

**Elhady Plaintiffs
MSJ Exhibit 24**



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Transcript of Deborah Moore

Date: December 20, 2017

Case: El Hady -v- Knaedle

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Transcript of Deborah Moore
Conducted on December 20, 2017

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| <p style="text-align: center;">1</p> <p>1 VIRGINIA:</p> <p>2 DISTRICT COURT FOR THE EASTERN DISTRICT OF</p> <p>3 VIRGINIA</p> <p>4 - - - - - x</p> <p>5 ANAS EL HADY, ET AL., :</p> <p>6 Plaintiffs, :</p> <p>7 v. : Civil Action No.</p> <p>8 CHARLES KABLE, ET : 16-CV-375 (E.D. Va)</p> <p>9 AL., :</p> <p>10 Defendants. :</p> <p>11 - - - - - x</p> <p>12</p> <p>13 Deposition of DEBORAH MOORE</p> <p>14 Arlington, Virginia</p> <p>15 Wednesday, December 20, 2017</p> <p>16 9:30 a.m.</p> <p>17</p> <p>18</p> <p>19</p> <p>20 Job No.: 171201</p> <p>21 Pages: 1 - 309</p> <p>22 Reported By: Tasiana T. Basdekis, RPR</p> | <p style="text-align: center;">3</p> <p style="text-align: center;">A P P E A R A N C E S</p> <p>2 ON BEHALF OF THE PLAINTIFF, EL HADY:</p> <p>3 GADEIR ABBAS, ESQUIRE</p> <p>4 LENA MASRI, ESQUIRE</p> <p>5 COUNCEIL ON AMERICAN-ISLAMIC RELATIONS</p> <p>6 453 New Jersey Avenue SE</p> <p>7 Washington, District of Columbia 20003</p> <p>8 (202) 742-6423</p> <p>9</p> <p>10 ON BEHALF OF THE DEFENDANT, KABLE:</p> <p>11 AMY E. POWELL, ESQUIRE</p> <p>12 U.S. DEPARTMENT OF JUSTICE</p> <p>13 310 New Bern Avenue</p> <p>14 Federal Building Suite 800</p> <p>15 Raleigh, North Carolina 27601</p> <p>16 (202) 514-9836</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> |
| <p style="text-align: center;">2</p> <p>1 Deposition of DEBORAH MOORE, held at the</p> <p>2 offices of:</p> <p>3</p> <p>4</p> <p>5 TSA HEADQUARTERS</p> <p>6 East Tower</p> <p>7 601 12th Street South</p> <p>8 Arlington, Virginia 20598</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13 Pursuant to notice, before Tasiana T. Basdekis,</p> <p>14 RPR, Notary Public in and for the Commonwealth of</p> <p>15 Virginia.</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> | <p style="text-align: center;">4</p> <p style="text-align: center;">A P P E A R A N C E S C O N T I N U E D</p> <p>2</p> <p>3 JENNIFER GREENBAND, ESQUIRE</p> <p>4 KEVIN HOULIHAN, ESQUIRE</p> <p>5 U.S. DEPARTMENT OF JUSTICE</p> <p>6 601 12th Street South</p> <p>7 Arlington, Virginia 20598</p> <p>8</p> <p>9 JAYME KANTOR, ESQUIRE</p> <p>10 YEORA PARK, ESQUIRE</p> <p>11 U.S. DEPARTMENT OF JUSTICE</p> <p>12 935 Pennsylvania Ave. NW</p> <p>13 Suite 10140</p> <p>14 Washington, District of Columbia 20535</p> <p>15 (202) 324-7194</p> <p>16</p> <p>17 ALSO PRESENT:</p> <p>18 DEBBY CAVAZOS, Videographer</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> |

Transcript of Deborah Moore
 Conducted on December 20, 2017

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| <p style="text-align: right;">5</p> <p style="text-align: center;">C O N T E N T S</p> <p>1</p> <p>2</p> <p>3 EXAMINATION OF DEBORAH MOORE PAGE</p> <p>4 By Mr. Abbas 6</p> <p>5</p> <p>6</p> <p style="text-align: center;">E X H I B I T S</p> <p>7 (Attached)</p> <p>8</p> <p>9 PLAINTIFF'S FOR IDENTIFICATION PAGE</p> <p>10 1 DHS TRIP Statistics 91</p> <p>11 2 DHS TRIP Correspondence to Murat</p> <p>12 Frijuckic 282</p> <p>13 3 DHS TRIP Correspondence to Yaseen</p> <p>14 Kadura Date 5/8/2013 290</p> <p>15 4 DHS TRIP Correspondence to Yaseen</p> <p>16 Kadura Date 9/4/2015 300</p> <p>17 5 One Page of a DHS TRIP Close Out</p> <p>18 Letter 304</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> | <p style="text-align: right;">7</p> <p>1 Depos.</p> <p>2 Would the reporter please swear in the</p> <p>3 witness?</p> <p>4 Whereupon,</p> <p>5 DEBORAH MOORE,</p> <p>6 being first duly sworn or affirmed to testify to</p> <p>7 the truth, the whole truth, and nothing but the</p> <p>8 truth, was examined and testified as follows:</p> <p>9 EXAMINATION</p> <p>10 BY MR. ABBAS:</p> <p>11 Q Dr. Moore -- is that correct?</p> <p>12 A Yes.</p> <p>13 Q Have you ever had your deposition taken</p> <p>14 before?</p> <p>15 A No.</p> <p>16 Q Okay. I'm going -- I'm sure your</p> <p>17 attorneys have explained how this works, but I'm</p> <p>18 going to, for the record.</p> <p>19 I'll be asking you questions, and you'll</p> <p>20 be answering them, unless your attorney instructs</p> <p>21 you not to answer them.</p> <p>22 Because Alaina [sic] is typing every word</p> |
| <p style="text-align: right;">6</p> <p style="text-align: center;">P R O C E E D I N G S</p> <p>1</p> <p>2 THE VIDEOGRAPHER: Here begins tape number</p> <p>3 one in the videotaped deposition of Deborah Moore</p> <p>4 in the matter of Anas El Hady, et al., v. Charles</p> <p>5 Cable [sic], et al., in the District Court for the</p> <p>6 Eastern District of Virginia, Case No. 16-CV-375</p> <p>7 (E.D. Va).</p> <p>8 Today's date is December 20th, 2017. The</p> <p>9 time on the video monitor is 9:48. The</p> <p>10 videographer for today is Debbie Cavazos,</p> <p>11 representing Planet Depos.</p> <p>12 This video deposition is taking place at</p> <p>13 601 South 12th Street, Arlington, Virginia, 20598.</p> <p>14 Could counsel please voice-identify</p> <p>15 themselves and state whom they represent?</p> <p>16 MR. ABBAS: This is Gadeir Abbas appearing</p> <p>17 for the Plaintiffs. I'll be taking the</p> <p>18 deposition.</p> <p>19 MS. POWELL: Amy Powell of the Department</p> <p>20 of Justice, for the Defendants.</p> <p>21 THE VIDEOGRAPHER: The court reporter</p> <p>22 today is Tasiana Basdekis, representing Planet</p> | <p style="text-align: right;">8</p> <p>1 that you say, that I say, that anybody in this</p> <p>2 room says, it's really important for you to allow</p> <p>3 my question to finish before you answer the</p> <p>4 question, even if you know what I'm going to</p> <p>5 answer [sic], and I'll do the same.</p> <p>6 Even if I know what you're going to say,</p> <p>7 I'm going to wait for you to finish before</p> <p>8 answering [sic] another question -- before asking</p> <p>9 another question. And that's just to make</p> <p>10 Alaina's [sic] job easier.</p> <p>11 Is there any reason why I shouldn't take</p> <p>12 your deposition today? Are you on any medication</p> <p>13 that affects your ability to provide answers to</p> <p>14 questions that I'll ask you?</p> <p>15 A No.</p> <p>16 Q Okay. Are you -- is there any other</p> <p>17 condition that would prevent you from answering</p> <p>18 accurately and truthfully to the questions that</p> <p>19 I'll ask you?</p> <p>20 A No.</p> <p>21 Q At any point in time today, if you'd like</p> <p>22 a break, so long as a question isn't pending, just</p> |

Transcript of Deborah Moore
Conducted on December 20, 2017

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| 9 | <p>1 let me know, and then we can take a break. At 2 some point we'll break for lunch. We'll kind of 3 play that by ear. Otherwise, I think that's it. 4 And just for the record, Dr. Deborah Moore 5 has been produced by the Defendants as DHS TRIP's 6 30B6 deponent. Is that correct, Amy? 7 MS. POWELL: Correct. 8 BY MR. ABBAS: 9 Q Dr. Moore, what is your understanding of 10 why you're here today? 11 MS. POWELL: Objection. Vague. 12 You can answer. 13 THE WITNESS: My understanding is to 14 provide a deposition in the case that's pending. 15 Q Do you understand that the testimony that 16 you provide today is binding as to the agency that 17 you lead? 18 A I do. 19 Q What is DHS TRIP? 20 A DHS TRIP is a government program designed 21 to provide redress for travelers who have 22 experienced a travel-related screening difficulty.</p> | 11 |
| 10 | <p>1 Q And you lead DHS TRIP? 2 A Yes. 3 Q How long have you -- well, what is your 4 exact job title? 5 A My exact job title is branch manager of 6 the Transportation Redress Security Branch. 7 Q Are there other branches that regard DHS 8 TRIP, or are you the only branch that regards DHS 9 TRIP? 10 A I'm the only branch that regards DHS TRIP. 11 Q Okay. Within DHS, what does this term 12 branch refer to, just generally? 13 A It refers to a division of a larger 14 organization. 15 Q And that larger organization is the 16 Department of Homeland Security? 17 A Yes. There are several layers beneath 18 that, but yes. 19 Q Okay. Well, let's go layer by layer. 20 A Okay. 21 Q So you lead the DHS TRIP branch? 22 A Yes. The -- it's the Transportation</p> | 12 |
| | <p>1 Security Redress Branch, TSRB. 2 Q And then you said that there's a layer 3 above you? 4 A Above that is the Traveler Engagement 5 Division. 6 Q Who leads the Traveler Engagement 7 Division? 8 A Lizzy Gary. 9 Q There's a layer above the Traveler 10 Engagement Division? 11 A Yes. 12 Q And what is that layer called? 13 A It's the Civil Rights and Liberties 14 Ombudsman and Traveler Engagement. 15 Q And there's a layer above that? 16 A That would be the TSA layer. 17 Q Who is your boss? 18 A Lizzy Gary. 19 Q How long have you been with the Travel -- 20 what does TSRB stand for again? 21 A Transportation Security Redress Branch. 22 Q Transportation Security Redress Branch?</p> | |

Transcript of Deborah Moore
Conducted on December 20, 2017

13

1 Branch?

2 **A I was the deputy director of the**

3 **Information Management Division at the National**

4 **Protection and Programs Division.**

5 Q What agency is that under?

6 **A DHS.**

7 Q And what did you do? Or what did that

8 division do?

9 **A That division managed the -- several**

10 **areas. The FOIA Branch, the Audit Liaison Branch,**

11 **the Executive Secretary Branch, and the Records**

12 **Management Branch.**

13 Q Were you appointed as the branch manager

14 for the Transportation Security Redress Branch, or

15 hired?

16 **A I was hired.**

17 Q What is your understanding of the origins

18 of DHS TRIP?

19 **A DHS TRIP was created to assist travelers**

20 **who had been experienced -- who were experiencing**

21 **travel-related difficulties, screening**

22 **difficulties.**

14

1 **I don't remember the name of the exact law**

2 **that created it, unfortunately.**

3 Q Your understanding is that there was a law

4 that created it?

5 **A Yes.**

6 Q Who determines the process by which DHS

7 TRIP functions?

8 MS. POWELL: Objection. Vague.

9 THE WITNESS: Generally, the processes

10 involved in administering DHS TRIP would be

11 determined by me, in consultation with my

12 leadership to ensure it's in alignment with their

13 understanding of how it should proceed.

14 Q Does the TSRB do anything else aside from

15 manage DHS TRIP?

16 **A No.**

17 Q So TRSD -- TSRB solely runs DHS TRIP?

18 **A Yes.**

19 Q And you determine the processes of DHS

20 TRIP as branch manager of the Transportation

21 Security Redress Branch?

22 MS. POWELL: Objection. Vague.

15

1 THE WITNESS: I determine the

2 administrative processes of managing the DHS TRIP

3 process.

4 BY MR. ABBAS:

5 Q Are there any limitations on your ability

6 to determine the administrative processes of DHS

7 TRIP?

8 **A Yes. Limitations would -- when**

9 **administering the program has impact on other**

10 **entities, I would need to consult with them.**

11 Q Is there anything that DHS TRIP does that

12 does not have an impact on other entities?

13 **A Yes.**

14 Q Like what?

15 **A We -- in our case management system, there**

16 **are several intricate steps -- technical-related**

17 **steps -- that we would need to refine to make sure**

18 **things are done efficiently, and that wouldn't**

19 **have likely effect on others.**

20 Q Sure. So one limitation of your ability

21 to determine the administrative process of DHS

22 TRIP is its impact on other agencies; is that

16

1 correct?

2 MS. POWELL: Objection. Asked and

3 answered.

4 THE WITNESS: Yes.

5 BY MR. ABBAS:

6 Q Are there any other limitations on your

7 ability to determine the administrative process of

8 DHS TRIP?

9 **A Clearly, I would need to abide by all**

10 **regulations and -- both within TSA and the larger**

11 **government.**

12 Q What regulations regard DHS TRIP?

13 **A I'm not sure if I can enumerate what**

14 **different regulations might -- I mean, for**

15 **example, the government's policy on indicating an**

16 **applicant's Watchlisting status, I need to abide**

17 **by that policy.**

18 MR. ABBAS: Can you read back her answer?

19 (Whereupon the record was read.)

20 Q What is this policy you're referring to?

21 **A We refer to it as the Glomar policy.**

22 Q What does Glomar mean?

Transcript of Deborah Moore
Conducted on December 20, 2017

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| <p style="text-align: right;">17</p> <p>1 A It means -- 2 MS. POWELL: Objection. Calls for a legal 3 conclusion. 4 Go ahead. 5 THE WITNESS: My understanding is that it 6 means that we can neither confirm nor deny an 7 applicant's status on the Watchlist. 8 BY MR. ABBAS: 9 Q Who told you to implement the government's 10 Glomar policy in the context of DHS TRIP's 11 administrative processes? 12 A I don't know that I can name a specific 13 person. Certainly my supervisor. 14 Q What other limitations exist on your 15 ability to determine the administrative process of 16 DHS TRIP? 17 MS. POWELL: Object to the extent you're 18 asking for her the testify as to legal 19 conclusions -- 20 MR. ABBAS: Sure. 21 MS. POWELL: -- legal limits on her 22 authorities.</p> | <p style="text-align: right;">19</p> <p>1 Q What laws? 2 A I'm sorry. I can't quote the exact -- 3 Q As branch manager for the Transportation 4 Security Redress Branch, have you ever reviewed 5 the law that you believe determined that DHS TRIP 6 should exist? 7 A Yes. 8 Q As branch manager for the Transportation 9 Security Redress Branch, have you ever reviewed 10 regulations that you believe dictate certain 11 aspects of DHS TRIP? 12 A Yes. 13 Q But you just don't remember -- 14 A Well, I can cite the Secure Flight final 15 rule. And DHS TRIP has a Privacy Impact 16 Assessment. I think that would fall under the 17 umbrella. 18 Q Anything else? 19 A Secure flight also has a PIA that I've 20 reviewed. 21 Q How does Secure Flight intersect with DHS 22 TRIP?</p> |
| <p style="text-align: right;">18</p> <p>1 THE WITNESS: Could you repeat your 2 question? 3 MR. ABBAS: Can you read it back? 4 (Whereupon the record was read.) 5 THE WITNESS: Nothing else comes to mind 6 at this time. 7 BY MR. ABBAS: 8 Q Are there any other government policies, 9 aside from the Glomar policy you mentioned, 10 that were dictated to you in terms of how the DHS 11 TRIP administrative process is supposed to look? 12 MS. POWELL: Objection, again, to the 13 extent you're asking for legal limits. 14 THE WITNESS: Other government policies 15 that were dictated? 16 As a whole, DHS TRIP follows the guidance 17 provided in the law. Specifics, such as the 18 Glomar policy, are things that we additionally 19 implement. 20 Q You said that DHS TRIP follows the 21 guidance provided by law? 22 A Yes.</p> | <p style="text-align: right;">20</p> <p>1 A We work with Secure Flight to maintain a 2 Cleared List of travelers who have gone through 3 the DHS TRIP process and who have received a 4 Redress Control Number, and the outcome of their 5 application process is that they can be added to 6 the Cleared List, and Secure Flight uses that list 7 in vetting its passengers, or those who.... 8 Q In June 2013 when you became branch 9 manager of the Transportation Security Redress 10 Branch, what changes did you make to DHS TRIP? 11 A I made a number of changes -- 12 administrative-type changes -- to improve the 13 processing time of DHS TRIP applications. 14 Q Did you make any changes that were 15 unrelated to processing times? 16 A Yes. 17 Q What other changes did you make, aside 18 from changes aimed at improving processing times 19 for DHS TRIP complaints? 20 A I should amend in the sense that all the 21 changes that I made were aimed at improving 22 processing time. Some were less administrative in</p> |

Transcript of Deborah Moore
Conducted on December 20, 2017

21

1 nature.

2 For example, a major change I made was

3 working to improve the relationship with those

4 agencies we work with, we consult with. With

5 better communication, we're able to resolve

6 problems and process cases faster.

7 Q Are there any -- can you just repeat my

8 question? I don't think you answered my question.

9 (Whereupon the record was read.)

10 THE WITNESS: In June -- your question was

11 in June 2013 what changes did I make. At that

12 time, those were the main focuses of all the

13 changes I made: Improving processing time,

14 improving relationships with the agencies we

15 consult with.

16 Q Did you -- during your -- at any time

17 during your tenure as branch manager of the

18 Transportation Security Redress Branch, have you

19 made any other changes to DHS TRIP, aside from

20 those changes that regard processing times and

21 changes regarding your efforts to improve

22 relationships with other agencies?

22

1 A Yes.

2 In 2014, DHS TRIP revised the redress

3 process for U.S. citizens and legal permanent

4 residents on the No Fly List to increase

5 transparency and improve the overall process.

6 Q Any other changes?

7 And just to be clear: You made that

8 change because of a court decision; is that

9 correct?

10 MS. POWELL: Objection. Calls for a legal

11 conclusion and internal deliberations --

12 MR. ABBAS: That's fine.

13 MS. POWELL: -- so I'm going to instruct

14 the witness not to answer.

15 Rephrase.

16 Q Was it your idea to increase transparency

17 with respect to U.S. persons who apply for DHS

18 TRIP -- for redress via DHS TRIP who are on the No

19 Fly List?

20 A No.

21 Q What is your understanding of why that

22 change was made?

23

1 A My understanding is that we desire to

2 increase the transparency and improve the process

3 for DHS TRIP applicants on the No Fly List who are

4 USPERs and meet the other criteria.

5 Q So DHS TRIP's testimony today is that you

6 all increased the transparency of your own

7 volition?

8 MS. POWELL: Objection. Asked and

9 answered and mischaracterizes prior testimony.

10 Q Go ahead.

11 A I'm sorry. Can you repeat your question?

12 MR. ABBAS: Can you read it back?

13 THE WITNESS: I got distracted.

14 (Whereupon the record was read.)

15 MS. POWELL: And I'm going to instruct the

16 witness not to answer in so far as it going to

17 internal governmental deliberations.

18 MR. ABBAS: To the extant that that --

19 yeah.

20 MS. POWELL: Yep.

21 MR. ABBAS: That's fine. Yep.

22 Q So you can answer.

24

1 MS. POWELL: Without revealing internal --

2 MR. ABBAS: Yep.

3 MS. POWELL: -- government deliberations.

4 THE WITNESS: Yes. Yes.

5 BY MR. ABBAS:

6 Q Are you aware of any court cases where a

7 federal court told DHS TRIP to amend its No Fly

8 List redress procedures?

9 MS. POWELL: Objection. Calls for a legal

10 conclusion and mischaracterizes legal precedent.

11 THE WITNESS: Yes.

12 Q Did the change to DHS TRIP coincide with

13 an adverse ruling regarding DHS TRIP's processes

14 for redress for U.S. persons on the No Fly List?

15 A Yes.

16 Q Did the -- is it your understanding that

17 it was just a coincidence that the --

18 MS. POWELL: Objection.

19 Q -- timing of --

20 MS. POWELL: Asked and answered.

21 MR. ABBAS: Well, I'm just trying to

22 clarify.

Transcript of Deborah Moore
Conducted on December 20, 2017

25

1 Q Is it your testimony today that it was
2 just a coincidence that the federal court made a
3 decision ordering DHS TRIP to alter its
4 administrative process for U.S. persons on the No
5 Fly List at the same time as you decided to
6 increase transparency for people seeking redress
7 from the No Fly List?
8 MS. POWELL: Same objection. I'm
9 instructing the witness not to answer as to
10 internal government deliberations.
11 THE WITNESS: I'm sorry. I need the
12 question repeated.
13 MR. ABBAS: Can you read it back?
14 (Whereupon the record was read.)
15 THE WITNESS: No. I wouldn't use the word
16 coincidence; however, this is beyond what I'm
17 comfortable discussing.
18 MS. POWELL: I instructed her not to
19 answer as to internal government deliberations.
20 MR. ABBAS: Well, that's fine. I'm asking
21 about what her testimony is going to be and what
22 her understanding is, which is not an internal

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1 government process. She is --
2 MS. POWELL: Right. But you asked her why
3 the government did it and what went into the
4 decision making.
5 MR. ABBAS: That's fine.
6 Q So this happened in June 2014?
7 **A I'm not positive of the month, but the**
8 **date of the year is correct.**
9 Q In 2014, you amended the No Fly List
10 redress process for U.S. persons; corrected?
11 **A Yes.**
12 Q And you did that in order to increase
13 transparency?
14 **A And improve the process in general, yes.**
15 Q And improve the process in general.
16 Why didn't you do that for people on the
17 Selectee List?
18 **A The consideration of improving the**
19 **transparency covered the U.S. persons on the No**
20 **Fly List only.**
21 Q You didn't answer my question.
22 Could you repeat the question?

27

1 (Whereupon the record was read.)
2 THE WITNESS: That group wasn't under
3 consideration.
4 BY MR. ABBAS:
5 Q Right. I understand that. So in -- you
6 never considered changing the process for the
7 Selectee List people?
8 **A Correct.**
9 Q Why didn't you ever consider changing the
10 process for the Selectee List people to match the
11 process that you -- I'm sorry. Let me withdraw.
12 Why didn't you change the Selectee List
13 process to match the changes that you made to the
14 No Fly List process, with respect to U.S. persons?
15 **A My belief is that changing the Selectee**
16 **process would significantly undermine the**
17 **government's counter-terrorism efforts.**
18 Q Are there any other considerations that
19 you took into account to -- in determining that no
20 change in the Selectee List redress process was
21 warranted other than your belief that matching the
22 Selectee List process to the No Fly List

28

1 amendments would result in significantly
2 undermining the government's counter-terrorism
3 efforts?
4 MS. POWELL: Objection. Mischaracterizes
5 prior testimony.
6 Go ahead.
7 THE WITNESS: No.
8 BY MR. ABBAS:
9 Q What are the documents that dictate to
10 your subordinates how DHS TRIP has to work?
11 **A We have documents that are used in**
12 **training to describe the technical steps involved**
13 **with the different processes associated with**
14 **administering the program.**
15 Q Aside from training documents, what other
16 documents dictate to your subordinates how DHS
17 TRIP process is supposed to run?
18 **A No other documents with that specific**
19 **intent come to mind.**
20 Q So there are no documents that outline
21 what happens when DHS TRIP receives a redress
22 complaint?

29

1 A Those are the documents that teach them
2 how to do the different steps of how to implement
3 what to do when we receive a redress complaint.
 4 Q And it's only training documents?
5 A That's what we use them for, yes.
 6 Q Are there any rules regarding what happens
 7 to a redress complaint that's submitted to DHS
 8 TRIP?
9 A Could you be more clear about what you
10 mean by rules?
 11 Q Sure.
 12 As branch manager of the Transportation
 13 Security Redress Branch, do you promulgate rules
 14 to your subordinates?
15 A In general, yes.
 16 Q As branch manager of the Transportation
 17 Security Redress Branch, do you promulgate rules
 18 regarding what your subordinates must do when
 19 processing a DHS TRIP complaint?
20 A There are these training guidance
21 documents that we use that show them how to
22 process the cases.

30

1 Q Are there -- what are the names of these
 2 documents?
3 A They are named with regard to each process
4 that they describe.
 5 Q Okay. So tell me what the names of these
 6 documents are.
7 A There are multiple. I don't know if I
8 have them -- all the names, but an example would
9 be processing an out-of-scope case.
 10 Q What other training guidance documents do
 11 you recall?
12 A There are documents that describe the
13 intake process.
 14 Q I'd like the title of the documents that
 15 come to mind. And I understand you're not going
 16 to remember all of them, but I'm going to ask you
 17 for all the ones that you do remember.
18 A I'm not going to remember exact titles. I
19 will do my best to approximate.
 20 Q Sounds good.
21 A Intake, triage, close out, non-controlled
22 correspondence, return to sender. Those are the

31

1 ones that come to mind.
 2 Q Do these documents outline your
 3 expectations -- I'm sorry.
 4 Do these documents that you just mentioned
 5 outline your policies, as branch manager for the
 6 Transportation Security Redress Branch, as to how
 7 a redress complaint is to be processed by your
 8 subordinates?
 9 MS. POWELL: Objection. Vague.
 10 THE WITNESS: I would characterize them
 11 not as policies, but as procedures.
 12 Q As branch manager for the Transportation
 13 Security Redress Branch, do these training
 14 guidance documents constitute Transportation
 15 Security Redress Branch's policies as to how DHS
 16 TRIP is to be administered?
17 A No.
 18 Q How would you -- I'm sorry. Go ahead.
19 A They describe the technical procedures
20 involved in implementing the various procedures to
21 administer the program.
 22 MR. ABBAS: Can you read her answer one

32

1 more time?
 2 (Whereupon the record was read.)
 3 Q So are there other procedures that are not
 4 contained in these training guidance documents?
5 A No.
 6 Q So the only documents that regard how DHS
 7 TRIP functions is contained in the training
 8 documents that you've mentioned?
9 A The only exception that comes to mind is
10 the technical documents related to our case
11 management system, the documents that describe how
12 that -- on the technical side of the system, how
13 it works for....
 14 Q Are there other documents that the
 15 Transportation Security Redress Branch maintains
 16 that dictate how DHS TRIP functions?
17 A Not that come to mind.
 18 Q In what document does -- in what document
 19 does the Transportation Security Redress Branch
 20 direct its subordinates to apply the Glomar
 21 policy?
22 A Insofar as that policy is implemented in

33

1 the letter selection process, it would appear in
2 the close out letter – in the close out document.
 3 Q In the close out training document?
 4 That's where you believe the Glomar policy is
 5 expressed?
6 A Not directly in that it – the close out
7 is where we describe letter selection, and the
8 Glomar is implemented by DHS TRIP in its
9 determination letters.
 10 Q Okay.
 11 If you wanted to tomorrow, as branch
 12 manager of the Transportation Security Redress
 13 Branch, could you alter any of the training
 14 documents?
15 A If I felt it was required, yes.
 16 Q What is that? What do you mean if you
 17 felt it was required?
18 A I would alter them if they needed to be
19 altered to reflect something that has been
20 inaccurately portrayed or documented in the – if
21 there was an error, I would – I could correct it.
 22 Q Could you change the training documents as

34

1 you please?
2 A I guess so.
 3 Q Great.
 4 Since June 2013, how have you changed the
 5 training documents?
6 A We continually strive to improve our
7 processes, and so each time we make a change to
8 improve efficiency or effectiveness, we update the
9 documents to reflect that.
 10 Q And you've been the branch manager at TSB
 11 since June 2013; correct?
12 A Yes.
 13 Q You implemented some changes regarding
 14 improving processing times and improving
 15 relationships with other agencies that participate
 16 with DHS TRIP; correct?
17 A Yes.
 18 Q Did those initiatives lead to alterations
 19 in the training documents?
20 A Yes.
 21 Q Let's take it one at a time.
 22 With regards to changes that you made in

35

1 June 2013 regarding processing times, what types
 2 of changes did you make in the training documents?
3 A One change I made related to how we
4 handled cases that needed to be administratively
5 closed.
6 We made a change to close them in the
7 system such that they were accurately documented
8 and accurately counted by the system.
 9 Q So you made a change with regards to
 10 complaints that were closed?
11 A They were not closed, they were cases that
12 needed to be administratively closed because the
13 applicant failed to supply the missing
14 documentation after the given period of time.
 15 Q So then the processing time for that case
 16 would just kind of keep on going?
17 A Yes.
 18 Q And that would inflate the processing
 19 time --
20 A Yes.
 21 Q -- figure? Okay. So what was the change?
22 A We weren't closing them administratively

36

1 at all. We were just leaving them open, and we
2 notified people that we would administratively
3 close, but in the case management system, we
4 didn't close them. We were leaving them open.
 5 Q And so you made a change in the training
 6 documents to close --
7 A That we would now be closing them.
 8 Q And how long would you let a complaint
 9 languish without the required documentation before
 10 you administratively closed it?
11 A Before? They weren't administratively
12 closed. They were left simply open.
 13 Q Right. So you created some guidance in
 14 the training documents to change that; correct?
15 A Correct.
 16 Q And what is the precise change that you
 17 made in the documents?
18 A We changed the language in the documents
19 to instruct that those cases that had not been
20 administratively closed in the system should be
21 closed.
 22 Q Great.

37

1 Was there a set period of time?

2 **A Before, there was not a set period of**

3 **time. Now there is a set period of time, which is**

4 **established on our website.**

5 **It informs people that it's a set period**

6 **of time that we need to receive the required**

7 **materials, and if we don't, we administratively**

8 **close the case.**

9 Q What is that set period of time?

10 **A It's 30 days.**

11 Q Got it. So if you don't -- so the change

12 that you made to improve processing times is to

13 administratively close DHS TRIP complaints after

14 30 days if not all documentation was provided to

15 DHS TRIP?

16 **A Yes. However, those cases can be reopened**

17 **when and if the person submits the materials that**

18 **are required.**

19 Q Great.

20 Are there any other changes that you made

21 to improve processing times of DHS TRIP

22 complaints?

38

1 **A To improve processing times, we made a**

2 **change – everything ultimately leads, hopefully,**

3 **to improving processing time.**

4 **One of the changes we made was in regards**

5 **to communicating with applicants who have sent in**

6 **a paper complaint but it has been marked return to**

7 **sender, or we have a return-to-sender situation.**

8 **We improved the manner in which we tried**

9 **to communicate with that person to get the proper**

10 **address so that we can proceed with closing – or**

11 **moving the case forward.**

12 Q Aside from the administrative closing

13 change that you made, aside from this

14 return-to-sender issue that you brought up, are

15 there any other changes that you made to DHS TRIP

16 to improve processing times?

17 **A Yes.**

18 **Over the past years, there have been many**

19 **changes. We make changes all the time to try to**

20 **improve the processing time, as that's important**

21 **to applicants. So there are many tweaks and**

22 **improvements that we make.**

39

1 Q So tell me what those things are.

2 **A Let me think.**

3 **I'm having difficulty just calling them up**

4 **without having notes or -- I mean -- I can speak**

5 **to the improved processing time related to working**

6 **directly with our agencies, the -- those agencies**

7 **that we consult to process cases. By improving**

8 **our interactions with them, we're able to resolve**

9 **cases that are difficult or challenging.**

10 Q So in improving your relationship with

11 agencies, you believe that it allows DHS TRIP to

12 process complaints faster?

13 **A Mm-hm.**

14 Q Okay.

15 Aside from the change you made to

16 administrative closing, the change that you made

17 to the return-to-sender issue, and improving the

18 relationship with other agencies, are there any

19 other things that you've done to improve

20 processing times of DHS TRIP complaints?

21 **A We took some steps to standardize certain**

22 **things to facilitate communications with**

40

1 **applicants and how we present materials, how we**

2 **create packages. We standardized some of those**

3 **things to make it simpler for the analysts.**

4 MR. ABBAS: Could you just read the first

5 clause of her answer?

6 (Whereupon the record was read.)

7 Q What steps did you take to standardize

8 things?

9 **A When we prepare a package of information**

10 **about a case for an entity -- someone that needs**

11 **to review a case -- we standardized the way that**

12 **the information is ordered in the package, and we**

13 **created a PDF of the package with bookmarks so**

14 **that it's easier to move through the package.**

15 Q Are there any other steps you took to

16 standardize parts of the process?

17 **A We --**

18 Q I'm sorry. I'm sorry. I apologize for

19 interrupting you.

20 Is that -- is there a template for that

21 format?

22 **A Yes.**

41

1 Q Okay. All right.
 2 Mississippi.
 3 What other steps in the process have you
 4 standardized?
 5 **A We standardized the format of the -- we**
 6 **established practitioner meet -- or meetings with**
 7 **our agencies that we consult with. We established**
 8 **meetings with them, and then we established the**
 9 **format of those meetings.**
 10 **And then we established a hosting process**
 11 **so that it -- the meeting would be hosted by**
 12 **different agencies.**
 13 Q Is -- are there templates for those
 14 things?
 15 **A There's a template for the presentation**
 16 **that we give during the meeting, yes.**
 17 Q Okay.
 18 Mississippi.
 19 What other aspects of the process did you
 20 standardize?
 21 **A We standardized some of the -- that's not**
 22 **exact -- some of the language we use to**

42

1 **communicate with requesters, we standardized it to**
 2 **meet plain language requirements.**
 3 Q Is there anything else that you recall
 4 standardizing?
 5 **A Not that comes to mind immediately.**
 6 Q Okay.
 7 Dr. Moore, we're going to -- I'm going to
 8 ask you some questions just to get a general
 9 outline of the DHS TRIP process.
 10 What happens when DHS TRIP receives a DHS
 11 TRIP complaint? I'm sorry. Let me actually back
 12 up.
 13 How many subordinates do you have in the
 14 Transportation Security Redress Branch?
 15 **A 13.**
 16 Q Do they all work in this building at 601
 17 South 12th Street?
 18 **A We're in the 701 building, but yes.**
 19 Q Okay. I'm sorry.
 20 I used to live here. The Costco is my
 21 place.
 22 **A Okay.**

43

1 Q What are the various titles of the people
 2 that work under you?
 3 **A I have an operations manager. I have an**
 4 **enhanced redress and appeals manager. I have -- I**
 5 **don't know their exact titles, but it's an analyst**
 6 **position. And an administrative assistant**
 7 **position.**
 8 MS. POWELL: Does that mean we lost Lena?
 9 MR. ABBAS: Yeah. One second.
 10 THE VIDEOGRAPHER: Do you want to go off
 11 the record?
 12 MR. ABBAS: No, that's fine. We can stay
 13 on the record.
 14 Q Any other positions besides operations
 15 manager, enhanced redress and appeals manager,
 16 analyst, and administrative assistant?
 17 **A No, that covers them.**
 18 Q So there's one operations manager;
 19 correct?
 20 **A Yes.**
 21 Q There's one enhanced redress and appeals
 22 manager?

44

1 **A Yes.**
 2 Q How many analysts are there?
 3 **A The remainder, minus one administrative**
 4 **assistant.**
 5 Q Got it.
 6 **A I'll need to double check. I'm thinking**
 7 **that 13 is the total including me, so it may be**
 8 **that there are 12 subordinates.**
 9 Q That's fine.
 10 What are the responsibilities of the
 11 operations manager?
 12 **A Operations manager is in charge of**
 13 **overseeing the overall operation, monitoring case**
 14 **processing time, and ensuring that things are**
 15 **moving smoothly, making sure that new hires are**
 16 **properly trained and onboarded and are performing**
 17 **properly, adequately.**
 18 Q Who is the operations manager?
 19 MS. POWELL: Objection. We have privacy
 20 and potentially SSI concerns about the names of
 21 certain subordinate employees. SSI.
 22 I'm going to instruct you not to answer.

45

1 MR. ABBAS: Wow. Okay.

2 Q What are the responsibilities of the

3 enhanced redress and appeals manager?

4 **A To manage those processes.**

5 MR. ABBAS: Let me call Lena back. We

6 don't have to go off the record.

7 THE WITNESS: Actually, I wouldn't mind

8 taking a break if this is a good time.

9 MR. ABBAS: Yep. Absolutely. That's

10 fine. Yep. We'll take a break.

11 THE WITNESS: Thank you.

12 THE VIDEOGRAPHER: We're going off the

13 record at 10:40.

14 (Whereupon a recess was taken.)

15 THE VIDEOGRAPHER: We're back on the

16 record. The time is 10:55.

17 MS. POWELL: Before we get started,

18 Dr. Moore is prepared to answer your question

19 about the identity of the ops manager. We were

20 overbroad about the assertion of the privilege.

21 THE WITNESS: The operations manager is

22 Stan Mungaray.

46

1 BY MR. ABBAS:

2 Q Can you spell his last name?

3 **A M-U-N-G-A-R-A-Y.**

4 Q Stan M-U-N-G-A-R-A-Y?

5 **A Mm-hm.**

6 MS. POWELL: Could you say yes or no,

7 please.

8 THE WITNESS: Yes. Sorry.

9 MS. POWELL: That's all right.

10 MR. ABBAS: Thanks, Amy.

11 Q I think we are on the enhanced redress and

12 appeals manager. What does -- what are the

13 responsibilities of the enhanced redress and

14 appeals manager?

15 **A The enhanced redress and appeals manager**

16 **manages those processes.**

17 Q What is -- what do you mean by he manages,

18 or she manages, those processes?

19 **A She manages all aspects of the enhanced**

20 **redress and the appeals processes. I'm not sure**

21 **what further detail you're seeking.**

22 Q Sure. What is enhanced redress?

47

1 **A Enhanced redress is the process for USPERs**

2 **on the No Fly List.**

3 MR. ABBAS: And -- I'm sorry. I'm just

4 calling Lena. I forgot to call her.

5 MS. MASRI: This is Lena speaking.

6 MR. ABBAS: Hi, Lena. We're on the

7 record.

8 MS. MASRI: Hey. Okay. I'm about to

9 mute.

10 MR. ABBAS: Okay.

11 Q So enhanced redress regards just the No

12 Fly List?

13 **A Just -- yes.**

14 Q Does it regard any other Watchlist?

15 **A No.**

16 Q With regards to appeals, what does that

17 appeals process refer to?

18 **A It refers to the -- those on the No Fly**

19 **List who will receive -- who are eligible to**

20 **receive the appeals process.**

21 MR. ABBAS: Can you read back her answer?

22 (Whereupon the record was read.)

48

1 BY MR. ABBAS:

2 Q So this enhanced redress and appeals

3 manager deals only with No Fly List-related

4 redress complaints?

5 **A Correct.**

6 Q She does not deal with any other types of

7 redress complaints?

8 **A Correct.**

9 Q Correct? Okay. What's her name?

10 **A Heather Carroll.**

11 Q Can you spell Carroll for me?

12 **A C-A-R-R-O-L-L.**

13 Q And then there are analysts; correct?

14 **A Correct.**

15 Q There's, like, 9 or 10 analysts? Is that

16 about how many there?

17 **A About, yes.**

18 Q Okay. And what are -- do those analysts

19 have the same responsibilities?

20 **A Broadly, yes. I mean, they specialize in**

21 **different areas, but they all are trained in all**

22 **areas.**

49

1 Q What areas do your analysts specialize in?
 2 **A All of the analysts do triage and close**
 3 **out. Some analysts handle specific processes,**
 4 **such as the return-to-sender process. I have one**
 5 **person who handles those.**
 6 **So perhaps specialize is not the correct**
 7 **word. More it's assignment. That's their**
 8 **assignment.**
 9 Q Aside from the analysts that are assigned
 10 to handle the return-to-sender issues, are there
 11 other specific assignments that analysts receive?
 12 **A Yes, there are several. We have multiple**
 13 **processes, so for each process, we have a lead and**
 14 **a backup.**
 15 Q Does TSRB designate a lead and a backup
 16 per redress complaint?
 17 **A No.**
 18 Q So how does this lead/backup process work?
 19 **A Within processing a complaint, there are**
 20 **sub-processes, and so the sub-processes get**
 21 **handled.**
 22 **Someone may be assigned to deal with, for**

50

1 **example, duplicate review, which is, within the**
 2 **system, we can review cases the system has flagged**
 3 **as duplicates.**
 4 **When an applicant has applied more than**
 5 **once, we want to make sure we have one active case**
 6 **and not two separate people applying with a**
 7 **similar name. So that process of review would be**
 8 **an example.**
 9 Q Do all analysts participate in being leads
 10 or backups at various times?
 11 **A Yes.**
 12 Q So there aren't some analysts that are
 13 only leads?
 14 **A Correct.**
 15 Q Okay.
 16 Are there any other tasks or assignments
 17 that only some analysts do? Aside from the
 18 return-to-sender issue.
 19 **A The assignments change, but at any one**
 20 **time, we always have one lead and one backup.**
 21 **Those assignments would be change around based on**
 22 **business needs.**

51

1 **So all of the different processes have**
 2 **someone. It's -- I don't have any one person**
 3 **who's allowed to do just one thing, if that's what**
 4 **you're getting at.**
 5 Q Yep. That's what I was getting at.
 6 Aside from the analyst that just does the
 7 return-to-sender?
 8 **A Well, I would include that, because that**
 9 **might switch, too, depending on business needs,**
 10 **you know.**
 11 Q So right now there is no task that a
 12 single analyst does exclusively?
 13 **A With -- they may do something exclusively**
 14 **now, but that may change down the road. So I just**
 15 **want to make sure.**
 16 Q Yep. That makes sense. Great.
 17 Does the operations manager handle actual
 18 redress complaints?
 19 **A Yes.**
 20 Q How does the operations manager interact
 21 with an actual DHS TRIP complaint?
 22 **A The operations manager would likely get**

52

1 **involved with a specific case. If one of the**
 2 **analysts had a question on how to handle a given**
 3 **case, then the operations manager would get**
 4 **involved to advise.**
 5 Q And what would be the basis of the
 6 operations manager's advice to an analyst who had
 7 questions about what to do with a DHS TRIP
 8 complaint?
 9 MS. POWELL: Objection. Vague.
 10 THE WITNESS: What do you mean by basis?
 11 Can you be more specific?
 12 Q How does the operations manager know what
 13 advice to dispense to an analyst who has a
 14 question about how to process a DHS TRIP
 15 complaint?
 16 **A He would rely on personal experience of**
 17 **having processed a similar case. He would perhaps**
 18 **seek guide -- clarification on specifics from the**
 19 **agencies that we consult with. He might discuss**
 20 **the case with me.**
 21 Q At any point in time, would the operations
 22 manager consult any documents to determine what

Conducted on December 20, 2017

53

1 advice to give an analyst who had a question about
 2 a DHS TRIP complaints?
 3 MS. POWELL: Objection. Calls for
 4 speculation.
 5 THE WITNESS: Other than potentially the
 6 documents I discussed earlier, I don't think so.
 7 BY MR. ABBAS:
 8 Q What documents are you referring to when
 9 you say --
 10 **A The document --**
 11 Q -- the documents you discussed earlier?
 12 **A I am referring to the documents that we**
 13 **use during training.**
 14 Q Other than the training documents, there
 15 are no other documents that an operation manager
 16 would refer to in answering questions that an
 17 analyst has about how to process a DHS TRIP
 18 complaint?
 19 MS. POWELL: Objection. Calls for
 20 speculation.
 21 THE WITNESS: No.
 22 Q Great.

54

1 How many analysts, at any given time, are
 2 working on DHS TRIP complaints that regard the
 3 Terrorist Screening Database?
 4 **A Potentially, any application we receive in**
 5 **triage could relate, could have, a potential nexus**
 6 **to the TSDB. So all of the analysts do triage, so**
 7 **all of them could potentially receive a case that**
 8 **would have that nexus.**
 9 Q Great.
 10 Does the operation manager ever serve as
 11 the lead or the backup for any aspect of the
 12 processing of a DHS TRIP complaint?
 13 **A Yes. The operations manager is charged**
 14 **with assigning the cases -- the incoming cases --**
 15 **to analysts. So he has a role in all of the**
 16 **incoming cases.**
 17 Q Does he ever assign cases to himself?
 18 **A Sometimes.**
 19 Q So sometimes the operation manager acts
 20 like an analyst and processes a DHS TRIP complaint
 21 as an analyst would?
 22 **A Yes.**

55

1 MR. ABBAS: Do you have more copies of
 2 this, Amy?
 3 MS. POWELL: Yes.
 4 MR. ABBAS: Okay. We don't need them now,
 5 but I just wanted to make sure.
 6 Q How many -- if you were to break up the
 7 DHS TRIP process into steps, how many steps does
 8 it take DHS TRIP to conclude a redress complaint?
 9 MS. POWELL: Objection. Vague.
 10 THE WITNESS: From a high level, I would
 11 say there are three major steps.
 12 Q Can you tell me what those three steps
 13 are?
 14 **A The first step is intake, the second step**
 15 **is triage, and the third is case close out.**
 16 Q Okay.
 17 Describe DHS TRIP's intake phase.
 18 **A We receive the applications, either via**
 19 **the website or paper-based through e-mail or mail,**
 20 **review the material, ensure that the data that's**
 21 **been submitted is correct and compare it with the**
 22 **identity documentation that we've matched -- they**

56

1 **send in their identity documentation separately;**
 2 **we match those together with the application --**
 3 **review those make, sure it's all correct --**
 4 Q And just to jump in, so that's a person
 5 sends in a copy of their passport, and then a
 6 person also writes down their passport number in
 7 the application --
 8 **A Yes.**
 9 Q -- and you guys match those?
 10 **A To make sure there aren't errors, yes.**
 11 Q Got it. Okay. Carry on.
 12 **A We also make sure all required pieces of**
 13 **the case -- of the submission are there, not just**
 14 **the application form, but also the penalty of**
 15 **perjury that's required, the -- I mentioned the**
 16 **identity documents.**
 17 **If the person has named a representative,**
 18 **we require a DHS Form 590. And we also review the**
 19 **Description -- Details and Description section to**
 20 **make sure that both the case is within scope and**
 21 **that it's sufficiently detailed so that we can**
 22 **process it.**

57

1 Q What do you mean when you say within the
2 scope?

3 **A If a description indicates the person is**
4 **complaining about something that falls outside of**
5 **our scope, such as mishandled baggage or a**
6 **complaint about how the person was screened due to**
7 **a disability, for example, that's not us.**

8 **So we would close the case in an**
9 **out-of-scope letter directing the person to the**
10 **proper place.**

11 Q What is your estimate -- I'm sorry.
12 Before I ask that: What is the scope of DHS TRIP?

13 **A The scope is persons who've experienced a**
14 **travel-relating screen -- travel-related screening**
15 **incident, such as delayed or denial of boarding of**
16 **an aircraft, people who have had difficulty**
17 **entering or exiting the country, or people who**
18 **have been told that their personal details on**
19 **travel documents are incomplete or incorrect.**

20 Q What is -- what percentage of DHS TRIP
21 complaints that DHS TRIP receives are out of
22 scope? Let me -- I'm going to ask that question

58

1 differently.

2 What percentage of complaints that DHS
3 TRIP receives are determined by DHS TRIP to be out
4 of scope?

5 **A I don't know that number offhand. It's**
6 **not something we track. I mean, we could, but I**
7 **don't know.**

8 Q So you don't track the amount of
9 complaints that DHS TRIP determines to be out of
10 scope?

11 **A Not actively, no.**

12 Q What do you mean by not actively?

13 **A I mean that I don't get a report on it.**

14 Q Do you possess the information that would
15 indicate the number of DHS TRIP complaints that
16 DHS TRIP has determined to be out of scope?

17 **A Yes.**

18 Q What is your estimate of the percentage of
19 DHS TRIP complaints that DHS TRIP determines to be
20 out of scope?

21 MS. POWELL: Objection. Asked and
22 answered.

59

1 THE WITNESS: Estimating?

2 BY MR. ABBAS:

3 Q Yep.

4 **A 10 percent, 5 percent.**

5 Q Not more than 25 percent?

6 **A No.**

7 Q Okay. So you believe that it's in the 10
8 percent to 5 percent range for out-of-scope
9 complaints; correct?

10 **A I believe that to be correct, yes.**

11 Q But you're -- it sounds like you're
12 certain that it's less than 25 percent?

13 MS. POWELL: Objection. Asked and
14 answered.

15 THE WITNESS: I'm not certain. Without
16 the numbers in front of me, I can't be certain.
17 But my estimate is 5 to 10.

18 Q Got it. Great. Excellent.

19 Who determines whether a complaint that
20 DHS TRIP receives is out of scope?

21 **A At the first phase, during the intake, the**
22 **intake staff can determine, usually, if it's out**

60

1 **of scope. If it's clearly someone complaining**
2 **about baggage mishandling, they can determine.**
3 **In the second phase --**

4 Q Let me ask you -- and I apologize for
5 interrupting.

6 When you say intake staff, are you
7 referring to the analysts?

8 **A No. We have contract staff that assist**
9 **us.**

10 Q Very important. Okay. So there are
11 contractors that DHS TRIP has that perform
12 functions that regard DHS TRIP; correct?

13 **A Correct.**

14 Q How many contractors does DHS TRIP
15 utilize?

16 **A Usually six.**

17 Q What company does DHS TRIP contract with?

18 MS. POWELL: Hang on a second.

19 MR. ABBAS: Company. I mean, that's for
20 sure not SSI.

21 MS. POWELL: Okay.

22 Go ahead and answer, if you know.

Conducted on December 20, 2017

| | |
|--|--|
| <p style="text-align: right;">61</p> <p>1 THE WITNESS: I believe the name of the</p> <p>2 company is Dynamis.</p> <p>3 BY MR. ABBAS:</p> <p>4 Q Can you spell it?</p> <p>5 A I believe it's D-Y-N-A-M-I-S.</p> <p>6 Q D-Y-N-A-M-I-S?</p> <p>7 A Yes.</p> <p>8 Q And there are six contractors?</p> <p>9 A Currently, I believe six.</p> <p>10 Q And what role do those contractors play?</p> <p>11 A They support the intake process.</p> <p>12 Q What does -- what do the contractors do to</p> <p>13 support the intake process?</p> <p>14 A They receive the surface mail that we --</p> <p>15 15 the applications we receive by mail. Open the</p> <p>16 16 mail and review it.</p> <p>17 They review -- they do the matching of the</p> <p>18 18 identity documents, upload the identity documents</p> <p>19 19 that we've received via e-mail to the appropriate</p> <p>20 20 case.</p> <p>21 They do the review to ensure the data has</p> <p>22 22 been properly entered, the quality review.</p> | <p style="text-align: right;">63</p> <p>1 MS. POWELL: Okay. Go ahead.</p> <p>2 THE WITNESS: We had one detailee from</p> <p>3 ICE, and we had a second detailee from OBIM.</p> <p>4 BY MR. ABBAS:</p> <p>5 Q From?</p> <p>6 A OBIM. The Office Biometric Identity</p> <p>7 7 Management. They're part of the National</p> <p>8 8 Protection Programs Directorate. They manage the</p> <p>9 9 fingerprints.</p> <p>10 Q Got it. Okay. Great.</p> <p>11 When were those detailees assigned to DHS</p> <p>12 TRIP?</p> <p>13 A A few years ago. I don't know the dates</p> <p>14 14 offhand.</p> <p>15 Q When you were branch manager?</p> <p>16 A Yes.</p> <p>17 Q Okay.</p> <p>18 Other than the contractors and the</p> <p>19 employees that are your subordinates, are there</p> <p>20 any other people that participate in the</p> <p>21 processing of DHS TRIP complaints?</p> <p>22 MS. POWELL: Objection. Vague.</p> |
| <p style="text-align: right;">62</p> <p>1 And they do the second check of the</p> <p>2 2 quality review as well.</p> <p>3 Q So the contractors -- well, before we get</p> <p>4 there.</p> <p>5 So there's an operations manager. There's</p> <p>6 an enhanced redress appeals manager. There are</p> <p>7 analysts. There's contractors. Are there any</p> <p>8 other people that participate in DHS TRIP under</p> <p>9 your direction?</p> <p>10 A No. Except you didn't mention the</p> <p>11 11 administrative assistant.</p> <p>12 Q Oh, yes. You're right. I apologize.</p> <p>13 Do other agencies assign staff to you to</p> <p>14 participate in the DHS TRIP redress process?</p> <p>15 MS. POWELL: Objection. Vague.</p> <p>16 THE WITNESS: We had a detailee one time</p> <p>17 for a short period. But other than, no, they do</p> <p>18 not assign staff to us.</p> <p>19 Q Okay. Who assigned a detailee to you?</p> <p>20 MS. POWELL: Hang on.</p> <p>21 MR. ABBAS: And just to clarify, I'm</p> <p>22 asking for an agency, not a name.</p> | <p style="text-align: right;">64</p> <p>1 THE WITNESS: We consult with other</p> <p>2 agencies who review cases, but they're not under</p> <p>3 my direction, however. So I think I would answer</p> <p>4 no.</p> <p>5 BY MR. ABBAS:</p> <p>6 Q Okay.</p> <p>7 Now we can go back to the intake process.</p> <p>8 And so the intake process is run by the</p> <p>9 contractors; correct? Let me -- that's a bad</p> <p>10 word.</p> <p>11 The intake process is handled by the</p> <p>12 contractors?</p> <p>13 A Under federal direction, yes.</p> <p>14 Q Okay. Good.</p> <p>15 The analysts don't do the same things that</p> <p>16 the contractors do?</p> <p>17 A On occasion, they could. But by and</p> <p>18 18 large, the majority of the work is handled by the</p> <p>19 19 intake -- by the contract staff.</p> <p>20 Q What decisions do the contractors make in</p> <p>21 the context of the DHS TRIP intake process?</p> <p>22 A I -- they would decide if data is -- on</p> |

Conducted on December 20, 2017

65

1 one document is matching the other.
 2 They would decide if it's been -- if the
 3 cases are moving -- if the case -- what the next
 4 step for a case -- I mean, they follow the
 5 process. I'm not sure if those qualify as
 6 decisions.
 7 Q They do. Are there any other decisions
 8 that contractors make, aside from the ones that
 9 you just mentioned?
 10 A They decide if a case is complete and if
 11 it has all the required elements that I
 12 enumerated.
 13 They also -- the team lead manages their
 14 workload. The team lead assigns cases and manages
 15 with the different staff.
 16 Q Is the team lead also a contractor?
 17 A Yes.
 18 Q Okay.
 19 Are there any other decisions, aside from
 20 the ones that you just mentioned, that the
 21 contractors make in the intake process of DHS
 22 TRIP?

66

1 A I don't believe so.
 2 Q During your tenure as branch manager for
 3 DHS TRIP, have the Dynamis contractors been there
 4 the whole time?
 5 A They -- the people who are filling those
 6 positions now have not been there the whole time.
 7 The staffing changes. The company changes, and
 8 people leave and new people come.
 9 Q But Dynamis has always supplied --
 10 A I'm --
 11 Q -- contractors --
 12 A I --
 13 Q -- during your tenure?
 14 A I can't say for certainty that they have
 15 been the single company.
 16 Q Got it.
 17 So there have been contractors throughout
 18 your tenure as branch manager of the
 19 Transportation Security Redress Branch, but
 20 whether they're from Dynamis or another company,
 21 you're not sure?
 22 A Correct.

67

1 Q Okay.
 2 How does the intake process conclude?
 3 A The intake process is concluded when a
 4 case is moved to -- it is passed to the quality
 5 assurance step and it is assigned for triage.
 6 Q You indicated there's two steps to the
 7 quality assurance review?
 8 A Yes.
 9 Q Describe the two steps -- and would you
 10 characterize the quality assurance review as part
 11 of the intake process?
 12 A Yes.
 13 Q Okay.
 14 Please describe the two steps of the
 15 quality assurance review of the intake process
 16 within the DHS TRIP complaint process.
 17 A The -- in -- the quality assurance step is
 18 basically as I described it earlier: Ensuring the
 19 data is -- that the applicant has entered in the
 20 system matches the data that appears on the
 21 identity document, making sure all of the required
 22 pieces are there, that the case is complete.

68

1 And the second stage is the same thing: A
 2 start-to-finish review of all the pieces by a
 3 separate person.
 4 Q So it's two people doing the same check?
 5 A Mm-hm.
 6 Q And if both of those -- and are both of
 7 those people contractors?
 8 A Yes.
 9 Q And if both of those people sign off and
 10 say that the data matches, the documents are
 11 there, then they forward the complaint to the next
 12 phase, which is triage?
 13 A Yes.
 14 Q What happens if one of the -- what happens
 15 if a complaint does not make it through the
 16 quality review process?
 17 A It would depend on the reason that it
 18 didn't make it through the quality review process.
 19 For example, if it is missing a penalty of
 20 perjury, if it's incomplete, we go back to the
 21 applicant, communicate that this piece is missing,
 22 and request it.

69

1 Q What other reasons are there that a
 2 document would not make it through the -- I'm
 3 sorry.
 4 What other reasons are there that a
 5 complaint would not make it through the quality
 6 assurance process?
 7 **A If the data has -- if there is -- if there**
 8 **are mistakes in the data entry piece, then those**
 9 **would need to be corrected. Or if there's some**
 10 **other missing piece.**
 11 **If it's out of scope. Those types of**
 12 **things that I noted earlier that are problems in**
 13 **-- that we find in the intake stage.**
 14 Q Who makes the decision about whether a
 15 complaint advances to the triage phase?
 16 **A The contract staff doing the quality**
 17 **assurance reviews.**
 18 Q Has it ever happened that a complaint that
 19 -- has arrived in triage without the required
 20 materials, or some other defects in the DHS TRIP
 21 complaint?
 22 **A I'm --**

70

1 MS. POWELL: Objection. Vague.
 2 THE WITNESS: Due to the quantity of
 3 applications we process in a year, I'm certain
 4 that that has occurred.
 5 BY MR. ABBAS:
 6 Q Do you keep track of the number of DHS
 7 TRIP complaints that advance to the triage phase
 8 without the required documentation or mismatched
 9 information?
 10 **A Yes.**
 11 Q How many complaints advanced to triage
 12 with a defect that should have been caught in the
 13 quality assurance review?
 14 **A I don't have that exact number, but I can**
 15 **say that I receive a monthly error report. When**
 16 **there are errors that the contract staff make, we**
 17 **track them.**
 18 **And the error rate is, by-person,**
 19 **fairly -- generally very low, lower than I would**
 20 **say 7, 8, 9 percent. Usually much lower.**
 21 **When I notice a problem, we address it.**
 22 Q Mississippi.

71

1 So you receive a monthly error report
 2 every month?
 3 **A Yes.**
 4 Q Since June 2013?
 5 **A No. That was a procedure that I started.**
 6 Q Great. When did you start that procedure?
 7 **A I don't know exactly. I would say within**
 8 **the first couple years.**
 9 Q What year do you believe you started it?
 10 **A I would only be able to guess. I would**
 11 **say 2013.**
 12 Q Got it. But it might be 2014?
 13 **A It could be.**
 14 Q Yeah. But it's not 2012?
 15 **A No, because I didn't work here.**
 16 Q It's definitely -- 2016? You getting
 17 monthly error reports in 2016?
 18 **A I believe so, yes.**
 19 Q Okay. Do you believe that you were
 20 getting monthly error reports in 2015?
 21 **A I believe so.**
 22 Q Okay. So it's just a matter of is it 2013

72

1 or '14? Okay.
 2 **A Yeah.**
 3 Q What does that monthly error report
 4 contain?
 5 **A It has the percentage -- excuse me.**
 6 **It documents the error type in the intake**
 7 **process that is being found by -- and it's broken**
 8 **down by person.**
 9 Q Does the monthly error report just regard
 10 the intake process?
 11 **A I believe it also contains information on**
 12 **another of our quality assurance steps, which is**
 13 **reviewing e-mail to make sure we're communicating**
 14 **properly with applicants, or those who have**
 15 **questions.**
 16 **So we track if errors have been made, so**
 17 **it contains that percentage error rate if those**
 18 **errors have been made.**
 19 MR. ABBAS: Can you read back her answer?
 20 (Whereupon the record was read.)
 21 Q What errors -- so one part of your monthly
 22 report regards error rates specific to the intake

Conducted on December 20, 2017

73

1 process?
2 A Yes.
 3 Q And there's another part of your monthly
 4 report that regards errors made later on in the
 5 DHS TRIP process?
6 A Yes.
 7 Q In the intake phase and the close out
 8 phase?
9 A Let me revise.
 10 Q I'm sorry. I'm sorry. The triage phase
 11 and the close out phase, but go ahead.
12 A Let me revise. I was referring to the
13 e-mail communications, and that is not specific to
14 any one time of the process. Someone can e-mail
15 with a question -- how do I apply for TRIP? --
16 that's outside of the process.
17 Or they could say, I haven't received my
18 close out letter. And that's at a different
19 phase.
 20 Q So what tracking information do you
 21 receive in your monthly report regarding e-mail
 22 communications with persons inquiring about the

74

1 DHS TRIP process?
2 A Just a percentage that an incorrect answer
3 was given.
 4 Q So someone is reviewing all of the answers
 5 that DHS TRIP personnel have provided to
 6 e-mailers?
7 A No, not all. We review a percentage.
 8 Q What percentage do you review?
9 A I don't know offhand the number.
 10 Q Some -- who reviews these e-mails to
 11 determine whether the DHS TRIP personnel has
 12 provided accurate or inaccurate information in
 13 response to an inquiry regarding DHS TRIP?
14 A One of the analysts.
 15 Q So one of the analysts, each month, will
 16 review a percentage of all correspondence DHS TRIP
 17 personnel has sent to people inquiring about the
 18 process?
19 A Yes.
 20 Q And the analyst does that review to
 21 determine whether the information provided in the
 22 e-mail is accurate or inaccurate?

75

1 A Yes.
 2 Q What percentage of e-mails contain any
 3 accurate -- inaccurate information in these
 4 monthly reports?
5 A I don't know the number offhand, but I
6 would estimate that it's less than 5 percent.
 7 Q Aside from the error rate in the intake
 8 process and the error rate in responding to e-mail
 9 inquiries regarding DHS TRIP, what else does your
 10 monthly error report contain?
11 A I believe it also contains errors caught
12 during the triage phase. I believe it also
13 contains error -- any errors caught during case
14 close out.
 15 Q Aside from errors in -- I'm sorry.
 16 In your monthly report, aside from a
 17 report on the number of intakes that were
 18 processed in error, aside from the e-mail inquiry
 19 report that you get, and errors in the triage
 20 phase, and errors in the close out, are there any
 21 other -- is there any other information contained
 22 in your monthly report?

76

1 A No.
 2 Q With regards to errors caught in the
 3 triage phase, what are the types of errors that
 4 DHS TRIP tracks in the triage phase?
5 A In terms of tracking, we track just
6 overall error, any kind of error. It's not broken
7 down as it is in the intake. It's just any kind
8 of error.
9 The type of errors that they might catch
10 is if their -- if the intake has missed -- like,
11 there's a missing penalty of perjury, for example.
12 Or if the data was not entered properly, the type
13 of -- that type of error.
14 They would also find any -- if an -- if a
15 case had been determined to have an equity with an
16 agency, that an agency should review it, but that
17 wasn't correct, that would be caught as well.
 18 Q So if someone determined that an agency
 19 should be involved and wasn't?
20 A Yes. That would be caught and --
 21 Q And vice versa?
22 A Yes.

77

1 Q If someone determined that an agency
 2 should not be involved, or an agency should be
 3 involved, that would be an error as well in the
 4 triage phase?
 5 **A Correct.**
 6 Q What other types of errors get caught in
 7 the triage phase that are reflected in your
 8 monthly report?
 9 **A I believe I've covered them.**
 10 Q Okay.
 11 So what do you -- what is -- do you just
 12 see a number -- so there's a lot of different
 13 kinds of errors in the triage phase. Do you just
 14 see a number, or do you see a breakdown in the
 15 types of errors that are being made?
 16 **A Just a high-level number.**
 17 Q So you just see a single 5 percent,
 18 10 percent number about the errors?
 19 **A Correct.**
 20 Q And it doesn't indicate what types of
 21 errors are being made?
 22 MS. POWELL: Objection. Asked and

78

1 answered.
 2 THE WITNESS: Yes.
 3 BY MR. ABBAS:
 4 Q Okay.
 5 With regards to errors that are caught in
 6 the close out phase, what types of errors do DHS
 7 TRIP personnel make in the close out phase?
 8 **A At this phase, they -- the type of errors**
 9 **could be that the applicant's redress number was**
 10 **not added to the Cleared List when it should have**
 11 **been, or an error in the letter that was**
 12 **selected -- it was queued for selection to be**
 13 **sent.**
 14 Q Can you explain that last piece?
 15 **A The letter?**
 16 **During the close out phase, the analyst**
 17 **reviews all aspects of the case, both what has**
 18 **been submitted by the applicant and what the**
 19 **consulting agencies have determine, and in that**
 20 **determination, they have indicated they**
 21 **recommended a determination letter.**
 22 **So the analyst's job, at the close out, is**

79

1 **to look at all that information and determine the**
 2 **appropriate letter, given the specifics of the**
 3 **case.**
 4 **At that phase, if -- the error would be if**
 5 **the analyst selected an incorrect letter.**
 6 Q Okay.
 7 So I want to discuss the different
 8 conclusions of the intake process. One conclusion
 9 is that it's out of scope. And then what happens
 10 to a DHS TRIP complaint that's out of scope?
 11 **A The requester would be sent an**
 12 **out-of-scope letter, and the request would be**
 13 **closed.**
 14 Q Okay. What other possible outcomes are
 15 there of the DHS TRIP intake process, aside from
 16 close out -- out of scope? Sorry.
 17 **A During that process --**
 18 Q I'm sorry. I'd like to rephrase that
 19 question.
 20 What other outcomes of the DHS TRIP intake
 21 phase are there, aside from a determination that
 22 it's out of scope?

80

1 **A It could be determined that the case is a**
 2 **duplicate to an active case, in which case the**
 3 **duplicate case would be closed.**
 4 **It could be determined that a -- there's a**
 5 **missing item, in which case we would respond to**
 6 **the applicant and request the missing item.**
 7 **And the other possibility is that the case**
 8 **moves into triage phase.**
 9 Q DHS TRIP does a lot of different things,
 10 not just things that are regarding the TSDB. Do
 11 you -- when you advance a DHS TRIP complaint to
 12 triage, do you notate in some manner what the
 13 complaint regards?
 14 **A No.**
 15 Q So if something advances to triage, it
 16 advances to triage without any type of
 17 qualification?
 18 **A By qualification, if you mean determining**
 19 **the nature of the complaint, then no. It**
 20 **doesn't -- no qualifications are made at that**
 21 **stage.**
 22 Q So no determination -- no -- at the

81

1 conclusion of intake, if a DHS TRIP complaint
 2 advances to triage, it advance -- all DHS TRIP
 3 complaints advancing to triage advance in the same
 4 manner?
5 A Correct.
 6 Q Great.
 7 Are there instances where -- I'm going
 8 back to when you make a determination that
 9 something's out of scope.
 10 Are there instances where you issue an
 11 out-of-scope letter where the complainant is
 12 experiencing travel difficulties because of a
 13 belief that they're on the Watchlist?
14 A No. We wouldn't issue an out of scope in
15 that -- given the details you've given me, no.
 16 Q Are there instances where -- well, that's
 17 fine. Okay.
 18 What happens when a DHS TRIP complaint
 19 advances to the triage phase of the administrative
 20 process?
21 A I'm sorry. I'd like to return to your
22 previous question.

82

1 Q Sure.
2 A There could be an instance where somebody
3 does not describe a travel incident -- they simply
4 say, I believe I'm on the Watchlist -- and in that
5 case, that would not be advanced.
6 We don't have enough information. We have
7 no travel incident.
 8 Q What about if someone file -- were to file
 9 a DHS TRIP complaint that they're on the Watchlist
 10 and that they know they're on the Watchlist for a
 11 reason unrelated to travel?
 12 MS. POWELL: Objection. Calls for
 13 speculation.
 14 THE WITNESS: We require a travel --
 15 description of a travel incident -- travel --
 16 screening-related travel difficulty incident in
 17 order to process the case.
 18 Q So if a person reported a difficulty that
 19 was unrelated to travel, then DHS TRIP would not
 20 process that complaint; correct?
 21 MS. POWELL: Same objection.
 22 THE WITNESS: If the person has not

83

1 described a travel incident, then we cannot
 2 process the complaint.
 3 BY MR. ABBAS:
 4 Q Is there any other rigorous procedure for
 5 a person on the Watchlist who complains of a
 6 non-travel-related difficulty?
 7 MS. POWELL: Objection. Out of scope.
 8 But you can answer, if you know.
 9 THE WITNESS: Not that I'm specifically
 10 aware of.
 11 Q Okay. That's it. That's fair.
 12 Describe the paperwork that indicates that
 13 a DHS TRIP complaint is now in triage.
14 A The paperwork that indicates -- I'm not
15 clear on your question.
 16 Q Is there any form that -- I'm sorry.
 17 When -- just for the purposes of this
 18 deposition, when I say DHS TRIP personnel, I'm
 19 referring both to the contractors and your
 20 subordinates.
21 A Understood.
 22 Q Okay.

84

1 Do -- does DHS TRIP personnel then
 2 complete any paperwork, any forms, to indicate
 3 that a DHS TRIP complaint is no longer in the
 4 intake phase and is now advancing to the triage
 5 phase?
6 A No. We use a case -- an electronic case
7 management system, so there's no paperwork or
8 forms, as such.
 9 Q So what steps does -- do -- what steps do
 10 DHS TRIP personnel take in your electronic case
 11 management system to indicate that a DHS TRIP
 12 complaint has completed the intake phase and is
 13 now ready for the triage phase?
14 A They would take the proper steps within
15 the case management system and queue the proper
16 letter to indicate that it's in that phase.
17 I'm sorry. You asked to indicate in the
18 situation where someone was deemed to be out of
19 scope; correct?
 20 Q Nope.
21 A I'm sorry. Can you repeat the question
22 then?

Conducted on December 20, 2017

85

1 Q Sure.

2 Can you repeat the question?

3 (Whereupon the record was read.)

4 THE WITNESS: So the steps would also be

5 indicating in the case management system.

6 Basically, clicking and filling in the proper --

7 and moving the case, assigning it an analysis for

8 the triage group that it's ready for triage.

9 BY MR. ABBAS:

10 Q Who does the clicking?

11 **A The intake staff.**

12 Q So that's the contractors?

13 **A Yes.**

14 Q Is there any electronic form that the

15 intake staff have to complete in order to advance

16 a DHS TRIP complaint to the triage phase?

17 MS. POWELL: Objection. Vague.

18 THE WITNESS: Form is a broad word. We

19 call -- within our case management system, all of

20 the different pages are called forms.

21 I assume you mean a separate document, or

22 something like that? Is that correct?

86

1 Q No.

2 **A Okay.**

3 Q So there's a -- is there an electronic

4 form that DHS TRIP personnel complete to indicate

5 that a DHS TRIP complaint has completed intake and

6 is ready for triage?

7 **A I don't believe it's a separate form. I**

8 **believe it's on the same screen when you're**

9 **processing a case that you would assign an**

10 **analysis to move it to the triage phase.**

11 Q What happens when a DHS TRIP complaint

12 begins the triage phase of the DHS TRIP process?

13 **A It's first assigned to the triage queue.**

14 **Then the operations manager assigns it to an**

15 **analyst.**

16 **The analyst reviews all aspects,**

17 **wholistically, of the case, everything that's been**

18 **submitted by the applicant. The analyst also**

19 **checks relevant government databases for any**

20 **additional information that could help determine**

21 **where the equities are, which agencies need to**

22 **review the case in order to provide redress to the**

87

1 **traveler.**

2 Q Can you read back her answer?

3 (Whereupon the record was read.)

4 What is the triage queue?

5 **A Triage queue is basically a list within**

6 **the case management system of the cases that need**

7 **to be assigned for triage.**

8 Q Generally, how long is that queue?

9 **A We clear it out every day, twice a day.**

10 **So cases are assigned -- move to the queue and**

11 **assigned to an analyst.**

12 Q How many cases do you assign a day?

13 **A I don't know offhand how many cases are**

14 **assigned per day.**

15 Q Is it, like, a thousand?

16 **A No.**

17 Q 500? A hundred?

18 Give me your best estimate of how many

19 cases get assigned out of the triage queue to

20 analysts on a daily basis.

21 **A 20? It's an estimate.**

22 Q Less than 50?

88

1 **A I believe.**

2 Q And the operations manager is responsible

3 for assigning out of the triage queue?

4 **A Yes.**

5 Q And the operation manager -- does the

6 operation manager assign a lead and a backup for

7 things in the triage queue?

8 **A He does not assign a lead and a backup for**

9 **cases. He assigns the case to an analyst.**

10 Q So one analyst has a case out of the

11 triage queue?

12 **A Yes.**

13 Q And that analyst is responsible for moving

14 that case along the DHS TRIP redress process?

15 **A The analyst is responsible for processing**

16 **it through triage.**

17 Q Got it. So that doesn't necessarily mean

18 that -- well, okay.

19 At any given time, how many cases does an

20 analyst typically have responsibility for?

21 **A Cases are not assigned to analysts that**

22 **way. Cases are assigned at the triage phase, but**

89

1 not the entire case.
2 Q Do you track how many cases each analyst
3 handles out of the triage queue?
4 A **On an annual basis, they have requirements**
5 **how many they need to process.**
6 I don't track any more in depth than that.
7 Q Got it. So there's a quota for the
8 analysts and how many --
9 A **Yes.**
10 Q Let me just finish, right, so that I --
11 A **Sorry.**
12 Q No, no. No worries. You knew what I was
13 going to say, I think I knew what you were going
14 to say, so if you didn't interrupt me, I was going
15 to interrupt you.
16 The analysts have a quota for how many
17 cases they're -- that they are required to process
18 out of triage each year?
19 A **Yes.**
20 Q How many -- what is the quota for the
21 number of cases each analyst is required to
22 process out of triage on a yearly basis?

90

1 A I don't have the actual number. It -- and
2 **it changes based on our caseload. We look at the**
3 **number in -- mid-year against how many cases we're**
4 **receiving.**
5 Q So you've received an actual report
6 regarding how analysts are doing against their
7 quota requirements?
8 A I receive an oral report from my
9 **operations manager, who manages and monitors that**
10 **data.**
11 Q Who established the -- well, what is -- so
12 the quota is a number?
13 A **Yes.**
14 Q A number of what?
15 A A number of triage cases -- of triage that
16 **each analyst is required to process in a given**
17 **year to achieve their performance expectations.**
18 MR. ABBAS: We should do this. Do you
19 have other copies of this document?
20 MS. POWELL: Yep.
21 MR. ABBAS: So we'll mark this as
22 Exhibit 1. Exhibit 1 is three items regarding

91

1 some numerical information that's the subject of
2 -- one of the subjects of this deposition.
3 Counsel for the Defendants, you guys
4 provided these numbers; correct?
5 MS. POWELL: Correct.
6 MR. ABBAS: These numbers reflect DHS
7 TRIP's information regarding the categories of
8 information that are listed here?
9 MS. POWELL: Correct.
10 (Whereupon Plaintiff's Exhibit 1 was
11 marked for identification.)
12 MS. POWELL: Have you had a chance to look
13 it over?
14 MR. ABBAS: Yeah. Please take a chance to
15 look it over.
16 THE WITNESS: Yes, I've reviewed.
17 MR. ABBAS: We only have 10 minutes left
18 on the disc. How long will it be to reload?
19 THE VIDEOGRAPHER: Five minutes.
20 MR. ABBAS: Can we take a break now before
21 we start on this?
22 MS. POWELL: Sure.

92

1 MR. ABBAS: All right. Just to reload.
2 THE VIDEOGRAPHER: We're going off the
3 record. The time is 11:56.
4 (Whereupon a recess was taken.)
5 THE VIDEOGRAPHER: We're back on the
6 record. The time is 12:59.
7 MS. MASRI: This is Lena speaking.
8 MR. ABBAS: As-salaam alaikum. We're on
9 the record, so -- okay.
10 MS. MASRI: Okay.
11 BY MR. ABBAS:
12 Q Dr. Moore, we're looking at Exhibit 1?
13 A **Yes.**
14 Q Exhibit 1's in front of you?
15 A **Yes.**
16 Q Did you participate in compiling the
17 numbers that are identified in Exhibit 1?
18 A **My staff compiled the numbers.**
19 Q Okay. Are the numbers in Exhibit 1
20 accurate?
21 A **I have no reason to believe that they are**
22 **inaccurate.**

93

1 THE VIDEOGRAPHER: Pardon me, Counsel.
 2 Can you put your mic on?
 3 MR. ABBAS: Oh, yes. Sorry.
 4 Q What percentage of total inquiries advance
 5 from the intake process to the triage process?
 6 **A I don't have an exact number. Broadly**
 7 **speaking, about 75 to 80 percent, I would – I'm**
 8 **guessing, advance from the intake to the triage**
 9 **phase.**
 10 Q Oh, we were talking about the quotas.
 11 In terms of the quota -- the processing
 12 quota that each analyst has -- well, so does the
 13 operations manager have a processing quota?
 14 **A No.**
 15 Q Does the enhanced redress manager have a
 16 processing quota?
 17 **A No.**
 18 Q Only the analysts have a processing quota?
 19 **A Yes.**
 20 Q Do the contractors have a processing
 21 quota?
 22 **A I monitor – not -- no. I monitor how**

94

1 **many, approximately, they do per week, but it's**
 2 **not a quota in the same way.**
 3 Q Okay.
 4 What happens if an analyst does not meet
 5 their quota?
 6 **A If an analyst doesn't meet his or her**
 7 **quota, that person would, at the end of the year,**
 8 **potentially not pass their performance evaluation**
 9 **or get a lower score on their performance**
 10 **evaluation.**
 11 Q And if you don't pass your performance
 12 evaluation, what happens?
 13 **A You would go on a performance improvement**
 14 **plan.**
 15 Q Have you placed any analysts on
 16 performance improvement plans as a result of them
 17 not meeting their quotas?
 18 **A No.**
 19 Q Have you ever placed an employee or a
 20 contractor -- have you ever placed any member of
 21 the DHS TRIP personnel on a performance
 22 improvement plan?

95

1 MS. POWELL: Objection. Scope.
 2 You can answer.
 3 THE WITNESS: No.
 4 BY MR. ABBAS:
 5 Q What is your estimate of what the quota is
 6 for analysts?
 7 **A For analysts to do what?**
 8 Q Do analysts have more than one quota?
 9 **A Yes.**
 10 Q Identify all the quotas that analysts
 11 have.
 12 **A Analysts have a triage quota. They also**
 13 **have a case close out quota. And the analysts**
 14 **that do quality assurance review have a quality**
 15 **assurance quota.**
 16 Q I understand what the case close out quota
 17 and the triage quota refer to. What does the
 18 quality assurance quota regard?
 19 **A How many case – or the percent – how**
 20 **many cases they review for quality assurance in**
 21 **the triage, close out, and the e-mail review**
 22 **steps.**

96

1 Q The e-mail, the close out, and?
 2 **A The triage.**
 3 Q And there are three different numbers that
 4 identify -- that -- I'm sorry.
 5 So there's a triage quota?
 6 **A Correct.**
 7 Q For analysts. There's a case close out
 8 quota for analysts?
 9 **A Yes.**
 10 Q And there's a quality assurance quota for
 11 analysts?
 12 **A For some analysts, not all of the**
 13 **analysts.**
 14 Q Is it fixed? Do -- like, are there -- how
 15 many analysts have quality assurance quotas right
 16 now?
 17 **A Let's see. I believe three analysts have**
 18 **quality assurance quotas.**
 19 **I -- correction, four analysts have**
 20 **quality assurance quotas.**
 21 Q Do the analysts rotate through the
 22 obligation of having a quality assurance quota?

Conducted on December 20, 2017

97

1 **A No. The higher-banded analysts have the**
2 **quality assurance quota. If you are banded at a**
3 **higher level, a higher-level analyst, that's part**
4 **of your performance plan.**
5 Q What are these bands that you're referring
6 to?
7 **A It's the TSA pay banding system.**
8 Q So what bands are the analysts at? I
9 understand that they're at multiple bands, but
10 give me the range.
11 **A G band and H band.**
12 Q What is the band of the operations
13 manager?
14 **A J band.**
15 Q And the enhanced redress manager?
16 **A I band.**
17 Q And you?
18 **A K band.**
19 Q And the admin?
20 **A E band.**
21 Q Do the bands start at A? Is there an A
22 band?

98

1 **A I don't believe so.**
2 Q Where do the bands start?
3 **A I don't know.**
4 Q Do you know of a band that's lower than
5 the -- a G band?
6 **A Yes. F band and E band are lower than G**
7 **band.**
8 Q Touche.
9 And how high do the bands go?
10 **A The lettered banding system goes to L.**
11 Q Okay.
12 So I just want to -- I'm going to run
13 through some of these numbers, and we're going to
14 look at the table for item number 2.
15 MS. POWELL: On Exhibit 1?
16 Q On Exhibit 1. The table on item 2 on
17 Exhibit 1 has two columns, a Fiscal Year and a
18 Total Inquiries column.
19 So in fiscal year 2017, DHS TRIP received
20 16,911 total inquiries; correct?
21 **A No. This -- okay. I apologize. I was**
22 **thinking incorrectly.**

99

1 **Yes, this is correct.**
2 Q Okay. I'm just going to ask the question
3 so we have some clarity.
4 So in fiscal year 2017, DHS TRIP received
5 16,911 total inquiries?
6 **A Yes.**
7 Q Some of those inquiries were out of scope;
8 correct?
9 **A I would believe so, yes. Without seeing**
10 **the -- I mean, there's no reason for me to expect**
11 **that any of -- that those inquiries -- that some**
12 **wouldn't have been out of scope.**
13 Q And your prior testimony was -- well, I
14 don't remember what your prior testimony was.
15 So because there were 16,911 total
16 inquiries, does that mean that DHS TRIP personnel
17 did 16,911 intakes?
18 **A Yes. I'm not -- I believe the process for**
19 **case close -- or closing a case due to**
20 **administrative closure falls under the intake**
21 **umbrella.**
22 **So we get these 16,911 that come in. A**

100

1 **percentage would be case closed out because they**
2 **were administratively closed because we never**
3 **received the documentation.**
4 **And you could define intake as being --**
5 **that would be part of that process. So, yes.**
6 Q Got it.
7 So some are closed at intake, but you're
8 dealing -- DHS TRIP dealt with 16,911 complaints
9 in fiscal year 2017?
10 **A Yes.**
11 Q Some amount of those complaints were
12 administratively closed because they did not --
13 the complainant did not submit the appropriate
14 paperwork, or otherwise comply with the
15 requirements of completing a DHS TRIP complaint;
16 correct?
17 **A Yes.**
18 Q And those complaints don't make it out of
19 intake; correct?
20 **A Yes.**
21 Q And you've testified about your estimate
22 about how -- what percentage of DHS TRIP

Conducted on December 20, 2017

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| <p style="text-align: right;">101</p> <p>1 complaints are administratively closed; correct?</p> <p>2 A Yes.</p> <p>3 Q And what was your estimate? Just to</p> <p>4 remind us.</p> <p>5 A I believe I said between -- approximately</p> <p>6 5 or 10 percent.</p> <p>7 Q Okay.</p> <p>8 A But it was an estimate that --</p> <p>9 Q Sure. And so your estimate is that 5 to</p> <p>10 10 percent of that 16,911 were administratively</p> <p>11 closed --</p> <p>12 A I'm sorry. 5 to 10 percent is what I gave</p> <p>13 as the number for out of scope. That's different</p> <p>14 from administratively closed.</p> <p>15 Q Got it. Okay.</p> <p>16 So 5 to 10 percent are out of scope?</p> <p>17 A Mm-hm.</p> <p>18 Q And they get out of scope letters, and</p> <p>19 they don't make it out of intake; correct?</p> <p>20 A Correct.</p> <p>21 Q And then there's another chunk of DHS TRIP</p> <p>22 complaints that are administratively closed</p> | <p style="text-align: right;">103</p> <p>1 analysts are processing, in triage, 10,000 --</p> <p>2 about, at least 10,000 DHS TRIP complaints in</p> <p>3 fiscal year 2017?</p> <p>4 A Yes.</p> <p>5 Q Do the analysts do about an even number,</p> <p>6 or do some analysts do a lot more complaint</p> <p>7 processing than others?</p> <p>8 A It's more or less even.</p> <p>9 Q How long are they spending on DHS TRIP</p> <p>10 complaints in the triage process if they're</p> <p>11 processing at least 10,000 in a year?</p> <p>12 A I don't know. I don't know how long.</p> <p>13 It's -- there's a lot of material to</p> <p>14 review. I would estimate that it's more than</p> <p>15 15 minutes per case.</p> <p>16 It also depends on the complexity of the</p> <p>17 case.</p> <p>18 Q Is it generally, like, less than an hour?</p> <p>19 It's more than 15 minutes. What's -- okay. So</p> <p>20 more than 15 minutes. Less than what?</p> <p>21 A On average --</p> <p>22 Q Yep.</p> |
| <p style="text-align: right;">102</p> <p>1 because they don't have the appropriate or</p> <p>2 completed paperwork?</p> <p>3 A Correct.</p> <p>4 Q What is your estimate about the percentage</p> <p>5 of DHS TRIP complaints that get administratively</p> <p>6 closed as a result of defective or incomplete</p> <p>7 paperwork?</p> <p>8 MS. POWELL: Objection. Calls for</p> <p>9 speculation, but you can answer.</p> <p>10 THE WITNESS: I would estimate 15 to</p> <p>11 20 percent.</p> <p>12 Q Regardless of the precise number of</p> <p>13 complaints that don't make it out of intake, is</p> <p>14 it, what, 10,000, at least, made it out of intake</p> <p>15 and into triage in fiscal year 2017?</p> <p>16 MS. POWELL: Objection. She already said</p> <p>17 she doesn't know a precise number.</p> <p>18 THE WITNESS: I would estimate that it's</p> <p>19 at least 10,000.</p> <p>20 Q And you have 9 or 10 analysts?</p> <p>21 A I have around 8 to 9 analysts.</p> <p>22 Q You have 8 to 9 analysts? So 8 to 9</p> | <p style="text-align: right;">104</p> <p>1 A -- of course there could be outliers, but</p> <p>2 I would say on average it's less than an hour per</p> <p>3 case.</p> <p>4 Q Okay.</p> <p>5 Some of those DHS -- at what point in the</p> <p>6 DHS TRIP process is it determined that the</p> <p>7 complaint regards the Terrorist Screening</p> <p>8 Database?</p> <p>9 A I'm sorry. Could you repeat the question?</p> <p>10 At what --</p> <p>11 MR. ABBAS: Could you read it back?</p> <p>12 (Whereupon the record was read.)</p> <p>13 THE WITNESS: During triage.</p> <p>14 Q Okay.</p> <p>15 Sounds like there's a lot of steps in</p> <p>16 triage. Can you identify the steps in the triage</p> <p>17 process?</p> <p>18 A Generally, the analyst reviews all of the</p> <p>19 material that the applicant has supplied,</p> <p>20 including paying particular attention to the</p> <p>21 description of the incident and the details in the</p> <p>22 Comments section of the application.</p> |

Conducted on December 20, 2017

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| <p style="text-align: right;">105</p> <p>1 The analyst also consults the relevant</p> <p>2 government databases to determine additional</p> <p>3 information that will be necessary for determining</p> <p>4 the equities in the given case and knowing how to</p> <p>5 assign the case to which agencies.</p> <p>6 Q And I just have a couple questions about</p> <p>7 the government databases.</p> <p>8 What government databases do DHS TRIP</p> <p>9 personnel review to determine whether a DHS TRIP</p> <p>10 complainant has additional information in those</p> <p>11 databases?</p> <p>12 A The analysts consult the Secure Flight</p> <p>13 data base and TECS, T-E-C-S.</p> <p>14 Q Do they just queue -- I'm sorry. Do they</p> <p>15 just search by the name of the complainant in</p> <p>16 those two databases?</p> <p>17 A They search using all of the relevant</p> <p>18 biographical information the analyst -- or the</p> <p>19 applicant has provided.</p> <p>20 Q Okay. So in addition to reviewing</p> <p>21 information that's submitted by the applicant, the</p> <p>22 DHS TRIP personnel also reviews information -- or</p> | <p style="text-align: right;">107</p> <p>1 agencies we work with to review the case.</p> <p>2 Q Which agencies does DHS TRIP work with?</p> <p>3 A We work with ICE, Terrorist Screening</p> <p>4 Center, CBP, USCIS, OBIM, O-B-I-M.</p> <p>5 Q Okay.</p> <p>6 A TSA, U.S. Department of State Passport</p> <p>7 Office, Department of State Visa Office, DHS</p> <p>8 Office of Privacy, DHS Civil Rights and Civil</p> <p>9 Liberties Office.</p> <p>10 I believe I've covered them all. I failed</p> <p>11 to mention CBP?</p> <p>12 Q You mentioned CBP.</p> <p>13 A I did?</p> <p>14 Q You got it in there.</p> <p>15 A Okay. Okay.</p> <p>16 Q Who makes the decision as to where a</p> <p>17 complaint is referred?</p> <p>18 A The analysts, in reviewing the -- in</p> <p>19 triage, reviewing the case in triage, would</p> <p>20 determine where to refer the case.</p> <p>21 Q And what considerations are made -- why</p> <p>22 would something be referred to USCIS?</p> |
| <p style="text-align: right;">106</p> <p>1 collects information from government databases?</p> <p>2 A I wouldn't agree with the word collect. I</p> <p>3 would agree with the word review.</p> <p>4 Q Okay. So they're -- the DHS TRIP</p> <p>5 personnel, they're not compiling the information</p> <p>6 that are in the databases and attaching it to the</p> <p>7 DHS TRIP complaint?</p> <p>8 MS. POWELL: Objection. Vague.</p> <p>9 Q Okay. Let me withdraw that question.</p> <p>10 What does a DHS -- what does -- what</p> <p>11 things does a DHS TRIP personnel do when they --</p> <p>12 after they search Secure Flight database and TECS?</p> <p>13 A They read the information that they find</p> <p>14 there, which, in addition to what the applicant</p> <p>15 has provided, guides their decision making in</p> <p>16 terms of where to assign the cases -- the case for</p> <p>17 review and to which agencies.</p> <p>18 Q What are the possible outcomes of DHS</p> <p>19 TRIP's personnel reviewing Secure Flight database</p> <p>20 and TECS?</p> <p>21 A Well, the possible outcomes would be</p> <p>22 assigning the case to one or more of the different</p> | <p style="text-align: right;">108</p> <p>1 A If the information contains indication</p> <p>2 that a USCIS-owned file or information is in</p> <p>3 question, we would refer to USCIS.</p> <p>4 Q What -- why would a DHS TRIP complaint be</p> <p>5 referred to ICE?</p> <p>6 A If the information shows that there is an</p> <p>7 immigration-related concern, it would go to ICE.</p> <p>8 Q Why would DH -- why would a complaint be</p> <p>9 referred to the Terrorist Screening Center?</p> <p>10 A If we see that there is a possible or</p> <p>11 confirmed match to an identity on the Watchlist,</p> <p>12 to TSDB, we would refer it to TSC.</p> <p>13 Q Can you or other DHS TRIP personnel review</p> <p>14 the derogatory information contained in the</p> <p>15 Terrorist Screening Database?</p> <p>16 A No.</p> <p>17 Q Okay.</p> <p>18 MS. POWELL: Objection as to foundation.</p> <p>19 THE WITNESS: Sorry.</p> <p>20 Q Okay.</p> <p>21 Why would a complaint be referred to CBP?</p> <p>22 A A complaint would be referred to CBP if</p> |

Conducted on December 20, 2017

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| <p style="text-align: right;">109</p> <p>1 the information review indicates that there is an 2 issue related to the border or a port of entry. 3 Q So if there's any screening issue related 4 to a border or a port of entry, it gets referred 5 to CBP? 6 MS. POWELL: Objection. Foundation. 7 Assumes facts not in evidence. 8 THE WITNESS: In general, yes. It's 9 difficult to say -- to agree to an absolute such 10 as any, but -- 11 Q What happens if there's a Watchlisting 12 issue and a border issue and an immigration issue? 13 What happens to a complaint that implicates 14 multiple agencies? 15 A The complaint is referred to all relevant 16 agencies for consideration. 17 Q Why would a complaint be referred to OBIM? 18 And tell me again what OBIM is. 19 A It's the Office of Biometric Identity 20 Management. 21 Q Okay. 22 A A complaint is referred to OBIM when there</p> | <p style="text-align: right;">111</p> <p>1 Are there any other databases that 2 analysts refer to when reviewing a DHS TRIP 3 complaint? 4 A No. 5 Q The Secure Flight database is just a list 6 of the identifying information contained in the 7 TSDB; is that correct? 8 MS. POWELL: Objection. 9 Q Well, if it's not correct, just say it's 10 not correct. That'd be great, too. 11 A No. 12 Q What is the Secure Flight database? 13 A Secure Flight database has a variety of 14 information related to the air travel of the 15 passenger, and other information. 16 Q Like what? 17 A Because I'm not myself a user of the 18 Secure Flight database, and am not that familiar 19 with it, I wouldn't be able to say specifically 20 what else is there. 21 MR. ABBAS: Let's revisit. I think a 22 little more information would be good. Maybe when</p> |
| <p style="text-align: right;">110</p> <p>1 is an issue related to biometric data. 2 Fingerprints, basically. 3 Q Why would a complaint be referred to the 4 Department of State? 5 A Department of State, if there is an issue 6 related to a visa, we would refer it to the 7 Department of State's Office of Visas. 8 If there's an issue related to a passport, 9 we would relate it to the Passport Office in the 10 Department of State. 11 Q Why would a complaint be referred to DHS 12 CRCL? 13 A If the complainant has indicated on the 14 form that there is an issue related -- that the 15 complainant feels that his or her civil rights or 16 liberties has been violated, it would be referred 17 to CRCL. 18 Q Okay. 19 So in triage, the analyst reviews the 20 applicant's submitted information as well as 21 information contained in the Secure Flight 22 database and TECS.</p> | <p style="text-align: right;">112</p> <p>1 -- next break, you all can talk, but I'd like to 2 know a little bit more about what's in the Secure 3 Flight database. 4 Q Okay. So after reviewing the information, 5 the analysts themselves make a decision as to 6 which agency to refer the DHS TRIP complaint? 7 A Yes. 8 Q With regards to DHS TRIP complaints that 9 regard the Terrorist Screening Database, how does 10 an analyst determine whether a complainant is a 11 match to someone in the Terrorist Screening 12 Database? 13 A That information would come from Secure 14 Flight. 15 Q And in referring a DHS TRIP complaint to 16 the Terrorist Screening Center, is that the end of 17 DHS TRIP's involvement in a TSDB-regarding DHS 18 TRIP complaint? 19 A No. 20 Q How does a TSDB-regarding DHS TRIP 21 complaint get referred out to the Terrorist 22 Screening Center?</p> |

Conducted on December 20, 2017

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| <p style="text-align: right;">113</p> <p>1 A We make those referrals through our case</p> <p>2 management system.</p> <p>3 Q Does an e-mail go out the Terrorist</p> <p>4 Screening Center?</p> <p>5 A No. An analysis in the case management</p> <p>6 system is created for them.</p> <p>7 Q And TSC personnel have access to your case</p> <p>8 management system?</p> <p>9 A TSC personnel, in their redress unit, have</p> <p>10 access.</p> <p>11 Q Do you know how big the Terrorist</p> <p>12 Screening Center's redress unit is?</p> <p>13 MS. POWELL: Objection. Scope.</p> <p>14 THE WITNESS: I believe there are about</p> <p>15 four individuals who work in the redress unit</p> <p>16 itself, although I'm not sure.</p> <p>17 Q Does DHS TRIP own the case management</p> <p>18 system?</p> <p>19 A TSA owns the case management system.</p> <p>20 Q Okay. So in order for TSC personnel to</p> <p>21 have access to it, TSA has to give them access to</p> <p>22 it; is that correct?</p> | <p style="text-align: right;">115</p> <p>1 MS. POWELL: How many people -- I don't</p> <p>2 know. We'll talk.</p> <p>3 MR. ABBAS: Yep.</p> <p>4 So just for the record, the 30B6 witness</p> <p>5 does not know who at TSC, or how many people at</p> <p>6 TSC, have access to the case management system. I</p> <p>7 think that's basic information.</p> <p>8 MS. POWELL: It seems like an appropriate</p> <p>9 question to address to TSC.</p> <p>10 MR. ABBAS: That can be -- well, no. This</p> <p>11 is about how many people DHS TRIP is giving access</p> <p>12 to its system.</p> <p>13 This 30B6 witness is the system owner, so</p> <p>14 that's an easy thing to track down. I think</p> <p>15 that's something that you all should find out and</p> <p>16 let me know, because we need to know that.</p> <p>17 Q But your understanding is that not all</p> <p>18 people in the redress unit have access to the DHS</p> <p>19 TRIP case management system?</p> <p>20 A No. What I said was I do not know for</p> <p>21 sure how many of their redress unit personnel. I</p> <p>22 can't be absolutely sure.</p> |
| <p style="text-align: right;">114</p> <p>1 A That is correct.</p> <p>2 Q So who at DHS TRIP grants individuals in</p> <p>3 the Terrorist Screening Center's redress unit</p> <p>4 access to the database?</p> <p>5 A I'm the system owner, so I authorize</p> <p>6 access. One of my staff members does the actual</p> <p>7 within-the-system granting of the access.</p> <p>8 Q Okay. So it's your prerogative who has</p> <p>9 access to the system that you own?</p> <p>10 A Yes.</p> <p>11 Q And you believe that four people in TSC</p> <p>12 currently have access to the case management</p> <p>13 system?</p> <p>14 MS. POWELL: Same objection.</p> <p>15 THE WITNESS: No.</p> <p>16 You asked me how many people work in the</p> <p>17 redress unit.</p> <p>18 Q Yeah. You're right.</p> <p>19 A I don't believe they all have access;</p> <p>20 however, I would need to verify that.</p> <p>21 MR. ABBAS: We'd like to verify -- we'd</p> <p>22 like that to -- we'd like to figure that out.</p> | <p style="text-align: right;">116</p> <p>1 Q Do you have any reason to believe that</p> <p>2 people outside of the redress unit have access to</p> <p>3 the case management system?</p> <p>4 A No. I have no reason to believe that.</p> <p>5 Q So it's no more than four people at TSC</p> <p>6 have access to the case management system?</p> <p>7 MS. POWELL: Objection. Misleading.</p> <p>8 THE WITNESS: No one outside of the</p> <p>9 redress unit, to my knowledge, should or has</p> <p>10 access to the redress case management system at</p> <p>11 TSC.</p> <p>12 Q What is the name of case management</p> <p>13 system?</p> <p>14 A RMS, Redress Management System.</p> <p>15 Q RMS stands for Redress Management System?</p> <p>16 A Mm-hm.</p> <p>17 Q Okay.</p> <p>18 A Yes.</p> <p>19 Q In order to have access to the case</p> <p>20 management system, do you require individuals who</p> <p>21 are granted access to sign any documents regarding</p> <p>22 their use of the Redress Management System?</p> |

Conducted on December 20, 2017

117

1 **A Yes.**
 2 Q What documents do you require individuals
 3 who have access to the Redress Management System
 4 sign prior to getting access?
 5 **A There is an application slash**
 6 **authorization form they must complete that gets**
 7 **reviewed.**
 8 Q What limitations do you require access
 9 holders to adhere to in order to maintain their
 10 access to the Redress Management System?
 11 MS. POWELL: Objection. Vague.
 12 THE WITNESS: They have a -- they are
 13 required to have a continued need to access the
 14 system.
 15 They are required to maintain the
 16 clearance level that's required by their position.
 17 They're required to take the training,
 18 such as privacy and security training, that's
 19 mandated by their organization.
 20 And they're required to access the system
 21 on a regular basis.
 22 Q Is there a document that memorializes all

118

1 the limitations that you place on access holders?
 2 **A Not to my knowledge.**
 3 Q So there's an application, but there's no,
 4 like, nondisclosure agreement, confidentiality
 5 agreement, regarding the Redress Management
 6 System?
 7 MS. POWELL: Objection. Compound and
 8 vague.
 9 THE WITNESS: I believe those types of
 10 requirements are contained in the application
 11 itself.
 12 Q Okay.
 13 Is it your understanding -- can an access
 14 holder -- I'm sorry. Let me start all over.
 15 Can a person who has access to the Redress
 16 Management System share information contained in
 17 that system with someone who does not have access
 18 to the Redress Management System?
 19 **A They're not permitted to do that.**
 20 Q Okay. So access holders are not permitted
 21 to share information in RMS with people that do
 22 not have access?

119

1 That's fine. I'm going to just withdraw
 2 that question. That's fine.
 3 Do you have a -- an exact number of DHS
 4 TRIP complaints that DHS TRIP has referred to TSC?
 5 **A No.**
 6 Q Why -- how do you not have -- okay. Let
 7 me just -- do you keep track of the referrals you
 8 make to the various agencies?
 9 **A No, I don't track that.**
 10 Q Does your Redress Management System track
 11 that?
 12 **A Yes.**
 13 Q So your redress system -- your Redress
 14 Management System does contain the information
 15 that would indicate the precise number of times a
 16 DHS TRIP complaint has been referred to the
 17 Terrorist Screening Center?
 18 **A Yes.**
 19 MR. ABBAS: Why don't we have that
 20 information today? That's, like -- if it's in the
 21 database, and you can just queue the database, is
 22 there a reason why we don't have that information

120

1 today?
 2 MS. POWELL: Well, for starters, it's
 3 privileged, and we wouldn't give it in any case --
 4 MR. ABBAS: I mean, you kind of gave it --
 5 MS. POWELL: -- as you are well aware.
 6 MR. ABBAS: Well, I don't know if -- I
 7 mean, you're giving something. You're saying less
 8 than 2 percent of DHS trip inquiries have a nexus
 9 to the TSDB.
 10 MS. POWELL: Yes.
 11 MR. ABBAS: So you're -- that's different
 12 than --
 13 MS. POWELL: That's exactly what we told
 14 you we were going to provide you.
 15 MR. ABBAS: Well, that's not what I asked
 16 for, and I think that's going to be a subject of
 17 some dispute.
 18 Q So your Redress Management System includes
 19 information that indicates the precise number of
 20 times a DHS TRIP complaint has been referred to
 21 any agencies that you refer DHS TRIP complaints
 22 to; correct?

Conducted on December 20, 2017

121

1 MS. POWELL: Objection. Foundation and
 2 misleading, but you can answer, if you can.
 3 THE WITNESS: We could derive, from the
 4 application -- from the management system, the
 5 number of times an application has been referred
 6 out.
 7 BY MR. ABBAS:
 8 Q That's not exactly what I asked. Let me
 9 try asking it a different way.
 10 Does the Redress Management System
 11 indicate how many times DHS TRIP personnel have
 12 referred complaints to any agency that DHS TRIP
 13 personnel refer complaints to?
 14 MS. POWELL: Objection. Vague and
 15 ambiguous.
 16 Q We can just go one-by-one. That's fine.
 17 **A Okay.**
 18 Q Does DHS -- does the Redress Management
 19 System keep track of how many times DHS TRIP
 20 personnel have referred DHS TRIP complaints to
 21 ICE?
 22 MS. POWELL: Objection. Vague.

122

1 THE WITNESS: That information could be
 2 derived from the Redress Management System.
 3 BY MR. ABBAS:
 4 Q Does the Redress Management System -- can
 5 you read back my question again just so I can
 6 remember it?
 7 (Whereupon the record was read.)
 8 Q Does DHS TRIP personnel -- does the
 9 Redress Management System indicate how many times
 10 DHS TRIP personnel have referred DHS TRIP
 11 complaints to CBP?
 12 **A That information could be derived from --**
 13 MS. POWELL: Same objection as to
 14 vagueness, but go ahead.
 15 THE WITNESS: From the Redress Management
 16 System, that information could be derived.
 17 Q Does the Redress Management System
 18 indicate how many times DHS TRIP complaints have
 19 gotten referred to USCIS?
 20 MS. POWELL: Same objection.
 21 THE WITNESS: That information could also
 22 be derived from the system.

123

1 BY MR. ABBAS:
 2 Q Does the Redress Management System
 3 indicate how many times DHS TRIP complaints have
 4 been referred to any of the agencies that DHS TRIP
 5 personnel refer complaints to?
 6 MS. POWELL: Same objection and ambiguity.
 7 THE WITNESS: The system -- that
 8 information could be derived from the system.
 9 Q What would be involved in deriving the
 10 information from that system?
 11 **A We would need to construct a proper**
 12 **report, a request for that data to be drawn from**
 13 **the system, and it would be necessary, in**
 14 **addition, to do a manual review just to make sure**
 15 **we're getting the right information.**
 16 Q Who in your office is responsible -- I'm
 17 sorry.
 18 Who in your -- who at the Transportation
 19 Security Redress Branch is responsible for running
 20 reports in the Redress Management System?
 21 MS. POWELL: Objection as to specific
 22 names, if it falls within the category of

124

1 subordinates whose identities are protected.
 2 BY MR. ABBAS:
 3 Q You can just give me their job title. I
 4 don't care about their name.
 5 **A Some analysts run some reports, and the**
 6 **operations manager run some reports.**
 7 **It's conceivable that, depending on the**
 8 **nature of the report, that others would be**
 9 **requested.**
 10 Q What is involved in running a report in
 11 the Redress Management System?
 12 **A If it's a new report, then the report has**
 13 **to be designed and created, the request -- the**
 14 **query.**
 15 **If it's an existing report, the process is**
 16 **simpler. You can just run the existing report.**
 17 Q Is there an existing report that regards
 18 the number of referrals that DHS TRIP personnel
 19 make to particular agencies?
 20 **A Not to my knowledge.**
 21 Q How long would it take one of your
 22 subordinates to create a report that would

Conducted on December 20, 2017

125

1 indicate how many times DHS personnel have
 2 referred DHS TRIP complaints to the various
 3 agencies that you all refer complaints to?
 4 MS. POWELL: Objection. It's vague,
 5 compound, and calls for speculation.
 6 THE WITNESS: I would need more
 7 information to be able to accurately answer that
 8 question.
 9 BY MR. ABBAS:
 10 Q Is it years?
 11 A No.
 12 Q Is it months?
 13 A No.
 14 Q Is it days?
 15 A It – depending, it could be more than one
 16 day, but likely less than a day.
 17 Q Okay. Great.
 18 Why do analysts refer -- why do analysts
 19 review -- no, never mind.
 20 When analysts are reviewing DHS TRIP
 21 complaints that regard the TSDB, at any point in
 22 time, are those analysts assessing the derogatory

126

1 information that is the basis of the complainant's
 2 placement onto the TSDB?
 3 MS. POWELL: Objection. Vague and
 4 compound, but I think you can answer, if you know.
 5 THE WITNESS: No.
 6 BY MR. ABBAS:
 7 Q I don't know if it was a yes or no
 8 question.
 9 Do -- does DHS TRIP personnel review the
 10 derogatory information that is the basis of a
 11 complainant's nomination to the Terrorist
 12 Screening Database as a part of the DHS TRIP
 13 process?
 14 MS. POWELL: Objection. Vague.
 15 THE WITNESS: No.
 16 Q Okay.
 17 And, in fact, DHS TRIP personnel don't
 18 have access to the derogatory information that
 19 regards complainants who are on the Terrorist
 20 Screening Database; correct?
 21 MS. POWELL: Objection. Same objection.
 22 THE WITNESS: No direct access.

127

1 BY MR. ABBAS:
 2 Q Any indirect access?
 3 MS. POWELL: Objection as to vagueness.
 4 THE WITNESS: Without more precision in
 5 the question, it's difficult for me to answer.
 6 Q What access do -- does DHS TRIP personnel
 7 have to the derogatory information that regards a
 8 complainant's placement on the Terrorist Screening
 9 Database?
 10 MS. POWELL: Same objection.
 11 THE WITNESS: During the process for USPER
 12 -- U.S. persons on No Fly List, during that
 13 redress process, the enhanced redress manager --
 14 who's not an analyst, but she would have access to
 15 not the underlying derogatory information, but
 16 to -- for the unclassified summary that the
 17 Terrorist Screening Center would provide us.
 18 Q And that only regards the No Fly List;
 19 correct?
 20 A Correct.
 21 Q It does not regard the Selectee List;
 22 correct?

128

1 A Correct.
 2 Q Who made the determination that the No Fly
 3 List individuals would get some information about
 4 their placement, but the Selectee List individuals
 5 would get no information about their placement?
 6 MS. POWELL: Objection as to vagueness and
 7 compoundness, but I think you can answer, if you
 8 know the answer.
 9 THE WITNESS: I don't know of a single
 10 person who made that decision.
 11 Q Which agency determined that No Fly List
 12 listees would receive some information about their
 13 Watchlisting status while Selectee List listees
 14 would receive no information about their Watchlist
 15 status as a part of the DHS TRIP redress process?
 16 MS. POWELL: Objection. Misleading and
 17 foundation, vagueness and ambiguity and
 18 complexity, I think.
 19 THE WITNESS: I don't know how to answer
 20 that question.
 21 Q Straightforward: So did -- what agency
 22 decided that No Fly List individuals would get

Conducted on December 20, 2017

| | | | |
|-----|--|-----|--|
| 129 | <p>1 some information about their placement and</p> <p>2 Selectee List individuals would get no information</p> <p>3 about their Watchlisting?</p> <p>4 MS. POWELL: Same objections.</p> <p>5 THE WITNESS: The 2014 revision to the DHS</p> <p>6 TRIP process for No Fly-listed USPERs was made in</p> <p>7 consultation with several agencies, as it's a</p> <p>8 complex decision that involves multiple partners.</p> <p>9 BY MR. ABBAS:</p> <p>10 Q Who had the authority to alter the DHS</p> <p>11 TRIP process to provide No Fly-listed individuals</p> <p>12 with information about their Watchlisting status?</p> <p>13 MS. POWELL: Objection. Misleading and</p> <p>14 vague.</p> <p>15 THE WITNESS: To the best of my</p> <p>16 understanding, the authority for that kind of</p> <p>17 decision would be held at the department level,</p> <p>18 the Screening Coordination Office, because they</p> <p>19 oversee the DHS TRIP process. They oversee the</p> <p>20 program.</p> <p>21 Q The Screening Coordination Office?</p> <p>22 A Yes.</p> | 131 | <p>1 question.</p> <p>2 Q Ted Sobel cannot dictate to you how to</p> <p>3 administer DHS TRIP; is that correct?</p> <p>4 MS. POWELL: Objection. Asked and</p> <p>5 answered.</p> <p>6 THE WITNESS: That seems correct.</p> <p>7 Q Who can tell you how to administer DHS</p> <p>8 TRIP?</p> <p>9 MS. POWELL: Objection. Vague.</p> <p>10 THE WITNESS: Those in my chain of command</p> <p>11 have the direct ability to tell me to make</p> <p>12 changes.</p> <p>13 Q Who is the highest person in your chain of</p> <p>14 command that has the ability to tell you how to</p> <p>15 run DHS TRIP?</p> <p>16 A I would say the TSA administrator.</p> <p>17 Q What is your understanding about why</p> <p>18 summaries of derogatory information are provided</p> <p>19 to DHS TRIP complainants on the No Fly List but</p> <p>20 not those on the Selectee List?</p> <p>21 A The summaries are provided as part of the</p> <p>22 revised process for DHS -- for USPERs on the No</p> |
| 130 | <p>1 Q Where is the Screening Coordination</p> <p>2 Office? With which agency?</p> <p>3 A DHS.</p> <p>4 Q Who leads the Screening Coordination</p> <p>5 Office?</p> <p>6 A I believe the acting assistant</p> <p>7 administrator, or deputy assistant administrator,</p> <p>8 at least, is Ted Sobel.</p> <p>9 Q Is he in your chain?</p> <p>10 A Indirectly, in that he is the leader of</p> <p>11 the program that oversees my program, but he's not</p> <p>12 in my reporting chain.</p> <p>13 Q Can he tell you how to administer DHS</p> <p>14 TRIP?</p> <p>15 MS. POWELL: Objection. Vague.</p> <p>16 THE WITNESS: He can work with my chain of</p> <p>17 command to make changes to DHS TRIP that I would</p> <p>18 be directed to make.</p> <p>19 Q But he can't dictate to you how to --</p> <p>20 MS. POWELL: Objection. Asked and</p> <p>21 answered.</p> <p>22 MR. ABBAS: I didn't even finish the</p> | 132 | <p>1 Fly List.</p> <p>2 Q Did you consider applying the same -- did</p> <p>3 you -- let me start again.</p> <p>4 Did you consider applying the revised No</p> <p>5 Fly List procedures to Selectee-listed persons?</p> <p>6 MS. POWELL: Objection. Asked and</p> <p>7 answered this morning.</p> <p>8 THE WITNESS: If you -- I personally</p> <p>9 thought about that question. If you mean other</p> <p>10 than that, can you rephrase your question?</p> <p>11 Q Did you make a determination not to apply</p> <p>12 the revised DHS TRIP process to U.S. persons on</p> <p>13 the Selectee List?</p> <p>14 MS. POWELL: Objection. Vagueness and</p> <p>15 asked and answered.</p> <p>16 Q Right. Earlier today you said that</p> <p>17 applying the No Fly List revisions to</p> <p>18 Selectee-listed persons would significantly</p> <p>19 undermine the government's counter-terrorism</p> <p>20 efforts. Is that your view about why --</p> <p>21 A Yes.</p> <p>22 Q Did DHS TRIP, as a subagency, as an agency</p> |

133

1 component -- well, how would you -- what is DHS
 2 TRIP? An agency component? A branch division?
 3 What is it?
 4 **A It's a branch division program.**
 5 Q Okay.
 6 Did DHS TRIP, as a branch division,
 7 determine that U.S. persons on the Selectee List
 8 would not benefit from the revisions that you made
 9 to the DHS TRIP process with regards to persons on
 10 the No Fly List?
 11 MS. POWELL: Objection. Vague and
 12 misleading.
 13 THE WITNESS: We determined that doing so,
 14 applying those procedures, would undermine the
 15 government's counter-terrorism efforts.
 16 Q What's your educational background?
 17 **A I have a doctorate in English.**
 18 Q Okay. And then you worked for, like, a
 19 FOIA division at another agency?
 20 **A I worked for an office that included FOIA,**
 21 **along with other --**
 22 Q What agency?

134

1 **A The National Protection and Programs**
 2 **Directorate.**
 3 Q What are your qualifications to determine
 4 whether these revisions would undermine the
 5 government's counter-terrorism efforts?
 6 MS. POWELL: Objection. Vague and
 7 harassing, but answer, if you like.
 8 MR. ABBAS: It's -- I'm asking her a
 9 question about the view that she stated that her
 10 agency, or whatever -- yeah. Go ahead. Answer.
 11 THE WITNESS: I would say my
 12 qualifications include the experience I've had
 13 working as the branch manager of TSRB, along with
 14 10 years of work in the Department of Homeland
 15 Security.
 16 Q What did you do at the Department of
 17 Homeland Security?
 18 **A This position at TSA, my time at NPPD, I**
 19 **also worked in the secretary's office for a**
 20 **period.**
 21 Q What did you do?
 22 **A I was the -- at the secretary's office, I**

135

1 **was the director of efficiency review.**
 2 Q Why does efficiency have to do with
 3 national security?
 4 **A Efficiency review, we worked with all of**
 5 **the departments and agencies within -- all the**
 6 **components within DHS to apply efficiency**
 7 **measures, and within that work, we learned in**
 8 **depth about their missions.**
 9 Q What did you learn about counter-terrorism
 10 efforts in your efficiency work?
 11 **A We learned -- a big piece of it would be**
 12 **learning all the different pieces of the**
 13 **counter-terrorism that are owned throughout**
 14 **different -- throughout DHS and different**
 15 **agencies.**
 16 Q Let me ask you this: Are you a
 17 counter-terrorism expert?
 18 **A No, I'm not.**
 19 Q Do you have particular expertise in the
 20 field of counter-terrorism?
 21 MS. POWELL: Objection. Asked and
 22 answered. She's talked about her qualifications.

136

1 You don't get to keep asking.
 2 BY MR. ABBAS:
 3 Q Go ahead.
 4 **A No.**
 5 Q Have you received any trainings that
 6 regard counter-terrorism?
 7 **A Not specific training, no.**
 8 Q Have you ever managed a counter-terrorism
 9 program?
 10 **A No.**
 11 Q Have you ever run an investigation that
 12 was related to counter-terrorism?
 13 **A No.**
 14 Q So what is the basis of your conclusion
 15 that to apply the revised No Fly List standards to
 16 persons on the Selectee List -- what is the basis
 17 of your conclusion -- let me start all over.
 18 What is the basis of your conclusion that
 19 to apply the revised No Fly List standards to U.S.
 20 persons on the Selectee List would significantly
 21 undermine the government's counter-terrorism
 22 efforts?

Conducted on December 20, 2017

137

1 **A The basis would be my experience in the**
2 **Department of Homeland Security.**
3 Q But your experience doesn't regard
4 counter-terrorism in the Department of Homeland
5 Security; correct?
6 MS. POWELL: Objection.
7 Q And you're not a --
8 MS. POWELL: That's not what she said.
9 Q -- counter-terrorism expert; correct?
10 **A I'm not a counter-terrorism expert.**
11 Q Great. Okay.
12 So is there anything else, besides your
13 experience, that's the basis of your conclusion
14 that to apply the No Fly List's revised processes
15 to U.S. persons on the Selectee List would
16 significantly undermine the government's
17 counter-terrorism efforts?
18 **A No.**
19 Q So it's just your experience in DHS that
20 form the basis of that conclusion?
21 **A Yes.**
22 Q Was it your decision to not apply the

138

1 revised No Fly List procedures to U.S. persons on
2 the Selectee List?
3 MS. POWELL: Objection. Misleading and
4 vague, but you can answer, if you can.
5 THE WITNESS: It was not solely my
6 decision. I did not make a decision in isolation.
7 BY MR. ABBAS:
8 Q Was it your decision though?
9 I understand that you consulted other
10 people, but was it your decision in determining
11 the scope of application of the revised No Fly
12 List redress procedures?
13 MS. POWELL: Same objection, and asked and
14 answered.
15 THE WITNESS: No. I wouldn't say that it
16 was my decision.
17 Q Whose decision was it? Let me withdraw
18 the question.
19 Who told you to apply the No Fly List
20 procedures just to people on the No Fly List?
21 MS. POWELL: Objection.
22 Q If it wasn't your decision.

139

1 MS. POWELL: Foundation and misleading.
2 THE WITNESS: I worked in large part with
3 the Screening Coordination Office, which, as I
4 said, is the overseer of the TRIP program at
5 large, and also is the redress -- if the -- I
6 can't remember the exact title, but the redress
7 official for the department.
8 BY MR. ABBAS:
9 Q So that official told you how to revise
10 DHS TRIP? What revisions to make and how to apply
11 them?
12 MS. POWELL: Objection. Foundation and
13 misleading and vague and compound.
14 THE WITNESS: Generally, I would agree
15 with that.
16 Q So I'm still a little lost, and I'm really
17 trying to get clarity.
18 Who decided to revise DHS TRIP in 2014 in
19 the manner that it was revised? Whose -- I'm
20 sorry. Let me withdraw that.
21 Whose authority was it to revise DHS TRIP
22 in the manner that it was revised in 2014?

140

1 **A My understanding is that it was within the**
2 **Screening Coordination Office's authority.**
3 Q So you didn't have the authority to
4 determine what process DHS TRIP utilizes --
5 MS. POWELL: Objection.
6 Q -- to process DHS TRIP complaints?
7 MS. POWELL: Misleading, compound, vague.
8 THE WITNESS: The Office of Screening
9 Coordination is in charge of policy and
10 overseeing, overall, the DHS TRIP activities
11 function.
12 My work is to administer the program to
13 make sure it is fair and robust and in alignment
14 with policy direction.
15 Q Was the policy to revise DHS TRIP in 2014
16 written down and sent to you?
17 MS. POWELL: Objection. Compound and
18 vague, but you can answer.
19 THE WITNESS: Yes.
20 Q So there's a document that you got from
21 your superiors that told you what revisions to
22 make to DHS TRIP?

Conducted on December 20, 2017

| | |
|---|---|
| <p style="text-align: right;">141</p> <p>1 MS. POWELL: Objection. Misleading.</p> <p>2 THE WITNESS: Yes.</p> <p>3 BY MR. ABBAS:</p> <p>4 Q What's the name of that document?</p> <p>5 A It's the implementation plan of the U.S.</p> <p>6 Government for No Fly individuals.</p> <p>7 Q Who authored that document?</p> <p>8 A I don't know exactly who authored it. It</p> <p>9 was a U.S. Government -- it was released by the</p> <p>10 White House.</p> <p>11 Q The implementation plan for the No Fly</p> <p>12 List individuals was released by the White House?</p> <p>13 A Yes.</p> <p>14 Q And that implementation plan for No Fly</p> <p>15 List individuals is what amended the DHS TRIP</p> <p>16 process with regards to U.S. persons on the No Fly</p> <p>17 List?</p> <p>18 MS. POWELL: Objection. Misleading.</p> <p>19 THE WITNESS: In large part, yes.</p> <p>20 Q What's the small part, if there's -- what</p> <p>21 other -- if -- it sounds like there's something</p> <p>22 else.</p> | <p style="text-align: right;">143</p> <p>1 MS. POWELL: It's a good time for me, if</p> <p>2 it is for you.</p> <p>3 THE WITNESS: Yeah. Let's have a break.</p> <p>4 MR. ABBAS: Okay. Great.</p> <p>5 THE VIDEOGRAPHER: We're going off the</p> <p>6 record. The time is 2:00 o'clock.</p> <p>7 (Whereupon a recess was taken.)</p> <p>8 THE VIDEOGRAPHER: We're back on the</p> <p>9 record. The time is 2:11.</p> <p>10 MR. ABBAS: I'll just note for the record</p> <p>11 that the implementation plan for the No Fly List</p> <p>12 individuals is clearly a responsive document that</p> <p>13 we don't have, that hasn't been produced alongside</p> <p>14 all the forms that are responsive documents that</p> <p>15 haven't been produced that impact the conduct of</p> <p>16 this deposition and will almost certainly</p> <p>17 necessitate additional deposition time once we get</p> <p>18 these documents, and so just noting that for the</p> <p>19 record.</p> <p>20 MS. POWELL: Two things -- three things,</p> <p>21 actually.</p> <p>22 First is most of the documents you've</p> |
| <p style="text-align: right;">142</p> <p>1 A The document is a high-level framework, so</p> <p>2 the specifics of how the changes were implemented</p> <p>3 did not come from that document, but came from my</p> <p>4 office.</p> <p>5 Q Okay. So what did -- what came -- what</p> <p>6 was dictated to you in the implementation plan for</p> <p>7 No Fly List individuals that your superiors sent</p> <p>8 you and ordered you to follow?</p> <p>9 MS. POWELL: Objection. Compound, vague.</p> <p>10 THE WITNESS: The process for how we were</p> <p>11 to handle -- how we are to handle U.S. person on</p> <p>12 the No Fly List was dictated.</p> <p>13 Q And what was the content of the</p> <p>14 implementation plan for No Fly List individuals?</p> <p>15 A The content describes three broad phases</p> <p>16 for how these applications are to be handled,</p> <p>17 along with description of the requirements for who</p> <p>18 can -- who qualifies -- which applicants qualify</p> <p>19 for the enhanced process.</p> <p>20 Q What are the three broad phases?</p> <p>21 Yep. Take your time. And if you'd like a</p> <p>22 break, we're happy to. It's up to you.</p> | <p style="text-align: right;">144</p> <p>1 pointed to are, you know, DHS TRIP documents,</p> <p>2 who's not received any document requests until the</p> <p>3 most recent one. So it's not as if you're missing</p> <p>4 something that was requested.</p> <p>5 The redress implementation plan is in our</p> <p>6 list of potentially responsive documents, and it</p> <p>7 is being processed for either production or a log</p> <p>8 this week.</p> <p>9 MR. ABBAS: Great.</p> <p>10 MS. POWELL: But Dr. Moore wanted to</p> <p>11 elaborate on her previous answer about the redress</p> <p>12 implementation plan.</p> <p>13 MR. ABBAS: Okay. Great. Thanks.</p> <p>14 THE WITNESS: So the -- in the development</p> <p>15 of the redress implementation plan, we were</p> <p>16 talking about authority and authority to make the</p> <p>17 decision and so forth, and while the authorities</p> <p>18 to implement the DHS TRIP reside with TSA and DHS,</p> <p>19 as I talked this morning about DHS TRIP, because</p> <p>20 of the nature of the program, what we do impacts</p> <p>21 multiple agencies.</p> <p>22 So when we make decisions, including the</p> |

145

1 implementation -- development implementation plan,
 2 DHS works in consultation with multiple agencies.
 3 And it is isn't done in a vacuum that it's
 4 developed and just handed to us. We participate
 5 and help develop the program and make sure that
 6 those agencies that will be impacted have a voice
 7 in its development.
 8 BY MR. ABBAS:
 9 Q Has -- so TSA has the authority over DHS
 10 TRIP? Is that what you're saying?
11 A My understanding is there's multiple
12 authorities, TSA and DHS.
 13 Q So your testimony today is that DHS and
 14 TSA share the authority to determine the processes
 15 of DHS TRIP?
 16 MS. POWELL: Objection. Calls for a legal
 17 conclusion. I think we're talking about statutory
 18 authority.
 19 Q Have you -- well, I mean, I think we've
 20 covered this already.
 21 The summaries that DHS TRIP personnel gets
 22 for U.S. persons on the No Fly List are

146

1 unclassified; is that correct?
 2 MS. POWELL: Objection. Vague.
 3 THE WITNESS: Not all DHS TRIP personnel
 4 have access to or see the summaries of the ones --
 5 can you repeat the question with -- now that we
 6 have that clarification?
 7 BY MR. ABBAS:
 8 Q Sure. Is it the enhanced redress manager
 9 that has access to the unclassified summaries that
 10 regard complainants who are on the No Fly List?
11 A Yes. As well as the director, myself.
 12 Q Which is you?
13 A Yes.
 14 Q What is your understanding of why DHS TRIP
 15 personnel do not receive unclassified summaries
 16 with regards to U.S. persons on the Selectee List?
17 A Other DHS TRIP personnel don't receive
18 access to the summaries because they have no need
19 to see the summaries.
 20 Q I'm -- so I'm asking about the difference
 21 between the No Fly List summaries that are sent to
 22 the enhanced redress manager and made available to

147

1 you, and the absence of summaries that are
 2 provided to DHS TRIP personnel regarding the
 3 Selectee List.
 4 So what is your understanding of why no
 5 DHS TRIP personnel receive unclassified summaries
 6 of information regarding U.S. persons on the
 7 Selectee List?
 8 MS. POWELL: Objection. Vague.
 9 THE WITNESS: To my understanding, no such
 10 summaries are created for U.S. person on the
 11 Selectee List.
 12 BY MR. ABBAS:
 13 Q Well, what is your understanding of why no
 14 such summaries are created?
15 A U.S. persons on the Selectee -- there is
16 no corresponding process for U.S. persons on the
17 Selectee List that would include the creation of
18 those summaries.
 19 Q Would you have the authority to alter DHS
 20 TRIP in a manner that would require DHS TRIP
 21 personnel to receive unclassified summaries
 22 regarding U.S. persons on the Selectee List?

148

1 MS. POWELL: Objection. Vague. Possibly
 2 calls for legal a conclusion, but you can answer,
 3 if you can.
 4 THE WITNESS: I don't believe I would have
 5 that authority.
 6 BY MR. ABBAS:
 7 Q Who do you believe would have the
 8 authority to alter DHS TRIP in a manner that would
 9 require DHS TRIP personnel to receive unclassified
 10 summaries regarding U.S. persons on the Selectee
 11 List?
12 A I believe a change of that nature would
13 need to be made through the interagency process
14 wherein DHS coordinates -- consults other agencies
15 that are impacted by the DHS TRIP process to
16 determine a change of that nature.
 17 Q What role did you play in the -- in
 18 creating the implementation plan for No Fly List
 19 individuals?
20 A I helped -- my input in the development of
21 the plan focused mostly on the administrative
22 aspects of how such a plan might be put forth.

Conducted on December 20, 2017

149

1 Q Please elaborate on what you mean by the
2 administrative aspects.
3 MS. POWELL: Objection. Open-ended.
4 THE WITNESS: I can give an example.
5 If --
6 MS. POWELL: Wait, wait, wait. I'm going
7 to instruct you not to testify as to internal
8 deliberations about how --
9 THE WITNESS: Okay.
10 MS. POWELL: -- particular changes were
11 made, but certainly you could -- I'm sorry.
12 So that's the extent of my instruction not
13 to answer. If there's something else you can give
14 an example of that is not just internal
15 recommendations and advice, you certainly can.
16 THE WITNESS: I can explain what I mean by
17 administrative changes.
18 If the plan were designed in a way that
19 would be administratively overly burdensome to
20 implement, then I would make that concern known.
21 Q With regards to the substance of the plan,
22 did you have any input on the type of notice that

150

1 was going to be provided to U.S. persons on the No
2 Fly List subsequent to the revisions?
3 MS. POWELL: Objection. Vague.
4 THE WITNESS: I don't recall specifically
5 if I had input on that aspect of the development
6 of the plan.
7 BY MR. ABBAS:
8 Q With regards to the implementation plan
9 for No Fly List individuals, did you have any
10 input on the processes that U.S. persons on the No
11 Fly List would have as a result of those
12 revisions?
13 MS. POWELL: Same instruction to not
14 answer insofar as it would reveal internal
15 deliberations or your opinions or advice that were
16 given.
17 THE WITNESS: I'm not sure how I can
18 answer that question, given that instruction.
19 MS. POWELL: Okay.
20 MR. ABBAS: I'm not really asking for --
21 and just to -- so I'm not really asking for what
22 she said. I'm asking for what role she had.

151

1 Q So I'm going to try again, but I'm not
2 asking for the information you conveyed; I'm
3 asking about the role that you had in the creation
4 of the implementation plan for the No Fly List
5 individuals.
6 Did you have any role in determining that
7 U.S. persons on the No Fly List, subsequent to the
8 No Fly List redress process revisions, would
9 receive unclassified summaries of derogatory
10 information that was the basis of their
11 Watchlisting?
12 MS. POWELL: Objection, but it might just
13 be because I'm confused now.
14 MR. ABBAS: Maybe.
15 MS. POWELL: Sorry.
16 THE WITNESS: I had a role in the overall
17 process in that I provided my input and thoughts
18 about the development. I'm not able to put it
19 into one specific category or another, but the --
20 MS. POWELL: And you should not testify as
21 to the specific opinions and advice you gave.
22 Q Of course. Yeah, yeah.

152

1 So -- well, you've testified that a focus
2 of your input was on the administrative aspects of
3 the implementation plan, such as what type of
4 burden the implementation plan would have on your
5 team.
6 Aside from concerns regarding the burdens
7 to your team of the implementation plan, are there
8 other areas in which you had a role in formulating
9 the contents of the implementation plan?
10 MS. POWELL: Same objection and
11 instruction, if that makes sense.
12 THE WITNESS: I can add that I
13 participated in all of the meetings. I had a
14 role, the same as others had a role. I can't say
15 specifically what type of opinions I offered.
16 MS. POWELL: Nor should you.
17 THE WITNESS: I was a member.
18 BY MR. ABBAS:
19 Q Yeah. And I'm not asking for your
20 opinions.
21 Who was the leader of these meetings?
22 **A Well, the whole process was coordinated by**

Conducted on December 20, 2017

153

1 **the NSC, National Security Counsel.**
 2 Q Who at the National Security Counsel
 3 coordinated these meetings?
 4 **A I don't recall the names.**
 5 Q When did these meetings happen?
 6 **A In 2014.**
 7 Q So the National Security Counsel ran these
 8 meetings?
 9 **A They coordinated the overall process. I'm**
 10 **not -- I don't recall if an NSC representative led**
 11 **every meeting or -- the meetings were --**
 12 **participants in the meeting included several**
 13 **members of the interagency and the -- it was a**
 14 **collaborative process, so it's difficult to**
 15 **pinpoint exactly who was a leader.**
 16 Q So these meetings all took place in 2014;
 17 correct?
 18 **A I don't know if they all did.**
 19 Q Okay. In 2013 and 2014?
 20 **A Yes.**
 21 Q And these meetings were initiated in order
 22 to revise the redress process with regards to U.S.

154

1 persons on the No Fly List? Was that the purpose
 2 of those meetings?
 3 MS. POWELL: Objection. Foundation.
 4 THE WITNESS: Generally speaking, yes.
 5 BY MR. ABBAS:
 6 Q Did the meetings have any other purpose?
 7 MS. POWELL: Objection. Foundation.
 8 THE WITNESS: Not that I can recall.
 9 Q Where were these meetings?
 10 MS. POWELL: Objection. Scope. You're
 11 getting pretty far afield here.
 12 MR. ABBAS: No. This is about the
 13 implementation plan, this is not -- and the
 14 National Security Counsel's involved? I mean,
 15 that's news.
 16 MS. POWELL: It's not, actually.
 17 MR. ABBAS: It is.
 18 MS. POWELL: It's in our declarations and
 19 in the GAL report.
 20 Q So where were these meetings? Well, let's
 21 start with this -- I'm sorry. Let me withdraw
 22 that question.

155

1 How many meetings were there about
 2 revising DHS TRIP with regards to U.S. persons on
 3 the No Fly List?
 4 **A I don't know.**
 5 Q More than 10?
 6 **A Probably.**
 7 Q Oh. More than 20?
 8 **A I don't know.**
 9 Q Less than 50?
 10 **A Likely.**
 11 Q Less than 30?
 12 MS. POWELL: Objection. She already said
 13 she can't give you a specific number.
 14 MR. ABBAS: I'm not asking for a specific
 15 number.
 16 THE WITNESS: I don't know.
 17 Q Okay. So somewhere between 10 and 50?
 18 **A I believe so.**
 19 Q Did you attend every meeting?
 20 **A No.**
 21 Q Did someone from DHS TRIP attend every
 22 meeting?

156

1 **A I don't know for sure.**
 2 Q Why wouldn't DHS TRIP be represented in a
 3 meeting about revising DHS TRIP?
 4 **A If someone directly from DHS TRIP wasn't**
 5 **available, that would be a problem; however, most**
 6 **likely, my supervisor stepped in on every meeting**
 7 **where I couldn't attend. I don't know if that is**
 8 **absolutely accurate for every meeting. In**
 9 **general, that was the process.**
 10 Q Okay. In general -- so there might have
 11 been a meeting here or there that DHS TRIP wasn't
 12 represented, but generally speaking, DHS TRIP was
 13 represented, either by yourself or your boss?
 14 **A Correct.**
 15 Q Were any of your subordinates ever sent as
 16 DHS TRIP's representative?
 17 **A Not to my recollection.**
 18 Q Okay.
 19 Where were -- were all these meetings held
 20 in the same place?
 21 MS. POWELL: Objection. Scope and
 22 relevance.

Conducted on December 20, 2017

157

1 THE WITNESS: My recollection is the
 2 majority of the meetings that I participated in
 3 were by phone, telephone conferences.
 4 BY MR. ABBAS:
 5 Q Who convened the teleconferences?
 6 MS. POWELL: Same objection.
 7 THE WITNESS: I don't recall.
 8 Q Did you get invitations to participate in
 9 these teleconferences by e-mail?
10 A Yes.
 11 Q Okay.
 12 Who at the National Security Counsel would
 13 facilitate these meetings?
 14 MS. POWELL: Objection. Scope.
 15 THE WITNESS: I don't recall.
 16 Q But you do recall that it was someone from
 17 the National Security Counsel?
18 A I don't recall that it was always someone
19 from the National Security Counsel participating.
20 I don't know that for sure.
 21 Q Was the White House always represented?
22 A No, I don't think so.

158

1 Q Okay.
 2 The -- you don't recall anybody at the
 3 National -- you don't recall the name of a single
 4 person at the National Security Counsel that
 5 participated in the meetings?
6 A Many times, the meetings included a long
7 list of participates, some of whom I did not know
8 their affiliation, so no.
 9 Q Did the e-mails that you received inviting
 10 you to participate in the conference indicate who
 11 else would be calling in?
 12 MS. POWELL: Objection. Scope.
 13 THE WITNESS: Probably. If they were
 14 calendar invites, they would include that.
 15 Q Sure.
 16 So I know you don't remember anybody by
 17 name from the National Security Counsel. How do
 18 you know that someone at the National Security
 19 Counsel was --
20 A I don't know that for sure, in fact.
 21 Q So what is the basis of your testimony
 22 earlier that the National Security Counsel was

159

1 participating in the meetings regarding creating
 2 the implementation plan for No Fly List
 3 individuals?
4 A It's my understanding that the National
5 Security Counsel coordinated the overall effort.
 6 Q What is your understanding of why the
 7 National Security Counsel was involved in the
 8 implementation plan for No Fly List --
 9 MS. POWELL: Objection. Scope.
 10 Q -- individuals?
11 A I don't have that information. I don't
12 know.
 13 Q Okay. Okay.
 14 Did you receive drafts of the
 15 implementation plan for No Fly List individuals
 16 before it was finalized?
17 A Yes.
 18 Q Did you have the opportunity to provide
 19 input on drafts regarding the No Fly List -- the
 20 implementation plan for No Fly List individuals?
21 A Yes.
 22 Q Did you, in fact, provide feedback on the

160

1 implementation plan for No Fly List individuals?
 2 MS. POWELL: I'm going to instruct the
 3 witness not to reveal the substance of any advice
 4 or opinions --
 5 MR. ABBAS: Yep.
 6 MR. POWELL: -- other deliberations she
 7 gave.
 8 BY MR. ABBAS:
 9 Q Yes or no. Yeah.
10 A Yes.
 11 Q Did you provide that information by
 12 e-mail?
13 A In part. And in part, orally.
 14 Q To who?
15 A To the participants in the meetings.
 16 Q So when you were there, you'd voice your
 17 thoughts on the implementation plan for No Fly
 18 List individuals?
19 A Yes.
 20 Q You don't know who authored the
 21 implementation plan for No Fly List individuals;
 22 correct?

Conducted on December 20, 2017

161

1 **A Correct.**

2 Q Do you know which agency issued the

3 implementation plan for the No Fly List

4 individuals?

5 MS. POWELL: Objection. Misleading.

6 THE WITNESS: Well, the implementation

7 plan was issued by the White House.

8 Q Okay. So -- I'm sorry.

9 **A That's all.**

10 Q Okay.

11 So the implementation plan was issued by

12 the White House. Was the implementation -- did

13 you view -- did DHS TRIP view the implementation

14 plan for No Fly List individuals as an order as to

15 how to administer the DHS TRIP process?

16 MS. POWELL: Objection. Vague.

17 THE WITNESS: No. I would characterize it

18 has a framework, a policy document that described

19 a framework.

20 Q As the -- as the branch manager of the

21 Transportation Security Redress Branch, did you

22 believe that you had the authority to deviate from

162

1 the implementation plan for No Fly List

2 individuals that the White House issued?

3 **A Because the implementation plan is at a**

4 **relatively high level, deviate implied -- in my**

5 **mind, deviate implies a much lower level of**

6 **change.**

7 **So, no, at -- to do something different**

8 **from what is outlined in the framework, I -- no, I**

9 **didn't feel that I had the authority to do that.**

10 Q But because the framework was broad, you

11 had the authority to fill in the gaps?

12 MS. POWELL: Objection. Vague, and calls

13 for a legal conclusion.

14 THE WITNESS: I felt, as the director of

15 DHS TRIP, it was within my purview to implement

16 the plan to determine, in coordination and

17 consultation with other agencies, determine the

18 specifics of how to implement the framework.

19 Q With regard to the implementation plan for

20 No Fly List individuals, you indicated that it

21 outlined three broad phases of the redress process

22 for U.S. persons on the No Fly List; correct?

163

1 **A Yes.**

2 Q What are the three broad phases that the

3 implementation plan for No Fly List individuals

4 outlined?

5 **A The first phase -- once an individual has**

6 **been determined to qualify, has met the**

7 **qualifications for the process -- involves sending**

8 **the individual a letter that informs that person**

9 **that he or she is on the No Fly List and that that**

10 **person has the option to request more information**

11 **about that placement.**

12 **The second phase involves -- I should say**

13 **finishes with the -- if the individual has**

14 **requested more information, that's the phase in**

15 **which the, when appropriate, the unclassified**

16 **summary is developed, along with -- in the letter**

17 **that we supply to the applicant, it would include**

18 **the criteria, or criterion, the No Fly criteria or**

19 **criterion, that the person qualifies for, along**

20 **with the unclassified summary, as consistent with**

21 **law enforcement and national security concern --**

22 **national security concerns. It includes that.**

164

1 **And it includes the authority -- or it**

2 **includes the opportunity for the applicant to**

3 **provide additional information for consideration**

4 **about -- in response to that information we've**

5 **supplied.**

6 **And the third phase is if the applicant is**

7 **request -- has indeed responded and provided**

8 **additional information, or asked that we consider**

9 **the placement.**

10 **Finish -- it culminates with the TSA**

11 **administrator determining continued placement on**

12 **the list, or removal from the list, and the letter**

13 **that would communicate that result.**

14 Q Okay. I'm going to go over it. Just -- I

15 counted probably, like, six phases, so I might

16 have -- this is -- so I just want to make sure

17 that I understand it.

18 So the first phase is a letter -- is in

19 response to a DHS TRIP complaint, a determination

20 is made that a person is on the No Fly List, and a

21 letter is sent confirming that that person is on

22 the No Fly List list; is that right?

Conducted on December 20, 2017

165

1 MS. POWELL: Objection. Misleading.
 2 BY MR. ABBAS:
 3 Q If it's not, just correct me. Yeah. Yep?
 4 **A It's not complete. What you said is not**
 5 **complete.**
 6 Q Okay. Go ahead. Just the first phase.
 7 Yeah?
 8 **A The very first phase is when we determine**
 9 **if the person qualifies or not. They have to meet**
 10 **the right criteria, all the different criteria.**
 11 Q U.S. person on the No Fly List?
 12 **A U.S. person on a No Fly List holding a**
 13 **valid ticket to -- was denied while holding a**
 14 **valid ticket either to, from, or over the United**
 15 **States; was denied because that person, while**
 16 **holding that ticket, was on the No Fly List; and**
 17 **the person has properly applied to DHS TRIP.**
 18 **Those are the qualifications.**
 19 Q So they need a valid ticket?
 20 **A Yes.**
 21 Q Okay.
 22 So the revised No Fly List procedures

166

1 would not apply to a U.S. person who submitted a
 2 complaint who has not been denied boarding on a
 3 plane; correct?
 4 **A Correct.**
 5 Q Okay.
 6 Who determines whether someone qualifies
 7 for the revised DHS TRIP process applicable to
 8 U.S. persons on the No Fly List?
 9 **A In consultation with other agencies, DHS**
 10 **TRIP does.**
 11 Q Describe the consultation -- I'm sorry.
 12 Describe the consultative process that DHS
 13 TRIP engages in to determine whether someone is on
 14 the no-fly list?
 15 **A To determine if someone's on the No Fly**
 16 **List?**
 17 Q Yes.
 18 **A I must have misunderstood your question.**
 19 **I thought you meant to determine if someone**
 20 **qualified for these new processes.**
 21 Q Yep.
 22 **A We don't determine if someone is on the No**

167

1 **Fly List or not.**
 2 Q Sure. So you -- but as -- to qualify for
 3 the revised DHS TRIP process, someone must be on
 4 the No Fly List?
 5 **A Yes.**
 6 Q And there are other qualifications, but
 7 that's one of them; correct?
 8 **A Yes.**
 9 Q But DHS TRIP does not determine whether
 10 someone is or is not on the No Fly List; is that
 11 correct?
 12 **A That's correct.**
 13 Q So who determines whether someone is or is
 14 not on the No Fly List?
 15 **A The Terrorist Screening Center.**
 16 Q Okay. So if DHS TRIP personnel receives a
 17 complaint that DHS TRIP personnel believes is
 18 TSDB-regarding, that complaint gets referred to
 19 TSC, and then TSC decides whether that person is
 20 on the No Fly List or not?
 21 MS. POWELL: Objection. Compound and
 22 vague.

168

1 THE WITNESS: Generally, as I understand
 2 your description, I would say yes.
 3 BY MR. ABBAS:
 4 Q Okay.
 5 And DHS TRIP just accepts what TSC says
 6 about a person's Watchlist status; is that
 7 correct?
 8 MS. POWELL: Objection. Vague.
 9 THE WITNESS: TSC is the owner of the No
 10 Fly List, so, yes, if they tell us this person is
 11 on the No Fly List, yes, we accept it.
 12 Q Okay. So DHS TRIP personnel do not make
 13 their own determination about a person's Watchlist
 14 status?
 15 MS. POWELL: Objection. Vague.
 16 THE WITNESS: Correct. We don't make the
 17 determination.
 18 Q Although DHS TRIP personnel do have access
 19 to the Secure Flight database, which would
 20 indicate whether someone is or is not a match to
 21 an identity on the No Fly List; correct?
 22 **A Correct.**

| | |
|---|---|
| <p style="text-align: right;">169</p> <p>1 Q Okay. Okay. All right.</p> <p>2 So the first phase is a letter informing</p> <p>3 the person that they're on the No Fly List and</p> <p>4 that they can seek additional information;</p> <p>5 correct?</p> <p>6 MS. POWELL: Objection. Vague.</p> <p>7 THE WITNESS: The letter that we send at</p> <p>8 the end of the first phase tells the -- informs</p> <p>9 the person that they're on the No Fly List and</p> <p>10 that they can seek further information.</p> <p>11 Q Okay. And then the second phase is only</p> <p>12 if they seek additional information; correct?</p> <p>13 A It initiates if they've contacted us and</p> <p>14 let us know, within the period of time, that they</p> <p>15 would like us to provide additional information.</p> <p>16 Q And then if they ask for additional</p> <p>17 information, DHS TRIP provides them with an</p> <p>18 unclassified summary and allows the applicant to</p> <p>19 submit additional information?</p> <p>20 A We work with the Terrorist Screening</p> <p>21 Center to develop the -- they develop the</p> <p>22 unclassified summary.</p> | <p style="text-align: right;">171</p> <p>1 summary that TSC provides to DHS TRIP personnel as</p> <p>2 a result of this phase two of the revised DHS TRIP</p> <p>3 process for U.S. persons on the No Fly List?</p> <p>4 MS. POWELL: Objection. Vague.</p> <p>5 THE WITNESS: Yes. I'd say it's fair to</p> <p>6 say that we assess it.</p> <p>7 BY MR. ABBAS:</p> <p>8 Q In what manner does DHS TRIP assess the</p> <p>9 unclassified summary that TSC provides DHS TRIP</p> <p>10 personnel as a part of the revised DHS TRIP</p> <p>11 process applicable to U.S. person on the No Fly</p> <p>12 List?</p> <p>13 MS. POWELL: Objection.</p> <p>14 To the extent it calls for the details of</p> <p>15 the internal deliberations and the specific advice</p> <p>16 and opinions you provide, you should not provide</p> <p>17 that. You can describe your role generally.</p> <p>18 THE WITNESS: Generally, we review the</p> <p>19 summary to make sure it's clear, to make sure it's</p> <p>20 -- makes sense.</p> <p>21 We would work with our -- the Office of</p> <p>22 Intelligence -- the TSA Office of Intelligence and</p> |
| <p style="text-align: right;">170</p> <p>1 Once it's developed, we may consult other</p> <p>2 agencies to determine if the information in the</p> <p>3 unclassified summary is sufficient for and reason</p> <p>4 -- for the person to reasonably respond.</p> <p>5 And if we are informed that other agencies</p> <p>6 feel that changes need to be made, we work, again</p> <p>7 with TSC, to modify to ensure.</p> <p>8 Q So it sounds like that DHS TRIP has a</p> <p>9 really critical facilitating role between the</p> <p>10 various agencies that have a stake in a DHS TRIP</p> <p>11 complaint submitted by someone on the No Fly List;</p> <p>12 is that correct?</p> <p>13 A Yes.</p> <p>14 Q Beyond facilitating, does DHS TRIP draft</p> <p>15 the unclassified summary that U.S. persons on the</p> <p>16 No Fly List receive as a result of the revised DHS</p> <p>17 TRIP process?</p> <p>18 MS. POWELL: Objection. Vague.</p> <p>19 THE WITNESS: TSC drafts the unclassified</p> <p>20 summary.</p> <p>21 Q Does T -- I'm sorry.</p> <p>22 Does DHS TRIP assess, in any manner, the</p> | <p style="text-align: right;">172</p> <p>1 Analysis and with the legal experts to make sure</p> <p>2 that it meets their criteria as well.</p> <p>3 BY MR. ABBAS:</p> <p>4 Q So TSA has separate criteria for the</p> <p>5 contents of these DHS TRIP-issued letters that</p> <p>6 disclose unclassified information to U.S. persons</p> <p>7 on the No Fly List as a result of the revised DHS</p> <p>8 TRIP process?</p> <p>9 MS. POWELL: Objection. Misleading and</p> <p>10 vague.</p> <p>11 THE WITNESS: I don't know that it's fair</p> <p>12 to call it criteria.</p> <p>13 I would say that the legal staff review it</p> <p>14 for legal concerns, and the Office of the -- the</p> <p>15 staff at the Office of Intelligence and Analysis</p> <p>16 review it for -- with their expertise to make sure</p> <p>17 that it meets the standards that they -- I'm not</p> <p>18 sure what standards they have, but if they have</p> <p>19 concerns about it, they would raise it.</p> <p>20 Q Would -- does anyone in your office know</p> <p>21 what standards they're applying when they're</p> <p>22 reviewing unclassified summaries provided to U.S.</p> |

Conducted on December 20, 2017

173

1 persons on the No Fly List as a result of the
 2 revised DHS TRIP process?
 3 **A Because no one in my office is an intel**
 4 **analyst specifically, I think it would be wrong to**
 5 **say that we're aware of their standards, if they**
 6 **have such a thing.**
 7 **I know that they review it and apply their**
 8 **expertise.**
 9 Q Is anyone in your office a
 10 counter-terrorism expert?
 11 **A No.**
 12 Q Okay.
 13 What types of changes does DHS TRIP
 14 personnel provide -- what types of changes does --
 15 do DHS TRIP personnel make when they receive
 16 unclassified summaries regarding U.S. persons on
 17 the No Fly List?
 18 MS. POWELL: Objection, again as to
 19 specific opinions, advice, deliberations that you
 20 provide.
 21 You can describe your role generally, to
 22 the extent you can without providing the

174

1 pre-decisional deliberations.
 2 THE WITNESS: Our expertise lies more in
 3 the administrative realm, as opposed to the legal
 4 realm or the intelligence realm.
 5 So we would review to make sure that the
 6 summaries meet all of those criteria.
 7 BY MR. ABBAS:
 8 Q Is there any situation in which DHS TRIP
 9 would confirm a person's status on the No Fly List
 10 if a DHS TRIP inquiry is not filed?
 11 MS. POWELL: Objection. Scope and
 12 vagueness.
 13 THE WITNESS: No.
 14 Q Okay. That's what I thought.
 15 As part of the revised DHS TRIP process,
 16 does -- do you, or anyone else in your branch
 17 division -- is that?
 18 **A Branch.**
 19 Q Okay. As a part -- let me just start all
 20 over.
 21 As a part of the revised DHS TRIP process,
 22 does anyone in your branch, including yourself,

175

1 have access to the underlying derogatory
 2 information that served as the basis for a
 3 person's nomination to the No Fly List?
 4 MS. POWELL: Objection. Vague.
 5 THE WITNESS: Not direct access.
 6 BY MR. ABBAS:
 7 Q What type of indirect access do you all
 8 have to the underlying derogatory information that
 9 served as the basis for a U.S. person's nomination
 10 to the No Fly List?
 11 **A We -- myself and the enhanced redress**
 12 **manager have access. Through the Office of**
 13 **Intelligence and Analysis, they can show us their**
 14 **assessment, some of the information, that they**
 15 **have looked at.**
 16 Q Are they assessing the underlying
 17 derogatory information, or are they just looking
 18 at the unclassified summaries?
 19 **A They're looking at the underlying**
 20 **information to ensure that the unclassified**
 21 **summary is accurate, complete.**
 22 Q So the -- who are these people again? The

176

1 Office of --
 2 **A Intelligence and Analysis.**
 3 Q And that's with TSA?
 4 **A Mm-hm.**
 5 Q And then there's someone else as well;
 6 right? There's --
 7 **A The legal -- Office of Chief Counsel.**
 8 Q Legal Office --
 9 **A The Office of Chief Counsel.**
 10 Q Oh. Office of Chief Counsel. TSA?
 11 **A Mm-hm.**
 12 Q What is the basis of your testimony that
 13 the individuals in the Office of Intelligence
 14 Analysis [sic] and the legal Office of Chief
 15 Counsel have access to the underlying derogatory
 16 information that was the basis of a U.S. person's
 17 nomination to the No Fly List?
 18 MS. POWELL: I'm going to object again as
 19 to scope. She's only testifying on behalf of DHS
 20 TRIP.
 21 MR. ABBAS: I'm asking what the basis of
 22 her -- in her branch is.

Conducted on December 20, 2017

177

1 THE WITNESS: In coordinating with the
 2 staff of the two offices that you named, they
 3 would describe, or talk about, the type of
 4 materials that they reviewed. So I would say that
 5 that would be the basis.
 6 BY MR. ABBAS:
 7 Q So they've described to you the types of
 8 material that they've reviewed --
 9 **A Mm-hm.**
 10 Q -- as part of the revised DHS TRIP
 11 process; correct?
 12 **A Yes. And they -- with regard to the**
 13 **Office of Intelligence and Analysis, I would be**
 14 **shown the assessment that they've done.**
 15 Q And the -- when you say you'd be shown the
 16 assessment that they've done, like, what does that
 17 assessment look like?
 18 **A It's a written report --**
 19 MS. POWELL: I'm going to -- hang on just
 20 a second.
 21 I'm going to instruct her not to answer as
 22 to anything SSI, anything that is classified in

178

1 those reports, and to not describe the internal
 2 deliberations of the agency.
 3 If you can describe generally what their
 4 role is, in your knowledge, that's fine, but not
 5 the sort of specific advice, opinions, and
 6 information that they provide as part of that.
 7 BY MR. ABBAS:
 8 Q Yeah. And I'm asking even more general.
 9 Is it, like, an e-mail? Is it a document
 10 that you have to go to a special room and look at?
 11 What is the assessment? How is it conveyed to
 12 you?
 13 **A It's a document.**
 14 Q Is it e-mailed to you?
 15 **A No. It would be shown to me in a secure**
 16 **facility.**
 17 Q Are -- is it your obligation to review
 18 their assessment for each and every DHS TRIP
 19 complaint that regards a U.S. person on the No Fly
 20 List?
 21 MS. POWELL: Objection. Vague.
 22 THE WITNESS: As the director, it's my

179

1 role to review the information -- all the
 2 information about a case so that I'm fully aware
 3 of the specifics of the case so that when we
 4 present the information for a decision to the
 5 administrator, I'm able to understand the
 6 specifics of the case.
 7 BY MR. ABBAS:
 8 Q When you present the decision to who? The
 9 administrator?
 10 **A TSA administrator.**
 11 Q Okay. So you have to actually present
 12 your decision regarding a No Fly-listed U.S.
 13 person to the administrator of TSA? What's his
 14 name?
 15 MS. POWELL: Objection. Misleading.
 16 Q Peter? What's the guy's name? Peter? No
 17 one knows the TSA --
 18 **A It was Peter Neffenger.**
 19 Q Okay.
 20 **A It's now Admiral Pecoske.**
 21 Q Got it. Okay.
 22 **A I do not present a recommend -- a**

180

1 **decision. I present the Terrorist Screening**
 2 **Center's recommendation to the administrator, who**
 3 **makes the decision about the final status of the**
 4 **person on the -- the U.S. person on the No Fly**
 5 **List.**
 6 Q Okay.
 7 So the Office of Intelligence and Analysis
 8 and the Office of the Chief Counsel make an
 9 assessment reviewing the underlying derogatory
 10 information of the unclassified summary that TSC
 11 provides; correct?
 12 **A Yes.**
 13 Q And that goes to the U.S. person on the No
 14 Fly List that's asked for additional information
 15 as a part of the revised DHS TRIP process?
 16 MS. POWELL: Objection. Misleading.
 17 THE WITNESS: The -- in cases where there
 18 are no law enforcement or national security
 19 concerns, and we can present an unclassified
 20 summary, it's the unclassified summary and the
 21 relevant No Fly criterion that go to the
 22 applicant.

Conducted on December 20, 2017

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| <p>181</p> <p>1 The process I was describing about</p> <p>2 presenting the information to the administrator is</p> <p>3 in the third phase, once the applicant has</p> <p>4 indicate -- has said that he or she would like</p> <p>5 further consideration and has submitted any</p> <p>6 additional materials for our consideration.</p> <p>7 That's the third phase, when we present it to the</p> <p>8 administrator.</p> <p>9 BY MR. ABBAS:</p> <p>10 Q But it's not your decision. It's the TSA</p> <p>11 administrator's decision about whether someone is</p> <p>12 removed from the No Fly List or not; correct?</p> <p>13 A Correct.</p> <p>14 Q And you -- DHS TRIP's role is to take the</p> <p>15 recommendation that TSC makes and give it to the</p> <p>16 TSA administrator?</p> <p>17 MS. POWELL: Objection. Misleading and</p> <p>18 asked and answered.</p> <p>19 THE WITNESS: I would describe our role as</p> <p>20 ensuring that all parties that have equities have</p> <p>21 had an opportunity to review the unclassified</p> <p>22 summary, where appropriate, and where there is an</p> | <p>183</p> <p>1 Q So each application for redress submitted</p> <p>2 by a U.S. person on the No Fly List, if pursued</p> <p>3 through each phase, leads to you having a meeting</p> <p>4 with the TSA administrator about what the outcome</p> <p>5 of the redress process will be?</p> <p>6 A If someone meeting all those criterias</p> <p>7 goes through all the phases, the final phase is</p> <p>8 myself, along with the assistant administrator</p> <p>9 from the Office of Intelligence and Analysis, the</p> <p>10 Office of Civil Rights and Civil Liberties, and</p> <p>11 the Chief Counsel presenting the information to</p> <p>12 the administrator, who makes a decision about that</p> <p>13 case, whether or not that person should be --</p> <p>14 remain or be removed from the No Fly List.</p> <p>15 Q So you schedule meetings with the TSA</p> <p>16 administrator as these types of complaints arise?</p> <p>17 A Yes.</p> <p>18 Q How many meetings have -- do you -- is it</p> <p>19 one case per meeting?</p> <p>20 A It can be multiple cases. It depends.</p> <p>21 Q So sometimes it's multiple. Has it been</p> <p>22 just one, on occasion?</p> |
| <p>182</p> <p>1 unclassified summary, to review the letter that</p> <p>2 would be sent to the applicant, to -- and review,</p> <p>3 before it goes to the administrator, if the</p> <p>4 applicant has submitted any additional materials</p> <p>5 for consideration, that as well.</p> <p>6 All of that information, any concerns that</p> <p>7 have been raised by the legal office or by the</p> <p>8 intelligence experts have been addressed, make</p> <p>9 sure all of those -- make sure all those ducks are</p> <p>10 in a row, and present the package to the</p> <p>11 administrator for consideration.</p> <p>12 BY MR. ABBAS:</p> <p>13 Q And the administrator informs you of his</p> <p>14 decision as to whether a U.S. person on the No Fly</p> <p>15 List who's applied for redress is removed from the</p> <p>16 No Fly List?</p> <p>17 A The administrator signs the letter that</p> <p>18 will go -- signs a final order, TSA final order,</p> <p>19 and also signs a letter that will go to the</p> <p>20 applicant that indicates his decision, informs us</p> <p>21 in the meeting, but also signs these letters so</p> <p>22 that it can be communicated to the applicant.</p> | <p>184</p> <p>1 A No.</p> <p>2 Q So it's -- your recollection is that the</p> <p>3 TSA administrator, when meeting with you to decide</p> <p>4 the outcome of DHS TRIP processes submitted by</p> <p>5 U.S. persons on the No Fly List, there's never</p> <p>6 been a meeting where it's just been about one</p> <p>7 case? It's always been about multiple cases?</p> <p>8 A Generally, we're balancing two things:</p> <p>9 The administrator's time and a need to get back to</p> <p>10 the applicant timely. So we have to balance those</p> <p>11 things in terms of scheduling.</p> <p>12 Q Sure.</p> <p>13 MS. POWELL: I confess to a need to use</p> <p>14 the bathroom.</p> <p>15 MR. ABBAS: Yep. That's great.</p> <p>16 MS. POWELL: Can we take a break?</p> <p>17 MR. ABBAS: Yeah. Definitely.</p> <p>18 THE VIDEOGRAPHER: We're going off the</p> <p>19 record. The time is 2:56.</p> <p>20 (Whereupon a recess was taken.)</p> <p>21 THE VIDEOGRAPHER: We're back on the</p> <p>22 record. The time is 3:11.</p> |

Conducted on December 20, 2017

185

1 MS. POWELL: Dr. Moore would like to
 2 elaborate on a previous answer.
 3 MR. ABBAS: Yeah. Sure.
 4 MS. POWELL: We think there's currently
 5 possibly some confusion in the record about the
 6 difference between phase two and three.
 7 MR. ABBAS: Sure.
 8 MS. POWELL: And I think she has some
 9 further explanation.
 10 THE WITNESS: Yeah. And I apologize for
 11 making it confusing.
 12 MR. ABBAS: Nope.
 13 THE WITNESS: So phase one I described,
 14 sending out the letter indicating the person's
 15 been asked for more information.
 16 Phase two, when the person has asked for
 17 more information, we task TSC to develop -- to
 18 determine if they can develop an unclassified
 19 summary if law enforcement and national security
 20 concerns don't prevent it.
 21 They also develop a classified -- a memo
 22 of classified information that they provide to us

186

1 as well, and we consider that against the
 2 unclassified summary, when there is one, to ensure
 3 that it's complete and the unclassified summary
 4 provides the person sufficient opportunity -- or
 5 information that they can respond to.
 6 And that -- both of those pieces, the
 7 unclassified, when there is one, and the
 8 classified memo, are shared with the agencies that
 9 are relevant agencies that have a role. If CBP is
 10 -- for example has a role in this case, or the
 11 other screening and intelligence agencies, then
 12 they determine if -- they give us feedback if they
 13 think that the unclassified memo is -- has enough
 14 information that the applicant can provide -- can
 15 reasonably respond.
 16 Then after that, once it's cleared, we
 17 send that in the letter, the second phase letter,
 18 the unclassified summary, when applicable, and the
 19 criterion, and --
 20 BY MR. ABBAS:
 21 Q And the criterion goes out always; right?
 22 A Correct.

187

1 Q Okay.
 2 A And then we indicate to the applicant with
 3 -- and the other important piece in the second
 4 letter is we indicate to the applicant that he or
 5 she can supply the additional information, in a
 6 sense, rebutting anything that they say -- if
 7 there's an unclassified -- Providing background or
 8 whenever they intend to apply.
 9 Then if we receive that, we give that also
 10 to TSC. If that -- if it moves to that phase,
 11 then TSC receives, can -- considers that
 12 information, incorporates, as relevant, into a
 13 revised memo, classified memo, that gets put
 14 before the administrator. That's the piece -- the
 15 administrator will see that to make a
 16 determination.
 17 Q So the end of phase two is the letter that
 18 contains perhaps an unclassified summary, if it's
 19 not otherwise privileged, and the criteria used as
 20 the basis for No Fly List placement.
 21 And then phase three is?
 22 A I would add to the letter in phase two, it

188

1 also includes the instructions that the person can
 2 supply more information.
 3 Q Yeah. Okay.
 4 A And then that begins the phase three,
 5 wherein the administrator -- we work with -- this
 6 is where DHS TRIP works with our intel office and
 7 legal to make sure that everything is -- all
 8 questions have been answered and that the
 9 classified memo is complete and contains what it
 10 needs to contain so the administrator can make an
 11 informed decision.
 12 Then --
 13 Q Got it. So -- I'm sorry. Go ahead.
 14 A And then we present that to the
 15 administrator for his decision.
 16 Q Sure. So the Office of Intelligence and
 17 Analysis and the Office of Chief Counsel come into
 18 play in phase three?
 19 A Yes.
 20 Q Got it. Okay. Makes sense.
 21 A I apologize for that confusion.
 22 Q It's a confusing process, so, you know, so

Conducted on December 20, 2017

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| 189 | 191 |
| <p>1 it's -- you're doing great.</p> <p>2 The classified summary is typically how</p> <p>3 long? Like, how many pages is the classified</p> <p>4 summary?</p> <p>5 MS. POWELL: Objection. We're not going</p> <p>6 to characterize classified documents.</p> <p>7 MR. ABBAS: It's the length. Is it two</p> <p>8 sentences? Is it 10 pages? That's not --</p> <p>9 MS. POWELL: I don't --</p> <p>10 MR. ABBAS: The length of the document,</p> <p>11 that's not classified.</p> <p>12 MS. POWELL: It could be, in any</p> <p>13 particular case.</p> <p>14 MR. ABBAS: Are you asserting a privilege</p> <p>15 over the length of the -- the typical length of</p> <p>16 the classified summary?</p> <p>17 MS. POWELL: Yes, I am. I'm asserting</p> <p>18 deliberative process privilege and potentially the</p> <p>19 state secrets privilege.</p> <p>20 MR. ABBAS: How is it deliberative process</p> <p>21 privilege if it's information that's going to the</p> <p>22 decision maker to make the decision?</p> | <p>1 Q Can you spell that for me?</p> <p>2 A P-E-K-O-S-K-E.</p> <p>3 Q O-S-K-E, Pekoske.</p> <p>4 How many times have you met with</p> <p>5 Administrator Pekoske about U.S. persons on the No</p> <p>6 Fly List in the last year?</p> <p>7 A I have yet to meet with Admiral Pekoske on</p> <p>8 persons on the No Fly List.</p> <p>9 Q Did you meet with -- how many times in the</p> <p>10 past year have you met with the TSA administrator</p> <p>11 regarding U.S. persons on the No Fly List?</p> <p>12 A I didn't -- I did not meet with the</p> <p>13 administrator -- with the TSA administrator on the</p> <p>14 U.S. person -- on the No Fly List U.S. persons.</p> <p>15 Q Has there been no decisions in the last</p> <p>16 year regarding a DHS TRIP complaint submitted by a</p> <p>17 U.S. person on the No Fly List in the past year?</p> <p>18 MS. POWELL: Objection as to scope and as</p> <p>19 to vagueness.</p> <p>20 THE WITNESS: That's correct.</p> <p>21 Q With regards to 2016, did you meet with</p> <p>22 the TSA administrator with regards to a DHS TRIP</p> |
| 190 | 192 |
| <p>1 MS. POWELL: It could be a recommendation</p> <p>2 or opinion, but you're asking specifically about</p> <p>3 the length of it, which would also reflect</p> <p>4 classified information in any particular case.</p> <p>5 MR. ABBAS: All right. So I'm going to</p> <p>6 ask the question just to make sure that that's</p> <p>7 clear.</p> <p>8 Q What is the typical length of a classified</p> <p>9 summary that goes to the TSA administrator as a</p> <p>10 part of the revised DHS TRIP process for a U.S.</p> <p>11 person on the No Fly List?</p> <p>12 MS. POWELL: I think I'm going to instruct</p> <p>13 the witness not to answer.</p> <p>14 MR. ABBAS: On the basis of?</p> <p>15 MS. POWELL: Of privilege, deliberative</p> <p>16 process, and state secrets, potentially.</p> <p>17 MR. ABBAS: Great. Okay.</p> <p>18 Q How many times in the last year have you</p> <p>19 met with the TSA administrator -- what's his name?</p> <p>20 A Admiral Pekoske.</p> <p>21 Q Pekoske?</p> <p>22 A Yes.</p> | <p>1 complaint submitted by a U.S. person on the No Fly</p> <p>2 List?</p> <p>3 MS. POWELL: Objection as to scope and</p> <p>4 vagueness.</p> <p>5 THE WITNESS: I did not meet with the</p> <p>6 administrator in 2016 on a U.S. person on the No</p> <p>7 Fly List.</p> <p>8 BY MR. ABBAS:</p> <p>9 Q In 2015, did you meet with the TSA</p> <p>10 administrator in regards to a U.S. person on the</p> <p>11 No Fly List?</p> <p>12 MS. POWELL: Same objections.</p> <p>13 THE WITNESS: In -- I personally did not.</p> <p>14 I believe my supervisor stood in for me for the</p> <p>15 meetings regarding U.S. persons on the No Fly</p> <p>16 List. I believe it was in 2015.</p> <p>17 Q Have you ever been to a meeting with the</p> <p>18 TSA administrator in regards to a U.S. person on</p> <p>19 the No Fly List?</p> <p>20 A Yes.</p> <p>21 Q When were those meetings?</p> <p>22 A Those meetings would be prior to the</p> |

Conducted on December 20, 2017

193

1 implementation of the new process for the
2 enhanced -- for the U.S. persons on the No Fly
3 List.
 4 Q So in 2013, did you meet with the TSA
 5 administrator in regards to a U.S. person on the
 6 No Fly List?
7 A I believe I did.
 8 Q And in 2014 as well?
9 A I would have to double check the dates,
10 but I believe so, on the first part. I'm not
11 exactly sure of the dates.
 12 Q How many times have you met with -- well,
 13 all right. Let's go -- before the DHS TRIP
 14 revisions, what -- why were you meeting with the
 15 TSA administrator in regards to a DHS TRIP
 16 complaint submitted by a U.S. person on the No Fly
 17 List?
 18 MS. POWELL: Objection.
 19 To the extent it goes to internal
 20 deliberations and opinions or advice that you were
 21 giving or a part of, I direct you not to disclose
 22 any confidential communications in that regard.

194

1 If you can describe the general subject of a
 2 meeting without that, you can.
 3 THE WITNESS: Because the administrator is
 4 the ultimate authority of persons on the No Fly
 5 List, I did meet with the administrator regarding
 6 cases that had gone through the entire DHS TRIP
 7 process, persons that were on the No Fly List.
 8 BY MR. ABBAS:
 9 Q Even before the DHS TRIP revisions?
10 A Yes.
 11 Q But after the DHS TRIP revisions you had
 12 not met with the TSA administrator in regards to a
 13 DHS TRIP complaint submitted by a U.S. person on
 14 the No Fly List; correct?
15 A That's --
 16 MS. POWELL: Objection. Asked and
 17 answered.
 18 THE WITNESS: That's correct.
 19 Q So have -- I mean, I know the answer to
 20 this already.
 21 Has -- have U.S. persons on the No Fly
 22 List submitted DHS TRIP complaints in 2017?

195

1 A Yes.
 2 Q And has TSC issued recommendations
 3 regarding whether a U.S. person on the No Fly List
 4 should remain on the No Fly List in 2017?
5 A Yes.
 6 Q And has the TSA administrator made
 7 determinations regarding a DHS TRIP complaint
 8 submitted by a U.S. person on the No Fly List in
 9 the last year?
10 A No.
 11 Q In 2016, has -- why hasn't the TSA
 12 administrator made any decisions regarding the DHS
 13 TRIP complaints of U.S. persons on the No Fly List
 14 in the last year?
 15 MS. POWELL: I'm going to object and
 16 instruct the witness not to answer as to ongoing
 17 deliberations or any specific advice,
 18 recommendations, or such.
 19 THE WITNESS: Generally, I would say that
 20 because it is a new process, and a complex new
 21 process, as we've discussed, it has taken a --
 22 some time to determine all of the appropriate

196

1 steps to make sure we're doing things carefully.
 2 BY MR. ABBAS:
 3 Q Are you responsible for preparing the
 4 package of materials that the TSA administrator
 5 reviews when he makes a decision regarding a U.S.
 6 person's DHS TRIP complaint about the No Fly List?
7 A I'm -- my office -- yes. I'm responsible
8 for preparing the package, making sure the package
9 is correct.
 10 Q Is there a template for the packages that
 11 you provide the TSA administrator?
12 A Template per se, no. I don't think
13 there's a template. We provide a letter -- a memo
14 to the administrator.
 15 Q Is there a standardized memo or a template
 16 memo that you instruct your subordinates to
 17 utilize in compiling the package that goes to the
 18 TSA administrator for U.S. persons' DHS TRIP
 19 complaints on the No Fly List?
 20 MS. POWELL: Objection. Asked and
 21 answered.
 22 THE WITNESS: There's a template memo in

Conducted on December 20, 2017

197

1 the sense that all memos in DHS and TSA are
 2 template-driven, and so I would say yes.
 3 BY MR. ABBAS:
 4 Q So there's a template that's not
 5 person-specific that you instruct your
 6 subordinates to rely upon in crafting this memo
 7 that goes to the TSA administrator to make a
 8 determination regarding DHS TRIP complaints
 9 submitted by U.S. persons on the No Fly List?
 10 MS. POWELL: Objection. Vague and asked
 11 and answered.
 12 THE WITNESS: We follow the format of the
 13 memo template that's used to communicate with the
 14 administrator.
 15 Q Is that template -- does that template
 16 contain information that's specific to any person,
 17 or is it a generalized outline of what you want in
 18 the memo?
 19 **A Generalized outline.**
 20 Q Okay.
 21 Mississippi.
 22 Do you have, you know, like, a Templates

198

1 folder that all of your subordinates have access
 2 to with the templates that you expect your
 3 subordinates to utilize throughout the DHS TRIP
 4 process?
 5 **A Not one single folder. I mean, those**
 6 **subordinates who need to prepare a template have**
 7 **access to the templates that they need.**
 8 Q Okay. And they're located in places that
 9 are accessible to all analysts -- or all of your
 10 subordinates?
 11 MS. POWELL: Objection. Vague and
 12 misleading.
 13 THE WITNESS: I believe some of the
 14 templates are not accessible to all of the -- not
 15 all of the templates are stored in a place that's
 16 accessible by all of the subordinates.
 17 Q Where are some of those restricted-access
 18 templates stored?
 19 **A I believe the enhanced redress and appeals**
 20 **manager keeps some of the templates for use by**
 21 **those just who need them, not for all of the**
 22 **staff. I'm --**

199

1 Q And how --
 2 **A -- not 100 percent sure about that.**
 3 Q I apologize for interrupting you.
 4 And so some templates, you believe, have
 5 restricted access? Are they restricted access or
 6 are they just on his desktop?
 7 MS. POWELL: Objection. Vague and
 8 compound.
 9 THE WITNESS: I believe that the manager
 10 manages those templates on her own electronic
 11 storage in her own -- I'm not positive, though.
 12 She may have a folder on the shared drive.
 13 Q What is your -- how many templates would
 14 you estimate that your subordinates utilize to
 15 administer the DHS TRIP process?
 16 MS. POWELL: Objection. Vague.
 17 THE WITNESS: All of the templates?
 18 Q Yes.
 19 **A I -- including all of the different**
 20 **templates we use, it would be difficult to**
 21 **estimate. But it -- at least a hundred.**
 22 Q Would it be difficult for DHS TRIP to

200

1 provide those templates to your attorneys?
 2 **A Would it be difficult?**
 3 Q Yes.
 4 MS. POWELL: Objection as to vague, but
 5 you can answer, if you like.
 6 THE WITNESS: It would not be logistically
 7 difficult to supply them to the attorneys.
 8 Q Okay. Great.
 9 Mississippi.
 10 Do the contractors have access to the
 11 templates?
 12 **A I don't believe so, but I would need to**
 13 **verify.**
 14 Q Do the contractors have their own
 15 templates that they use during the intake process?
 16 **A No.**
 17 Q Okay.
 18 **A I take that back. They would have access**
 19 **to the letters that they might be queueing to**
 20 **send. So in that sense, templates such as the**
 21 **out-of-scope letter or the**
 22 **request-for-more-information letter, that type of**

Conducted on December 20, 2017

201

1 thing, they would have access to those within the
2 RMS system.
 3 Q How many times would you estimate that the
 4 Terrorist Screening Center has issued a
 5 recommendation regarding whether a person on the
 6 No Fly List should be removed from the No Fly
 7 List?
 8 MS. POWELL: Objection. Well, as to
 9 vagueness.
 10 If you can answer without revealing
 11 privileged information, please do, but I don't
 12 know that you can.
 13 THE WITNESS: I can't answer. I don't
 14 know.
 15 MS. POWELL: That makes it easier.
 16 THE WITNESS: Yes. Sorry.
 17 Q Well, I'm going to ask it in a different
 18 way.
 19 So I'm -- so how many times has TSC issued
 20 a recommendation regarding a DHS TRIP complaint?
21 A I don't know that number.
 22 Q What is your estimate of how many times

202

1 TSC has issued a recommendation about what should
 2 happen with a DHS TRIP complaint?
 3 MS. POWELL: Objection. Calls for
 4 speculation.
 5 Q I am absolutely calling for speculation,
 6 yes. That's what I'm doing, yes?
7 A I'm not comfortable speculating.
 8 Q I'm asking you to speculate. So
 9 speculate.
10 A It would be a wild guess, and I don't want
11 to guess.
 12 Q Is it more than a hundred recommendations?
13 A I don't know.
 14 Q Is it more than a thousand?
15 A DHS has been in existence since longer
16 than I've been its director, so there's really no
17 way that I can -- without investigating, I --
 18 Q That's a very fair point, so let's take it
 19 year-by-year.
 20 In 2017, how many times would you estimate
 21 TSC has issued a recommendation regarding a U.S.
 22 person on the No Fly List's DHS TRIP complaint?

203

1 MS. POWELL: Objection. Still calls for
 2 speculation and asked and answered. She said she
 3 doesn't know.
 4 MR. ABBAS: It's -- this is a different
 5 question.
 6 THE WITNESS: I'm still speculating. I'm
 7 only guessing. Because of the limited scope, it's
 8 easier to --
 9 BY MR. ABBAS:
 10 Q Yep.
11 A -- provide an estimate.
12 In 2017, the number of times TSC has
13 provided a recommendation regarding the placement
14 of a U.S. person on the No Fly List, I would
15 estimate, to be lower than 10.
 16 Q Has -- and the TSA administrator has acted
 17 on none of those recommendations in 2017; is that
 18 correct?
 19 MS. POWELL: Objection. Misleading.
 20 THE WITNESS: The administrator has not
 21 yet had the opportunity to act on those
 22 recommendations.

204

1 BY MR. ABBAS:
 2 Q Were any of those recommendations that TSA
 3 made regarding U.S. persons on the No Fly List
 4 were made in the first quarter of 2017? January,
 5 February, or March?
 6 MS. POWELL: Objection. Misleading,
 7 but --
 8 THE WITNESS: I don't know.
 9 Q Were any of the recommendations that TSA
 10 made regarding U.S. persons on the No Fly List's
 11 DHS TRIP complaints made in the first half of
 12 2017?
 13 MS. POWELL: Same objections.
 14 THE WITNESS: I can't say for sure.
 15 Q So you have no idea at all when the TSA --
 16 TSC has made recommendations regarding U.S.
 17 persons on the No Fly List?
 18 MS. POWELL: Objection. Asked and
 19 answered.
 20 THE WITNESS: I've answered.
 21 Q Can you just read my question back?
 22 You didn't answer that question.

Conducted on December 20, 2017

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| 205 | <p>1 (Whereupon the record was read.)</p> <p>2 MS. POWELL: Same objection. She's</p> <p>3 answered.</p> <p>4 THE WITNESS: I've answered.</p> <p>5 BY MR. ABBAS:</p> <p>6 Q What's the answer to that question?</p> <p>7 A That I don't know.</p> <p>8 Q Okay. Great.</p> <p>9 Of the recommendations that TSC made in</p> <p>10 2017, how many recommendations were made to remove</p> <p>11 a person from the No Fly List?</p> <p>12 MS. POWELL: Objection. Calls for</p> <p>13 privileged information. I'm going to direct the</p> <p>14 witness not to answer.</p> <p>15 MR. ABBAS: What's the privilege?</p> <p>16 MS. POWELL: Deliberative process,</p> <p>17 potentially SSI, and law enforcement privilege.</p> <p>18 MR. ABBAS: So is the deliberative process</p> <p>19 privilege, is it your position that the</p> <p>20 recommendation that TSC makes are privileged?</p> <p>21 MS. POWELL: They certainly can -- well,</p> <p>22 certainly the recommendations themselves are, yes.</p> | 207 | <p>1 recommendations to remove a person from the No Fly</p> <p>2 List?</p> <p>3 MS. POWELL: And I'm instructing the</p> <p>4 witness not to answer on the grounds of</p> <p>5 privileges.</p> <p>6 MR. ABBAS: What privileges?</p> <p>7 MS. POWELL: SSI, law enforcement</p> <p>8 privilege, and the deliberative process privilege.</p> <p>9 MR. ABBAS: So you're using SSI privilege</p> <p>10 to cover a Terrorist Screening Center</p> <p>11 recommendation?</p> <p>12 MS. POWELL: In context.</p> <p>13 MR. ABBAS: I don't think that SSI applies</p> <p>14 to Terrorist Screening Center.</p> <p>15 MS. POWELL: SSI is a category of</p> <p>16 information that is --</p> <p>17 MR. ABBAS: That's TSA-specific. So --</p> <p>18 that's fine.</p> <p>19 Q Has the -- have you ever -- do you --</p> <p>20 does -- has the TSA administrator ever not</p> <p>21 followed TSC's recommendation with regards to a</p> <p>22 person on the No Fly List's DHS TRIP complaint?</p> |
| 206 | <p>1 But --</p> <p>2 MR. ABBAS: And even --</p> <p>3 MS. POWELL: -- certain --</p> <p>4 MR. ABBAS: Go ahead.</p> <p>5 MS. POWELL: Particularly given the</p> <p>6 numbers we're talking about here, giving numbers</p> <p>7 of those denied would give substantial</p> <p>8 information.</p> <p>9 MR. ABBAS: In what manner would they give</p> <p>10 substantial information?</p> <p>11 MS. POWELL: We can talk about this later.</p> <p>12 I'm instructing the witness not to answer.</p> <p>13 MR. ABBAS: That's fine. I'm just trying</p> <p>14 to hash this out now so we don't have to bring</p> <p>15 Dr. Moore back.</p> <p>16 MS. POWELL: We are asserting privilege</p> <p>17 over that number.</p> <p>18 MR. ABBAS: All right. So I'm going to</p> <p>19 ask it again, just to make sure that we have all</p> <p>20 the privileges that you're asserting.</p> <p>21 Q Of the recommendations that Terrorist</p> <p>22 Screening Center has made in 2017, how many were</p> | 208 | <p>1 MS. POWELL: Same objections and same</p> <p>2 instruction, I think.</p> <p>3 MR. ABBAS: What is the privilege that</p> <p>4 you're asserting over whether the TSA</p> <p>5 administrator has followed the recommendations of</p> <p>6 Terrorist Screening Center?</p> <p>7 MS. POWELL: Well, certainly the</p> <p>8 deliberative process privilege, but potentially</p> <p>9 covers SSI and law enforcement-privileged</p> <p>10 information as well, at least in conjunction with</p> <p>11 other publicly-available information.</p> <p>12 BY MR. ABBAS:</p> <p>13 Q Did -- are you aware of the TSA</p> <p>14 administrator making any determinations regarding</p> <p>15 a U.S. person's status on the No Fly List in 2016?</p> <p>16 A I don't think so.</p> <p>17 Q So in 2016 and 2017, you don't believe</p> <p>18 that the TSA administrator has made any</p> <p>19 determinations regarding a U.S. person's DHS TRIP</p> <p>20 complaint regarding the No Fly List?</p> <p>21 A That's correct.</p> <p>22 Q I mean -- okay.</p> |

Conducted on December 20, 2017

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| 209 | <p>1 Why? Why is it that in the last two</p> <p>2 years, the TSA administrator has not made any</p> <p>3 determinations regarding a U.S. person's DHS TRIP</p> <p>4 complaint regarding the No Fly List?</p> <p>5 MS. POWELL: Objection. Asked and</p> <p>6 answered. And also, I'm going to instruct the</p> <p>7 witness, in part, not to answer as to any ongoing</p> <p>8 deliberative processes or specific opinions,</p> <p>9 advice, or recommendations.</p> <p>10 To the extent you can answer generally, as</p> <p>11 you did previously to this same question, you may</p> <p>12 give that answer again.</p> <p>13 THE WITNESS: I would refer back to my</p> <p>14 previous answer.</p> <p>15 BY MR. ABBAS:</p> <p>16 Q What is your previous answer? What -- I'm</p> <p>17 sorry. What previous answer are you referring</p> <p>18 back to?</p> <p>19 A The response I gave regarding as to why</p> <p>20 the administrator hasn't made a decision during</p> <p>21 that time period about a U.S. person on the No Fly</p> <p>22 List.</p> | 211 | <p>1 remember asking it with regards to 2016/2017. I</p> <p>2 apologize if I have asked it previously.</p> <p>3 Why is it that the administrator has not</p> <p>4 made a decision with regards to a U.S. person on</p> <p>5 the No Fly List's DHS TRIP complaint in 2016 and</p> <p>6 2017?</p> <p>7 MS. POWELL: Same objection and</p> <p>8 instruction, but your answer's yours.</p> <p>9 THE WITNESS: The administrator has not</p> <p>10 had the opportunity, during that time period, to</p> <p>11 make a decision. Generally, because the</p> <p>12 process -- this is a complex process that involves</p> <p>13 working with multiple agencies, and as we work out</p> <p>14 its implementation, it has taken longer than we</p> <p>15 might have wanted it to take.</p> <p>16 Q Is there, in your RMS -- what does the RMS</p> <p>17 stand for again?</p> <p>18 A Redress Management System.</p> <p>19 Q In the Redress Management System, is there</p> <p>20 a way to notate DHS TRIP complaints submitted by</p> <p>21 persons that have filed lawsuits against the</p> <p>22 Federal Government?</p> |
| 210 | <p>1 Q And I don't know what that answer -- what</p> <p>2 is that answer?</p> <p>3 MS. POWELL: It's on the record.</p> <p>4 MR. ABBAS: I'm asking her again. Asked</p> <p>5 and answered is not a basis -- I don't -- I</p> <p>6 actually don't honestly remember what her answer</p> <p>7 is, so I'm wondering what her answer -- I don't</p> <p>8 remember asking this specific question about 2016</p> <p>9 and 2017, so I'm not trying to be difficult.</p> <p>10 MS. POWELL: I'm not instructing her not</p> <p>11 to answer.</p> <p>12 MR. ABBAS: Okay.</p> <p>13 MS. POWELL: I am preserving the</p> <p>14 objection. You don't get to keep asking in order</p> <p>15 to get a different answer. So I think her second</p> <p>16 answer was proper, too, which is what she just</p> <p>17 said.</p> <p>18 MR. ABBAS: Sure.</p> <p>19 Q So I'm going to ask you again, and if it's</p> <p>20 an answer you've already given, just -- I'm asking</p> <p>21 for the same answer. You know, I'm not asking you</p> <p>22 for a different answer, just -- but I don't</p> | 212 | <p>1 A No. Not specifically by persons who have</p> <p>2 filed any federal lawsuit. If we are aware of</p> <p>3 someone who has legal representation, we have</p> <p>4 that, per the submission of the 590.</p> <p>5 If someone is -- I believe if someone is</p> <p>6 in ongoing litigation, we can notate that.</p> <p>7 Q Is it DHS TRIP's practice to notate which</p> <p>8 DHS TRIP complainants are engaged in litigation</p> <p>9 against the Federal Government regarding their</p> <p>10 Watchlist status?</p> <p>11 MS. POWELL: Objection. Vague.</p> <p>12 THE WITNESS: Not specifically regarding</p> <p>13 their Watchlist status, no.</p> <p>14 Q Is it DHS TRIP's practice to notate in its</p> <p>15 records whether DHS TRIP complainants are engaged</p> <p>16 in litigation against the Federal Government?</p> <p>17 A Yes. We -- if we are aware that an</p> <p>18 applicant has ongoing litigation, we make a note</p> <p>19 of that so that the analysts understand that</p> <p>20 communication with the applicant could be</p> <p>21 something that the legal staff would need to be</p> <p>22 aware of.</p> |

Conducted on December 20, 2017

213

1 MR. ABBAS: Can you read back her answer?
 2 I'm sorry. I drifted.
 3 (Whereupon the record was read.)
 4 MR. ABBAS: I need five minutes. I'm very
 5 confused. I need five minutes.
 6 THE VIDEOGRAPHER: We're going off the
 7 record.
 8 MR. ABBAS: Yes, let's go off the record.
 9 THE VIDEOGRAPHER: The time is 3:42.
 10 (Whereupon a recess was taken.)
 11 THE VIDEOGRAPHER: We're back on the
 12 record. The time is 3:54.
 13 (Whereupon the record was read.)
 14 MR. ABBAS: And her answer was?
 15 (Whereupon the record was read.)
 16 MS. POWELL: The content of any
 17 consultation with legal staff is obviously going
 18 to be privileged.
 19 MR. ABBAS: Yeah, and I'm not going to
 20 ask. Not even going to ask. Yep.
 21 MS. POWELL: Yep.
 22 BY MR. ABBAS:

214

1 Q In 2015, did DHS TRIP, either through you
 2 or anyone else in your branch, meet with the TSA
 3 administrator in regards to a DHS TRIP complaint
 4 submitted by a U.S. person on the No Fly List?
 5 **A Yes.**
 6 Q How many times in 2015 did you, or someone
 7 in your office, meet with the TSA administrator in
 8 regards to a DHS TRIP complaint submitted by a
 9 U.S. person on the No Fly List?
 10 **A I believe six times.**
 11 Q In 2015, for those six meetings, did the
 12 TSA administrator make decisions regarding those
 13 six DHS TRIP complaints?
 14 **A Yes.**
 15 And I should clarify: I don't know if
 16 they were six separate meetings, or if they were
 17 one meeting dealing with six cases. I know there
 18 were six cases. I don't know how many meetings.
 19 Q Okay. But he made decisions regarding all
 20 six DHS TRIP complaints submitted by U.S. persons
 21 on the No Fly List in 2015?
 22 **A Yes.**

215

1 Q Were those decisions to remove people from
 2 the No Fly List?
 3 **A No.**
 4 Q So in 2015, the TSA administrator made
 5 decisions regarding six U.S. persons who had
 6 submitted DHS TRIP complaints for being on the No
 7 Fly List and did not remove any of those people
 8 from the No Fly List; correct?
 9 **A Correct.**
 10 Q Has the -- since the 2014 revisions to DHS
 11 TRIP, has the TSA administrator ever made a
 12 decision to remove a U.S. person from the No Fly
 13 List?
 14 **A No.**
 15 Q Yeah. Okay.
 16 In 2014, did you, or anyone else at DHS
 17 TRIP, meet with the TSA administrator regarding a
 18 DHS TRIP complaint submitted by a U.S. person on
 19 the No Fly List?
 20 **A I don't believe so.**
 21 Q Prior to the DHS TRIP revisions in 2014,
 22 did the TSA administrator make decisions about

216

1 whether a person would be removed from the No Fly
 2 List in response to their DHS TRIP complaint?
 3 **A Yes.**
 4 Q Prior to the DHS TRIP revisions, are you
 5 aware of any decision that a TSA administrator
 6 made to remove a person from the No Fly List in
 7 response to a DHS TRIP complaint?
 8 MS. POWELL: Objection. Vague.
 9 THE WITNESS: Can you repeat your
 10 question?
 11 MR. ABBAS: Yeah.
 12 Read it back?
 13 (Whereupon the record was read.)
 14 THE WITNESS: No. No.
 15 Q Okay. Let's talk about the Selectee List
 16 now.
 17 Are you aware -- does -- with regards to
 18 DHS TRIP complaints submitted by persons on the
 19 Selectee List, does the TSA administrator make a
 20 final determination about whether that person is
 21 removed from the Selectee List?
 22 **A No.**

Conducted on December 20, 2017

217

1 Q Does the TSA administrator play a role in
 2 determining the outcome of a DHS TRIP complaint
 3 filed by a U.S. person on the Selectee List?
 4 MS. POWELL: Objection as to vagueness.
 5 THE WITNESS: No.
 6 Q Okay.
 7 Has the TSA administrator ever, in the
 8 history of DHS TRIP, played a role in determining
 9 what happens to a DHS TRIP complaint submitted by
 10 a U.S. person on the Selectee List?
 11 MS. POWELL: Objection. Vague, compound,
 12 really broad.
 13 THE WITNESS: Could you make your question
 14 more specific as to what type of role and -- or
 15 what part of the process?
 16 Q I mean, it's really -- so, you know, I
 17 don't know -- you know, this is a question I don't
 18 know the answer to, which is, you know, why I'm
 19 asking it, so I really can't be more specific.
 20 What role, if any, has the TSA
 21 administrator ever played in determining what
 22 happens with DHS TRIP complaints submitted by U.S.

218

1 persons on the Selectee List?
 2 MS. POWELL: Object as to vagueness.
 3 THE WITNESS: Well, I'll have to answer in
 4 a general way.
 5 BY MR. ABBAS:
 6 Q Yep. Yeah.
 7 **A In that the administrator oversees the DHS**
 8 **TRIP program, as it's a TSA-administered program,**
 9 **So he's responsible for over -- making sure that**
 10 **it's done properly. In that sense, his role is to**
 11 **oversee.**
 12 Q Do you -- I'm sorry.
 13 Does -- okay.
 14 Let's just go all the way to the beginning
 15 of the DHS TRIP process for Selectee List people.
 16 What happens when a person on the Selectee
 17 List submits a DHS TRIP complaint?
 18 MS. POWELL: Objection. Vague.
 19 THE WITNESS: An application from someone
 20 on the Selectee List would be processed the
 21 same -- according to the same steps I outlined
 22 earlier: It would go through the various stages

219

1 of intake, triage, close out.
 2 BY MR. ABBAS:
 3 Q During the intake process, that's when the
 4 intake personnel determine whether they believe
 5 that the complaint is TSDB-related or not; is that
 6 correct?
 7 **A No.**
 8 MS. POWELL: Objection.
 9 THE WITNESS: Oh, sorry.
 10 MR. ABBAS: Okay.
 11 MS. POWELL: You got it.
 12 Q That happens during the second phase?
 13 **A Yes.**
 14 Q Okay. And we're -- that phase is called
 15 triage; correct?
 16 **A Correct.**
 17 Q Okay.
 18 So in -- during the first phase, every
 19 single DHS TRIP complaint is treated the exact
 20 same way?
 21 MS. POWELL: Objection. Misleading.
 22 THE WITNESS: They're treated the same way

220

1 up to point where they diverge in terms of
 2 handling.
 3 For example, an application that is
 4 determined to be missing application -- missing
 5 documents is treated differently than one that's
 6 out of scope than one that's complete. So up to
 7 the point where some decision is made about the
 8 application's status, yes.
 9 BY MR. ABBAS:
 10 Q But you're looking -- during the intake
 11 process, DHS TRIP is looking to determine whether
 12 the same requirements have been fulfilled by the
 13 DHS TRIP complainant; correct?
 14 MS. POWELL: Objection. Vague.
 15 THE WITNESS: All applications must meet
 16 the same set of requirements during that phase.
 17 Q Yeah. That's the -- yeah. That's what I
 18 was wondering.
 19 And then during triage, what happens when
 20 a -- I'm sorry.
 21 During triage, how does DHS personnel
 22 determine whether someone is on the Selectee List?

Conducted on December 20, 2017

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| <p style="text-align: right;">221</p> <p>1 MS. POWELL: Objection. Misleading, but 2 answer, if you can. 3 THE WITNESS: That information would come 4 from Secure Flight. 5 BY MR. ABBAS: 6 Q Once DHS personnel determine, via Secure 7 Flight, that a person is on the Selectee List, how 8 does that impact the way their DHS TRIP complaint 9 is handled? 10 MS. POWELL: Objection. Vague. 11 THE WITNESS: That informs how the -- just 12 as any other piece of information about an equity 13 informs how the application will be tasked. 14 Q Can you read back her answer one more 15 time? 16 (Whereupon the record was read.) 17 Q With regards to a person on the Selectee 18 List, is it a standard set of agencies that are 19 implicated by such a DHS TRIP complaint? 20 MS. POWELL: Objection. Vague. 21 THE WITNESS: Each application comes with 22 a different set of details and different</p> | <p style="text-align: right;">223</p> <p>1 MS. POWELL: Objection. Vague, but you 2 can answer, if you can. 3 THE WITNESS: We expect that TSC will 4 review the application in the same way that all of 5 the agencies review to a determine if the -- to 6 determine what close out changes need to be made 7 or what -- and what close out letter should their 8 -- they intend to recommend. 9 BY MR. ABBAS: 10 Q Who decides what close out letter to send 11 to U.S. persons who have filed DHS TRIP complaints 12 on the Selectee List? 13 MS. POWELL: Objection. Vague and 14 potentially compound. 15 THE WITNESS: The DHS TRIP analyst reviews 16 the -- all the analyses for a given case, 17 including TSC, if they've been tasked, and those 18 analyses come with a recommended close out letter. 19 The analyst with review all 20 recommendations -- all recommended close out 21 letters and determines the most appropriate 22 letter.</p> |
| <p style="text-align: right;">222</p> <p>1 requirements as to where the equities may -- where 2 the equities are and where they need -- which 3 drives where it needs to be tasked. 4 If Secure Flight has indicated to us that 5 an applicant is either a potential or confirmed 6 match to someone on the Selectee List, then the 7 application is, at a minimum, tasked to TSC. 8 Other equities may require it to be tasked to 9 other agencies as well. 10 BY MR. ABBAS: 11 Q So every Selectee List DHS TRIP complaint 12 will involve the Terrorist Screening Center and 13 may or may not involve additional agencies? Is 14 that what you mean by at a minimum? 15 A Yes. 16 Other equities may require to be tasked to 17 other agencies, but if we see that it's -- the 18 person is a possible or confirmed match, someone 19 on the Selectee, then it must go to the TSC. 20 Q When you -- when DHS TRIP refers a DHS 21 TRIP complaint to the Terrorist Screening Center, 22 what does DHS TRIP expect TSC to do?</p> | <p style="text-align: right;">224</p> <p>1 BY MR. ABBAS: 2 Q Do any of the close out letters regarding 3 U.S. persons on the Selectee Lists's DHS TRIP 4 complaints indicate whether the person is, in 5 fact, on the Selectee List? 6 MS. POWELL: I'm sorry. Could you repeat 7 that back? 8 Q Yeah. Let me say it again. 9 Do any of the close out letters that 10 regard the DHS TRIP complaint submitted by U.S. 11 persons on the Selectee List indicate whether the 12 complainant is or is not on the Selectee List? 13 MS. POWELL: Confusing, but you can 14 answer, if you can. 15 MR. ABBAS: Gosh, Amy. 16 THE WITNESS: Per U.S. government policy, 17 DHS can neither confirm nor deny placement on the 18 Selectee List. 19 Q Does TS -- does the recommendation that 20 TSC provides to DHS TRIP personnel confirm or deny 21 a person's status on the Selectee List? 22 MS. POWELL: Objection as to vagueness.</p> |

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| <p style="text-align: right;">225</p> <p>1 I take that as a no?</p> <p>2 Objection as to vagueness.</p> <p>3 MR. ABBAS: Yes.</p> <p>4 MS. POWELL: You can answer, to the extent</p> <p>5 you can without revealing things you know to be</p> <p>6 privileged.</p> <p>7 THE WITNESS: I would like to hear the</p> <p>8 question one more time.</p> <p>9 (Whereupon the record was read.)</p> <p>10 THE WITNESS: Yes.</p> <p>11 BY MR. ABBAS:</p> <p>12 Q Has the TSC ever recommended that a U.S.</p> <p>13 person who has submitted a DHS TRIP complaint, who</p> <p>14 was on the Selectee List, be removed from the</p> <p>15 Selectee List?</p> <p>16 MS. POWELL: Objection as to deliberative,</p> <p>17 if they've ever given a specific recommendation.</p> <p>18 I think I should instruct the witness not to</p> <p>19 answer.</p> <p>20 MR. ABBAS: On the basis of?</p> <p>21 MS. POWELL: Deliberative process</p> <p>22 privilege.</p> | <p style="text-align: right;">227</p> <p>1 THE COURT REPORTER: Are we going off the</p> <p>2 record? Sorry, Counsels, are we going off the</p> <p>3 record?</p> <p>4 MR. ABBAS: Do we need to?</p> <p>5 MS. POWELL: Do we?</p> <p>6 MS. GREENBAND: Yes. Amy and I need,</p> <p>7 like, 30 seconds.</p> <p>8 THE COURT REPORTER: Okay. The</p> <p>9 Videographer --</p> <p>10 MR. ABBAS: Hold on --</p> <p>11 THE VIDEOGRAPHER: We're going off the</p> <p>12 record at 4:14.</p> <p>13 (Whereupon a recess was taken.)</p> <p>14 THE VIDEOGRAPHER: We're back on the</p> <p>15 record. The time is 4:20.</p> <p>16 MR. ABBAS: Why don't you just -- could</p> <p>17 you read the last question?</p> <p>18 Or if you -- do you all you have something</p> <p>19 to say?</p> <p>20 MS. POWELL: No -- so we're maintaining</p> <p>21 our objection. I would point out that we're</p> <p>22 objecting to the details of recommendations</p> |
| <p style="text-align: right;">226</p> <p>1 MR. ABBAS: Okay. Okay.</p> <p>2 MS. POWELL: And potentially law</p> <p>3 enforcement, but deliberative process for sure.</p> <p>4 MR. ABBAS: You all answered the same</p> <p>5 question for the No Fly List, I will note.</p> <p>6 MS. POWELL: Sometimes I miss things.</p> <p>7 BY MR. ABBAS:</p> <p>8 Q Has the D -- has DHS TRIP ever not</p> <p>9 followed TSC's recommendation regarding a DHS TRIP</p> <p>10 complaint submitted by a U.S. person on the</p> <p>11 Selectee List?</p> <p>12 MS. POWELL: Again, I think I'm going to</p> <p>13 instruct the witness not to answer on grounds of</p> <p>14 deliberative process privilege and potentially law</p> <p>15 enforcement.</p> <p>16 MS. GREENBAND: Can we just take, like, 30</p> <p>17 seconds?</p> <p>18 MR. ABBAS: Yeah. Yeah. If you want to</p> <p>19 step out. If you want me to step out.</p> <p>20 MS. POWELL: Get out of camera range.</p> <p>21 MR. ABBAS: Okay. Get out of camera</p> <p>22 range.</p> | <p style="text-align: right;">228</p> <p>1 provided by an agency in TSC's position, not</p> <p>2 necessarily to the information that they provide</p> <p>3 back to DHS TRIP, if that is helpful in</p> <p>4 formulating the question.</p> <p>5 MR. ABBAS: Okay.</p> <p>6 Could you read the last question?</p> <p>7 (Whereupon the record was read.)</p> <p>8 MS. POWELL: Same objection.</p> <p>9 MR. ABBAS: Well, just for kind of</p> <p>10 clarity, what is the objection?</p> <p>11 MS. POWELL: Deliberative process</p> <p>12 privilege, possibly law enforcement, but...</p> <p>13 BY MR. ABBAS:</p> <p>14 Q Does DHS TRIP have the authority to remove</p> <p>15 a person from the Selectee List?</p> <p>16 MS. POWELL: Objection. Calls for a legal</p> <p>17 conclusion, but you can answer, if you can.</p> <p>18 THE WITNESS: No. My understanding, no.</p> <p>19 Q Why does DHS TRIP accept Selectee List</p> <p>20 complaints if you don't have the authority to</p> <p>21 remove someone from the Selectee List?</p> <p>22 MS. POWELL: Objection. Vague and</p> |

Conducted on December 20, 2017

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| <p style="text-align: right;">229</p> <p>1 possibly misleading, but you can answer, if you 2 can.</p> <p>3 THE WITNESS: We accept those applications 4 because those individuals have encountered a 5 screening-related travel difficulty.</p> <p>6 BY MR. ABBAS:</p> <p>7 Q Who has the authority to remove a U.S. 8 person from the Selectee List?</p> <p>9 MS. POWELL: Objection. Calls for a legal 10 conclusion.</p> <p>11 THE WITNESS: My understanding is that TSC 12 does, because it maintains the Watchlist.</p> <p>13 Q Does DHS TRIP issue recommendations about 14 whether a person should or should not remain on 15 the Selectee List?</p> <p>16 A No.</p> <p>17 Q Does DHS TRIP review the derogatory 18 information that was the basis of a U.S. person's 19 nomination to the Selectee List?</p> <p>20 MS. POWELL: Objection. Vague, but 21 I'll -- I think you can answer.</p> <p>22 THE WITNESS: No.</p> | <p style="text-align: right;">231</p> <p>1 THE WITNESS: In general, complaints such 2 as that would follow the process that I outlined 3 earlier: It would be -- it would take it to the 4 queue, it would be assigned, it would go through 5 the triage process.</p> <p>6 BY MR. ABBAS:</p> <p>7 Q So when -- and the triage process for DHS 8 TRIP complaints submitted by U.S. persons on the 9 Selectee List includes a referral to TSC's redress 10 unit; correct?</p> <p>11 MS. POWELL: Objection. Compound.</p> <p>12 THE WITNESS: You -- can you repeat -- 13 read back the -- read the question, please?</p> <p>14 MR. ABBAS: Yeah. 15 (Whereupon the record was read.)</p> <p>16 THE WITNESS: Yes.</p> <p>17 Q Are you aware of any U.S. person who is on 18 the Selectee List -- I'm sorry.</p> <p>19 Are you aware of any DHS TRIP complaint 20 submitted by a U.S. person on the Selectee List 21 that resulted in that person's removal from the 22 Selectee List?</p> |
| <p style="text-align: right;">230</p> <p>1 BY MR. ABBAS:</p> <p>2 Q Okay.</p> <p>3 Do DHS TRIP complaints that make it 4 through the intake process end up in the triage 5 queue?</p> <p>6 A If they make it through the intake process 7 and they are cleared for furtherance, yes.</p> <p>8 Q Okay. What happens to a DHS TRIP 9 complaint regarding a U.S. person on the No -- on 10 -- let me start all over.</p> <p>11 After a complaint regarding a U.S. person 12 on the Selectee List ends up in the triage queue, 13 what happens to that complaint next?</p> <p>14 MS. POWELL: Objection. Calls for 15 speculation.</p> <p>16 MR. ABBAS: Yeah. And, I'm sorry, let me 17 back up. This is Selectee List-specific.</p> <p>18 Q After a Selectee List-regarding DHS TRIP 19 complaint makes it to the triage queue, what next 20 happens to such a DHS TRIP complaint?</p> <p>21 MS. POWELL: Objection. Vague, 22 potentially calls for speculation, or compound.</p> | <p style="text-align: right;">232</p> <p>1 A Not by name. I mean, generally, yes.</p> <p>2 Q So it's your understanding that a DHS TRIP 3 complaint submitted by a U.S. person has led to a 4 person's removal from the Selectee List?</p> <p>5 A Yes, that is my understanding.</p> <p>6 Q What is the basis of your understanding 7 that a DHS TRIP complaint submitted by a U.S. 8 person on the Selectee List has resulted in their 9 removal from the Selectee List?</p> <p>10 A Because I've seen that occur in the 11 process. I've seen the status of the person when 12 the application is sent to TSC and the outcome.</p> <p>13 Q In your estimation, how many times has a 14 DHS TRIP complaint submitted by a U.S. person on 15 the Selectee List resulted in an alteration of 16 their Selectee List status?</p> <p>17 MS. POWELL: Hang on just a second. 18 I have concerns that those numbers may be 19 privileged. I was going to get a quick consult. 20 I think we're going to assert the law enforcement 21 privilege over the numbers of people who are 22 removed from the Selectee List as a result of a</p> |

Conducted on December 20, 2017

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|-----|--|-----|--|
| 233 | <p>1 DHS TRIP inquiry.</p> <p>2 Yes. And I'm instructing the witness not</p> <p>3 to answer.</p> <p>4 MR. ABBAS: Why? Why is that law</p> <p>5 enforcement-privileged?</p> <p>6 MS. POWELL: We think it reveals important</p> <p>7 information about law enforcement Watchlisting</p> <p>8 practices and policies and allows people to</p> <p>9 analyze Watchlisting trends.</p> <p>10 MR. ABBAS: You've provided that</p> <p>11 information in other cases. You have.</p> <p>12 MS. POWELL: I don't think we have.</p> <p>13 MR. ABBAS: In the last case, you</p> <p>14 absolutely provided it.</p> <p>15 MS. POWELL: I don't think we did.</p> <p>16 MR. ABBAS: You for sure did. We have the</p> <p>17 number of redress complaints, the number of times</p> <p>18 those complaints have resulted in a change in</p> <p>19 Watchlisting status.</p> <p>20 So that's fine, but we're going to bring</p> <p>21 her back and ask her, and it's an easy issue for</p> <p>22 us to learn.</p> | 235 | <p>1 MS. POWELL: Objection. Vague.</p> <p>2 THE WITNESS: No.</p> <p>3 BY MR. ABBAS:</p> <p>4 Q With regards to DHS TRIP complaints</p> <p>5 submitted by U.S. persons on the Selectee List,</p> <p>6 does DHS TRIP provide any type of hearing to such</p> <p>7 complainants?</p> <p>8 MS. POWELL: Objection. Calls for a legal</p> <p>9 conclusion, and it's vague.</p> <p>10 THE WITNESS: No.</p> <p>11 Q With regards to DHS TRIP complaints</p> <p>12 submitted by U.S. persons on the Selectee List,</p> <p>13 does DHS TRIP provide them any opportunity to</p> <p>14 contest the information that was the basis of</p> <p>15 their placement on the Selectee List?</p> <p>16 MS. POWELL: Same objections. That calls</p> <p>17 for legal conclusions and is vague.</p> <p>18 THE WITNESS: Is that different from your</p> <p>19 prior question? You've already -- two questions</p> <p>20 back?</p> <p>21 Q I'm not sure. So it might -- there might</p> <p>22 be overlap, but I'm not doing it on purpose. I'm</p> |
| 234 | <p>1 So it's, like, your prerogative, but</p> <p>2 you've definitely provided it in other cases,</p> <p>3 which really undermines the argument that this is</p> <p>4 some type of law enforcement privilege.</p> <p>5 That's fine. That's your prerogative, but</p> <p>6 it's an easy issue, and we'll absolutely file</p> <p>7 something regarding it.</p> <p>8 MS. POWELL: Okay.</p> <p>9 MR. ABBAS: Okay.</p> <p>10 MS. POWELL: I assume you will meet and</p> <p>11 confer with us before filing --</p> <p>12 MR. ABBAS: Of course.</p> <p>13 MS. POWELL: -- and we'll determine</p> <p>14 whether there's some substitute information that</p> <p>15 would satisfy you without running into further</p> <p>16 privilege issues.</p> <p>17 BY MR. ABBAS:</p> <p>18 Q With regards to the Selectee List, does</p> <p>19 DHS TRIP provide any opportunity for U.S. persons</p> <p>20 on the Selectee List to rebut the information that</p> <p>21 was the basis of their placement on the Selectee</p> <p>22 List?</p> | 236 | <p>1 not trying to trick you.</p> <p>2 A No.</p> <p>3 Q Okay.</p> <p>4 And co-counsel is saying that I did ask</p> <p>5 the same question two questions back, so you're</p> <p>6 right.</p> <p>7 With regards to -- does DHS TRIP play a</p> <p>8 role in determining whether overlapping</p> <p>9 identifying information is the cause of a</p> <p>10 travel-related issue?</p> <p>11 MS. POWELL: I'm sorry. Could you say</p> <p>12 that again?</p> <p>13 MR. ABBAS: Probably not, but I think</p> <p>14 Tasiana can.</p> <p>15 (Whereupon the record was read.)</p> <p>16 MS. POWELL: Objection. Vague.</p> <p>17 THE WITNESS: Can you explain what you</p> <p>18 mean by overlapping information?</p> <p>19 Q Well, I understand that sometimes travel</p> <p>20 difficulties are related to, like, mismatches</p> <p>21 between a person's passenger name record</p> <p>22 information and identifying information in Secure</p> |

Conducted on December 20, 2017

237

1 Flight. So that's kind of what I'm asking about.
 2 Does DHS TRIP play a role in determining
 3 whether the complainant's travel difficulties are
 4 related to a mismatch between them and a person
 5 who is not them that is on the Watchlist?
 6 MS. POWELL: Objection. Confusing, but
 7 you can answer.
 8 THE WITNESS: Well, I think I know what he
 9 means.
 10 In such a case, we would task it to TSA --
 11 we would task the case to TSA, which can
 12 facilitate the disambiguation between two
 13 identities to disambiguate the applicant from the
 14 person -- the identity on the Watchlist.
 15 BY MR. ABBAS:
 16 Q So that's the terminology that you all --
 17 that DHS TRIP uses? To disambiguate between
 18 folks?
 19 **A That's my terminology.**
 20 Q Oh, okay.
 21 **A I've never heard anyone else use that.**
 22 Q Well, what -- how, like, in the kind of

238

1 bureaucratic parlance, how -- what do you call
 2 such cases?
 3 **A We call those cases a misidentification.**
 4 Q What leads to misidentification issues
 5 regarding the Watchlist?
 6 MS. POWELL: Objection. Vague.
 7 Q And by Watchlist, I'm referring to the
 8 Terrorist Screening Database at large.
 9 MS. POWELL: Same objection.
 10 THE WITNESS: In general, a
 11 misidentification can occur if an applicant's name
 12 and/or birth date are similar, or the same, as an
 13 identity on the Watchlist.
 14 Q And how do you disambiguate such cases?
 15 MS. POWELL: Objection. Vague, and
 16 potentially asked and answered.
 17 THE WITNESS: In such a case, we task to
 18 TSA, which does the disambiguation.
 19 Q What is DHS TRIP's understanding of what
 20 TSA does regarding these misidentification issues?
 21 MS. POWELL: Object as to scope, though if
 22 she knows the answer....

239

1 THE WITNESS: TSA's Secure Flight vetting
 2 division does further investigation to find
 3 information that assists in the disambiguation.
 4 BY MR. ABBAS:
 5 Q How common are these types of
 6 misidentification issues?
 7 **A Fairly common.**
 8 Q Is it something that happens every day?
 9 **A I --**
 10 MS. POWELL: Objection. Vague.
 11 THE WITNESS: I can't answer in terms of
 12 time. I can answer that a significant portion --
 13 although I don't know the exact number -- of our
 14 cases are cases of misidentification that we are
 15 able to resolve through the TRIP process.
 16 Q Did -- do the misidentification processes
 17 differ if the complainant is complaining of, like,
 18 a flight ban regarding the No Fly List versus just
 19 extra screening regarding the Selectee List?
 20 MS. POWELL: Objection. Vague and
 21 compound.
 22 THE WITNESS: The process is the same.

240

1 BY MR. ABBAS:
 2 Q So with regards to -- if it's a
 3 misidentification issue, it doesn't matter whether
 4 they're on the Select -- whether the
 5 misidentification treats them as if they're on the
 6 Selectee List or the No Fly List? The process
 7 would be the same?
 8 **A To the extent that I understand your**
 9 **question.**
 10 Q Okay. All right. Well, that's my fault,
 11 so let me -- I'm going to take the hint and I'm
 12 going to try to ask it again.
 13 Is the process of dealing with a -- does
 14 the process of dealing with a misidentification
 15 issue differ if the misidentification issue
 16 relates to the Selectee List or the No Fly List?
 17 **A When we receive an application, we can't**
 18 **qualify it as a misidentification until it's gone**
 19 **through the process. So there's no way to**
 20 **identify.**
 21 **But if we receive an application that**
 22 **indicates that there could be a -- that the**

Conducted on December 20, 2017

241

1 **person's identity is possibly linked to someone on**
2 **the Selectee or the No Fly List, if we see that,**
3 **the process is the same, whether -- with --**
4 **whether -- with no regard to which list they might**
5 **be confused with.**
6 Q Do you -- does DHS TRIP make the
7 determination that there's a misidentification
8 issue?
9 **A TSA, through their process of review,**
10 **determines if there has been a misidentification**
11 **and returns that information in their analysis to**
12 **us.**
13 Q So how do you know to refer it to TSA for
14 a misidentification issue? How does D -- I'm
15 sorry. Let me back up.
16 How does DHS TRIP know to refer it to TSA
17 as a misidentification issue and not to TSC as a
18 TSDB issue?
19 MS. POWELL: Objection. Misleading, but
20 go ahead.
21 THE WITNESS: At the triage stage of the
22 process, we can see if the person is potential --

242

1 is -- at that point, we see that there may be a
2 match to someone on the Watchlist, so we task it
3 to TSA in an analysis to determine if it's a
4 misidentification or if, indeed, that is -- the
5 applicant is either confirmed or likely the person
6 on the list.
7 In that case, it gets tasked to TSC.
8 Otherwise, if it gets resolved at the TSA level,
9 it doesn't have to get tasked to TSC.
10 BY MR. ABBAS:
11 Q Got it. So if -- for TSDB-regarding DHS
12 TRIP complaints?
13 **A TS --**
14 Q Yeah, I know. Lots of acronyms.
15 For TSDB-regarding DHS TRIP complaints,
16 the first step for DHS TRIP is once it determines
17 that there is a match in Secure Flight, it then
18 sends the complaint to TSA to determine whether
19 it's a misidentification issue or not; is that
20 correct?
21 **A Yes. Yes.**
22 Q And then if it is a misidentification

243

1 issue, then it stays with TSA?
2 **A It might go to other components, if there**
3 **are other equities involved. But at that point,**
4 **if that aspect is -- that aspect of the complaint**
5 **is resolved with regard to a potential match to**
6 **TSDB, then it doesn't go to TSC.**
7 Q Okay.
8 **A It will stay with TSA or go to the other**
9 **equity -- go to the other agencies that have**
10 **equities.**
11 Q So it only goes to TSC after TSA
12 determines that it's not a misidentification
13 issue?
14 **A Yes.**
15 Q Okay. Awesome.
16 Are you aware of Selectee -- are you aware
17 of DHS TRIP complaints submitted by U.S. persons
18 on the Selectee List that have resulted in a
19 person's removal from the Selectee List for
20 reasons other than misidentification?
21 MS. POWELL: You can answer.
22 THE WITNESS: Okay. I'm sorry. I need

244

1 the question repeated, please.
2 MR. ABBAS: Yeah.
3 (Whereupon the record was read.)
4 MS. POWELL: Objection. Vague, but you
5 can answer.
6 THE WITNESS: As a general matter, yes.
7 Not by name.
8 BY MR. ABBAS:
9 Q Is DS -- is -- when a DHS TRIP complaint
10 submitted by a U.S. person on the Selectee List
11 results in that person's removal from the Selectee
12 List, does TSC disclose the reasons why that
13 person was removed from the Selectee List?
14 MS. POWELL: Objection. Vague.
15 THE WITNESS: Can you be specific about
16 disclosure?
17 Q Yep. That's -- I was thinking about that
18 myself.
19 With regards to DHS TRIP complaints that
20 -- submitted by U.S. persons on the Selectee List
21 that result in TSC removing that person from the
22 Selectee List, does TSC disclose to DHS TRIP the

Conducted on December 20, 2017

245

1 reasons why they removed that person from the
2 Selectee List?
3 MS. POWELL: Objection as to vagueness and
4 misleading, but I think you can answer.
5 THE WITNESS: No.
6 BY MR. ABBAS:
7 Q With regards to DHS TRIP complaints
8 submitted by U.S. persons that regard a
9 misidentification issue, does DHS TRIP disclose to
10 the complainant the fact that their travel issues
11 were related to a misidentification issue?
12 MS. POWELL: Objection. Vagueness.
13 You can answer.
14 Oh. Okay. Recognizing the question could
15 get into sensitive security information, I'm going
16 to direct the witness that she can answer, to the
17 extent it does not call for SSI.
18 THE WITNESS: May I hear the question
19 repeated, please?
20 (Whereupon the record was read.)
21 MS. POWELL: Same objection and
22 instruction.

246

1 THE WITNESS: I don't know how to answer
2 this without disclosing privileged information.
3 MS. POWELL: Okay. Then don't answer.
4 We'll confer at the next break and see if
5 we can tease out some non-SSI information.
6 MR. ABBAS: Okay.
7 Can you read the question again? I don't
8 see how this would regard SSI in any way.
9 (Whereupon the record was read.)
10 MS. POWELL: I really think we can tease
11 out the answer you want with a brief conferral --
12 MR. ABBAS: I think so as well.
13 MS. POWELL: -- but -- do you want to --
14 MR. ABBAS: Yeah.
15 MS. POWELL: -- take a break now?
16 MR. ABBAS: Why don't I just step -- we
17 stay on the, and I just step -- oh, no.
18 MS. POWELL: No. Because we don't want to
19 confer on the record.
20 MR. ABBAS: Yep. Yep. Okay. Yeah.
21 THE VIDEOGRAPHER: We're going off the
22 record. The time is 4:47.

247

1 (Whereupon a recess was taken.)
2 THE VIDEOGRAPHER: We're back on the
3 record. The time is 4:53.
4 MS. POWELL: I think we do have an answer
5 we can provide to your previous question.
6 You can go ahead and give it.
7 THE WITNESS: No, we don't reveal that
8 information.
9 BY MR. ABBAS:
10 Q Just so we have it clear, like, what
11 information don't you reveal? Or would it be
12 better -- do you want the question?
13 A Please.
14 MR. ABBAS: Just do the question.
15 (Whereupon the record was read.)
16 THE WITNESS: No. We don't disclose that
17 information.
18 Q Okay.
19 With regards to a DHS TRIP complaint
20 submitted by a U.S. person on the Selectee List,
21 does DHS TRIP personnel review the underlying
22 derogatory information that was the basis of a

248

1 person's placement on the Selectee List?
2 MS. POWELL: Objection. Asked and
3 answered.
4 THE WITNESS: No, we don't.
5 BY MR. ABBAS:
6 Q With regards to a DHS TRIP complaint
7 submitted by a U.S. person on the Selectee List,
8 does DHS TRIP receive, from any source, a summary
9 of the derogatory information that was the basis
10 of the person's placement on the Selectee List?
11 MS. POWELL: Objection. Vague and
12 potentially misleading, but you can answer, if you
13 can.
14 THE WITNESS: No.
15 Q More generally, with regards to a DHS TRIP
16 complaint submitted by a person on the Selectee
17 List, does DHS TRIP receive any information at all
18 regarding the reasons why a person was nominated
19 to the Selectee List?
20 MS. POWELL: Objection. Vague and
21 potentially misleading, but you can answer, if you
22 can.

Conducted on December 20, 2017

249

1 THE WITNESS: We don't receive any
 2 information regarding the underlying reasons for
 3 the nomination.
 4 BY MR. ABBAS:
 5 Q Does DHS TRIP distinguish between
 6 complaints submitted by persons on the Terrorist
 7 Screening Database versus complaints submitted by
 8 persons on the Selectee List?
 9 MS. POWELL: Okay. I think you can
 10 answer.
 11 THE WITNESS: Can I hear the question
 12 again, please?
 13 (Whereupon the record was read.)
 14 MS. POWELL: Objection as to vagueness,
 15 but -- and potentially misleading, but I think you
 16 can answer.
 17 THE WITNESS: Could you be more specific
 18 by what you mean by distinguish? How -- do we --
 19 yeah. Can you be more specific?
 20 Q With regards to -- well, treat differently
 21 in any way.
 22 **A At certain parts of the process, no. At**

250

1 other parts of the process, yes.
 2 Q How does DHS TRIP treat -- what are the
 3 differences -- let me start all over.
 4 What are the differences in the way DHS
 5 TRIP handles complaints regarding the TSDB versus
 6 complaints regarding the Selectee List?
 7 MS. POWELL: So there is a potential
 8 privilege issue wrapped up in there.
 9 To the extent you can answer that question
 10 without revealing SSI or law enforcement
 11 information, please do. If you're not confident,
 12 we can confer, but I think there are some answers
 13 you can probably give. If you do not think so,
 14 let me know.
 15 THE WITNESS: DHS TRIP close out letters
 16 are determined by the specifications of the case.
 17 MS. POWELL: And I'm going to instruct you
 18 not to answer further than that with respect to
 19 the close out letters.
 20 MR. ABBAS: On what basis?
 21 MS. POWELL: SSI and law enforcement
 22 privilege.

251

1 BY MR. ABBAS:
 2 Q Aside from the close out letter, what
 3 other differences are there between how DHS TRIP
 4 treats TSDB-regarding DHS TRIP complaints and
 5 Selectee List-regarding DHS TRIP complaints?
 6 MS. POWELL: Same objection and
 7 instruction.
 8 MR. ABBAS: What is it? So we can -- just
 9 so it's clear.
 10 MS. POWELL: SSI and law enforcement
 11 privilege. We can't provide any information that
 12 would tend to allow someone to reverse-engineer
 13 status, in other words.
 14 MR. ABBAS: I mean, everybody knows
 15 whether they're on the Selectee List or not.
 16 That's fine.
 17 I'll just note that there's no
 18 information -- there's no clear information that's
 19 been produced in discovery thus far, or that this
 20 deponent has testified, that distinguishes between
 21 the TSDB and the Selectee List, and the Plaintiffs
 22 still do not have a clear understanding of the

252

1 difference between the two, or the relationship
 2 between the two, and that's, like, a huge problem.
 3 And we're open to various ways of
 4 exploring how to get us that information, but we
 5 don't have it and that's an issue. So we'll put
 6 that out there.
 7 MS. POWELL: Understood that that is your
 8 concern and also noting this is not necessarily
 9 the correct witness for that or the correct
 10 vehicle.
 11 BY MR. ABBAS:
 12 Q Is there any difference in how DHS TRIP --
 13 with regards to the intake phase of the DHS TRIP
 14 process, is there any difference in how DHS TRIP
 15 treats a TSDB-regarding complaint versus a
 16 Selectee List-regarding complaint?
 17 MS. POWELL: Objection as to vagueness and
 18 confusion and also as to SSI and law enforcement
 19 privilege, as we cannot reveal any information
 20 that would allow people to reverse-engineer
 21 status.
 22 If there's anything else different about

253

1 how they're handled, I think you could answer,
 2 but...
 3 THE WITNESS: I think I can refer to a
 4 prior answer in that at the intake phase, that's
 5 not where status is determined. All the
 6 applications are the same.
 7 BY MR. ABBAS:
 8 Q With regards to the triage phase of DHS
 9 TRIP, in what ways does DHS TRIP distinguish
 10 between TSDB-regarding complaints and Selectee
 11 List-regarding complaints?
 12 MS. POWELL: Objection as to vagueness and
 13 also the same instruction with respect to any
 14 information that might be SSI or law
 15 enforcement-privileged.
 16 MR. ABBAS: I'm really confused as to how
 17 the administrative process that DHS TRIP uses can
 18 be shielded by the law enforcement privilege.
 19 I'm not asking for any person-specific
 20 information. I'm asking for their processes,
 21 their general practices in how they administer
 22 complaints of -- specific categories of

254

1 complaints.
 2 Obviously, it sounds like there's a
 3 difference between TSDB-regarding complaints and
 4 Selectee List-regarding complaints. I don't know
 5 what that deference is, but now there's part of
 6 the DHS TRIP process that I don't know and you're
 7 not telling me.
 8 MS. POWELL: I understand you do not agree
 9 with my objection. That is still my instruction
 10 to the witness.
 11 THE WITNESS: Instruction is to not answer
 12 or to answer?
 13 MS. POWELL: You can answer if you can do
 14 so in ways that do not reveal SSI or law
 15 enforcement information, such as information that
 16 would allow individuals to reverse-engineer status
 17 from what you've said. And if we need to confer
 18 about that, we can.
 19 THE WITNESS: Can I have a minute, please?
 20 MS. POWELL: Yes.
 21 THE VIDEOGRAPHER: You want to go off the
 22 record?

255

1 MS. POWELL: Yes.
 2 MR. ABBAS: Yes.
 3 THE VIDEOGRAPHER: We're going off the
 4 record. The time is 5:02.
 5 (Whereupon a recess was taken.)
 6 THE VIDEOGRAPHER: We're back on the
 7 record. The time is 5:08.
 8 MS. POWELL: Okay. I think we can clarify
 9 the record a bit and provide the information that
 10 Mr. Abbas is looking for by asking a slightly
 11 reworded question, which is this:
 12 Q Are there any differences between how DHS
 13 TRIP processes a complaint from a traveler who is
 14 on the Selectee List versus a complaint from a
 15 traveler who is on the TSDB but not on the
 16 Selectee List or the No Fly List?
 17 A No.
 18 Q And are there any differences in intake,
 19 triage, or close out for those individuals? Those
 20 two categories?
 21 A No.
 22 MR. ABBAS: Okay. Can you just repeat her

256

1 question one more time? Let me just mull.
 2 THE COURT REPORTER: The first one or the
 3 second one?
 4 MR. ABBAS: The first one. Both, but
 5 let's do the first one.
 6 (Whereupon the record was read.)
 7 MR. ABBAS: Okay. And then the second
 8 question?
 9 (Whereupon the record was read.)
 10 MR. ABBAS: And no?
 11 MS. POWELL: Right.
 12 MR. ABBAS: Okay. Okay. Okay.
 13 MS. POWELL: See?
 14 MR. ABBAS: Awesome. See? We got it.
 15 Q Okay. When Selectee List complaints --
 16 I'm sorry.
 17 When DHS TRIP complaints that regard the
 18 Selectee List are referred to the Terrorist
 19 Screening Center, why do you call what TSC issues
 20 in response a recommendation?
 21 MS. POWELL: Objection. Vague and
 22 misleading, but you can answer, to the extent you

Conducted on December 20, 2017

257

1 can.
 2 THE WITNESS: They make a recommendation
 3 as to the close out letter. I call it a
 4 recommendation because they are looking at
 5 their -- when they make their recommendation, they
 6 are looking at their aspect of the case.
 7 There may be other aspects of the case,
 8 other components with other equities that make a
 9 different recommendation. Ultimately, we have to
 10 the determine, given all of those -- given the
 11 results from all of the analyses, what is the best
 12 letter.
 13 BY MR. ABBAS:
 14 Q How many different kinds of letters are
 15 there that DHS TRIP may issue in response to a DHS
 16 TRIP complaint that regards the Selectee List?
 17 MS. POWELL: Objection. Vague, but also
 18 calls for SSI directly.
 19 I don't think she can give a full answer
 20 to that without revealing SSI. I'm going to
 21 instruct the witness not to answer.
 22 MR. ABBAS: She can't answer how many

258

1 different templates they have for Selectee List
 2 letters?
 3 MS. POWELL: That's correct.
 4 MR. ABBAS: Why is that SSI?
 5 MS. POWELL: Because that's the sort of
 6 information that people can use to
 7 reverse-engineer what their Watchlist status is.
 8 As you're aware, under SSI regulations
 9 involving standing policy, we do not reveal status
 10 on the Watchlist.
 11 MR. ABBAS: Even though the various
 12 letters that you send get sent to people? Like,
 13 the letters themselves are not SSI, because you're
 14 sending them to people.
 15 MS. POWELL: That's correct.
 16 MR. ABBAS: So why is it that -- I'm
 17 sorry. Let's back up a little bit.
 18 Q Do you send template letters to persons
 19 that file DHS TRIP complaints who are on Selectee
 20 Lists?
 21 MS. POWELL: Objection. Vague and
 22 misleading, but you can answer.

259

1 THE WITNESS: Yes.
 2 BY MR. ABBAS:
 3 Q And you have a variety of different
 4 template letters that are available to you to send
 5 to persons that file DHS TRIP complaints who are
 6 on the Selectee List?
 7 MS. POWELL: Objection.
 8 MR. ABBAS: The existence of templates is
 9 an undeniable fact.
 10 MS. POWELL: She already testified as to
 11 the existence of the templates. The -- how
 12 specific and which template is chosen in different
 13 circumstances is SSI, because it tends to reveal
 14 Watchlist status.
 15 MR. ABBAS: And I'm not asking for
 16 specifics. I -- what was the question that I
 17 asked?
 18 MS. POWELL: You asked which one was
 19 chosen when -- for someone who's on the Selectee
 20 List.
 21 MS. ABBAS: When Tasia catches up, let's
 22 have her read the question back.

260

1 (Whereupon the record was read.)
 2 MS. POWELL: Right. So the question
 3 includes within it whether or not the person
 4 who -- whether there is a letter specific to
 5 people who are on the Selectee List.
 6 MR. ABBAS: Okay. That's your objection.
 7 Okay.
 8 MS. POWELL: Got it?
 9 MR. ABBAS: I see. I see. Okay.
 10 Q Is there a specific template letter that
 11 you -- that DHS TRIP sends to U.S. persons on the
 12 Selectee List who have filed DHS TRIP complaints?
 13 MS. POWELL: Objection. Calls for SSI.
 14 Instructing the witness not to answer.
 15 Q How many template -- how many DHS TRIP
 16 close out template letters are there?
 17 MS. POWELL: Objection. Calls for SSI.
 18 Instructing the witness not to answer.
 19 MR. ABBAS: So I'm confused. Do you --
 20 DHS TRIP does not disclose a person's Selectee
 21 List status as a result of what? Is there
 22 something?

Conducted on December 20, 2017

261

1 MS. POWELL: Okay. Sorry. That one was
2 not SSI.
3 MR. ABBAS: Okay. Okay. Can we read that
4 question back?
5 (Whereupon the record was read.)
6 THE WITNESS: There many, many letters,
7 many close out letters. I don't have an exact
8 figure.
9 Because we deal with so many different
10 agencies and so many different redress issues --
11 redress-related issues, there are many different
12 templates to address all of the different
13 scenarios and situations that an applicant might
14 present in their case.
15 BY MR. ABBAS:
16 Q Is there, like, a hundred template -- DHS
17 TRIP close out template letters?
18 MS. POWELL: Objection. Calls for
19 speculation.
20 THE WITNESS: I would speculate that there
21 are fewer than a hundred.
22 Q Are there fewer than 50 DHS TRIP close out

262

1 template letters?
2 MS. POWELL: Same objection.
3 THE WITNESS: No.
4 BY MR. ABBAS:
5 Q That's a lot of templates. That's a lot
6 of -- that's more than I would have thought.
7 I -- with regards to just the Selectee
8 List, how many DHS TRIP close out template letters
9 are there?
10 MS. POWELL: Objection. Calls for SSI and
11 potentially law enforcement information.
12 Instructing the witness not to answer.
13 Also, asked and answered, I think.
14 MR. ABBAS: She's not answering this
15 question.
16 MS. POWELL: That's true. Asked and
17 objected to --
18 MR. ABBAS: Asked and objected to.
19 MS. POWELL: -- would be more accurate.
20 MR. ABBAS: Yeah, yeah. Okay.
21 Q Do any template letters -- well, never
22 mind.

263

1 Does DHS TRIP have the authority to
2 determine which close out letter gets sent to the
3 complainant?
4 MS. POWELL: Objection as to vagueness and
5 potentially calling for a legal conclusion, but
6 you can answer, I think.
7 THE WITNESS: Part of our administrative
8 process is to select the letter that gets sent.
9 BY MR. ABBAS:
10 Q And who has the final authority to select
11 the letter that gets sent to a DHS TRIP
12 complainant?
13 **A By final authority, do you mean who makes**
14 **the -- what do you mean?**
15 Q Who decides what letter gets sent to a DHS
16 TRIP complainant?
17 MS. POWELL: Objection as to vagueness.
18 THE WITNESS: Unless there is some concern
19 or -- about the particulars of a case, the analyst
20 would decide.
21 If there is concern, it might be elevated
22 to the operations manager for consultation.

264

1 BY MR. ABBAS:
2 Q Is there any scenario in which non-DHS
3 TRIP personnel would make the decision as to which
4 close out letter gets sent to a DHS TRIP
5 complainant?
6 MS. POWELL: Object as to vagueness.
7 THE WITNESS: DHS TRIP personnel would
8 make the final decision.
9 Q Although other agencies make
10 recommendations to you as to which letter they
11 would like you to send out?
12 **A Correct.**
13 Q Are you obligated, in any way, to follow
14 the recommendations provided to you by other
15 agencies?
16 MS. POWELL: Objection. Vagueness and
17 compound.
18 THE WITNESS: Although we are not
19 obligated, we would consult with the other
20 agencies to resolve the objections until we can
21 find a solution that everyone agrees is the right
22 one.

Conducted on December 20, 2017

265

1 Q Has it ever happened where an agency
 2 objects to the close out letter that DHS TRIP
 3 personnel want to send out but DHS TRIP send out
 4 the objectionable letter anyways?
 5 MS. POWELL: Objection. Vague and
 6 potentially misleading.
 7 THE WITNESS: Not to my recollection.
 8 Q How does DHS TRIP personnel make decisions
 9 on which close out letter to send if DHS TRIP
 10 personnel do not have access to any of the
 11 underlying information forming the basis of the
 12 complainant's placement on the Selectee List?
 13 MS. POWELL: Objection.
 14 Because a full answer to that question
 15 would plainly call for SSI and potentially law
 16 enforcement-privileged information, I don't know
 17 if there's a general answer the witness can give
 18 about how they make decisions about which close
 19 out letters to send.
 20 THE WITNESS: I would say that DHS TRIP is
 21 an administrative process, and our purview is to
 22 ensure that the process is robust and fair.

266

1 Delving into how the agencies make the
 2 decisions that go into why they make a certain
 3 recommendation exceeds where our boundaries are.
 4 MR. ABBAS: Can you read her answer back?
 5 (Whereupon the record was read.)
 6 MR. ABBAS: I don't think you answered the
 7 question.
 8 Can you reread the question?
 9 (Whereupon the record was read.)
 10 MS. POWELL: Objection as to vagueness,
 11 compound, misleading, and the same privilege
 12 objection as before.
 13 A full answer to the question would
 14 plainly require discussion of SSI and law
 15 enforcement-privileged information, which I'm
 16 instructing the witness not to disclose.
 17 I don't know if there's some other
 18 information, but the question is asked and
 19 answered at this point.
 20 THE WITNESS: I would just refer to my
 21 previous testimony that we use the information
 22 that the components that we've consulted with

267

1 provide to make the determination.
 2 BY MR. ABBAS:
 3 Q Has DHS TRIP personnel ever challenged the
 4 accuracy of information provided to it by other
 5 agencies?
 6 MS. POWELL: Objection as to vagueness.
 7 I think you can answer.
 8 THE WITNESS: I don't know specifically if
 9 that ever has happened. I think it's possible
 10 that it could.
 11 Q But you have no -- during your tenure as
 12 head of DHS TRIP, you don't recall a specific
 13 incidence -- a specific instance of DHS TRIP
 14 personnel challenging agency-provided information?
 15 **A No, I don't recall any instance.**
 16 Q Does a DHS TRIP complaint ever lead to
 17 additional investigations of the DHS TRIP
 18 complainant?
 19 MS. POWELL: Objection.
 20 Q To the extent that you know.
 21 MS. POWELL: Let's see. Objection as to
 22 vagueness and potentially misleading. Also, would

268

1 it -- object as to privilege to the extent it
 2 calls for -- and to scope -- as to the extent it
 3 calls for information about, you know, law
 4 enforcement investigations or other information.
 5 If she knows an answer that is not about
 6 something privileged, like whether or not there is
 7 a law enforcement investigation, she could answer.
 8 MR. ABBAS: And I'm not asking about any
 9 specific law enforcement investigation, and this
 10 is information that you also provided in the last
 11 case.
 12 MS. POWELL: No.
 13 MR. ABBAS: Yes. You provided how many
 14 times a DHS TRIP complaint resulted in additional
 15 investigative steps.
 16 MS. POWELL: Oh, you're misremembering the
 17 wording of that interrogatory, I think. But --
 18 MR. ABBAS: Totally. It's -- that's -- I
 19 just looked at it. But, I mean, it's your --
 20 like, live with it, but I'm just saying, like, you
 21 already provided it in another case.
 22 MS. POWELL: I'm telling you, you're

Conducted on December 20, 2017

269

1 misremembering the details of the data we
 2 provided, because I worked on that one.
 3 THE WITNESS: I would like to hear the
 4 question again, please.
 5 MR. ABBAS: Centering us.
 6 (Whereupon the record was read.)
 7 THE WITNESS: To the extent that the DHS
 8 TRIP process involves an investigation into the
 9 person's case, looking at the details of the case
 10 so that -- that's what the agencies do, they look
 11 into the case to determine what steps need to be
 12 taken.
 13 So to that extent, I know. If you want to
 14 characterize that as an investigation, then, yes.
 15 BY MR. ABBAS:
 16 Q Okay.
 17 Do -- are there any documents that DHS
 18 TRIP possesses that are particular to Selectee
 19 List-regarding DHS TRIP complaints?
 20 MS. POWELL: Objection as to vagueness,
 21 certainly, but --
 22 THE WITNESS: I would need more

270

1 specificity to be able to answer.
 2 BY MR. ABBAS:
 3 Q Are there any documents that DHS TRIP
 4 possesses that regard, specifically, the
 5 processing of DHS TRIP complaints that regard the
 6 Selectee List?
 7 MS. POWELL: Objection, again, as to
 8 vagueness, at least.
 9 I'm also going to note that to the extent
 10 this is another way of getting at the question
 11 that was asked before about whether there are
 12 close out letters specific to the Selectee List --
 13 MR. ABBAS: No. It's not.
 14 MS. POWELL: -- I would instruct the
 15 witness not to answer.
 16 MR. ABBAS: Yeah. It's not.
 17 MS. POWELL: But otherwise, I think you
 18 can answer.
 19 THE WITNESS: I'm sorry. May I hear the
 20 question one more time?
 21 (Whereupon the record was read.)
 22 THE WITNESS: I believe there is a draft

271

1 memo about selectee processing.
 2 MS. POWELL: I'm going to direct you not
 3 to provide any further details about a draft,
 4 which is likely to be deliberative.
 5 BY MR. ABBAS:
 6 Q Have you ever disciplined a -- have you
 7 ever disciplined any DHS TRIP personnel for
 8 deviating from DHS TRIP practices and policies
 9 with regards to DHS TRIP complaints?
 10 MS. POWELL: Objection as to potential
 11 privacy information. To the extent you're seeking
 12 details about individuals, that's identifiable.
 13 MR. ABBAS: Yeah. Just, like, yes or no
 14 at this point. Yep.
 15 MS. POWELL: You can answer that.
 16 THE WITNESS: No.
 17 MR. ABBAS: Okay.
 18 Why don't we take five minutes? I'm
 19 having some issues e-mailing you, so I'm going to
 20 try to e-mail you the document -- the two
 21 documents -- it's a few pages each -- to print.
 22 I'm going to talk to Lena, and I think we

272

1 might be able to do it, Amy.
 2 MS. POWELL: Really? Get me to my flight.
 3 THE VIDEOGRAPHER: We're going off the
 4 record.
 5 MS. MASRI: Gadeir, if it makes it easier,
 6 I can send the e-mail out from my end.
 7 MR. ABBAS: Yeah. Yes. Yes. It's --
 8 THE COURT REPORTER: Do you want to go off
 9 the record for all of this?
 10 MR. ABBAS: Oh, yes. Let's do that.
 11 MS. MASRI: Yeah.
 12 THE VIDEOGRAPHER: We're going off the
 13 record. The time is 5:32.
 14 (Whereupon a recess was taken.)
 15 THE VIDEOGRAPHER: We're back on the
 16 record. The time is 5:50.
 17 BY MR. ABBAS:
 18 Q As a part of the DHS TRIP process, does
 19 DHS TRIP -- is DHS TRIP aware of any
 20 non-governmental information that is considered by
 21 DHS TRIP or other agencies?
 22 MS. POWELL: Objection. Vague and out of

Conducted on December 20, 2017

| | | | |
|-----|--|-----|--|
| 273 | <p>1 scope as to other agencies, and potentially</p> <p>2 privileged, but I think you can answer without</p> <p>3 revealing privileged information.</p> <p>4 THE WITNESS: In the revised No Flight</p> <p>5 process for USPERs, the applicants are invited to</p> <p>6 submit information, and that would -- could be</p> <p>7 non-governmental insurance.</p> <p>8 BY MR. ABBAS:</p> <p>9 Q And by USPERs, you mean U.S. persons?</p> <p>10 A Yeah. Sorry. U.S. persons.</p> <p>11 Q Just for Tasiana's sake.</p> <p>12 A U.S. persons.</p> <p>13 Q Yeah.</p> <p>14 Aside from information submitted by the</p> <p>15 complainant, is there any -- is DHS TRIP aware of</p> <p>16 any other non-governmental information that's</p> <p>17 considered in processing any DHS TRIP complaint?</p> <p>18 MS. POWELL: Same objections, but you can</p> <p>19 answer, I think.</p> <p>20 THE WITNESS: No.</p> <p>21 Q Okay.</p> <p>22 I asked you about misidentification issues</p> | 275 | <p>1 complainants redress numbers?</p> <p>2 MS. POWELL: Objection as to vagueness.</p> <p>3 THE WITNESS: The redress number is used</p> <p>4 as -- for tracking while the case is still open.</p> <p>5 Then once the case is closed, the redress</p> <p>6 number ties the results of the redress case to the</p> <p>7 number.</p> <p>8 So for example, if someone was</p> <p>9 misidentified and they use that number when they</p> <p>10 are purchasing an airline ticket, that number is</p> <p>11 then tied back to -- if they had been placed on</p> <p>12 the Cleared List, it allows them to not be</p> <p>13 misidentified to facilitate the avoidance of</p> <p>14 misidentification in the future.</p> <p>15 BY MR. ABBAS:</p> <p>16 Q Does -- do -- aside from tracking DHS TRIP</p> <p>17 complaints and helping to resolve</p> <p>18 misidentification issues, does -- do the redress</p> <p>19 numbers serve any other purpose?</p> <p>20 MS. POWELL: Objection as to vagueness.</p> <p>21 THE WITNESS: I would say they serve to</p> <p>22 help us if the same person applies again in the</p> |
| 274 | <p>1 regarding the Selectee List. I did not ask you</p> <p>2 about misidentification issues regarding the No</p> <p>3 Fly List, so I'm going to do that now.</p> <p>4 How often are there misidentification</p> <p>5 issues that regard the No Fly List in the context</p> <p>6 of a DHS TRIP trip complaint submitted by a U.S.</p> <p>7 person?</p> <p>8 MS. POWELL: Objection as to scope.</p> <p>9 Do we have -- you can answer, I suppose.</p> <p>10 THE WITNESS: I don't know. I don't have</p> <p>11 that data.</p> <p>12 BY MR. ABBAS:</p> <p>13 Q Do you -- is it your sense that -- do you</p> <p>14 believe that misidentification issues are more</p> <p>15 common in relation to the Selectee List than they</p> <p>16 are in relation to the No Fly List?</p> <p>17 MS. POWELL: Objection as to scope and</p> <p>18 vagueness and potentially privilege, but you can</p> <p>19 answer, if you can.</p> <p>20 THE WITNESS: I don't have that</p> <p>21 information.</p> <p>22 Q What is the purpose of assigning DHS TRIP</p> | 276 | <p>1 future and we are able to, through the system, see</p> <p>2 that that is the same person, we can link those</p> <p>3 two cases using the old number and the new number.</p> <p>4 The applicant can use either number for</p> <p>5 results of the case -- to receive the benefits of</p> <p>6 the redress.</p> <p>7 BY MR. ABBAS:</p> <p>8 Q Aside from assisting in tracking DHS TRIP</p> <p>9 complaints, clearing up misidentification issues,</p> <p>10 and tying multiple complaints submitted by the</p> <p>11 same complainant, are there any other purposes for</p> <p>12 the redress number?</p> <p>13 MS. POWELL: Objection as to vagueness.</p> <p>14 THE WITNESS: Not that come to mind, no.</p> <p>15 Q What happens if a DHS TRIP complainant</p> <p>16 does not include the redress number on their</p> <p>17 reservation for a flight?</p> <p>18 MS. POWELL: Objection as to vagueness and</p> <p>19 potentially compound.</p> <p>20 I think you can answer.</p> <p>21 THE WITNESS: Although this is outside of</p> <p>22 the DHS TRIP process itself -- it more would fall</p> |

Conducted on December 20, 2017

277

1 to the Secure Flight -- my understanding is that
 2 Secure Flight would not be able to benefit,
 3 basically, from the -- if the person is on the
 4 Cleared List, they wouldn't have that.
 5 The person would not benefit; Secure
 6 Flight wouldn't see that, and they could increase
 7 the chances that that person would be
 8 misidentified.
 9 BY MR. ABBAS:
 10 Q Got it.
 11 The Cleared List, is that only in regards
 12 to DHS TRIP complainants that are -- let me start
 13 all over.
 14 Is the Cleared List -- let me try again.
 15 Who maintains the Cleared List?
 16 **A We do, within the Redress Management**
 17 **System.**
 18 Q Okay. And what is the purpose of the
 19 Cleared List?
 20 **A The purpose of the Cleared List is to tie**
 21 **a person who is attempting to fly with results of**
 22 **their redress case such that if they've been**

278

1 **cleared and disambiguated from an identity on the**
 2 **Watchlist, that that same misidentification won't**
 3 **happen again.**
 4 **BY MR. ABBAS:**
 5 Q So the Cleared List is only aimed at
 6 addressing misidentification issues; correct?
 7 MS. POWELL: Objection. Misleading.
 8 THE WITNESS: My understanding is that
 9 it's -- that is the general purpose of the Cleared
 10 List, yes.
 11 Q Do you -- does DHS TRIP utilize the
 12 Cleared List for any other purpose?
 13 MS. POWELL: Objection. Vague.
 14 THE WITNESS: No.
 15 Q Does DHS TRIP make the Cleared List
 16 available to other agencies?
 17 **A Not to my knowledge.**
 18 Q So how do other agencies that are involved
 19 in screening benefit from the Cleared List?
 20 **A I don't know that they do. The Cleared**
 21 **List is aviation-specific in that it's used when**
 22 **the person is attempting to fly.**

279

1 Q Does the Cleared List apply to travelers
 2 who are crossing the border?
 3 MS. POWELL: Hang on a second. Let me
 4 think about that.
 5 Objection as to vagueness.
 6 Okay. You can answer.
 7 THE WITNESS: Can you be more specific by
 8 apply to?
 9 Q Do screeners at ports of entry and land
 10 borders have access to the Cleared List?
 11 **A Not to my knowledge.**
 12 Q And if anybody at DHS TRIP knows who has
 13 access, it's you?
 14 **A Yeah.**
 15 Q Yep.
 16 Did you make the determination that the
 17 DHS TRIP letters would not -- I'm sorry.
 18 Did you make a determination that the
 19 close out DHS TRIP letters that regard
 20 misidentification issues would not disclose the
 21 existence of a misidentification issue to the DHS
 22 TRIP complainant?

280

1 MS. POWELL: Objection. Vague.
 2 THE WITNESS: I did not personally make
 3 that determination, no.
 4 BY MR. ABBAS:
 5 Q Who or what agency made the determination
 6 that DHS TRIP complainants who have a
 7 misidentification issue are not told that the
 8 cause of their travel difficulties is related to a
 9 misidentification issue?
 10 MS. POWELL: Objection. Vague.
 11 THE WITNESS: Although that decision
 12 process predates me, my assumption would be that
 13 during the process of establishing DHS TRIP, that
 14 was a decision that was made.
 15 Q By your branch manager predecessor?
 16 **A No. I would image that the DHS TRIP**
 17 **process was -- the whole implementation of the law**
 18 **that created DHS TRIP was created through an**
 19 **interagency process.**
 20 Q Is it your view, as branch manager of the
 21 Transportation Security Redress Branch, that
 22 disclosure of the fact that some DHS TRIP

Conducted on December 20, 2017

281

1 complainants are dealing with a misidentification
 2 issue would harm counter-terrorism efforts?
 3 MS. POWELL: Objection. Misleading and
 4 vague.
 5 THE WITNESS: In my view, yes.
 6 BY MR. ABBAS:
 7 Q What's the basis of your view?
 8 MS. POWELL: Objection. Vague.
 9 THE WITNESS: The basis of my view is my
 10 understanding of how the government's
 11 counter-terrorism efforts work and on what -- what
 12 they're built on.
 13 Q Okay.
 14 I'm going to mark as Exhibit 2 a DHS TRIP
 15 correspondence to one of the Plaintiffs in this
 16 case, Murat Frijuckic.
 17 MS. POWELL: I need to look at this.
 18 MR. ABBAS: Yep. Of course.
 19 MS. POWELL: I'm also going to go ahead
 20 and state, generally, an objection as to scope and
 21 that the witness was not designated to testify as
 22 to particular individuals.

282

1 MR. ABBAS: Yeah. And it won't be
 2 individual-specific.
 3 (Whereupon Plaintiff's Exhibit 2 was
 4 marked for identification.)
 5 BY MR. ABBAS:
 6 Q Did you see the back as well?
 7 **A I did.**
 8 Q Okay.
 9 Dr. Moore, is that your signature at the
 10 back?
 11 **A It is.**
 12 Q So you sign these letters in some way?
 13 **A Yes, in some way.**
 14 Q Is this -- does this contain template
 15 material that DHS TRIP utilizes in crafting DHS
 16 TRIP close out letters?
 17 MS. POWELL: Objection as to vagueness.
 18 And note that a fuller explanation than a yes/no
 19 could get into material protected by the
 20 deliberative process privilege, but I note that
 21 she can give a yes or no answer.
 22 THE WITNESS: Yes.

283

1 BY MR. ABBAS:
 2 Q Is there any part of the letter that you
 3 don't recall or that does not look familiar to
 4 you?
 5 MS. POWELL: Objection. To the extent
 6 you're asking how it departs from a template, we
 7 would consider that deliberative information and
 8 I'd instruct the witness not to answer except in
 9 so far as you're talking about the addition of the
 10 personal information.
 11 MR. ABBAS: Well, let me withdraw that
 12 question.
 13 Q Does this letter depart in any way from
 14 the templates that DHS TRIP utilizes?
 15 MS. POWELL: Objection and note that the
 16 question calls for information which is protected
 17 by the deliberative process privilege, in part.
 18 To the extent you can answer, in part,
 19 without revealing substantive differences between
 20 this and a template, I think you could.
 21 THE WITNESS: I would note that there
 22 is -- at the time of this letter, the figure was

284

1 less than 1 percent, and that's different. Now
 2 it's -- we use less than 2 percent.
 3 BY MR. ABBAS:
 4 Q Okay. So right now it's more than 1
 5 percent of DHS TRIP complaints have connection to
 6 the terrorist Watchlist, but less than 2 percent?
 7 **A That's the change that's in this versus a**
 8 **current letter.**
 9 Q Sure. I want to be --
 10 MS. POWELL: I'm going to instruct the
 11 witness not to answer as to the differences
 12 between the content of this letter -- between a
 13 template and what is in this letter, and that fact
 14 is a fact that has changed.
 15 MR. ABBAS: I'm not sure I follow, but I
 16 think -- well, let me just ask this question:
 17 Q Is this letter made up of content that was
 18 pulled from DHS TRIP templates?
 19 MS. POWELL: Same objection, but she can
 20 answer yes or no, again.
 21 THE WITNESS: Yes.
 22 Q All right.

Conducted on December 20, 2017

285

1 Can you flip to the back? You see the
 2 second-to-last paragraph? "This letter
 3 constitutes our final agency decision, which is
 4 reviewable by the United States Court of Appeals
 5 under 49 U.S.C. 46110?"
 6 **A Yes.**
 7 Q Who told you to put that in the letter?
 8 MS. POWELL: Objection. Misleading, and
 9 to the extent you're trying to ask -- to the
 10 extent you're attempting to reverse-engineer
 11 Watchlist status --
 12 MR. ABBAS: No. Nope. No.
 13 MS. POWELL: -- from --
 14 MR. ABBAS: Yep. All the letters say
 15 that.
 16 MS. POWELL: -- details in those
 17 letters --
 18 MR. ABBAS: No. Definitely --
 19 MS. POWELL: -- we would instruct the
 20 witness not to answer.
 21 MR. ABBAS: Let me just kind of --
 22 MS. POWELL: But --

286

1 MR. ABBAS: No, no. My -- and I'll just
 2 -- so we can kind of work together on getting an
 3 answer, I'm just kind of befuddled that after the
 4 Fourth, the Ninth, the DC Circuit, The Sixth
 5 Circuit, have said that 46110 does not cover
 6 Watchlist challenges, that you're still telling
 7 people to file stuff in the Circuit Court, so
 8 that's why.
 9 Q Why are you telling people to file things
 10 in the Circuit Court under 46110 when every
 11 circuit court that's dealt with the issue has said
 12 that 46110 does not cover Watchlist challenges?
 13 MS. POWELL: That is misleading and
 14 inaccurate and calls for a legal conclusion.
 15 Q Where did that content come from? The
 16 second-to-last paragraph of the back of this page
 17 of this?
 18 MS. POWELL: She has been instructed not
 19 to answer as to which content comes from a
 20 template and which content --
 21 MR. ABBAS: I'm not asking about which
 22 content comes from the template, which content --

287

1 I'm asking where -- why does that -- why is this
 2 in the letter? Why is -- why are you instructing
 3 people to file in Circuit Court of Appeals?
 4 MS. POWELL: I -- the same objections
 5 apply. If you're asking her why that is the legal
 6 standard of the agency, it is. And you're asking
 7 for a legal conclusion.
 8 BY MR. ABBAS:
 9 Q Have you ever given any thought to the
 10 accuracy of the second-to-last paragraph on
 11 Exhibit 2?
 12 MS. POWELL: Same objections, that it
 13 calls for a legal conclusion.
 14 If she wants to answer as to whether she's
 15 ever thought about it, that's not privileged, I
 16 guess.
 17 THE WITNESS: Sure, I've thought about the
 18 issue, to make sure that I understand.
 19 Q What is your understanding of 49 U.S.C.
 20 46110?
 21 MS. POWELL: Same objection, calls for a
 22 legal conclusion.

288

1 MR. ABBAS: But I'm asking what her
 2 understanding is.
 3 MS. POWELL: If she wants to give her --
 4 MR. ABBAS: That's -- yep.
 5 MS. POWELL: -- legal analysis, she may.
 6 MR. ABBAS: She's telling people in this
 7 letter. Yeah.
 8 No, no. Go ahead.
 9 MS. POWELL: To the -- sorry. To the
 10 extent -- my understanding of the question, as
 11 asked, is what is the meaning of 49 U.S.C. 46110;
 12 correct?
 13 MR. ABBAS: Whatever I asked is the
 14 question. I thought it was clear.
 15 MS. POWELL: I just --
 16 MR. ABBAS: Yeah. Do you want to ask it
 17 again? I have very poor short-term memory.
 18 (Whereupon the record was read.)
 19 MS. POWELL: I believe the witness can
 20 answer that. I am instructing her not to disclose
 21 any information that is SSI.
 22 But I think you can answer that question

Conducted on December 20, 2017

289

1 without disclosing SSI.
 2 THE WITNESS: My understanding of the
 3 inclusion of the 49 U.S.C. 46110 is that when a
 4 case has an aviation concern associated, and there
 5 has been a TSA Final Order, the applicant is
 6 entitled to seek further review in the U.S. Court
 7 of Appeals.
 8 BY MR. ABBAS:
 9 Q Do you send these letters out from this
 10 office here in Virginia?
 11 MS. POWELL: Objection. Scope, but....
 12 Q Where do these letters -- where do DHS
 13 TRIP close out letters get mailed from?
 14 **A From TSA headquarters.**
 15 Q Which is this building?
 16 **A The other building. Well, we are located**
 17 **in the other building. The mail room is located**
 18 **in this building.**
 19 Q Okay. But both are in Arlington?
 20 **A Yes.**
 21 Q Okay.
 22 So you're sending out -- I mean, I -- you

290

1 know, I don't understand how you're still sending
 2 these out inside the Fourth Circuit when the
 3 Fourth Circuit is telling you that 46110 doesn't
 4 apply. I think that's --
 5 MS. POWELL: That is not what the Firth
 6 Circuit said, but to the extent you want to make
 7 the legal argument, this doesn't seem like the
 8 setting.
 9 MR. ABBAS: Yeah, yeah, yeah. You're
 10 right. You're right. Yeah. Duly noted, opposing
 11 counsel.
 12 Q Okay. Let's just get through these two as
 13 well. So that's it for Exhibit 2.
 14 Exhibit 3, I'm going to mark Exhibit 3 as
 15 another DHS TRIP close out letter. This one to
 16 Yaseen Kadura from May 2013. It's two pages.
 17 Yes.
 18 (Whereupon Plaintiff's Exhibit 3 was
 19 marked for identification.)
 20 MS. POWELL: I am going to note for the
 21 record, again, my general scope objection that the
 22 witness is not designated to testify about

291

1 particular individuals or responses.
 2 MR. ABBAS: And I'm not going to ask her
 3 about any Plaintiff-specific information in this
 4 letter.
 5 And I apologize, I'm going to go back to
 6 Exhibit 2. I just have one quick question.
 7 Q On Exhibit 2 on the front page in the
 8 third paragraph, the second sentence that begins
 9 with "security procedures."
 10 "Security procedures and legal concerns
 11 mandate that we can neither confirm nor deny any
 12 information about you which may be within Federal
 13 Watchlists or reveal any law enforcement-sensitive
 14 information."
 15 Is that the Glomar policy that you were
 16 referring to that applies to Selectee-listed
 17 persons?
 18 MS. POWELL: Objection to the extent
 19 you're asking her to reveal Selectee List of
 20 some -- of this particular applicant.
 21 MR. ABBAS: Yeah, and I'm not. I'm just
 22 asking whether -- it's neither confirm nor deny.

292

1 MS. POWELL: Right. But you asked
 2 specifically about Selectee List.
 3 BY MR. ABBAS:
 4 Q Let me try to ask it a different way.
 5 Does the second sentence in the third
 6 paragraph in Exhibit 2 encapsulate your
 7 understanding of the Glomar policy that applies to
 8 all DHS TRIP complainants except those U.S.
 9 persons on the No Fly List?
 10 MS. POWELL: Objection. Misleading and
 11 potentially gets into privileged information.
 12 I think we could -- you could just
 13 directly ask her to explain the Glomar policy, if
 14 that's --
 15 MR. ABBAS: Well, I just want to see its
 16 relationship to that sentence.
 17 MS. POWELL: It's its relationship to that
 18 sentence in this letter that is problematic,
 19 potentially.
 20 MR. ABBAS: Well, I'm not asking about
 21 people on the Selectee List. I'm asking about DHS
 22 TRIP complainants, aside from U.S. persons on the

Conducted on December 20, 2017

293

1 No Fly List, which is all DHS TRIP complainants,
 2 which is not Selectee List-specific.
 3 MS. POWELL: Right. But the Glomar --
 4 sorry.
 5 MR. ABBAS: Well, the Glomar policy
 6 applies to people not on the Selectee List as
 7 well.
 8 MS. POWELL: She cannot ask -- answer the
 9 question the way it is phrased. It would reveal
 10 SSI or law enforcement-sensitive information.
 11 BY MR. ABBAS:
 12 Q What's your understanding of the second
 13 sentence in the third paragraph in Exhibit 2?
 14 **A Pretty much what it says, that the**
 15 **security procedures and legal concerns make it so**
 16 **that we can neither confirm nor deny information**
 17 **about you that's contained in Federal Watchlists.**
 18 Q Is that the Glomar policy that you
 19 referred to previously in the testimony?
 20 **A I can answer that?**
 21 MS. POWELL: I think so, yes.
 22 THE WITNESS: Yes.

294

1 BY MR. ABBAS:
 2 Q Okay. And the Glomar policy applies to
 3 all DHS TRIP complainants, other than those U.S.
 4 persons on the No Fly List?
 5 MS. POWELL: Objection. Sorry. The -- it
 6 calls for SSI to give a response to.
 7
 8 Q Who does the Glomar policy apply to -- I'm
 9 sorry.
 10 Does the Glomar policy apply to U.S.
 11 persons on the No Fly List?
 12 MS. POWELL: Objection. Potentially calls
 13 for SSI to give a complete answer.
 14 Please do not answer.
 15 MR. ABBAS: Potentially and depending on
 16 the scope of her answer, I'm asking really basic
 17 thing.
 18 MS. POWELL: I --
 19 MS. GREENBAND: She can answer to the
 20 extent she doesn't --
 21 MS. POWELL: Okay. You can answer without
 22 disclosing SSI.

295

1 THE WITNESS: Would you mind repeating the
 2 question?
 3 MR. ABBAS: Sure.
 4 Tasiana?
 5 (Whereupon the record was read.)
 6 THE WITNESS: In some instances, yes.
 7 BY MR. ABBAS:
 8 Q In what instances does the Glomar
 9 policy --
 10 MS. POWELL: Sorry. We're going to
 11 instruct the witness --
 12 MR. ABBAS: Oh, man.
 13 MS. POWELL: -- not to answer that.
 14 MR. ABBAS: I don't know. I don't -- I
 15 mean, that's inconsistent with my understanding of
 16 both the Glomar policy and the No Fly List.
 17 No? There's no, like -- there's no middle
 18 ground here? There's nothing -- because we've
 19 worked through these SSI issues pretty well.
 20 MS. POWELL: We can talk about this more
 21 off the record, if you'd like, in an attempt to
 22 resolve it.

296

1 MR. ABBAS: Okay. Can we do that real
 2 quick?
 3 MS. POWELL: Sure.
 4 MR. ABBAS: Let's do that real quick.
 5 THE VIDEOGRAPHER: We're going off the
 6 record. The time is 6:19.
 7 (Whereupon a recess was taken.)
 8 THE VIDEOGRAPHER: We're back on the
 9 record. The time the 6:23.
 10 MS. POWELL: I think we can clarify the
 11 record and provide you the information you're
 12 looking for, if I can reframe the question just a
 13 little bit myself.
 14 MR. ABBAS: Please.
 15 BY MS. POWELL:
 16 Q Which is: Does DHS TRIP confirm or deny
 17 the Watchlist status of U.S. persons who meet the
 18 standards for the revised redress process?
 19 **A You asked if -- I'm sorry.**
 20 Q Someone going to hit me?
 21 **A No, it was good. I just -- I have -- I**
 22 **need the reframing --**

Conducted on December 20, 2017

297

1 Q Sorry.

2 **A -- just to make sure I answer correctly.**

3 Q Does DHS TRIP confirm or deny the

4 Watchlist status of U.S. persons who meet the

5 standards for the revised redress process

6 requested -- discussed earlier?

7 **A Yes.**

8 Q Do they otherwise confirm or deny

9 Watchlist status of -- to people who submit DHS

10 TRIP inquiries?

11 **A No.**

12 MR. ABBAS: We're in business. Okay.

13 Q Okay. Now we're back to Exhibit 3.

14 Exhibit 3 is a letter from DHS TRIP. Lizzy Gary

15 is the signatory for the letter. It's dated May

16 8th, 2013, although it has a May 20th, 2013,

17 timestamp at the top. I can't remember why that's

18 there.

19 Dr. Moore, have you had a chance to review

20 Exhibit 3?

21 **A I have.**

22 Q Does Exhibit 3 appear to be a letter that

298

1 DHS TRIP issues to DHS TRIP complainants?

2 MS. POWELL: Objection as to vagueness.

3 Yeah. We'll leave it there.

4 THE WITNESS: It appears to be, yes.

5 Q In the second paragraph, it -- the last

6 sentence in the second paragraph says, "It has

7 been determined that no changes or corrections are

8 warranted at this time."

9 Do you see that?

10 **A I do.**

11 Q Is that language that DHS TRIP still

12 utilizes in letters that it sends to DHS TRIP

13 complainants?

14 MS. POWELL: Objection as to vagueness and

15 potentially misleading. That's it.

16 You can answer.

17 THE WITNESS: I can answer?

18 Yes.

19 Q In -- and I'll just say it ahead of time,

20 just give your attorney space to object.

21 What are the circumstances that would lead

22 DHS TRIP to include that language, the second

299

1 sentence of the second paragraph, in a letter to a

2 DHS TRIP complainant?

3 MS. POWELL: I'm going to object on

4 grounds of privilege and instruct the witness not

5 to answer, because the question calls for SSI and

6 law enforcement-privileged information.

7 MR. ABBAS: Are there any other reasons

8 why the witness is not going to answer?

9 MS. POWELL: Not that I can think of at

10 the moment. I might come up with some, if you

11 give me long enough. Scope, maybe.

12 MR. ABBAS: Yeah. Yeah.

13 Q Are -- does Exhibit 3 correspond with your

14 recollection of DHS TRIP close out templates that

15 DHS TRIP still utilizes?

16 MS. POWELL: Objection to the extent that

17 a full answer would require disclosure of

18 deliberative information.

19 As we discussed before, we'll assert the

20 deliberative process privilege, potentially other

21 privileges, over the differences between the

22 templates and the final letters.

300

1 MR. ABBAS: Are you instructing her not to

2 answer, or she can answer to the extent --

3 MS. POWELL: I was going to see if you

4 wanted to rephrase, because I'm not sure that's

5 what you were asking.

6 MR. ABBAS: No. I -- that was the

7 question.

8 MS. POWELL: Okay. I'm instructing her

9 not to answer then.

10 MR. ABBAS: Okay. That's fine.

11 Q Okay. Exhibit -- we're done with

12 Exhibit 3.

13 Exhibit 4 is a September 4th, 2015, letter

14 also regarding Yaseen Kadura.

15 (Whereupon Plaintiff's Exhibit 4 was

16 marked for identification.)

17 MS. POWELL: I'll go ahead and place on

18 the record the same objection that the witness is

19 not designated to testify about particular

20 individuals or responses.

21 BY MR. ABBAS:

22 Q Are you finished reviewing the letter?

Conducted on December 20, 2017

301

1 **A I am.**

2 Q Does this letter indicate that a person

3 was removed from the No Fly List?

4 MS. POWELL: Objection -- I mean,

5 actually, you can answer as to what the letter

6 says.

7 THE WITNESS: The letter says that the

8 U.S. Government knows of no reason that Mr. Kadura

9 should be unable to fly.

10 Q Does this letter indicate that a person

11 has been removed from the No Fly List?

12 MS. POWELL: Objection. Calls for past

13 status, which is protected by privilege, including

14 SSI and law enforcement privilege.

15 Q Generally speaking, does DHS TRIP use the

16 language contained in the first sentence of the

17 third paragraph -- "At this time, the U.S.

18 government knows of no reason" blank "should be

19 unable to fly." -- to indicate a change in No Fly

20 List status?

21 MS. POWELL: Objection. Same objection,

22 because it calls for past status rather than

302

1 status of at the time of the letter.

2 And I'm instructing the witness not to

3 answer.

4 MR. ABBAS: I'm not asking about Kadura's

5 status. I'm asking generally.

6 MS. POWELL: Right. But that would allow

7 someone to tell what their status was.

8 MR. ABBAS: See? I can't get anything

9 past her. Okay.

10 Why is it -- that's fine. Are you

11 instructing her not to answer?

12 MS. POWELL: Yes, I am.

13 MR. ABBAS: Okay. On the basis of?

14 MS. POWELL: SSI and law enforcement

15 privilege.

16 BY MR. ABBAS:

17 Q Okay. Why -- were -- there -- in my --

18 anecdotally, there was a period of time where

19 letters were seen to go out -- DHS TRIP letters --

20 DHS TRIP -- I'm sorry -- DHS Traveler Redress

21 Inquiry Program rather than from the director.

22 Why is that?

303

1 **A There was a concern about putting a**

2 **person's name on the letter.**

3 Q What was that concern?

4 MS. POWELL: You can answer.

5 THE WITNESS: There was a time when I

6 received a threat, and that prompted a decision to

7 remove my name from letters.

8 MS. POWELL: Can we avoid -- sorry. I

9 didn't realize I was going to call --

10 THE WITNESS: Sorry.

11 MS. POWELL: -- for information about the

12 personal threats to her.

13 MR. ABBAS: Yeah. I don't want to get

14 into that.

15 MS. POWELL: Can we --

16 MR. ABBAS: Yeah, yeah. No, no. I don't

17 want to get into it. Yeah, yeah.

18 MS. POWELL: Yeah.

19 MR. ABBAS: So that's more than I wanted

20 to know.

21 THE WITNESS: Okay. Sorry.

22 MR. ABBAS: Yep. That's the problem.

304

1 That's fine.

2 Q Okay. We're done with Exhibit 4. Is that

3 right?

4 **A Mm-hm. That was Exhibit 4.**

5 Q Okay. Exhibit 5, unfortunately, is fuzzy.

6 (Whereupon Plaintiff's Exhibit 5 was

7 marked for identification.)

8 MS. POWELL: It's mostly legible.

9 I think we're missing a page.

10 MR. ABBAS: I just want to look at this

11 page.

12 MS. POWELL: We should probably object as

13 to completeness then.

14 MR. ABBAS: That's fine.

15 Q Have you reviewed the letter?

16 **A I have.**

17 Q Does this letter appear to you to be one

18 page of a DHS TRIP close out letter sent to a DHS

19 TRIP complainant?

20 MS. POWELL: Objection as to completeness.

21 THE WITNESS: It does.

22 Q Could you go to the third paragraph, the

Conducted on December 20, 2017

305

1 second sentence: "At this time, the U.S.
 2 Government knows of no reason related to your
 3 inquiry that you should be unable to fly?"
 4 **A Yes.**
 5 Q Does that language -- is that the language
 6 that DHS TRIP utilizes --
 7 MS. POWELL: I'm gearing up.
 8 MR. ABBAS: Yeah. Yeah. I have to ask.
 9 I mean, we're going to file something.
 10 Q Does that language indicate -- does the
 11 second sentence in the third paragraph indicate
 12 that DHS TRIP has removed a person from the No Fly
 13 List?
 14 MS. POWELL: Objection. Calls for SSI and
 15 law enforcement-privileged information, and I'm
 16 instructing the witness not to answer.
 17 MR. ABBAS: Okay.
 18 Q Generally speaking -- we're done with this
 19 letter.
 20 Generally speaking, how does -- I'm sorry.
 21 Generally speaking, does DHS TRIP tell
 22 U.S. persons who have filed complaints whether or

306

1 not they've been removed from the No Fly List?
 2 MS. POWELL: Objection. Misleading, but
 3 you can answer, if you can.
 4 THE WITNESS: No.
 5 BY MR. ABBAS:
 6 Q So you -- so DHS TRIP tells people that
 7 they are on the No Fly List, but will not tell
 8 people that they've been removed from the No Fly
 9 List?
 10 MS. POWELL: Objection. Misleading.
 11 THE WITNESS: Yes.
 12 MR. ABBAS: Okay. Give me, like,
 13 30 seconds. I'm almost positive we're completely
 14 done. So let me just check with Lena, and then --
 15 MS. POWELL: Let's take slightly longer,
 16 because I want to follow up with the --
 17 MR. ABBAS: Oh, okay. Sure.
 18 MS. POWELL: -- witness about a couple of
 19 answers.
 20 MR. ABBAS: Okay. Okay.
 21 THE VIDEOGRAPHER: Do you want to go off
 22 the record?

307

1 MR. ABBAS: Yeah.
 2 MS. POWELL: Yes.
 3 THE VIDEOGRAPHER: We're going off the
 4 record. The time is 6:36.
 5 (Whereupon a recess was taken.)
 6 THE VIDEOGRAPHER: We're back on the
 7 record. The time is 6:43.
 8 MR. ABBAS: This was Exhibit 5, right?
 9 MS. POWELL: Yes.
 10 BY MR. ABBAS:
 11 Q Could we just go back to Exhibit 5 for a
 12 quick second?
 13 What conclusion do you expect people to
 14 draw from the second sentence of the third
 15 paragraph?
 16 MS. POWELL: Objection as to vagueness.
 17 Actually, I think you can answer that.
 18 THE WITNESS: I think they would draw the
 19 conclusion that the government doesn't expect that
 20 they should have any problems flying.
 21 Q Okay. That's fine. All right. Great.
 22 We're done. Fantastic.

308

1 Thank you so much, Dr. Moore. I really
 2 appreciate it.
 3 **A Oh, thank you. Nice to meet you as well.**
 4 THE VIDEOGRAPHER: This marks the end of
 5 the deposition. We're going off the record at
 6 6:44.
 7 (Off the record at 6:44 p.m.)
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Conducted on December 20, 2017

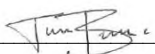

309

1 CERTIFICATE OF SHORTHAND REPORTER- NOTARY PUBLIC

2 I, TASIANA T. BASDEKIS, Registered
3 Professional Reporter and Notary Public, the
4 officer before whom the foregoing deposition was
5 taken, do hereby certify that the foregoing
6 transcript is a true and correct record of the
7 testimony given; that said testimony was taken by
8 me stenographically and thereafter reduced to
9 typewriting under my supervision; that reading and
10 signing was not requested; and that I am neither
11 counsel for or related to, nor employed by any of
12 the parties to this case and have no interest,
13 financial or otherwise, in its outcome.

14 IN WITNESS WHEREOF, I have hereunto set my
15 hand and affixed my notarial seal this 2 day of
16 January, 2018.

17
18 My commission expires September 30, 2021.

19
20  
21 NOTARY PUBLIC IN AND FOR
22 THE COMMONWEALTH OF VIRGINIA