information. That information was not
11 clear to me. Go ahead and answer it, if you can.

12 THE WITNESS: Individuals who are
13 nominated to the TSDB as a KST have their
14 information placed into TECS, which we discussed
15 before, and so the fact that an individual is a
16 KST is made available to USCIS through that
17 route.

18 BY MS. PASQUARELLA:

19 Q Right. And when USCIS sees a record
20 in TECS that indicates that the person is a KST,
21 does that record tell USCIS why they were made a
22 KST?

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1 A It does not.

2 Q Is there any other background check
3 that USCIS performs that would tell USCIS why the
4 person was made a KST?

5 A If -- information may be available as
6 part of a FBI Name Check. Additionally, USCIS
7 has some access to classified systems that we can
8 run additional security checks on in order to
9 identify that information. We also, as part of
10 external vetting and deconfliction, reach out to
11 the owner of the underlying information to
12 determine what information is available to be
13 shared with USCIS.

14 Q Does USCIS acknowledge that sometimes
15 people are put on the TSDB in error?

16 A I don't know what you mean by "in
17 error."

18 Q By mistake.

19 A What type of mistake?

20 Q Well, there are lots of different
21 types of mistakes. But, for example, you could
22 have an innocent person who -- for whom the

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1 confirm identity.

2 Q How about biometrics? Or did you
3 mention that?

4 A I did say biometrics. Biometrics or
5 finger- -- photographs.

6 Q Are there biometrics contained in the
7 TSDB records, if you know?

8 A I do not know if there are biometrics
9 contained in the TSDB.

10 Q Okay. Is it USCIS's position that no
11 one in the TSDB has been placed there on the
12 basis of information that does not in fact
13 support reasonable suspicion?

14 MR. KIPNIS: Objection; scope.

15 THE WITNESS: Our understanding is
16 that individuals who are listed in the KST -- are
17 listed in the KST or the TSDB are there because
18 of -- have met the reasonable suspicion standard.

19 BY MS. PASQUARELLA:

20 Q Has USCIS done any studies or
21 inquiries on the accuracy of the TSDB?

22 A No, we have not.

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1 Q Okay. Well, I'm turning to what is
2 pdf Page 13.

3 Can you see this?

4 A Yes.

5 Q Okay. And I want to direct your
6 attention to the second bullet that reads, "There
7 are two categories of watchlist nominations, KST
8 and watchlist exception."

9 Do you see that?

10 A I do.

11 Q Okay. What's the watchlist exception?

12 A A -- the watchlist exception
13 categories were created to allow law enforcement
14 intelligence communities to share information
15 about individuals who might not meet the full
16 requirements of being listed as a KST, reasonable
17 suspicion standard, but who they had sufficient
18 concerns about to want to place a lookout for
19 screening partners to identify.

20 Q And what's the evidentiary standards,
21 if you know, that creates sufficient concerns to
22 put someone -- to make someone a watchlist

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1 THE WITNESS: I'm not sure.

2 BY MS. PASQUARELLA:

3 Q Okay.

4 A I'm not sure.

5 Q I want to look at the next page of
6 these slides. So now we're on the Page 14 of the
7 pdf.

8 And do you see the notes at the bottom
9 of the page? And I have a sentence -- two
10 sentences here highlighted for you, which reads,

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

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Page 173

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[REDACTED]

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[REDACTED]

16

MR. KIPNIS: I was just -- he can

17

answer in his personal capacity. The answer is

18

he doesn't know.

19

MS. PASQUARELLA: I just asked him if

20

the agency knows, and he said no.

21

MR. KIPNIS: He's answering in his

22

personal capacity as to whether he knows, and he

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1 stands.

2 BY MS. PASQUARELLA:

3 Q Okay. How long is it taking today for
4 USCIS to receive LHMs after a positive hit on the
5 FBI Name Check?

6 A I'm sorry. I have a document from our
7 IRIS directorate that has the current times. May
8 I take a look at that real quick?

9 Q Yes.

10 A Let me make sure I'm giving you the
11 right numbers.

12 COURT REPORTER: What director did you
13 say.

14 THE WITNESS: Directorate IRIS,
15 I-R-I-S. Okay.

16 Can you repeat the question? I'm
17 sorry.

18 BY MS. PASQUARELLA:

19 Q How long is it taking to get LHMs back
20 after there's a positive hit on a name check?

21 A For fiscal year 2020, for Application
22 I-485, our average processing time for cases with

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1 a LHM is 136 days from the date of request until
2 receipt of the LHM, and for N-400s also filed in
3 2020, the average processing time is 138 days.

4 Q Do you know what it was in fiscal year
5 19 -- 2019?

6 A For I-485s, I understand it was 132
7 days in 2019 and 134 days in 2019.

8 Q I'm sorry. At 132 days for I-485?

9 A 132 days for I-485s and 134 days for
10 N-400s.

11 Q And what was it in 2018?

12 A For I-485s, it was 187 days, and for
13 N-400s, it was 190 days.

14 Q So there's been some improvement since
15 2018. Do you know what the reason for that is?

16 MR. KIPNIS: Objection; scope.

17 THE WITNESS: No, I don't know why our
18 time has gone down since then.

19 BY MS. PASQUARELLA:

20 Q Okay. And what's the document that
21 you're looking at for those numbers?

22 A It is a document titled "Average

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1 processing times from date of request until
2 receipt of LHM from FY '17 to '20 for adjustment
3 of status and naturalization applications."

4 MS. PASQUARELLA: And Counsel, I would
5 request that this document be produced as
6 responsive to plaintiff's discovery request to
7 the extent it hasn't already been produced.

8 MR. KIPNIS: I'll take that under
9 advisement.

10 BY MS. PASQUARELLA:

11 Q Again, the processing times that it's
12 referring to is the amount of time between when
13 the LHM is requested and when the LHM is
14 received; is that right?

15 A Well, from the time when a name check
16 request is submitted to when the LHM is produced.

17 Q Okay. Because as I understood it, the
18 LHM is USCIS's requesting the LHM in every case
19 where there's a positive hit, except for whatever
20 those categories are that they have now said not
21 to give LHMs in; is that right?

22 MR. KIPNIS: Is that a question?

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1 time that that be done, so I think everyone who's
2 on his call needs to do that now.

3 VIDEOTAPE OPERATOR: 5:09 p.m., off
4 the record.

5 (Discussion off the record.)

6 VIDEOTAPE OPERATOR: 5:12 p.m., we're
7 on the record.

8 (Deposition Exhibit Number 5 was
9 marked for identification and attached to the
10 transcript.)

11 BY MS. PASQUARELLA:

12 Q Okay. So before the break, I was
13 introducing what I'm marking as Exhibit 5, which
14 is the module 4 of the 2017 training that begins
15 on DEF-00429575, and I just want to look --
16 direct your attention to this particular slide I
17 have shared with you, which is Page 93 of the
18 pdf.

19 And it reads, the first bullet reads,
20 "If a law enforcement or intelligence agency
21 tells us that their investigation uncovers a
22 threat to national security, we will consider

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1 that case a national security concern." And the
2 next bullet reads, "The opposite, however, is not
3 necessarily true. Even if another agency tells
4 us that an individual does not threaten the
5 national security, USCIS can still handle a case
6 under CARRP."

7 What are the reasons why USCIS
8 considers it appropriate to still consider a case
9 a national security concern when a law
10 enforcement agency has said that the person
11 doesn't threaten the national security?

12 MR. KIPNIS: Objection; vague to the
13 term "appropriate." Go ahead and answer.

14 THE WITNESS: The INA grounds that we
15 identified under CARRP may include activity
16 conducted in the past or -- for example, may
17 include activity conducted in the past. The --
18 if the law enforcement agency is telling us we do
19 not believe that the person poses a
20 forward-looking threat to the national security,
21 that doesn't mean that they may not have
22 conducted the activity that they did in the past

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1 that may make them inadmissible right now.

2 And because there is still an
3 articulable link to INA 212(a)(3)(A), (B), or
4 (F), it's still appropriate for us to process the
5 case under CARRP as that is what the definition
6 is.

7 BY MS. PASQUARELLA:

8 Q That is -- I'm sorry, what definition
9 is?

10 A The definition of CARRP. A case where
11 there's articulable link to INA 212(a)(3)(B) or
12 (F). A national security exists where there's an
13 articulable link to those grounds.

14 Q Okay. So even -- so is it USCIS's
15 position that it doesn't matter whether the
16 person -- or doesn't necessarily matter whether
17 the person is currently a national security
18 threat; it only matters whether they meet the
19 definition articulated in the national security
20 concern definition of CARRP?

21 A Yes. A person is in CARRP if they
22 meet the -- what we should be processing a case

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1 in CARRP if we meet the definition of national
2 security concern, even in a case where an
3 individual law enforcement agency may not believe
4 that the person poses, as I said, an ongoing or
5 future-looking threat to the national security.

6 Q And is it true even where USCIS would
7 agree that the person doesn't pose an ongoing
8 threat to national security?

9 A Yes.

10 Q Okay.

11 A Or at least, I will clarify, that
12 we're not aware that they pose a threat to the
13 national security.

14 Q Okay. What does it mean to resolve a
15 national security concern on CARRP?

16 A A national security concern in a CARRP
17 case is considered resolved when we have
18 investigated the factors that led to the
19 articulation of a national security concern and
20 indicated that -- that it is our belief that
21 those factors no longer apply to the case.

22 Q Okay. So when it's your belief that

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1 the factors no longer apply to the case, what
2 does USCIS do with that information?

3 A So when we have resolved a national
4 security concern, the FDNS immigration officer
5 will finish documenting the work that they have
6 done and their findings in a background check and
7 adjudicative assessment and in the FDNS-DS
8 record. They will close the NS, national
9 security CME in FDNS-DS as not NS and release the
10 case for adjudication.

11 Q And once it's labeled a non-NS and
12 released for adjudication, it doesn't require
13 that concurrence from the field office director
14 or the deputy director that we talked about
15 earlier, right?

16 A Correct.

17 Q Okay. And is any supervisory approval
18 required or -- any supervisory approval required
19 to mark a case non-NS?

20 A Yes. The supervisory concurrence
21 would be documented in FDNS-DS for the FDNS
22 immigration officer's supervisor.

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1 Q Okay. And the background check
2 adjudication assessment, did I get that name
3 right?

4 A Adjudicative assessment.

5 Q That's also known as the BCAA,
6 correct?

7 A Yes.

8 Q Does that get stored in the A file?

9 A Yes, it does.

10 Q Okay. Now, you're familiar with the
11 categories of non-KSTs confirmed and not
12 confirmed, correct?

13 A Yes.

14 Q And what -- what are those categories?

15 A A non-KST national security concern is
16 considered confirmed when the immigration officer
17 has articulated in words the link to the grounds
18 of the INA in a particular location in FDNS-DS,
19 and then a case is considered not confirmed when
20 it's being processed and the articulation has not
21 been made and recorded.

22 Q Meaning that the artic- -- there has

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1 not been a recorded an articulable link
2 currently?

3 A We have indication -- indicators of a
4 potential national security concern, but they
5 have not been articulated in the DS record, yes.

6 Q Okay. Because those indicators need
7 more investigation to determine if an articulable
8 link can be made; is that right?

9 A Typically, that would be one reason
10 why that has not been confirmed, but it may also
11 be that the facts exist but the case is still in,
12 you know, an intake process and hasn't gone to
13 that step yet.

14 Q Got it. And is there any
15 limitation -- time limitation on how long a case
16 can be labeled "not confirmed"?

17 A No.

18 Q And these categories confirmed and not
19 confirmed, are they documented in FDNS-DS?

20 A They are.

21 Q And are officers required to document
22 whether they're confirmed or not confirmed in

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1 FDNS-DS?

2 A They are.

3 Q Does the non-KST concern that is not
4 confirmed, does that -- does it have to be either
5 confirmed or resolved before it can move to
6 adjudication?

7 A Can you repeat the question?

8 Q If a concern -- a non-KST concern is
9 not confirmed, is there any requirement that it
10 be either confirmed or resolved before that case
11 can move to adjudication?

12 A No.

13 Q Okay. When an officer documents the
14 articulable link in FDNS-DS, does a record of
15 that also get put into the A file?

16 A Not at that time.

17 Q Does it get put in the A file at any
18 time?

19 A As part of the BCAA.

20 Q Okay. And how long has USCIS been
21 using these categories of confirmed and not
22 confirmed for non-KSTs?

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1 I understand that in the definition of
2 a national security concern, there's the term
3 "articulable link" is found in that definition.
4 Is it USCIS's position that this category of not
5 confirmed KST -- non-KSTs where it's based on
6 indicators, is that also supported in the 2008
7 CARRP memo?

8 Let me rephrase because that was not
9 clear. What I'm asking is, as I understand it,
10 the definition of a national security concern
11 expressly says that there needs to be an
12 articulable link. So does the definition of a
13 national security concern in CARRP also say that
14 there could be a national security concern where
15 there's no articulable link but just indicators?

16 A We believe that it is consistent with
17 CARRP policy for officers to refer cases with
18 indicators of potential national security concern
19 or -- yeah, indicators of a potential national
20 security concern to FDNS for processing under
21 CARRP.

22 Q Okay. And is it your position that

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1 that is -- well, was it -- was it -- would it be
2 fair to say that it was a decision that was made
3 by the agency that it was appropriate to put
4 cases in CARRP where there was not an articulable
5 link but instead indicators?

6 A Yes, that is the agency's position.

7 Q Okay. Did anyone at the agency
8 explicitly approve that?

9 A I'm not sure what you mean.

10 Q Was there ever a decision by anyone at
11 USCIS that -- and what I mean is, an explicit
12 decision that, okay, we can include people in
13 CARRP where we can't articulate the link but we
14 have indicators of a national security concern?

15 A The -- referrals based on indicators
16 was based on interpretations of the CARRP policy
17 memo, and that was formalized, if you will, at
18 least by the 2013 articulable link training.

19 Q Okay. And who had to approve that
20 articulable link training?

21 MR. KIPNIS: Objection; scope. Go
22 ahead and answer in your personal capacity.

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1 THE WITNESS: That was approved -- as
2 I remember, it was approved by the head of FDNS
3 at the time and the heads of dual operations
4 directorate, service center operations
5 directorate, and refugee asylum and international
6 operations directorates.

7 BY MS. PASQUARELLA:

8 Q Okay. Do you know how many times the
9 USCIS deputy director has been asked to concur in
10 the approval of a N-400 or I-485 for a case, do
11 you?

12 A Yes.

13 Q How many times?

14 A Actually, I have that written down.
15 If I can look at that real quick.

16 Q Sure.

17 A Thank you. As of September 3rd, 2020,
18 47 CARRP cases involving adjustment of status and
19 naturalization applications have --

20 COURT REPORTER: I'm sorry. I'm
21 sorry. I couldn't hear you. Could you slow down
22 a little bit?

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1 THE WITNESS: I'm sorry.

2 COURT REPORTER: "44 CARRPS cases
3 involving adjustment of status" and then?

4 THE WITNESS: Adjustment of status or
5 naturalization applications. I have been
6 considered and presented to D2 from 2008 to
7 September 3rd, 2020.

8 BY MS. PASQUARELLA:

9 Q And how many were approved of those
10 47?

11 MR. KIPNIS: Objection; scope.

12 THE WITNESS: I don't have that
13 information.

14 BY MS. PASQUARELLA:

15 Q You weren't asked to look that up?

16 A No. I believe that's outside of the
17 scope.

18 Q And so you also don't know how many
19 were denied after they were -- after they went to
20 the deputy director, correct?

21 MR. KIPNIS: Objection; scope.

22 THE WITNESS: No, I do not have that

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1 COURT REPORTER: What was that again?

2 THE WITNESS: 1,705.

3 BY MS. PASQUARELLA:

4 Q Okay. And what -- as of August 10th,
5 what was the average length of time that the
6 naturalization class members had their
7 applications pending?

8 A I have both mean and median times, but
9 I do not have them broken out by naturalization
10 versus adjustment of status.

11 Q Okay, that's fine. Can you give me
12 the mean?

13 A The mean time is 881 days.

14 Q And the median?

15 A 588 days.

16 Q And then do you know how many are
17 KSTs?

18 MR. KIPNIS: Objection; scope.

19 THE WITNESS: Currently within the
20 class, there are 164 individuals listed as KSTs.

21 BY MS. PASQUARELLA:

22 Q So is that for the combined adjustment

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[REDACTED]

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[REDACTED]

17 BY MS. PASQUARELLA:

18 Q Does USCIS take a position that it
19 should not tell applicants that they are subject
20 to CARRP?

21 A Yes.

22 Q And why does it take that position?

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1 A Cases that are being processed under
2 CARRP are cases where we believe that the person
3 may have connections to a national security
4 concern: terrorism, espionage, as I said money
5 transfer, legal technology transfer.

6 In many cases, there are law
7 enforcement investigations related to these
8 activities, but even in cases where there is not
9 other law enforcement activity where we are the
10 only ones investigating the case, notifying an
11 applicant that we are investigating them for any
12 particular ground may cause that applicant, if
13 they are culpable under those claims, to take
14 actions to impede our investigation, or if
15 there's another law enforcement investigation,
16 that investigation. They may alter their
17 behavior to make it harder for us to complete our
18 investigation, otherwise make it difficult for us
19 to get the information we need to complete the
20 investigation.

21 Q And is USCIS aware that it's fairly
22 well-known in the immigrant community and among

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ACKNOWLEDGMENT OF DEPONENT

I, Kevin Quinn, do hereby acknowledge I have read and examined the foregoing pages of testimony, and the same is a true, correct and complete transcription of the testimony given by me, and any changes and/or corrections, if any, appear in the attached errata sheet signed by me.

10/30/2020

KEVIN T QUINN

Digitally signed by KEVIN T QUINN
Date: 2020.10.30 11:12:44 -04'00'

Date Kevin Quinn

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1 CERTIFICATE OF SHORTHAND REPORTER - NOTARY PUBLIC

2 I, Tammy S. Newton, the officer before
3 whom the foregoing proceedings was taken, do
4 hereby certify that the foregoing transcript is a
5 true and correct record of the proceedings; that
6 said proceedings were taken by me
7 stenographically and thereafter reduced to
8 typewriting under my supervision; and that I am
9 neither counsel for, related to, nor employed by
10 any of the parties to this case and have no
11 interest, financial or otherwise, in its outcome.

12 IN WITNESS WHEREOF, I have hereunto set
13 my hand and affixed my notarial seal this 15th
14 day of September, 2020.

15 My commission expires:

16 3/05/2022

17

18

19

Notary Public in and for the

20

State of Maryland

21

22

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1 DEPOSITION ERRATA SHEET

2 Page No. 12 Line No. 10 Change to:

3 "Andy" to "Andi"

4 Reason for Change: spelling

5 Page No. 71 Line No. 7 Change to:

6 "Office to" to "Officers"

7 Reason for Change: typo

8 Page No. 90 Line No. 14 Change to:

9 "approve" to "improve"

10 Reason for Change: typo

11 Page No. 90 Line No. 17 Change to:

12 "actual" to "actually"

13 Reason for Change: typo

14 Page No. 100 Line No. 16 Change to:

15 "total" to "cultural"

16 Reason for Change: typo

17 Page No. 104 Line No. 10 Change to:

18 "as" to "at"

19 Reason for Change: typo

20

21 SIGNATURE: KEVIN T QUINN Digitally signed by KEVIN T QUINN
Date: 2020.10.30 11:09:50 -04'00'

22 Kevin Quinn

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1 DEPOSITION ERRATA SHEET

2 Page No. 107 Line No. 5 Change to:

3 "Attachment" to "Appendix"

4 Reason for Change: typo

5 Page No. 116 Line No. 11 Change to:

6 "USCIS" to "FDNS-DS"

7 Reason for Change: typo

8 Page No. 119 Line No. 8 Change to:

9 "FDNS-DS" to "FDNS"

10 Reason for Change: typo

11 Page No. 151 Line No. 7 Change to:

12 "KST" to "TSDB"

13 Reason for Change: typo

14 Page No. 234 Line No. 2 Change to:

15 "44 CARRPs" to "47 CARRP"

16 Reason for Change: typo

17 Page No. 234 Line No. 5 Change to:

18 "applications. I have" to " applications have"

19 Reason for Change: typo

20

21 SIGNATURE: KEVIN T QUINN Digitally signed by KEVIN T QUINN
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Page 312

1 DEPOSITION ERRATA SHEET

2 Page No. 257 Line No. 22 Change to:

[REDACTED]

4 Reason for Change: spelling

5 Page No. 261 Line No. 13 Change to:

[REDACTED]

7 Reason for Change: spelling

8 Page No. 261 Line No. 21 Change to:

[REDACTED]

10 Reason for Change: spelling

11 Page No. 262 Line No. 2 Change to:

[REDACTED]

13 Reason for Change: spelling

14 Page No. 262 Line No. 10 Change to:

[REDACTED]

16 Reason for Change: spelling

17 Page No. 262 Line No. 19 Change to:

[REDACTED]

19 Reason for Change: spelling

20

21 SIGNATURE: KEVIN T QUINN Digitally signed by KEVIN T QUINN
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Page 312

1 DEPOSITION ERRATA SHEET

2 Page No. 263 Line No. 4 Change to:

4 Reason for Change: spelling

6 Change to:

7 Reason for Change: spelling

8 Page No. 266 Line No. 11 Change to:

10 Reason for Change: spelling

11 Page No. 266 Line No. 13 Change to:

13 Reason for Change: spelling

14 Page No. 268 Line No. 18 Change to:

16 Reason for Change: spelling

17 Page No. 268 Line No. 19 Change to:

19 Reason for Change: spelling

20

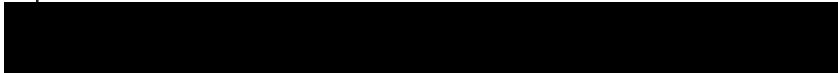
21 SIGNATURE: KEVIN T QUINN Digitally signed by KEVIN T QUINN
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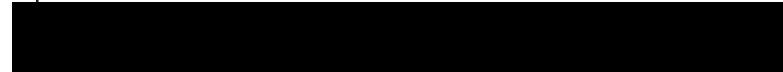
1 DEPOSITION ERRATA SHEET

2 Page No. 269 Line No. 13 Change to:



4 Reason for Change: spelling

5 Page No. 269 Line No. 22 Change to:



7 Reason for Change: spelling

8 Page No. 271 Line No. 6 Change to:

9 "DES" to "DS"

10 Reason for Change: typo

11 Page No. _____ Line No. _____ Change to:

12 _____

13 Reason for Change: _____

14 Page No. _____ Line No. _____ Change to:

15 _____

16 Reason for Change: _____

17 Page No. _____ Line No. _____ Change to:

18 _____

19 Reason for Change: _____

20

21 SIGNATURE: KEVIN T QUINN Digitally signed by KEVIN T QUINN
Date: 2020.10.30 11:11:58 -04'00'

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