

# EXHIBIT 3

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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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1 BY MS. PASQUARELLA:

2 Q So do you know why the agency decided  
3 that it was important to launch the CARRP policy?

4 A We wanted to ensure that we had a  
5 consistent approach for identifying potential  
6 national security concerns for reviewing those  
7 cases, for documenting and working those cases  
8 and for getting those cases to and through  
9 adjudication.

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

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

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

19 BY MS. PASQUARELLA:

20 Q And why did they want to do that?

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

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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 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 and security checks.

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

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

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

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

19          A       A number of the background checks are  
20 initiated fairly early in the process. The TECS  
21 checks are typically done -- TECS is one of our  
22 background and security checks and is required in

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1 all adjustment and naturalization cases. That  
2 [REDACTED]  
3 receipt of the application.

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

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

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

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

20 A Actually, I apologize. I will add  
21 that our officers also review, as part of the  
22 reviewing the information from the FBI



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1 fingerprint check, information from the DHS  
2 database IDENT, which houses biometric typically  
3 entry information, as well as other biometric  
4 encounters. So that's part of the biometrics  
5 collection. But yes, TECS, FBI fingerprint, FBI  
6 Name Check, and IDENT.

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

10 A That is correct.

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

14 A That is correct.

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

18 A That is correct.

19 Q And what is USCIS's IDENT for?

20 A For biometrically comparing the  
21 applicant information that we receive to other  
22 individuals in the system, to identify potential

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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

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1 information that USCIS is looking -- is accessing  
2 when it -- when it accesses TECS?

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

12 Q Okay. Anything else?

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

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

22 A The FBI's fingerprint system includes

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1 information from the FBI on arrests, as well as  
2 state-level information shared by those states  
3 with the CJIS, Criminal Justice Information  
4 System.

5 Q Would that be criminal history  
6 information?

7 A Yes.

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

12 MR. KIPNIS: Objection; scope.

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

16 So they do the upfront TECS checks,  
17 and they will submit the FBI Name Checks. The  
18 FBI fingerprint checks are initiated when an  
19 individual is -- submits their biometric  
20 information at one of our applications support  
21 centers, though the NBC may review the results of  
22 those background checks also.

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1 BY MS. PASQUARELLA:

2 Q But the initial checks that we talked

3

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

5 that the National Benefits Center that's running

6 them or who's running them?

7 A Yes. The National Benefits Center

8 runs those.

9 Q Okay. And when those initial checks

10 flag something that should be investigated, as a

11 potential indicator of a national security

12 concern, who -- who then investigates those

13 flags?

14 A The NBC has officers who initially

15 triage --

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

17 ahead and answer. I'm sorry. Objection to

18 scope. You can answer.

19 THE WITNESS: I apologize.

20 MR. KIPNIS: No, it's my fault.

21 THE WITNESS:

22

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1 BY MS. PASQUARELLA:

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

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

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

12 MR. KIPNIS: Based on USCIS's  
13 knowledge?

14 MS. PASQUARELLA: Yes.

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

19 BY MS. PASQUARELLA:

20 Q And then who decides who actually  
21 places them? Who gets to be placed on that  
22 watchlist?

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1 MR. KIPNIS: Again, USCIS's knowledge  
2 on that question?

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

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

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

12 BY MS. PASQUARELLA:

13 Q [REDACTED]  
14 [REDACTED]  
15 [REDACTED]

16 A [REDACTED]

17 Q [REDACTED]  
18 [REDACTED]  
19 [REDACTED]

20 MR. KIPNIS: [REDACTED]

21 MS. PASQUARELLA: [REDACTED]

22 knowledge, yes.

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

5 BY MS. PASQUARELLA:

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

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

14 MS. PASQUARELLA: This is Topic Number  
15 8, Brian.

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

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

22 MR. KIPNIS: Well, I don't see the how



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1 they get there. Anyway, go ahead and answer, if  
2 you can, Kevin.

3 THE WITNESS: [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 BY MS. PASQUARELLA:

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

11 A U.S. -- sorry.

12 MR. KIPNIS: Object to scope.

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

15 BY MS. PASQUARELLA:

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

19 MR. KIPNIS: Objection; scope.

20 THE WITNESS: Reasonable suspicion  
21 that the individual has participated in -- is --  
22 has conducted or is planning to conduct terrorist

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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 [REDACTED]

2 [REDACTED]

3 BY MS. PASQUARELLA:

4 Q [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 MR. KIPNIS: Objection; scope.

8 THE WITNESS: [REDACTED]

9 [REDACTED]

10 BY MS. PASQUARELLA:

11 Q [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 MR. KIPNIS: Same objection.

16 THE WITNESS: [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

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1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 BY MS. PASQUARELLA:

5 Q [REDACTED]

6 [REDACTED] [REDACTED]

7 A [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 Q [REDACTED]

19 [REDACTED]

20 A [REDACTED]

21 [REDACTED] [REDACTED]

22 [REDACTED]