

**Elhady Plaintiffs
MSJ Exhibit 26**



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Transcript of Hao-Y Froemling, Corporate Designee

Date: March 20, 2018

Case: El Hady, et al. -v- Kable, et al.

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Transcript of Hao-Y Froemling, Corporate Designee
Conducted on March 20, 2018

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<p>1 UNITED STATES DISTRICT COURT</p> <p>2 EASTERN DISTRICT OF VIRGINIA</p> <p>3 ALEXANDRIA DIVISION</p> <p>4 ----- x</p> <p>5 ANAS EL HADY, et al., :</p> <p>6 Plaintiffs, :</p> <p>7 v. : Case No.</p> <p>8 CHARLES H. KABLE, Director of the : 16-cv-00375</p> <p>9 Terrorist Screening Center; :</p> <p>10 in his official capacity, et al., :</p> <p>11 Defendants. :</p> <p>12 ----- x</p> <p>13</p> <p>14 Videotaped Deposition of TSA</p> <p>15 By and Through its Designated Representative</p> <p>16 HAO-Y FROEMLING</p> <p>17 Arlington, Virginia</p> <p>18 Tuesday, March 20, 2018</p> <p>19 9:29 a.m.</p> <p>20 Job No.: 182337</p> <p>21 Pages: 1 - 369</p> <p>22 Reported By: Tasiana T. Basdekis, RPR</p>	<p>1 A P P E A R A N C E S</p> <p>2 ON BEHALF OF THE PLAINTIFF, EL HADY:</p> <p>3 CAROLYN HOMER, ESQUIRE</p> <p>4 LENA MASRI, ESQUIRE</p> <p>5 GADEIR ABBAS, ESQUIRE</p> <p>6 AHMED MOHAMED, ESQUIRE</p> <p>7 COUNCIL ON AMERICAN-ISLAMIC RELATIONS</p> <p>8 453 New Jersey Avenue, S.E.</p> <p>9 Washington, District of Columbia 20003</p> <p>10 (202) 516-4724</p> <p>11</p> <p>12 ON BEHALF OF THE DEFENDANT, KABLE:</p> <p>13 ANTONIA KONKOLY, ESQUIRE</p> <p>14 DENA ROTH, ESQUIRE</p> <p>15 U.S. DEPARTMENT OF JUSTICE</p> <p>16 CIVIL DIVISION</p> <p>17 2100 Jamieson Avenue</p> <p>18 Alexandria, Virginia 22314</p> <p>19 (202) 514-2000</p> <p>20</p> <p>21</p> <p>22</p>
2	4
<p>1 Videotaped deposition of HAO-Y FROEMLING, held</p> <p>2 at the offices of:</p> <p>3</p> <p>4</p> <p>5 TRANSPORTATION SECURITY ADMINISTRATION</p> <p>6 601 South 12th Street</p> <p>7 East Tower</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>1 A P P E A R A N C E S C O N T I N U E D</p> <p>2 ON BEHALF OF THE DEFENDANT, KABLE:</p> <p>3 JENNIFER GREENBAND, ESQUIRE</p> <p>4 KEVIN BOGUCKI, ESQUIRE</p> <p>5 JOSEPH CLARK, ESQUIRE</p> <p>6 KATHLEEN GANNON, ESQUIRE</p> <p>7 U.S. DEPARTMENT OF JUSTICE</p> <p>8 TRANSPORTATION SECURITY ADMINISTRATION</p> <p>9 601 12th Street South</p> <p>10 Arlington, Virginia 20598</p> <p>11</p> <p>12 ALSO PRESENT:</p> <p>13 JOE DONOHOE, Videographer</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>

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<p>1 C O N T E N T S</p> <p>2</p> <p>3 EXAMINATION OF HAO-Y FROEMLING PAGE</p> <p>4 By Ms. Homer 7</p> <p>5</p> <p>6</p> <p>7 E X H I B I T S</p> <p>8 (Attached)</p> <p>9 PLAINTIFF'S FOR IDENTIFICATION PAGE</p> <p>10 1 Hao-Y Froemling Notice of Deposition 11</p> <p>11 2 2014 GAO Report 132</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p>1 Plaintiffs.</p> <p>2 MR. MOHAMED: Ahmed Mohamed on behalf of</p> <p>3 Plaintiffs.</p> <p>4 MS. KONKOLY: Antonia Konkoly from the</p> <p>5 Department of Justice on behalf of Defendants.</p> <p>6 MS. GREENBAND: Jennifer Greenband, TSA.</p> <p>7 MR. BOGUCKI: Kevin Bogucki, TSC.</p> <p>8 MS. ROTH: Dena Roth, Department of</p> <p>9 Justice.</p> <p>10 MR. CLARK: Joseph Clark, U.S. Customs and</p> <p>11 Border Protection.</p> <p>12 MS. GANNON: Kathleen Gannon, TSA.</p> <p>13 THE VIDEOGRAPHER: Would the court please</p> <p>14 swear in the witness.</p> <p>15 Whereupon,</p> <p>16 HAO-Y FROEMLING,</p> <p>17 being first duly sworn or affirmed to testify to</p> <p>18 the truth, the whole truth, and nothing but the</p> <p>19 truth, was examined and testified as follows:</p> <p>20 EXAMINATION</p> <p>21 BY MS. HOMER:</p> <p>22 Q Good morning, Ms. Froemling. Can you</p>
6	8
<p>1 P R O C E E D I N G S</p> <p>2 THE VIDEOGRAPHER: Here begins disk number</p> <p>3 one in the videotaped deposition of Hao-Y</p> <p>4 Froemling in the matter of Elhady, et al., v.</p> <p>5 Kable, et al., in the United States District Court</p> <p>6 for the Eastern District of Virginia, Case No.</p> <p>7 16-cv-375.</p> <p>8 Today's date is March 20th, 2018, and the</p> <p>9 time on the video monitor is 9:29 a.m.</p> <p>10 The videographer today is Joe Donahoe,</p> <p>11 representing Planet Depos, and this videotaped</p> <p>12 deposition is taking place at 601 South 12th</p> <p>13 Street, Arlington, Virginia.</p> <p>14 Would counsel please voice-identify</p> <p>15 themselves and state whom they represent?</p> <p>16 MS. HOMER: Hi. I'm Carolyn Homer from</p> <p>17 the Counsel on American-Islamic Relations on</p> <p>18 behalf of the Plaintiffs.</p> <p>19 MS. MASRI: Lena Masri on behalf of the</p> <p>20 Plaintiffs.</p> <p>21 MS. KONKOLY: Antonia Konkoly from --</p> <p>22 MR. ABBAS: Gadeir Abbas on behalf of the</p>	<p>1 please state your full name for the record.</p> <p>2 A It's Hao-Y Tran Froemling.</p> <p>3 Q Have you ever been deposed before?</p> <p>4 A No.</p> <p>5 Q So I'm going to cover some quick ground</p> <p>6 rules that you may have already previously covered</p> <p>7 with your attorney, but you recognize that you are</p> <p>8 under oath today?</p> <p>9 A Yes.</p> <p>10 Q And that you're obliged to tell the truth?</p> <p>11 A Yes.</p> <p>12 Q Is there any medical or other reason why</p> <p>13 you are unable to provide complete and truthful</p> <p>14 testimony today?</p> <p>15 A No.</p> <p>16 Q You're already doing a good job of this,</p> <p>17 but because everything is being transcribed, the</p> <p>18 court reporter will need clear yes or no or stated</p> <p>19 answers. So can you try not to just nod or</p> <p>20 mm-hms?</p> <p>21 A Okay. Yes.</p> <p>22 Q Okay. And we're trying to have a</p>

9	<p>1 conversation, but it can sometimes be difficult</p> <p>2 because normal conversation, people interrupt each</p> <p>3 other. But I'm going to try not to interrupt you</p> <p>4 when you're giving an answer, and I hope you try</p> <p>5 not to interrupt me when I'm asking a question so</p> <p>6 that we have a clean transcript.</p> <p>7 Is that okay?</p> <p>8 A Yes.</p> <p>9 Q Okay.</p> <p>10 What is your understanding as to why</p> <p>11 you're here today?</p> <p>12 A I understand that I am being deposed on</p> <p>13 behalf of TSA.</p> <p>14 Q What is your title at the TSA?</p> <p>15 A The Executive Director for Vetting in The</p> <p>16 Office of Intelligence and Analysis.</p> <p>17 Q And how long have you held that position?</p> <p>18 A Since January of 2018.</p> <p>19 Q Did you previously work for the TSA in any</p> <p>20 capacity?</p> <p>21 A Yes.</p> <p>22 Q What was your prior job title at the TSA?</p>	11	<p>1 this deposition the 30(b)(6) Deposition Notice</p> <p>2 from Plaintiffs.</p> <p>3 (Whereupon Plaintiff's Exhibit 1 was</p> <p>4 marked for identification.)</p> <p>5 Do you recognize this document?</p> <p>6 A No.</p> <p>7 Q No?</p> <p>8 A No.</p> <p>9 Q If you look --</p> <p>10 A Oh, yes, I do. Sorry.</p> <p>11 Q Oh, you do?</p> <p>12 A Yep.</p> <p>13 Q Okay.</p> <p>14 And you see that starting halfway down</p> <p>15 page 1 and continuing onto page 2 there are ten</p> <p>16 listed topics?</p> <p>17 A Yes.</p> <p>18 Q Have you reviewed these topics before</p> <p>19 today?</p> <p>20 A Yes.</p> <p>21 Q Are you prepared to testify on behalf of</p> <p>22 the TSA as to these ten topics?</p>
10	<p>1 A The Director for the Program Management</p> <p>2 Division in The Office of Intelligence and</p> <p>3 Analysis.</p> <p>4 Q And how long did you hold that position?</p> <p>5 A Since 2015.</p> <p>6 Q And prior to that, did you also work for</p> <p>7 the TSA?</p> <p>8 A Yes.</p> <p>9 Q And what was your position prior to 2015?</p> <p>10 A The Deputy Director for the Program</p> <p>11 Management Division in The Office of Intelligence</p> <p>12 and Analysis.</p> <p>13 Q How long have you worked for the TSA in</p> <p>14 any capacity?</p> <p>15 A Since 2007.</p> <p>16 Q Okay. So more than ten years?</p> <p>17 A Yes.</p> <p>18 Q And you feel you have a good understanding</p> <p>19 of TSA operations and procedures generally?</p> <p>20 MS. KONKOLY: Objection; vague.</p> <p>21 THE WITNESS: Yes.</p> <p>22 Q Okay. I'm going to mark as Exhibit 1 to</p>	12	<p>1 MS. KONKOLY: Objection insofar as that</p> <p>2 question goes beyond the scope of the protective</p> <p>3 order entered by the court.</p> <p>4 But you can answer.</p> <p>5 THE WITNESS: Yes. To the extent that</p> <p>6 it's allowed, yes.</p> <p>7 BY MS. HOMER:</p> <p>8 Q Understood. And I will be endeavoring to</p> <p>9 not ask any questions subject to the court's</p> <p>10 protective order.</p> <p>11 So I want to start with some general</p> <p>12 background on the TSA. When was the TSA created?</p> <p>13 A It was enacted by Congress in November of</p> <p>14 2001.</p> <p>15 Q Okay. And why was the TSA created?</p> <p>16 A It was basically a direct result of the</p> <p>17 terrorist attacks on September 11th, 2001.</p> <p>18 Q And what is the TSA's mission?</p> <p>19 A It is to protect our nation's</p> <p>20 transportation systems, ensuring the freedom of</p> <p>21 movement for people and commerce.</p> <p>22 Q What constitutes the "nation's</p>

<p style="text-align: right;">13</p> <p>1 transportation systems"?</p> <p>2 MS. KONKOLY: Objection; vague.</p> <p>3 THE WITNESS: To the extent -- I mean,</p> <p>4 it's all modes of transportation.</p> <p>5 BY MS. HOMER:</p> <p>6 Q So airlines are included within the TSA's</p> <p>7 mission for protecting transportation systems?</p> <p>8 A Yes, as it relates to transportation.</p> <p>9 Q Does it also include trains? Like,</p> <p>10 Amtrak?</p> <p>11 A Yes, to the -- yes, in the -- in their</p> <p>12 operations related to transportation.</p> <p>13 Q Okay. Same for buses?</p> <p>14 A Yes.</p> <p>15 Q Ports?</p> <p>16 A Maritime ports?</p> <p>17 Q Maritime ports.</p> <p>18 A Yes.</p> <p>19 Q U.S. highways?</p> <p>20 A Not the highways directly, but to the</p> <p>21 extent that individuals are transporting on</p> <p>22 highways, yes.</p>	<p style="text-align: right;">15</p> <p>1 driver's license licensing or use of vehicles on</p> <p>2 the road, generally speaking, that is not</p> <p>3 transportation security. That would fall under</p> <p>4 the Department of Transportation.</p> <p>5 Q Okay. I appreciate that clarification.</p> <p>6 I'm just trying to understand the full scope of</p> <p>7 TSA's operations.</p> <p>8 So it would encompass -- the TSA would</p> <p>9 encompass though, like, commercial truckers</p> <p>10 carrying hazardous waste that could pose a</p> <p>11 security threat, for example?</p> <p>12 A Yes, hazard -- those transporting</p> <p>13 hazardous materials fall under Transportation --</p> <p>14 Q Okay. What --</p> <p>15 A -- Security Administration.</p> <p>16 Q -- else falls under transportation</p> <p>17 security on the nation's highways, generally?</p> <p>18 A Generally speaking, we can point to those</p> <p>19 required by the 9/11 Act. Those would be</p> <p>20 over-the-road buses, the Hazardous Materials</p> <p>21 Endorsement, truck drivers, the -- sorry. I'm</p> <p>22 thinking through.</p>
<p style="text-align: right;">14</p> <p>1 Q So when you say "transporting," what does</p> <p>2 that mean?</p> <p>3 A So highways' infrastructure construction</p> <p>4 would not be under transportation security.</p> <p>5 Those traveling using modes via highways</p> <p>6 would fall under --</p> <p>7 Q And that includes both --</p> <p>8 A -- transportation security.</p> <p>9 Q Sorry. So that would include both</p> <p>10 ordinary passengers in cars, like, just traveling</p> <p>11 to visit family? Or -- sorry. Let me rephrase.</p> <p>12 Does protecting transportation on the</p> <p>13 nation's highways include protecting the security</p> <p>14 of just automobiles on the highways?</p> <p>15 MS. KONKOLY: Objection; vague.</p> <p>16 You can answer, if you can.</p> <p>17 THE WITNESS: No, not directly.</p> <p>18 So if it touches from a transportation</p> <p>19 security/national security related to</p> <p>20 counter-terrorism, yes.</p> <p>21 Q Okay.</p> <p>22 A If we are talking about safety, such as</p>	<p style="text-align: right;">16</p> <p>1 Over-the-road buses, interstate or travel</p> <p>2 of transporting on highways, to that effect. But</p> <p>3 it's primarily those buses, Hazardous Material</p> <p>4 Endorsement truckers.</p> <p>5 Q In terms of budgetary resources, what are</p> <p>6 the TSA's highest, I guess, security priorities?</p> <p>7 MS. KONKOLY: I'm going --</p> <p>8 MS. HOMER: Okay. Sorry. Go ahead.</p> <p>9 MS. KONKOLY: Objection as to scope and</p> <p>10 vagueness.</p> <p>11 But you can answer, to the extent you can.</p> <p>12 THE WITNESS: So I wouldn't -- so from a</p> <p>13 budget appropriations perspective, the as -- also</p> <p>14 defined and directed in the Appropriations Law</p> <p>15 when we are funded, a -- the majority of the</p> <p>16 budget would go towards aviation security.</p> <p>17 Q Okay.</p> <p>18 A A smaller component goes to surface</p> <p>19 transportation security.</p> <p>20 Q Okay. I just -- couple quick questions</p> <p>21 trying to establish sort of the size of TSA</p> <p>22 operations.</p>

<p style="text-align: right;">17</p> <p>1 Roughly how many employs does the TSA</p> <p>2 currently have?</p> <p>3 A Approximately 60,000.</p> <p>4 Q And how many screenings does the TSA</p> <p>5 conduct per year?</p> <p>6 A So if --</p> <p>7 MS. KONKOLY: Objection; vague.</p> <p>8 THE WITNESS: Yeah.</p> <p>9 MS. KONKOLY: But you can answer.</p> <p>10 THE WITNESS: To approximate, we average</p> <p>11 approximately 2 million travelers a day. So if</p> <p>12 you multiple that times 365 -- I'm not doing the</p> <p>13 math very well --</p> <p>14 Q So --</p> <p>15 A -- approximately 700 million? 700, 800</p> <p>16 million? I'm sorry.</p> <p>17 Q Does 770 --</p> <p>18 A I'm trying to do math on the spot.</p> <p>19 Q -- million sound --</p> <p>20 A Right.</p> <p>21 Q -- approximately right?</p> <p>22 A Yep.</p>	<p style="text-align: right;">19</p> <p>1 A I'm sorry. Can you repeat the question?</p> <p>2 Q Sorry. How many firearms does the TSA</p> <p>3 seize during screenings per year?</p> <p>4 MS. KONKOLY: I'm going to object as to</p> <p>5 scope.</p> <p>6 You can answer, if you know.</p> <p>7 THE WITNESS: I don't have that number.</p> <p>8 Q Can you tell me what a -- sorry.</p> <p>9 Can you tell me what the -- what a</p> <p>10 transportation security incident is?</p> <p>11 MS. KONKOLY: Objection; vague.</p> <p>12 THE WITNESS: To the extent -- I mean, an</p> <p>13 incident could -- it's -- that's very broad.</p> <p>14 It could be anything from some sort of</p> <p>15 altercation or disruption at a checkpoint --</p> <p>16 "transportation" is broad, so do you mean in a</p> <p>17 certain mode or just in general across</p> <p>18 transportation?</p> <p>19 Q Let me try and ask it --</p> <p>20 A Sorry.</p> <p>21 Q -- a different way.</p> <p>22 Does the TSA record -- or use the term</p>
<p style="text-align: right;">18</p> <p>1 Q Okay. Do you have a calculation of the</p> <p>2 number of secondary screenings the TSA conducts on</p> <p>3 an average day?</p> <p>4 A I don't --</p> <p>5 MS. KONKOLY: Objection; vague. Objection</p> <p>6 insofar as that calls for SSI-privileged</p> <p>7 information.</p> <p>8 THE WITNESS: I don't have that number.</p> <p>9 Q Would the TSA be able to calculate that</p> <p>10 number?</p> <p>11 A Not to the extent that I believe that we</p> <p>12 can share it beyond -- outside of the SSI.</p> <p>13 Q I'm not asking right now for a number.</p> <p>14 I'm asking that if you had to, does the TSA</p> <p>15 calculate how many secondary screenings it</p> <p>16 conducts per day nationwide?</p> <p>17 A I would say we could approximate. I don't</p> <p>18 know if we actually calculate.</p> <p>19 Q Okay.</p> <p>20 How many -- or do you have an estimate of</p> <p>21 the number of firearms that TSA seizes on either a</p> <p>22 daily or annual basis?</p>	<p style="text-align: right;">20</p> <p>1 "transportation security incident" to define</p> <p>2 events that happen during screenings at airports?</p> <p>3 MS. KONKOLY: Objection; vague.</p> <p>4 You can answer.</p> <p>5 THE WITNESS: Yes. That would be one of</p> <p>6 the possibilities that would roll up under a</p> <p>7 transportation security incident.</p> <p>8 BY MS. HOMER:</p> <p>9 Q And does a transportation security</p> <p>10 incident imply violence?</p> <p>11 MS. KONKOLY: Objection; vague.</p> <p>12 THE WITNESS: Not necessarily.</p> <p>13 Q Okay. Just I've seen the term in</p> <p>14 documents, and so I'm trying to understand what is</p> <p>15 usually meant by the TSA when they use that term.</p> <p>16 So, I mean, specifically confined to the</p> <p>17 airport screening context, can you provide me a</p> <p>18 general definition of what a transportation</p> <p>19 security incident is?</p> <p>20 MS. KONKOLY: Objection; vague and scope.</p> <p>21 But you can answer, if you know.</p> <p>22 THE WITNESS: Right. To the extent an</p>

21

1 incident is effectively some sort of security
 2 event and occurrence, it could be anything from
 3 prohibited items being identified and then some
 4 sort of discussion or occurrence going on between
 5 the screener and passenger.
 6 It could be an event or occurrence that
 7 occurs between passengers where security -- there
 8 was some sort of security response required.
 9 I'm sorry. It's very broad-ended.
 10 BY MS. HOMER:
 11 Q It was helpful. Thank you.
 12 **A Sure.**
 13 Q Does the TSA ever detain individuals
 14 thought to be a security risk during screening?
 15 **A I'm sorry. Can you repeat the question?**
 16 Q Yeah. Does the TSA ever detain
 17 individuals thought to be a security risk during
 18 screening?
 19 MS. KONKOLY: Objection; vague.
 20 You can answer, if you know.
 21 THE WITNESS: Right. I would not say
 22 "detain" so much as during screening, if something

22

1 has been identified that requires additional
 2 screening, we do require that the passenger remain
 3 at the checkpoint until whatever alarm -- whether
 4 something alarmed, some prohibited item was
 5 identified, until they can actually complete the
 6 screening and clear any concerns.
 7 BY MS. HOMER:
 8 Q Does the TSA ever pull someone out of
 9 security and take them to, like, a private room to
 10 await resolution of whatever the TSA security
 11 concern is?
 12 MS. KONKOLY: Objection; vague.
 13 THE WITNESS: No, not as a part of our
 14 routine. The -- any enhanced screening would
 15 occur there at the checkpoint or it is the -- if
 16 the passenger requests private screening, then TSA
 17 would facilitate that and take them to a private
 18 setting to conduct the screening.
 19 Q When you say "enhanced screening," what do
 20 you mean by that?
 21 MS. KONKOLY: Objection; vague. And
 22 objection insofar as a complete answer would call

23

1 for information protected by SSI.
 2 But you can answer, to the extent you can.
 3 THE WITNESS: Right. To the extent if
 4 there has been something that has alarmed or
 5 something has been detected when they're going
 6 through, or if we've identified an individual that
 7 requires additional security screening, TSA has
 8 certain procedures to conduct various enhanced
 9 screening measures, whether --
 10 BY MS. HOMER:
 11 Q Can you give me some examples of the
 12 various enhanced screening measures?
 13 MS. KONKOLY: I'm going to object insofar
 14 as that answer calls for information protected by
 15 SSI.
 16 But you can answer, to the extent you can.
 17 THE WITNESS: Right. It could be enacting
 18 combinations of whether it's an explosive trace
 19 detection, whether it's going through the advanced
 20 imaging technology, in cases if there may be an
 21 examination of the person or more physical
 22 examination of a person's bags.

24

1 BY MS. HOMER:
 2 Q Are you familiar with the Terrorist
 3 Screening Database?
 4 **A Yes.**
 5 Q Are you okay if I use the abbreviation
 6 TSDB --
 7 **A Yes.**
 8 Q -- to refer to it?
 9 Does the TSA calculate the number of
 10 encounters with persons it has on the TSDB per
 11 year?
 12 MS. KONKOLY: Objection as to scope and
 13 insofar as that information -- or that question
 14 calls for information within the purview of other
 15 agencies and insofar as an answer would implicate
 16 law enforcement-privileged information or SSI.
 17 But can you answer, to the extent that you
 18 can.
 19 THE WITNESS: TSA tracks not so much the
 20 number it has. If TSA encounters an individual
 21 that is a match to the TSDB, then we do track
 22 those encounters if we have had a match.

25

1 BY MS. HOMER:
 2 Q Could the TSA calculate the number of
 3 encounters it had with matches to the TSDB last
 4 year?
 5 **A Yes.**
 6 Q Has the TSA calculated that number before
 7 now?
 8 MS. KONKOLY: Objection as to scope and
 9 insofar as it would call for information protected
 10 by law enforcement or SSI privileges.
 11 But you can answer, to the extent that you
 12 can.
 13 THE WITNESS: So --
 14 Q I can rephrase the question.
 15 **A Yeah. Okay.**
 16 Q Does the TSDB [sic] regularly calculate or
 17 publish aggregate statistics on encounters it has
 18 with people on the TSDB?
 19 **A I'm sorry. Does the TSDB calculate**
 20 **with -- I'm sorry.**
 21 Q Sorry. Does the TSA --
 22 **A Okay.**

26

1 Q -- regularly calculate aggregate
 2 statistics on encounters it has with people on the
 3 TSDB?
 4 **A Yes. That is part of our normal reporting**
 5 **procedures.**
 6 Q And where does the TSA report those
 7 numbers?
 8 **A Where or to whom? I'm sorry.**
 9 Q To whom would be great. We'll start
 10 there.
 11 **A Okay. When we identify a match to the**
 12 **TSDB, we do notify the TSC of any encounters, and**
 13 **depending on the nature of the encounter -- for**
 14 **example, if it was a passenger -- we would -- I'm**
 15 **sorry.**
 16 **Can you confirm the question is aggregate**
 17 **reporting or just a notice of encounter?**
 18 Q Yeah. Right now I'm curious about the
 19 aggregate reporting.
 20 **A So the aggregate reporting is primarily**
 21 **not so much aggregate out reporting to. We notify**
 22 **the TSC of encounters as they occur.**

27

1 **Aggregate reporting would only be more**
 2 **internal in our systems for TSA.**
 3 Q Do -- does the TSA prepare internal
 4 aggregate reports regarding encounters with
 5 persons on the TSDB?
 6 **A Yes. From a numbers perspective, yes.**
 7 Q And what are those reports called?
 8 **A At a high level, they -- we generally call**
 9 **them encounter or related vetting prescreening**
 10 **reports. It's -- at a high level, that's what we**
 11 **would --**
 12 Q And --
 13 **A -- call them.**
 14 Q -- how often does the TSA prepare those
 15 high level encounter prescreening reports?
 16 **A So general -- as part of our operations in**
 17 **transportation security, we have a Daily Encounter**
 18 **Report.**
 19 Q Do you prepare separate weekly or monthly
 20 reports?
 21 **A It's -- yes. Effectively, the Daily has**
 22 **a -- an aggregate just year-to-date and just**

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1 **daily.**
 2 Q Do those aggregate -- sorry.
 3 What information do those aggregate
 4 reports contain?
 5 MS. KONKOLY: Objection insofar as that
 6 answer would -- the question calls for an answer
 7 that would implicate information protected by law
 8 enforcement privilege or SSI.
 9 You can answer, to the extent that you
 10 can.
 11 THE WITNESS: At a high level, is a
 12 total -- they're total cumulative numbers.
 13 Q So is it just numbers of encounters with
 14 persons on the TSDB?
 15 MS. KONKOLY: Same objections. Objection
 16 insofar as the answer would implicate law
 17 enforcement privilege or SSI.
 18 But you can answer, to the extent you can.
 19 THE WITNESS: Right. For passenger
 20 prescreening, it is a total number, when we talk
 21 about aggregate reports.
 22 Q Does it -- do these reports contain any

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1 aggregate statistics adding detail to the persons
 2 on the TSDB? Such as how many of the encounters
 3 were with persons on the Selectee List?
 4 MS. KONKOLY: Objection insofar as the
 5 answer would implicate information protected by
 6 the law enforcement privilege or SSI.
 7 You can answer, to the extent that you
 8 can.
 9 THE WITNESS: We provide -- primarily,
 10 these aggregate reports are reports that are going
 11 to our operations for awareness. It is primarily
 12 an encounter for those that match to the TSDB,
 13 which would be the selectees.
 14 We also provide -- actually, I think
 15 that's all. We don't do much separation as a
 16 total --
 17 BY MS. HOMER:
 18 Q Does the TSA --
 19 **A -- number.**
 20 Q -- prepare aggregate information on the
 21 number of encounters with persons on the TSDB
 22 where that person caused a transportation security

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1 incident during screening?
 2 MS. KONKOLY: Objection insofar as that
 3 answer would implicate information protected by
 4 the law enforcement privilege or SSI.
 5 You can answer, to the extent you can.
 6 THE WITNESS: Can you repeat the question?
 7 MS. HOMER: Could I have the court
 8 reporter read it back?
 9 (Whereupon the record was read.)
 10 MS. KONKOLY: Same objections.
 11 THE WITNESS: Right. Generally, no.
 12 BY MS. HOMER:
 13 Q Okay.
 14 Does the TSA calculate encounters with
 15 persons on the TSDB where that person was caught
 16 with a weapon or other contraband?
 17 MS. KONKOLY: Objection insofar as an
 18 answer would call for information protected by the
 19 law enforcement privilege or SSI.
 20 But you can answer, to the extent that you
 21 can.
 22 THE WITNESS: Right. Was the question

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1 does the TSA aggregate the number of encounters of
 2 individuals on the TSDB that was what with the
 3 firearm?
 4 BY MS. HOMER:
 5 Q That they were caught with a weapon or
 6 other illegal contraband during screening.
 7 MS. KONKOLY: Same objections.
 8 THE WITNESS: Not at a high level. There
 9 is tracking recording firearms, and there's
 10 tracking regarding encounters, generally, as part
 11 of reporting at a high level.
 12 Q Could the TSDB [sic] calculate encounter
 13 information with persons on the TSDB where those
 14 persons also had a firearm?
 15 **A Could the TSDB calculate or could TSA?**
 16 Q I'm sorry. I misspoke. Let me rephrase
 17 the question.
 18 **A Sorry.**
 19 Q Could the TSA match up the calculations of
 20 its encounters with its calculations of persons
 21 caught with firearms in order to determine how
 22 many persons on the TSDB had a weapon on them

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1 during their encounter?
 2 MS. KONKOLY: Objection insofar as an
 3 answer would implicate information protected by
 4 the law enforcement privilege or SSI.
 5 But you can answer, to the extent that you
 6 can.
 7 THE WITNESS: At a high level, the
 8 information is available to do that, yes.
 9 BY MS. HOMER:
 10 Q Has the TSA ever calculated that number?
 11 **A Historically -- not as a norm, but yes.**
 12 Q Okay. And where would that number have
 13 been reported in the document?
 14 MS. KONKOLY: Objection insofar as an
 15 answer would call for information protected by law
 16 enforcement privilege or SSI.
 17 But you can answer, if you can.
 18 THE WITNESS: It's an internal TSA report.
 19 Q And does that report have a title?
 20 **A I don't -- it's not a regularly-calculated**
 21 **report, so I do not know of a title for the**
 22 **report.**

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1 Q How often has that report been calculated,
2 to your knowledge?
3 **A I don't know the answer of how often.**
4 Q Could you, after today, in theory go and
5 look it up? What you're thinking of right now.
6 **A Yes. It would be a query, since it is not**
7 **a regular, but yes.**
8 Q But you have specific --
9 **A Yeah.**
10 Q -- information in your mind you're
11 thinking of that you could go track down if asked
12 to?
13 **A Yes.**
14 Q Okay.
15 How many times has the TSA calculated that
16 number? That is, the cross-reference between
17 encounters with persons on the TSDB and persons
18 caught with a firearm.
19 MS. KONKOLY: Objection; asked and
20 answered and as to scope.
21 But you can answer, if you can.
22 THE WITNESS: The question was how often

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1 have we -- or how many times? I do not know the
2 exact number.
3 BY MS. HOMER:
4 Q Can you provide a rough estimate of the
5 percentage of encounters with persons on the TSDB
6 where the person listed also had a firearm?
7 MS. KONKOLY: Objection insofar as an
8 answer would implicate information protected by
9 law enforcement privilege and/or SSI.
10 You can answer, if you can.
11 THE WITNESS: It's SSI.
12 Q So are you not going to answer the
13 question?
14 **A I cannot answer it.**
15 Q Okay.
16 Moving on, I want to talk about how the
17 TSA electronically structures its data generally.
18 Does the TSA use any electronic systems or
19 databases to assist with the process of screening
20 individuals?
21 MS. KONKOLY: Objection; vague. Objection
22 insofar as an answer would call for information

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1 protected by SSI and/or law enforcement privilege.
2 But you can answer, if you can.
3 THE WITNESS: So -- I'm sorry. Can you
4 repeat the question? Does the TSA use electronic
5 systems to what?
6 BY MS. HOMER:
7 Q Or databases to assist with screening
8 individuals.
9 MS. KONKOLY: Same objections.
10 THE WITNESS: Yes.
11 Q What electronic systems does the TSA use
12 to screen individuals?
13 MS. KONKOLY: Objection insofar as the
14 answer would call for information protected by the
15 law enforcement privilege and/or SSI.
16 You can answer, to the extent that you
17 can.
18 THE WITNESS: So the question was what
19 electronic systems or databases do we use to
20 facilitate the screening --
21 Q Yes.
22 **A -- of individuals? So primarily I would**

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1 **say our Secure Flight system.**
2 Q You caveated that with "primarily." Are
3 there any other systems like Secure Flight or --
4 **A No. I was trying to separate -- there are**
5 **systems and databases to facilitate screening.**
6 **When you say "electronic," there are -- there's**
7 **physical equipment at a checkpoint that is**
8 **electronic. Is it a database? No, not**
9 **necessarily, but the -- so that's where I was --**
10 Q So are there any --
11 **A -- trying to --**
12 Q -- other --
13 **A -- separate.**
14 Q Are there any other databases other than
15 Secure Flight that are used to screen individual
16 passengers?
17 MS. KONKOLY: Objection; vague. Objection
18 insofar as the answer calls for information
19 protected by law enforcement privilege and/or SSI.
20 But you can answer, if you can.
21 THE WITNESS: For the actual screening and
22 driving the screening, it's primary Secure Flight.

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<p style="text-align: right;">37</p> <p>1 Our security operations may have systems 2 that relate to resource planning, which is 3 facilitating the screening -- so I'm just trying 4 to answer the question -- as well as some central 5 TSA personnel systems that receive information 6 from us, but that would not be databases, per se. 7 Like, if it's e-mail notifications-type of thing. 8 So it's primarily Secure Flight. 9 BY MS. HOMER: 10 Q So Secure Flight is the system the TSA 11 uses -- I'm just going to walk through some -- I'm 12 going to just quickly walk through, you know, my 13 experience with buying airplane tickets, you know, 14 the points at which Secure Flight might be used. 15 So, for example, Secure Flight is used 16 when individuals purchase an airline ticket to, 17 you know, look at that itinerary record for the 18 person; is that correct? 19 A I'm sorry. The last part? Sorry. 20 Q Let me rephrase. 21 Is Secure Flight used when individual 22 passengers purchase airline tickets online?</p>	<p style="text-align: right;">39</p> <p>1 A Yeah. 2 Q Okay. Thanks. 3 So is Secure Flight used when a passenger 4 checks in for a flight? 5 MS. KONKOLY: Objection; vague. 6 THE WITNESS: So, yes, insofar as an 7 airline must receive a response from Secure Flight 8 before it can print a boarding pass. 9 Q Okay. So when a passenger checks in, 10 they're primarily interacting with the airline's 11 own database -- 12 A Right. 13 Q -- correct? 14 A Correct. 15 Q But the airline is required to ping Secure 16 Flight in order to get permission to print the 17 boarding pass? 18 MS. KONKOLY: Objection; vague, 19 misleading. 20 But you can answer. 21 THE WITNESS: So at a high level, airlines 22 are required to submit reservation information to</p>
<p style="text-align: right;">38</p> <p>1 A No, not direct. That would be the airline 2 systems when passengers are purchasing 3 reservations. 4 Q After a passenger purchases a reservation, 5 does that information get sent to Secure Flight by 6 the airlines? 7 A Yes, if the flight is covered by Secure 8 Flight's regulations, which is flying into, out 9 of, over, within the United States. 10 Q Okay. Is it okay with you, unless I 11 specify otherwise -- 12 A Yeah. 13 Q -- every question I'm going to ask is 14 going to assume that the flight involves flights 15 into, out of, or over the United States. Like, is 16 that -- 17 A Okay. 18 Q -- an okay -- unless I specify 19 international travel, all the questions I ask will 20 be domestic travel. 21 A Okay. 22 Q Does that make sense?</p>	<p style="text-align: right;">40</p> <p>1 Secure Flight 72 hours in advance, or as soon as 2 possible. 3 So Secure Flight would perform its 4 prescreening process and provide a response back 5 to the airline, so clarification versus a direct 6 ping right there on the spot when a passenger 7 arrives at the airport. 8 BY MS. HOMER: 9 Q Okay. And if a passenger buys a ticket 10 less than 72 hours before the flight, how does the 11 airline send that reservation information to 12 Secure Flight? 13 A It would be the same process, it's just as 14 soon as its occurs -- 15 Q Okay. 16 A -- in that window. 17 Q What is Secure Flight's involvement in the 18 process of a passenger checking luggage before 19 they board the flight? 20 A At a high level, it would be more of the 21 -- related to the boarding pass and the airline, 22 but it'd be more the airline's responsibility to</p>

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<p style="text-align: right;">41</p> <p>1 ensure the luggage is associated with which 2 passenger. So -- 3 Q Okay. But does Secure Flight receive, for 4 example, the information about how many bags any 5 passenger checked, as a matter of course? 6 A No. 7 Q When a passenger approaches the TSA 8 security area and their boarding pass gets scanned 9 by the TSA, does that check against Secure Flight? 10 A No. It's checking against what's on the 11 boarding pass. So it's -- no. It's checking 12 against Secure Flight's already provided results. 13 It's not -- 14 Q Okay. So let me make sure I understand. 15 So in order to print a boarding pass, the boarding 16 pass has to have been checked against Secure 17 Flight prior to printing? 18 A Yes. 19 Q And so then when a passenger approaches 20 the TSA security gate, they're -- the -- Secure 21 Flight isn't asked again if this person is okay; 22 the information is just whatever was already</p>	<p style="text-align: right;">43</p> <p>1 MS. KONKOLY: Objection; vague, 2 misleading, and so far as an answer would call for 3 information protected by SSI or law enforcement 4 privilege. 5 But you can answer, if you can. 6 THE WITNESS: Generally speaking, no. 7 They are validating what's on the boarding pass. 8 It's not going up against Secure Flight again. 9 BY MS. HOMER: 10 Q In what circumstances would the gate 11 agent's boarding pass scanning process would it 12 contact Secure Flight? 13 MS. KONKOLY: Objection insofar as that 14 answer would call for information protected by SSI 15 and/or law enforcement privilege. 16 You can answer, if you can. 17 THE WITNESS: At a high level, it's more 18 of instances of if boarding passes are matching or 19 they don't have the most current boarding pass; 20 situations where they changed flights or something 21 has occurred -- 22 Q Okay.</p>
<p style="text-align: right;">42</p> <p>1 printed on the boarding pass? 2 MS. KONKOLY: Objection; vague. 3 You can answer. 4 THE WITNESS: Yes. 5 BY MS. HOMER: 6 Q Okay. 7 Is the same true for when the boarding 8 pass is scanned by an airline gate agent 9 immediately before boarding a flight? 10 MS. KONKOLY: Objection insofar as that 11 question calls for information protected by SSI or 12 law enforcement privileges. 13 But you can answer, if you can. 14 THE WITNESS: At a high level, no. The 15 airline is verifying the boarding pass, generally 16 speaking. But there may be instances where -- 17 Q Okay. So let me see if I can clarify. 18 So in general, when the boarding pass is 19 scanned by an airline gate agent immediately 20 before the passenger walks through the boarding 21 door, that process does not ping Secure Flight 22 again; correct?</p>	<p style="text-align: right;">44</p> <p>1 A -- at a high level. Anything else would 2 be more of the law enforcement-sensitive SSI 3 information. 4 Q Okay. 5 When was Secure Flight established? 6 A I believe it was enacted by Congress in 7 2004. 8 Q And what was the purpose for which Secure 9 Flight was established? 10 A The purpose was for the government to -- 11 basically for TSA to perform the watchlist 12 matching of passenger reservations. 13 Q And prior to Secure Flight's existence, 14 how was watchlist matching performed? 15 A Prior to that, it was managed under FAA, 16 with the airlines performing the matches. 17 Q Generally speaking, what information on 18 individual passengers does Secure Flight contain? 19 MS. KONKOLY: Objection insofar as that 20 question calls for information protected by SSI 21 and/or law enforcement privilege. 22 You can answer, to the extent you can.</p>

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1 THE WITNESS: So -- I'm sorry -- generally
 2 speaking, what information does Secure Flight --
 3 BY MS. HOMER:
 4 Q Contain on individuals.
 5 MS. KONKOLY: Same objections.
 6 THE WITNESS: So Secure Flight receives
 7 the itinerary from the airlines as well as the
 8 minimum required data, so full name and date of
 9 birth, gender.
 10 Q Okay. I'm going to come back to that in a
 11 second.
 12 How does Secure Flight relate to the TSA
 13 WebEOC -- actually, let me start over.
 14 Do -- what is the TSA WebEOC system?
 15 MS. KONKOLY: Objection insofar as that
 16 answer calls for information protected by SSI or
 17 law enforcement privilege. Also, vague and scope.
 18 But you can answer, if you can.
 19 THE WITNESS: At a high level, I believe
 20 it's -- it's the system that -- at the airports
 21 that they are using to be -- monitor various
 22 encounters with passengers.

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1 BY MS. HOMER:
 2 Q Is it used to monitor every passenger who
 3 goes through airport security, or is it only used
 4 to monitor encounters with persons on the TSDB or
 5 other watchlist?
 6 **A So it is not all passengers. It is**
 7 **primarily those at a -- high level encounters and**
 8 **those that have been designated as requiring**
 9 **enhanced screening.**
 10 **I'm trying to think --**
 11 Q What is --
 12 **A -- about the system. Sorry.**
 13 Q Is TSA WebEOC an acronym or short for
 14 something?
 15 **A It is an acronym, and -- I'm sorry -- I**
 16 **don't know the full -- EOC, the actual --**
 17 Q And how does Secure Flight interact with
 18 the TSA WebEOC system?
 19 MS. KONKOLY: Objection; vague. Objection
 20 insofar as that would call for information
 21 protected by SSI or law enforcement privilege.
 22 But you can answer, if you can.

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1 THE WITNESS: TSA provides its list of
 2 individuals that have been designated for enhanced
 3 screening to WebEOC. So we pass that information.
 4 BY MS. HOMER:
 5 Q Okay. So at what point in the screening
 6 process does the TSA WebEOC system come into play?
 7 MS. KONKOLY: Objection; vague. Objection
 8 insofar as an answer would call for information
 9 protected by law enforcement privilege or SSI.
 10 But you can answer, if you can.
 11 THE WITNESS: Sorry. I'm just not as
 12 familiar with WebEOC.
 13 At a high level, it monitors from the
 14 point where Secure Flight has passed information
 15 as well as if the person has arrived at the
 16 airport and checked in or gone through screening.
 17 Q Okay. So if somebody has received a
 18 boarding pass that indicates that, because of
 19 Secure Flight, that person is designated for
 20 enhanced screening, the TSA WebEOC system will
 21 record that event?
 22 MS. KONKOLY: Objection; mischaracterizes

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1 prior testimony; vague; and so far as the answer
 2 would call for information protected by law
 3 enforcement privilege or SSI.
 4 But you can answer, if you can.
 5 THE WITNESS: So -- sorry. I'm just
 6 thinking through.
 7 So, yes, TSA -- Secure Flight passes the
 8 information to WebEOC. So you asked if it records
 9 that event?
 10 BY MS. HOMER:
 11 Q Yes.
 12 **A Do they -- yes. Okay.**
 13 Q And then so when somebody with a boarding
 14 pass that indicates that the person is designated
 15 for enhanced screening goes to a security
 16 checkpoint and that boarding pass is scanned, is
 17 that moment recorded in WebEOC?
 18 MS. KONKOLY: Objection insofar as the
 19 answer would call for information protected by SSI
 20 or law enforcement privilege.
 21 You can answer, if you can.
 22 THE WITNESS: I do not -- not right then,

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1 real time, I do not believe. It's -- primarily,
 2 it's recorded at the time of check-in at the
 3 airport.
 4 BY MS. HOMER:
 5 Q Okay. So the TSA WebEOC system records
 6 when somebody has checked in to their flight?
 7 MS. KONKOLY: Objection insofar as that
 8 calls for any information protected by law
 9 enforcement privilege and/or SSI.
 10 You can answer, if you can.
 11 THE WITNESS: Yes, that's my
 12 understanding.
 13 Q Does it then record when somebody
 14 designated for enhanced screening has cleared
 15 security for their flight?
 16 MS. KONKOLY: Objection insofar as the
 17 answer would call for any information protected by
 18 SSI and/or law enforcement privilege.
 19 You can answer, to the extent that you
 20 can.
 21 THE WITNESS: I don't want to speculate.
 22 I'm not as familiar with that actual timing for

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1 that system.
 2 BY MS. HOMER:
 3 Q Okay. Does TSA WebEOC record when
 4 somebody who has been designated for enhanced
 5 screening ultimately boards a flight?
 6 MS. KONKOLY: Objection insofar as that
 7 question calls for any information protected by
 8 SSI and/or law enforcement privilege.
 9 You can answer, if you can.
 10 THE WITNESS: I'm sorry. I can't -- I'm
 11 not as familiar with WebEOC, the system itself.
 12 Q Could you find out the answer to those
 13 questions?
 14 **A Yes.**
 15 Q What is the TSA CBP Common Operating
 16 Picture system?
 17 MS. KONKOLY: Objection insofar as that
 18 question calls for any information protected by
 19 SSI and/or law enforcement privilege.
 20 You can answer, if you can.
 21 THE WITNESS: I'm trying to think of
 22 what's SSI and what's not.

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1 I don't -- outside of saying that there is
 2 one, I'm not sure what else I can say that's not
 3 SSI. I'd have to go back and check.
 4 BY MS. HOMER:
 5 Q Okay. Well, we -- yeah.
 6 Would it be -- and, Toni, would you like
 7 to confer for a minute to see what the scope is on
 8 what we can ask about --
 9 MS. KONKOLY: We can do that.
 10 MS. HOMER: Yeah.
 11 MS. KONKOLY: Can you just repeat the
 12 question so we're all clear on that?
 13 MS. HOMER: Yeah. So I'm wanting to know
 14 what the TSA CBP Common Operating Picture system
 15 is. And then next I'll be asking how does it
 16 interact with Secure Flight data.
 17 MS. KONKOLY: Okay. We can take a break.
 18 THE VIDEOGRAPHER: We're going off the
 19 record. The time is 10:15 a.m.
 20 (A recess was taken from 10:15 a.m. to
 21 10:28 a.m.)
 22 THE VIDEOGRAPHER: One note for the

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1 record. Our court reporter is Tasiana Basdekis.
 2 She is representing Planet Depos.
 3 The time on the video monitor is 10:28 in
 4 the morning. We have been on the record for 46
 5 and a half minutes, and we are back on the record.
 6 BY MS. HOMER:
 7 Q Okay. So picking up where we left off,
 8 what is the TSA CBP Common Operating Picture
 9 system?
 10 MS. KONKOLY: I'm going to object insofar
 11 as an answer would call for information protected
 12 by the law enforcement privilege and/or SSI.
 13 You can answer, to the extent that you
 14 can.
 15 THE WITNESS: So at a high level, it is a
 16 common operating platform where TSA and CBP have
 17 visibility into its, I guess, security -- I guess
 18 passengers of high-security interest.
 19 Q How does the TSA CBP Common Operating
 20 Picture system interact with Secure Flight?
 21 MS. KONKOLY: Objection insofar as an
 22 answer would call for information protected by the

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54	<p>1 You can answer, to the extent that you</p> <p>2 can.</p> <p>3 THE WITNESS: I don't --</p> <p>4 MS. KONKOLY: Let me object as to scope.</p> <p>5 THE WITNESS: I don't know that answer.</p> <p>6 BY MS. HOMER:</p> <p>7 Q Okay.</p> <p>8 What is the purpose of the TSA CBP Common</p> <p>9 Operating Picture system?</p> <p>10 MS. KONKOLY: Objection insofar as the</p> <p>11 answer would call for information protected by law</p> <p>12 enforcement privilege and/or SSI.</p> <p>13 You can answer, to the extent that you</p> <p>14 can.</p> <p>15 THE WITNESS: Generally speaking, it's</p> <p>16 information sharing between the two agencies,</p> <p>17 particularly as there are areas where our</p> <p>18 operations and security duties overlap.</p> <p>19 Q Okay. So going back to Secure Flight more</p> <p>20 generally, what other databases is Secure Flight</p> <p>21 pulling its data from?</p> <p>22 MS. KONKOLY: Objection insofar as the</p>	56	<p>1 from intelligence agencies?</p> <p>2 MS. KONKOLY: Objection insofar as that</p> <p>3 answer would call for information protected by SSI</p> <p>4 and/or law enforcement privileges.</p> <p>5 But you can answer, to the extent that you</p> <p>6 can.</p> <p>7 THE WITNESS: No.</p> <p>8 BY MS. HOMER:</p> <p>9 Q Does Secure Flight receive any data not</p> <p>10 from airlines, but from actual airports?</p> <p>11 A Does Secure Flight -- the Secure Flight</p> <p>12 system receive any data from airports?</p> <p>13 Q Yes.</p> <p>14 A No.</p> <p>15 Q Okay. Okay.</p> <p>16 I'm going to just quickly rattle off --</p> <p>17 A I'm sorry.</p> <p>18 Q Oh.</p> <p>19 A I'm trying to think through.</p> <p>20 Airports may have instances where they may</p> <p>21 have -- I'm trying to think if it's Secure Flight</p> <p>22 -- certain passengers or individuals,</p>

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1 non-traveling individuals, that may require access
2 to the sterile area, in which case they would need
3 to submit that information to Secure Flight --
4 Q So --
5 A -- for matching.
6 Q So Secure Flight contains data on, for
7 example, the parents of a minor child that need to
8 accompany that child through the sterile area of
9 the airport?
10 A Correct.
11 Q Okay.
12 A That is --
13 Q And --
14 A Yeah.
15 Q -- that information could come from the
16 airport, not an airline?
17 A It's primarily an airline, but there may
18 be circumstances by which an airport would require
19 to submit information for a non-traveling
20 individual.
21 Q Okay.
22 So I'm just going to quickly go through

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1 the specific fields of data on passengers that
2 Secure Flight may contain.
3 So does Secure Flight contain the full
4 name of a passenger?
5 MS. KONKOLY: Objection insofar as that
6 information calls for information protected by
7 SSI.
8 You can answer, if you can.
9 THE WITNESS: Secure Flight requires that
10 the airline provide to Secure Flight the full name
11 of a passenger.
12 BY MS. HOMER:
13 Q Does Secure Flight require that airlines
14 provide to Secure Flight the date of birth of the
15 passenger?
16 A Yes.
17 Q Does Secure Flight require that airlines
18 provide the gender of the passenger?
19 A Yes.
20 Q Does Secure Flight require that an airline
21 provide the DHS TRIP Redress Number of a
22 passenger, if the passenger had provided that to

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1 the airline?
2 A Yes.
3 Q Does Secure Flight require that a
4 passenger provide the Known Traveler Number of a
5 passenger if the passenger had provided that to
6 the airline?
7 A Yes.
8 Q Does the Secure Flight require an airline
9 to provide a frequent flyer number for a
10 passenger, if the passenger had provided that to
11 the airline?
12 A No.
13 Q Does Secure Flight contain -- sorry.
14 Does Secure Flight sometimes contain the
15 frequent flyer number of a passenger even though
16 it's not required?
17 A The frequent flyer number? No.
18 Q Okay.
19 Does Secure Flight require an airline to
20 provide the passport ID of a passenger?
21 A If provided.
22 Q Okay.

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1 A Yes.
2 Q So if a passenger provides their passport
3 information to an airline, the airline is required
4 to provide that information to Secure Flight?
5 A Yes.
6 Q Okay.
7 Does Secure Flight require an airline to
8 provide a driver's license or other government ID
9 number if that number is provided to the airline?
10 A No.
11 Q Are there any circumstances under which
12 Secure Flight would receive the driver's license
13 number of a passenger?
14 MS. KONKOLY: Objection insofar as that
15 question calls for information protected by SSI
16 and/or law enforcement privilege.
17 You can answer, if you can.
18 Also, vague.
19 THE WITNESS: So the question was does
20 Secure Flight require the airline to provide the
21 driver's license information if --
22 Q Yes.

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1 **A -- provided? No. No, we do not require**
 2 **the airlines to submit that to TSA.**
 3 Q Does Secure Flight require an airline to
 4 provide the Reservation Control Number of a
 5 passenger?
 6 **A Yes, I believe. As part of just system**
 7 **tracking.**
 8 Q What is a Reservation Control Number?
 9 **A At a high level, outside of -- this is an**
 10 **ID to mark this as a unique reservation.**
 11 Q What is a Record Sequence Number?
 12 **A At a high level, my understanding is that**
 13 **it's sort of the here-was-my-initial-reservation.**
 14 **If I made changes to it, that'd be here's change**
 15 **one, change two, three. Whether -- yeah.**
 16 Q Does the TSA require airlines to provide
 17 Record Sequence Numbers to Secure Flight if one
 18 exists?
 19 **A Yes, I believe so.**
 20 Q Okay.
 21 What is a Record Type?
 22 MS. KONKOLY: Objection; vague.

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1 THE WITNESS: I don't --
 2 BY MS. HOMER:
 3 Q Is there --
 4 **A Yeah.**
 5 Q Is there a field in Secure Flight called
 6 Record Type?
 7 **A Yes, I believe so.**
 8 Q And what information is contained in the
 9 Record Type field?
 10 MS. KONKOLY: Objection insofar as that
 11 question calls for any information protected by
 12 law enforcement privilege and/or SSI.
 13 You can answer, if you can.
 14 THE WITNESS: Right. Without going into
 15 field names. Generally speaking, we've talked
 16 Sequence Number. A type, generally speaking, for
 17 processing is is this a change to -- itinerary
 18 passenger change?
 19 So generally, when we talk about record
 20 types, that's, at a high level, what it means.
 21 Q What is a Traveler Reference Number?
 22 MS. KONKOLY: Objection; vague.

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1 THE WITNESS: I don't --
 2 BY MS. HOMER:
 3 Q Okay. Does Secure Flight contain a field
 4 called Traveler Reference Number?
 5 **A I don't know the detailed data field**
 6 **element names, so I can't answer.**
 7 Q Does Secure Flight contain a field called
 8 Match Type?
 9 **A I don't know without getting --**
 10 MS. KONKOLY: Objection --
 11 THE WITNESS: -- into detailed --
 12 MS. KONKOLY: -- insofar as -- yeah.
 13 THE WITNESS: -- data field names. That's
 14 SSI.
 15 Q Well, what is a Match Type --
 16 MS. KONKOLY: Objection --
 17 Q -- as used by the TSA?
 18 MS. KONKOLY: Objection insofar as that
 19 question calls for information protected by SSI
 20 and/or the law enforcement privilege.
 21 You can answer, if you can.
 22 THE WITNESS: At a high level, it would be

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1 whether there was a confirmed match or not.
 2 BY MS. HOMER:
 3 Q And is that confirmed -- well, to clarify,
 4 a confirmed match to what?
 5 **A When --**
 6 MS. KONKOLY: Objection insofar as that
 7 question calls for any information protected by
 8 law enforcement privilege and/or SSI.
 9 You can answer, if you can.
 10 THE WITNESS: To one of the lists that
 11 Secure Flight vets against. At a high level.
 12 Q And then is that match information then
 13 provided by Secure Flight to the TSA WebEOC
 14 system?
 15 MS. KONKOLY: Objection insofar as that
 16 question calls for any information protected by
 17 SSI and/or law enforcement privilege, also as to
 18 scope.
 19 You can answer, if you can.
 20 THE WITNESS: So at a high level, it's not
 21 a field by -- field between the systems. So
 22 Secure Flight provides its encounter information

<p style="text-align: right;">65</p> <p>1 to WebEOC, and it would talk to the passenger 2 information and the type of match. 3 Just, for example, like we said, the -- 4 there's the CDC Do-Not-Board where there's a TSDB 5 match. 6 BY MS. HOMER: 7 Q Okay. What is a TSC ID? 8 MS. KONKOLY: Objection insofar as that 9 question calls for any information protected by 10 law enforcement privilege or SSI, also insofar as 11 it calls for information not within TSA's purview. 12 You can answer, if you know, if you can. 13 THE WITNESS: It's -- that's a pretty 14 broad term. I don't know. 15 Q Okay. Does the TSA WebEOC system contain 16 the TSC ID of passengers who are confirmed matches 17 to Secure Flight -- 18 MS. KONKOLY: I'm going to -- 19 Q -- watchlisting match process? 20 MS. KONKOLY: -- object as to scope. 21 Objection; vague. Objection insofar as that 22 answer calls for information protected by SSI</p>	<p style="text-align: right;">67</p> <p>1 contain biometric data on passengers? 2 MS. KONKOLY: Objection. Outside of the 3 scope of the topics entered for this deposition. 4 Objection; vague. Objection insofar as that 5 question calls for any information protected by 6 the law enforcement privilege and/or SSI. 7 You can answer, if you can. 8 THE WITNESS: So you asked does the TSA 9 contain -- have any system that contains 10 biometrics? 11 BY MS. HOMER: 12 Q About passengers. 13 A About passengers? No. 14 Q Does Secure Flight contain photographs of 15 passengers? 16 MS. KONKOLY: Objection insofar as that 17 question calls for information protected by SSI 18 and/or law enforcement privilege. 19 You can answer, if you can. 20 THE WITNESS: Secure Flight does not store 21 photographs. 22 Q Does Secure Flight contain information on</p>
<p style="text-align: right;">66</p> <p>1 and/or law enforcement. 2 You can answer if you know, without 3 waiving privilege. 4 THE WITNESS: I do not know all the 5 detailed field information. I can just speak to 6 the high level of the information I had provided 7 previously. 8 BY MS. HOMER: 9 Q Does Secure Flight contain biometric data 10 on passengers? 11 MS. KONKOLY: Objection insofar as that 12 calls for any information protected by law 13 enforcement privilege and/or SSI. 14 You can answer, if you can. 15 THE WITNESS: Secure Flight does not 16 contain biometric -- 17 Q Does the TSA -- 18 A -- information. 19 Q -- have any system that contains bio -- 20 actually, let me start over. 21 Does the TSA have any system, other than, 22 like, the immediate millimeter scan or scans, that</p>	<p style="text-align: right;">68</p> <p>1 the traveling companions of a passenger? 2 MS. KONKOLY: Objection insofar as the 3 question calls for information protected by SSI 4 and/or the law enforcement privilege. 5 You can answer, if you can. 6 THE WITNESS: Yes, insofar as we know if 7 they're travelers on the same reservation. 8 BY MS. HOMER: 9 Q Does the TSA ever add any comments to the 10 records of persons who are listed in the Secure 11 Flight database? 12 MS. KONKOLY: Objection; vague. Objection 13 insofar as the answer calls for any information 14 protected by SSI and/or law enforcement privilege. 15 You can answer, if you can. 16 THE WITNESS: So the question was does TSA 17 store any comments of -- I'm sorry. What was it? 18 Q On the records of individual passengers 19 listed in Secure Flight. 20 A There -- 21 MS. KONKOLY: Same objections. 22 THE WITNESS: Yeah.</p>

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1 MS KONKOLY: Go ahead.
 2 THE WITNESS: At a high level, an analyst
 3 may annotate records as they are performing their
 4 match review or operations.
 5 BY MS. HOMER:
 6 Q And what sorts of annotations would an
 7 analyst add?
 8 MS. KONKOLY: Objection insofar as that
 9 question calls for information protected by SSI
 10 and/or law enforcement privileges.
 11 You can answer, if you can.
 12 THE WITNESS: So at a high level, they
 13 would annotate if that was a positive match
 14 encounter.
 15 Q Would an analyst ever add an annotation,
 16 for example, if a passenger was caught with a
 17 firearm in their carry-on during screening?
 18 MS. KONKOLY: Objection insofar as that
 19 question calls for information protected by SSI
 20 and/or the law enforcement privilege. Calls for
 21 speculation.
 22 You can answer, if you can.

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1 THE WITNESS: So the question is would a
 2 Secure Flight analyst provide -- annotate a record
 3 if a passenger had a firearm?
 4 BY MS. HOMER:
 5 Q Yes.
 6 MS. KONKOLY: Same objections.
 7 THE WITNESS: So a Secure Flight analyst,
 8 generally speaking, no, as that is a checkpoint
 9 operation on passengers.
 10 Q Is there any TSA employee who would
 11 annotate a passenger's record if they were caught
 12 with a firearm at security?
 13 MS. KONKOLY: Objection; vague. Objection
 14 insofar as that question calls for any information
 15 protected by the law enforcement privilege and/or
 16 SSI.
 17 You can answer, if you can.
 18 THE WITNESS: Yes. At a high level, there
 19 would be TSA personnel that would be documenting
 20 from a firearm, if there was -- it was a
 21 prohibited item that was being identified through
 22 a --

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1 BY MS. HOMER:
 2 Q What --
 3 **A -- checkpoint.**
 4 Q What system would that annotation go into?
 5 MS. KONKOLY: Objection insofar as that
 6 question calls for any information protected by
 7 SSI and/or law enforcement privilege. Also,
 8 outside of the scope of the topics for this
 9 deposition.
 10 You can answer, if you know, and if you
 11 can without waiving a privilege.
 12 THE WITNESS: I'm not sure of the exact
 13 name of the system, but TSA has security
 14 operations compliance or enforcement systems where
 15 they're tracking incidents.
 16 Q Would that annotation affect TSA screening
 17 of that passenger in the future?
 18 MS. KONKOLY: Objection; vague.
 19 Objection; calls for speculation. Objection
 20 insofar as that question calls for information
 21 protected by SSI and/or the law enforcement
 22 privilege.

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1 You can answer, if you can.
 2 THE WITNESS: I -- it would -- I can't say
 3 that there's a direct line. It would be
 4 case-by-case, depending on the security incident
 5 identified.
 6 BY MS. HOMER:
 7 Q Is a passenger being caught with a firearm
 8 at a TSA security checkpoint a basis for
 9 subjecting that passenger to enhanced screening in
 10 the future?
 11 MS. KONKOLY: Objection; vague. Objection
 12 as to the scope of the topics for this deposition.
 13 Also, objection insofar as the answer calls for
 14 any information protected by the law enforcement
 15 privilege and/or SSI.
 16 You can answer, if you can.
 17 THE WITNESS: So, again, generally
 18 speaking, not necessarily. TSA has multiple
 19 criteria regarding just the level of security and
 20 associated threat to identify its screening
 21 measures.
 22 Q Okay.

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1 Earlier you said the phrase "checkpoint
 2 operation." What does that mean?
 3 **A Checkpoint screening.**
 4 Q Those terms are synonymous?
 5 **A To -- yes.**
 6 Q And -- okay.
 7 What is Secure Flight's general records
 8 retention policy for passengers who are flying on
 9 airplanes in the United States?
 10 And I'll be clear: I'm excluding any match
 11 to any watchlist. Their general records retention
 12 policy.
 13 **A General records retention, excluding**
 14 **matches to the watchlist, is every seven days.**
 15 Q Okay. So every seven days, the prior
 16 week's worth of itineraries is purged?
 17 **A Correct.**
 18 Q So if an ordinary passenger, you know,
 19 goes three months between domestic airline
 20 flights, Secure Flight won't have a record of that
 21 person's name still in the system when the three
 22 months goes by?

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1 **A Correct.**
 2 **So what I'd said before, any passengers**
 3 **that -- excluding those that have matched to the**
 4 **watchlist -- Secure Flight does not retain that**
 5 **information beyond seven days.**
 6 Q Okay. So Secure Flight would not have a
 7 list, for example, of every flight flown by every
 8 individual in the United States in the last year?
 9 **A No.**
 10 Q Okay.
 11 I want to turn to how Secure Flight
 12 interacts with the Terrorist Screening Database.
 13 So I'll start with a general question: What is
 14 the TSA's role in the watchlisting process?
 15 MS. KONKOLY: Objection; vague. Objection
 16 insofar as that question calls for any information
 17 protected by law enforcement privilege and/or SSI.
 18 You can answer, if you can.
 19 THE WITNESS: Sure. TSA is part of the
 20 discussions of the Watchlisting Advisory Council
 21 regarding the use and standards of the watchlist.
 22 TSA's role is primarily as a user.

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1 BY MS. HOMER:
 2 Q Okay. What sorts of input does the TSA
 3 provide to the Watchlisting Advisory Council?
 4 MS. KONKOLY: Objection insofar as that
 5 information is protected by the law enforcement
 6 privilege and/or SSI, and further insofar as the
 7 answer calls for information protected by the
 8 deliberative process privilege.
 9 You can answer, if you can at a high
 10 level.
 11 THE WITNESS: We are participants in the
 12 Watchlist Advisory Council. We provide input to
 13 the discussions.
 14 Q And does the Watchlisting Advisory Council
 15 recommend changes to the watchlisting process
 16 based on TSA input?
 17 MS. KONKOLY: Objection; vague;
 18 misleading. Objection insofar as it calls for any
 19 information protected by the deliberative process
 20 privilege, law enforcement privilege, and/or SSI.
 21 You can answer, if you can.
 22 THE WITNESS: So TSA is a participant and

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1 provides input to the discussions overall.
 2 BY MS. HOMER:
 3 Q How often do Watchlisting Advisory Council
 4 meetings occur that the TSA participates in?
 5 **A I can't remember if it's monthly or**
 6 **quarterly. I'm blanking all of a sudden. Sorry.**
 7 Q Okay. But multiple times a year?
 8 **A Yes.**
 9 Q Does the TSA consider everyone listed in
 10 the TSDB to be a known or suspected terrorist?
 11 MS. KONKOLY: Objection insofar as that
 12 information calls -- or that answer -- that
 13 question calls for information protected by the
 14 law enforcement privilege and/or SSI.
 15 You can answer, to the extent that you
 16 can.
 17 THE WITNESS: The TSDB is comprised of
 18 those individuals that meet a reasonable suspicion
 19 standard for being a known or suspected terrorist.
 20 Q Are there individuals listed in the TSDB
 21 who do not meet the reasonable suspicion standard
 22 for being a known or suspected terrorist?

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1 MS. KONKOLY: Objection insofar as that
 2 question calls for information protected by the
 3 law enforcement privilege and/or SSI.
 4 You can answer, to the extent that you
 5 can.
 6 THE WITNESS: So I think we need to
 7 conference of what's SSI and --
 8 MS. KONKOLY: Okay.
 9 The Witness needs to consult.
 10 MS. HOMER: Okay.
 11 THE WITNESS: I'm sorry. I apologize.
 12 MS. HOMER: That's fine.
 13 THE VIDEOGRAPHER: We're going off the
 14 record. The time is 10:56 a.m.
 15 (A recess was taken from 10:56 a.m. to
 16 11:01 a.m.)
 17 THE VIDEOGRAPHER: We are back on the
 18 record. The time is 11:01 a.m., and we have been
 19 on the record for an hour and 14 minutes.
 20 MS. HOMER: Okay. Can you re-read the
 21 last question from before we broke?
 22 (Whereupon the record was read.)

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1 MS. KONKOLY: And I'm going to again
 2 object insofar as that question calls for
 3 information protected by the law enforcement
 4 privilege and/or SSI.
 5 You can answer, to the extent that you
 6 can.
 7 THE WITNESS: Yes.
 8 BY MS. HOMER:
 9 Q Okay. Are there individuals currently
 10 listed in the TSDB who the TSA knows lack any
 11 information indicating a personal involvement in
 12 terrorism?
 13 MS. KONKOLY: Objection; vague. Objection
 14 insofar as that question calls for any information
 15 protected by the SSI or law enforcement privilege.
 16 You can answer, if you can.
 17 THE WITNESS: So TSA is aware that there
 18 are additional records that do not meet the
 19 reasonable suspicion standard to be a known or
 20 suspected terrorist as an exception in the TSDB.
 21 Q Under what circumstances does that
 22 exception apply?

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1 MS. KONKOLY: Objection insofar as that
 2 question calls for information protected by SSI
 3 and law enforcement privilege.
 4 And, actually, I'm going to instruct the
 5 witness not to answer that question on those -- on
 6 the basis of those privileges.
 7 MS. HOMER: I was expecting that.
 8 Q What does it mean to the TSA to know that
 9 someone is listed in the TSDB, generally?
 10 MS. KONKOLY: Objection; vague. Objection
 11 insofar as that question calls for any information
 12 protected by SSI and/or law enforcement privilege.
 13 You can answer, to the extent that you
 14 can.
 15 THE WITNESS: So, as stated previously,
 16 TSA's understanding is those in the TSDB -- not
 17 the exceptions -- are those that meet a reasonable
 18 suspicion standard for being a known or suspected
 19 terrorist.
 20 Q Does the TSA use the TSDB to identify and
 21 subject to enhanced screening individuals who are
 22 not known or suspected terrorists?

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1 MS. KONKOLY: Objection; vague. Objection
 2 insofar as that question calls for any information
 3 protected by the law enforcement privilege or SSI.
 4 You can answer, if you can.
 5 THE WITNESS: So -- I'm sorry. Can you
 6 repeat the question? Does the TSA use the TSDB
 7 to --
 8 BY MS. HOMER:
 9 Q To identify and screen individuals who are
 10 not known or suspected terrorists.
 11 MS. KONKOLY: Same objections, and I'll
 12 add a scope objection as well.
 13 You can answer, if you can.
 14 THE WITNESS: Sure. For passenger
 15 prescreening for the enhanced screening question
 16 that you had, no.
 17 TSA only uses the TSDB for those that meet
 18 the reasonable suspicion standard of being a known
 19 or suspected terrorist.
 20 Q For the exceptions to the known or
 21 suspected terrorist standard contained within the
 22 TSDB that you previously mentioned, does the TSA

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1 screen those exceptions at the same level that it
 2 screens individuals who are known or suspected
 3 terrorist?
 4 MS. KONKOLY: Objection; vague and
 5 misleading. Objection insofar as the question
 6 calls for information protected by SSI and/or the
 7 law enforcement privilege.
 8 You can answer, if you can.
 9 THE WITNESS: So for passenger screening?
 10 BY MS. HOMER:
 11 Q Yes.
 12 **A Your question was do we do two different**
 13 **types of screening for exceptions versus -- I'm**
 14 **sorry. Can you just repeat the question to make**
 15 **sure I can --**
 16 Q Yeah. Let me see if I can back up a bit.
 17 **A Okay.**
 18 Q Secure Flight checks whether a passenger
 19 is a match with the TSDB; correct?
 20 **A Correct.**
 21 Q And does that match distinguish between
 22 whether the passenger is a match between

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1 individuals on the TSDB who are known or suspected
 2 terrorists and individuals on the TSDB who are
 3 exceptions to the known or suspected terrorist
 4 standard?
 5 MS. KONKOLY: Objection; vague. Objection
 6 insofar as the question calls for information
 7 protected by SSI and/or law enforcement privilege.
 8 You can answer, to the extent you can.
 9 THE WITNESS: So Secure Flight matching
 10 does -- only matches against those that are in the
 11 TSDB that meet the reasonable suspicion standard
 12 as known or suspected terrorists.
 13 BY MS. HOMER:
 14 Q So --
 15 **A It does not match against the exception**
 16 **list.**
 17 Q So Secure Flight does not match against
 18 the exceptions to the known or suspected terrorist
 19 standard that are contained within the TSDB?
 20 MS. KONKOLY: Same objections.
 21 You can answer.
 22 THE WITNESS: Yes. Correct.

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1 BY MS. HOMER:
 2 Q Does any other TSA system match against
 3 the exceptions to the known or suspected terrorist
 4 standard that are contained within the TSDB?
 5 MS. KONKOLY: Objection insofar as that
 6 question calls for information protected by SSI
 7 and/or the law enforcement privilege, but you can
 8 answer, to the extent that you can.
 9 THE WITNESS: So not for passenger
 10 screening. TSA does use, for limited purposes,
 11 the matching for its -- against the TSDB in its
 12 vetting and credentialing scope.
 13 Q What is the TSA's vetting or credentialing
 14 scope?
 15 MS. KONKOLY: Objection insofar as that
 16 question calls for information protected by SSI
 17 and/or the law enforcement privilege and, also,
 18 the deliberative process privilege.
 19 You can answer, to the extent that you
 20 can.
 21 THE WITNESS: So our vetting and
 22 credentialing for -- across all modes of

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1 transportation, we have certain programs that are
 2 congressionally-mandated to conduct a security
 3 threat assessment for individuals seeking access
 4 to secure or sensitive areas of our nation's
 5 transportation and identify if they are a
 6 transportation security threat or a national
 7 security threat.
 8 We use the TSDB as a pointer, along with
 9 other information, to determine if those
 10 individuals may pose a threat to transportation.
 11 BY MS. HOMER:
 12 Q What is the Transportation Security
 13 Vetting Center?
 14 **A So our national transport -- our -- we**
 15 **have a National Transportation Vetting Center that**
 16 **conducts our vetting and credentialing matches**
 17 **against -- to conduct the security threat**
 18 **assessments that I just described.**
 19 **They also support our Secure Flight**
 20 **prescreening operations.**
 21 Q What is the Transportation Worker Identity
 22 Credential?

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1 **A That is a congressionally-mandated**
2 **credential -- effectively, a program that requires**
3 **TSA to perform a security threat assessment for**
4 **individuals requesting unescorted access to secure**
5 **areas for regulated maritime ports, facilities, or**
6 **vessels, and, as such, also are issued the actual**
7 **Transportation Worker Identity Credential.**
8 Q Is the Transportation Worker Identity
9 Credential the only credential that TSA issues
10 which matches against the TSDB?
11 MS. KONKOLY: Objection. I'm going to
12 note that this is beyond the scope of the topics
13 approved for this deposition under the protective
14 order entered by the court.
15 Objection insofar as this question calls
16 for any information protected by law enforcement
17 privilege and/or SSI.
18 You can answer at a general level, if you
19 can.
20 THE WITNESS: At a high level, it is the
21 only physical credential that we issue.
22 The TWIC is a card. Transportation Worker

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1 Identity Credential is also shortform referenced
2 as a TWIC.
3 MS. HOMER: I would just like to note for
4 the record that topic two for this deposition is
5 the TSA's use of the TSDB information for any
6 purpose including, but not limited to, performing
7 all screening functions, and credentialing would
8 be covered under that use.
9 MS. KONKOLY: And I'm going to note for
10 the record that at the hearing last Friday, Judge
11 Anderson expressly granted our motion for a
12 protective order as to credentialing, with the
13 exception of the Customs Seal issue.
14 MS. HOMER: And my understanding of that
15 hearing, from reviewing the transcript, was that a
16 few questions were permitted, which I will ask
17 right now.
18 Q Which is does the TSA use the TSDB for the
19 purposes of issuing the Transportation Worker
20 Identity Credential?
21 MS. KONKOLY: I'm going to again object to
22 scope, as this is beyond the protective order

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1 entered by the court last Friday.
2 Objection as -- insofar as the answer
3 calls for any information protected by law
4 enforcement privilege or SSI.
5 You can answer at a high level, but I will
6 cut this line of questioning off after not too
7 many questions.
8 THE WITNESS: Okay.
9 At a high level, it is one of the pieces
10 of information that TSA uses to perform its
11 security threat assessment.
12 BY MS. HOMER:
13 Q Is a person's presence in the TSDB a basis
14 for denying or revoking a TWIC?
15 MS. KONKOLY: Same objection as to scope.
16 Same objection insofar as this information calls
17 for -- this questions calls for information
18 protected by SSI and/or the law enforcement
19 privilege.
20 You can answer at a high level.
21 THE WITNESS: At a high level, not
22 necessarily. TSA uses that as a pointer to

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1 additional information that will be taken into
2 consideration when TSA is viewing an individual's
3 overall totality of security risk for that
4 credential.
5 BY MS. HOMER:
6 Q But a person's presence in the TSDB could
7 be one factor that leads to the denial or
8 revocation of a TWIC?
9 MS. KONKOLY: Objection; mischaracterizes
10 prior testimony. Objection as to scope.
11 I'm going to, again, caution that I can't
12 let this line of questioning go too much further
13 in light of the protective order that has been
14 entered by the court.
15 Objection insofar as the question calls
16 for any information protected by SSI or the law
17 enforcement privilege.
18 You can answer, if you can.
19 THE WITNESS: So to what I said
20 previously, it is a factor and pointer to part of
21 the information that TSA uses to a make its
22 security threat assessment determination in

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1 issuance of a credential.
 2 BY MS. HOMER:
 3 Q What workers in the transportation space
 4 are required to have TWICs as part of their job
 5 responsibilities?
 6 MS. KONKOLY: Objection as to scope.
 7 I'm going to instruct the witness not to
 8 answer. This is beyond the scope of the
 9 protective order.
 10 MS. HOMER: Okay. I'm -- knowing your
 11 objection, I'm just going to quickly put on the
 12 record the following questions.
 13 Q Are TSA employees required to possess a
 14 TWIC?
 15 MS. KONKOLY: Objection as to scope.
 16 I'm going to instruct the witness not to
 17 answer.
 18 Q Are employees of maritime ports required
 19 to have a TWIC?
 20 MS. KONKOLY: Objection as to scope. I
 21 will let the witness answer this, if she knows,
 22 but --

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1 THE WITNESS: So the question is are
 2 employees of Maritime ports required to have a
 3 TWIC? Not necessarily.
 4 As discussed before, and required -- in
 5 the congressional mandate that required the TWIC
 6 program, as well as its associated regulations, it
 7 is required for those individuals requiring
 8 unescorted access to secure areas of regulated
 9 maritime ports, facilities, and vessels.
 10 BY MS. HOMER:
 11 Q Would this congressional report --
 12 **A Statute.**
 13 Q Okay. Sorry.
 14 Would this congressional statute set forth
 15 the workers in the transportation industry who are
 16 required to have TWICs?
 17 MS. KONKOLY: Objection; calls for a legal
 18 conclusion. Objection as to scope.
 19 You can answer, if you know.
 20 THE WITNESS: It -- you'd have to go back
 21 to 701 05.
 22 It's the -- it is those individuals that

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1 require unescorted access to secure areas of
 2 regulated maritime facilities, ports, and vessels.
 3 BY MS. HOMER:
 4 Q Okay.
 5 Are operators of Amtrak trains required to
 6 have TWICs?
 7 MS. KONKOLY: Objection as to scope.
 8 You can answer, if you know.
 9 THE WITNESS: Insofar as if they are
 10 individuals requiring unescorted access to secure
 11 areas of maritime ports, facilities -- regulated
 12 maritime ports, facilities, and vessels --
 13 Q Is an airport --
 14 **A -- they would be required.**
 15 Q -- considered a maritime facility?
 16 MS. KONKOLY: Objection as to scope.
 17 And I'll allow the Witness to answer this
 18 question, but I'm not going to allow this line of
 19 questioning any further. This will be the last
 20 question on the subject of TWIC, but you can
 21 answer.
 22 THE WITNESS: Generally speaking, an

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1 airport itself, generally, I would say no, in
 2 so -- unless they are also covered and regulated
 3 by maritime regulations.
 4 BY MS. HOMER:
 5 Q Are employees who work inside the sterile
 6 area of an airport required to have a TWIC?
 7 MS. KONKOLY: Objection as to scope.
 8 And as I stated, we've let this line of
 9 inquiry stray far enough. The court expressly
 10 entered a protective order as to credentialing
 11 questions, with the exception of the Customs Seal,
 12 and I'm going to instruct the Witness not to
 13 answer on that basis.
 14 Q What is a Customs Seal?
 15 MS. KONKOLY: I'm going to object insofar
 16 as this question implicates information not within
 17 the purview of the TSA.
 18 You can answer as to your understanding,
 19 but her answer cannot bind the TSA.
 20 THE WITNESS: Right. My understanding, as
 21 defined by CBP, it is those individuals requiring
 22 access to the CBP international-specific areas of

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1 an airport.
 2 BY MS. HOMER:
 3 Q And so is a Customs Seal an extra
 4 designation that appears on a TWIC?
 5 MS. KONKOLY: Objection; vague,
 6 misleading. Also, same objection that this
 7 question calls for information not within TSA's
 8 purview and the answer cannot bind the agency.
 9 You can answer as to your understanding,
 10 if you have one.
 11 THE WITNESS: A Customs Seal is an
 12 additional -- I don't know what the -- indicator
 13 on an airport-related worker's credential.
 14 Q So the TSA issues TWICs; correct?
 15 A TWICs? Correct, yes.
 16 Q Does the TSA issue the Customs Seal that
 17 goes with a TWIC?
 18 MS. KONKOLY: Objection; vague and
 19 misleading.
 20 THE WITNESS: So I would not associate the
 21 two, as a TWIC, as discussed earlier, is for
 22 unescorted access to secure areas of maritime

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1 ports, facilities, and vessels.
 2 I differentiate that separate from the
 3 Customs Seal that may be on an airport worker's
 4 credential, which TSA does not issue.
 5 BY MS. HOMER:
 6 Q Does the TSA issue airport worker
 7 credentials?
 8 MS. KONKOLY: Objection; vague.
 9 THE WITNESS: No.
 10 Q Who issues airport worker credentials?
 11 MS. KONKOLY: Objection insofar as the
 12 answer calls for information not within the
 13 purview of TSA.
 14 You can answer as to your understanding.
 15 THE WITNESS: Right. It's the airport --
 16 the airport.
 17 Q And so an airport credential would
 18 interact with the CBP to obtain a Customs Seal, if
 19 necessary, for an employee?
 20 MS. KONKOLY: Objection; vague,
 21 misleading. Objection as to scope. And, further,
 22 insofar as this question calls for information not

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1 within TSA's purview.
 2 You can answer as to your understanding,
 3 if you have one.
 4 THE WITNESS: Right. At a high level,
 5 that is my understanding is the airport interacts
 6 with CBP regarding the Customs Seal.
 7 BY MS. HOMER:
 8 Q Does the TSA issue TWICs for semi truck
 9 drivers who may enter a maritime facility?
 10 MS. KONKOLY: I'm going to object as to
 11 scope.
 12 And I'm going to, again, instruct the
 13 witness not to answer any further TWIC-related
 14 questions under the scope of the protective order.
 15 Q Is there any program equivalent to Secure
 16 Flight that secures maritime ports?
 17 MS. KONKOLY: Objection; vague. Objection
 18 as to scope. Objection insofar as the question
 19 calls for any information protected by law
 20 enforcement or SSI privileges.
 21 You can answer as to your understanding.
 22 I'm not going to let this line of questioning go

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1 very far though.
 2 THE WITNESS: I would defer to the --
 3 those enforcement bodies managing ports, such as
 4 is U.S. Coast Guard.
 5 So insofar as we are talking about
 6 passengers entering maritime ports, TSA does not
 7 operate any program related to passengers. TSA
 8 only manages the TWIC component discussed earlier.
 9 BY MS. HOMER;
 10 Q Okay. Does the TSA operate any passenger
 11 screening for passengers who are boarding cruise
 12 ships at United States ports?
 13 MS. KONKOLY: Objection insofar as the
 14 question calls for any information protected by
 15 SSI or law enforcement privilege.
 16 You can answer, if you can.
 17 THE WITNESS: To my knowledge, TSA does
 18 not operate any program performing passenger
 19 screening prior to boarding cruise ships.
 20 Q Does the TSA operate any program regarding
 21 passenger screening prior to boarding Amtrak
 22 trains?

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1 MS. KONKOLY: Objection insofar as the
2 question calls for any information protected by
3 law enforcement or -- privileges or SSI.
4 You can answer, if you can.
5 THE WITNESS: TSA does not operate any
6 program that is performing overall passenger
7 screening prior to boarding Amtrak trains.
8 BY MS. HOMER:
9 Q Does the TSA operate any program that
10 screens passengers prior to passengers boarding
11 public transportation systems like the DC Metro or
12 the New York subway?
13 MS. KONKOLY: Objection; vague. Objection
14 insofar as it calls for any information protected
15 by SSI or the law enforcement privilege.
16 You can answer, if you can.
17 THE WITNESS: TSA does not operate any
18 program where we are performing passenger, like --
19 or screening for those boarding Metro or transit.
20 Q Is it within the scope of the TSA's
21 responsibilities to provide for the security of
22 public transportation systems?

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1 MS. KONKOLY: Objection; vague.
2 THE WITNESS: I'm sorry. What was the
3 question?
4 BY MS. HOMER:
5 Q Is it within the scope of the TSA's
6 mission to secure public transportation systems
7 like the DC Metro?
8 MS. KONKOLY: Objection; vague.
9 THE WITNESS: At a high level, TSA's
10 mission is to secure our nation's transportation
11 security, so in the broad scope of the mission,
12 those functions could -- or would fall under TSA's
13 purview.
14 Q What actions does the TSA take, at a high
15 level, to secure public transportation systems
16 from terrorism?
17 MS. KONKOLY: Objection; vague. Objection
18 as to scope. Objection so far as this question
19 calls for any information protected by SSI or law
20 enforcement privilege.
21 You can answer, if you can.
22 THE WITNESS: So at a high level, there is

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1 a lot of engagement with industry and those
2 entities that govern and operate public
3 transportation. Yeah. I'm trying to --
4 BY MS. HOMER:
5 Q Except for airline, does the TSA perform
6 any passenger screening function for any other
7 transportation system in the United States?
8 MS. KONKOLY: Objection; vague. Objection
9 insofar as the answer calls for any information
10 protected by the law enforcement privilege or SSI.
11 You can answer, to the extent you can.
12 THE WITNESS: So from passenger screening,
13 TSA does not operate any programs where we are
14 normally screening non-commercial airport
15 passengers.
16 Q Okay.
17 So I'm going to go back to Secure Flight's
18 interactions with the TSDB. Does Secure Flight
19 contain TSDB information?
20 MS. KONKOLY: Objection as to scope.
21 Objection insofar as this question calls for any
22 information protected by SSI or the law

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1 enforcement privilege, and, also, vague.
2 You can answer, to the extent that you
3 can.
4 THE WITNESS: So at a high level, Secure
5 Flight does use an export of the TSDB to perform
6 its watchlist matching functions.
7 BY MS. HOMER:
8 Q Does Secure Flight receive that export
9 from the TSDB directly from the Terrorist
10 Screening Center?
11 MS. KONKOLY: Objection; vague. Objection
12 insofar as that question calls for any information
13 protected by the law enforcement privilege or SSI.
14 You can answer, if you can.
15 THE WITNESS: No.
16 Q Does Secure Flight receive that export of
17 TSDB information directly from the DHS
18 watchlisting system?
19 MS. KONKOLY: Objection insofar as that
20 question calls for any information protected by
21 law enforcement privilege or SSI.
22 You can answer, if you can.

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<p style="text-align: right;">101</p> <p>1 THE WITNESS: Yes. TSA receives its 2 export of the TSDB from the DHS Watchlisting 3 Service. 4 BY MS. HOMER: 5 Q What is the DHS Watchlisting Service? 6 MS. KONKOLY: Objection; vague. 7 THE WITNESS: So at a high level, the TSDB 8 export of the TSDB is provided to the DHS 9 Watchlisting Service, and the DHS Watchlisting 10 Service provides the -- an export of the TSDB for 11 TSA-specific watchlisting functions and performs 12 the same for other DHS components for their 13 respective functions. 14 Q Does the T -- or -- sorry. 15 Does the DHS Watchlisting Service contain 16 other watchlists other than the TSDB? 17 MS. KONKOLY: Objection as to scope. 18 Objection insofar as this question calls for 19 information outside of TSA's purview. Objection 20 insofar as it calls for any information protected 21 by SSI or law enforcement privilege. 22 You can answer, to the extent you can.</p>	<p style="text-align: right;">103</p> <p>1 question calls for any information protected by 2 SSI or the law enforcement privilege. 3 You can answer, to the extent that you 4 can. 5 THE WITNESS: I believe -- yes. 6 BY MS. HOMER: 7 Q What other watchlists? 8 A I believe that information-- 9 MS. KONKOLY: I'm sorry. 10 THE WITNESS: -- is -- 11 MS. KONKOLY: Same objections. 12 THE WITNESS: -- SSI and law 13 enforcement-sensitive -- 14 MS. KONKOLY: Same objections. Okay. 15 MS. HOMER: Okay. Let's -- let me repeat 16 it to make it clear. You can restate your 17 objections. 18 MS. KONKOLY: Sure. 19 Q What other watchlist does the TSA receive 20 from the DHS Watchlisting Service other than the 21 TSDB? 22 MS. KONKOLY: Objection as to scope.</p>
<p style="text-align: right;">102</p> <p>1 THE WITNESS: I'm trying to think. I 2 would defer to DHS Watchlisting Service. 3 At a high level, there may be -- I'm 4 trying to think if they're similar to our CDC 5 Do-Not-Board other related -- just that they 6 facilitate, but I will defer to -- 7 BY MS. HOMER: 8 Q Does the TS -- 9 A -- their system. Right. 10 Q Who does the TSA receive the CDC 11 Do-Not-Board list from? 12 MS. KONKOLY: Objection as to scope. 13 You can answer, if you know. 14 THE WITNESS: Yeah. I can't remember 15 exact from a technology direct perspective. 16 Ultimately, the source is the CDC, but 17 technology-wise I don't -- 18 Q Are there any other watchlists, other than 19 the TSDB, which the TSA receives from the DHS 20 Watchlisting Service? 21 MS. KONKOLY: Objection as to scope. 22 Objection; vague. Objection insofar as the</p>	<p style="text-align: right;">104</p> <p>1 Objection; vague. Objection insofar as the 2 question calls for information protected by SSI 3 and/or law enforcement privilege. 4 You can answer, if you can. 5 THE WITNESS: I don't think I can -- 6 MS. KONKOLY: Okay. 7 THE WITNESS: -- answer it. 8 BY MS. HOMER: 9 Q How many other watchlists does the TSA 10 receive from the DHS Watchlisting Service that are 11 not the TSDB? 12 MS. KONKOLY: Objection insofar as that 13 question calls for information protected by the 14 law enforcement privilege and/or SSI. Objection; 15 vague. 16 You can answer, if you can without waiving 17 a privilege. 18 THE WITNESS: I believe it's law 19 enforcement-sensitive. 20 Q And so, to be clear, you're not going to 21 provide that information? 22 A Correct.</p>

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1 Q Okay.

2 Does Secure Flight receive real time

3 updates for -- of TSDB information from the DHS

4 Watchlisting Service?

5 MS. KONKOLY: Objection as to scope.

6 Objection insofar as it calls for any information

7 protected by SSI or law enforcement privilege.

8 You can answer, if you can.

9 THE WITNESS: I would say near realtime.

10 I guess there may be seconds' lag across systems.

11 Q But it's refreshed at least every ten

12 minutes, let's say?

13 A It's refreshed whenever there are updates

14 to the TSDB. I can't put a time --

15 Q Okay.

16 A -- on it.

17 Q Okay. But, in general, whenever the TSDB

18 is updated, that update is close to immediately

19 provided to the DHS Watchlisting Service, which

20 close to immediately provides it to the Secure

21 Flight system?

22 A Yes.

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1 Q And do any other TSA databases, other than

2 Secure Flight, contain TSDB information?

3 MS. KONKOLY: Objection insofar as that

4 question calls for information protected by SSI or

5 the law enforcement privilege. Vague.

6 You can answer, if you can.

7 THE WITNESS: Yes.

8 Q What other TSA systems contain TSDB

9 information?

10 MS. KONKOLY: Objection insofar as that

11 question calls for any information protected by

12 SSI or the law enforcement privilege.

13 You can answer, if you can.

14 THE WITNESS: So at a high level, not

15 withstanding scope, we do have TSDB information

16 related to our vetting and credentialing processes

17 as well as the encounter systems that we had

18 discussed earlier. So a portion -- so -- of

19 information.

20 Q So when you say the "encounter systems,"

21 are you talking about the TSA WebEOC system?

22 A Yes.

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1 Q Are there any other encounter systems the

2 TSA uses which would contain TSDB information?

3 MS. KONKOLY: Objection insofar as that

4 question calls for information protected by SSI

5 and/or the law enforcement privilege.

6 You can answer, if you can.

7 THE WITNESS: So there's the information

8 that we share with the Common Operating Platform.

9 I'm trying to think of the -- for actual TSDB

10 information. And then the vetting and

11 credentialing, as we had discussed before, we

12 covered those.

13 Q Is there a specific name for the vetting

14 and credentialing system that the TSA uses which

15 --

16 A It's --

17 Q -- incorporates TSDB information?

18 MS. KONKOLY: Objection insofar as that

19 question calls for information protected by law

20 enforcement privilege or SSI.

21 You can answer, if you can.

22 THE WITNESS: It's our transportation

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1 vetting system.

2 BY MS. HOMER:

3 Q When you say that Secure Flight receives

4 an export of TSDB information, does that mean

5 Secure Flight has its own local copy of the data

6 stored within Secure Flight itself?

7 MS. KONKOLY: Objection; vague. Objection

8 insofar as it calls for information protected by

9 SSI or the law enforcement privilege, also as to

10 scope.

11 You can answer, if you can.

12 THE WITNESS: So at a high level, yes. We

13 receive an export, and we use that copy or export

14 for Secure Flight processing.

15 Q So if -- let's pretend that the entire TSC

16 got accidentally deleted right now. Secure Flight

17 would still have a copy of what the TSDB looked

18 like five minutes ago?

19 MS. KONKOLY: Objection insofar as that

20 question calls for information protected by SSI or

21 law enforcement privilege. Vague.

22 You can answer, if you can.

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109	<p>1 THE WITNESS: TSA would have its last</p> <p>2 export that it received.</p> <p>3 BY MS. HOMER:</p> <p>4 Q What information does Secure Flight</p> <p>5 receive from the TSDB?</p> <p>6 MS. KONKOLY: Objection insofar as that</p> <p>7 calls for information protected by the law</p> <p>8 enforcement privilege or SSI.</p> <p>9 You can answer, to the extent that you</p> <p>10 can.</p> <p>11 THE WITNESS: So --</p> <p>12 MS. KONKOLY: You can answer, to the</p> <p>13 extent that you can.</p> <p>14 THE WITNESS: Secure Flight receives an</p> <p>15 export of the TSDB for those that meet the</p> <p>16 reasonable suspicion standard of being a known or</p> <p>17 suspected terrorist.</p> <p>18 Q Does the TSDB -- or -- sorry.</p> <p>19 Does the TSA have access to the reasons</p> <p>20 why somebody is listed in the TSDB as a known or</p> <p>21 suspected terrorist?</p> <p>22 MS. KONKOLY: Objection; vague. Objection</p>	111	<p>1 enforcement privilege.</p> <p>2 You can answer, if you can.</p> <p>3 THE WITNESS: So there's multiple -- I'm</p> <p>4 trying -- sorry -- to think of the systems.</p> <p>5 There are intelligence database systems</p> <p>6 that have the under -- classified systems that</p> <p>7 have the underlying information for reasons why</p> <p>8 it's on the TSDB, and that's primarily those that</p> <p>9 are governed by the National Counter-Terrorism</p> <p>10 Center and the FBI.</p> <p>11 BY MS. HOMER:</p> <p>12 Q Okay. So TSA analysts who are reviewing</p> <p>13 matches to the TSDB would have access to the NCTC?</p> <p>14 The National -- now I forget what that</p> <p>15 abbreviation stands for, but they have access to</p> <p>16 the underlying databases of derogatory information</p> <p>17 housed by the NCTC and the FBI?</p> <p>18 MS. KONKOLY: Objection; vague. Objection</p> <p>19 insofar as it calls for any information protected</p> <p>20 by SSI or law enforcement privilege.</p> <p>21 You can answer, if you can.</p> <p>22 THE WITNESS: So our intelligence analysts</p>
110	<p>1 insofar as it calls for any information protected</p> <p>2 by the law enforcement privilege and/or SSI.</p> <p>3 You can answer, if you can.</p> <p>4 THE WITNESS: Yes.</p> <p>5 BY MS. HOMER:</p> <p>6 Q By what means does the TSA have access to</p> <p>7 the reasons why somebody is listed in the TSDB as</p> <p>8 a known or suspected terrorist?</p> <p>9 MS. KONKOLY: Objection; vague. Objection</p> <p>10 insofar as the answer calls for information</p> <p>11 protected by SSI or the law enforcement privilege.</p> <p>12 You can answer, to the extent that you</p> <p>13 can.</p> <p>14 THE WITNESS: TSA receives the export of</p> <p>15 the TSDB from -- when there's a match, TSA's</p> <p>16 intelligence analysts -- its analysts have access</p> <p>17 to go back to the underlying information that</p> <p>18 provided the information to put it into the TSDB.</p> <p>19 Q And what system is that underlying</p> <p>20 information stored in?</p> <p>21 MS. KONKOLY: Objection insofar as it</p> <p>22 calls for information protected by SSI or law</p>	112	<p>1 have access to the underlying information. I</p> <p>2 think that was your question; right?</p> <p>3 BY MS. HOMER:</p> <p>4 Q How many intelligence analysts does the</p> <p>5 TSA employ who review matches to the TSDB?</p> <p>6 MS. KONKOLY: Objection; vague.</p> <p>7 You can answer.</p> <p>8 THE WITNESS: Right. So I want to be very</p> <p>9 clear when we're talking about reviewing matches</p> <p>10 to the TSDB different from those analysts that are</p> <p>11 just confirming if there is a name match.</p> <p>12 So there are analysts that are just</p> <p>13 confirming if there's a name match for Secure</p> <p>14 Flight's passenger prescreening process. Separate</p> <p>15 are our intelligence analysts, normally separate</p> <p>16 from the actual just matching for confirmation for</p> <p>17 passenger prescreening.</p> <p>18 Those intelligence analysts, I'd have to</p> <p>19 get the exact number that would actually have</p> <p>20 access into the underlying information for</p> <p>21 passenger prescreening.</p> <p>22 Q Okay. Let me see if I can break that down</p>

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1 a bit.

2 **A Yeah.**

3 Q So the TSA employs analysts whose function

4 is to confirm whether or not a passenger name is a

5 match to Secure Flight?

6 **A Yes.**

7 Q And that group of analysts does not have

8 access to the underlying derogatory information as

9 to why somebody is on the TSDB?

10 MS. KONKOLY: Objection insofar as that

11 calls for any information protected by SSI or law

12 enforcement. Vague.

13 You can answer, if you can.

14 THE WITNESS: Generally, that is -- yes,

15 that is correct.

16 Q Approximately how many analysts are

17 employed by the TSA for the purpose of confirming

18 whether or not passenger names are a match in

19 Secure Flight to information in the TSDB?

20 **A So I think approximately 400 individuals**

21 **have direct access to the Secure Flight system,**

22 **and I'd have to go back and -- I don't know the**

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1 **exact number that are doing the matching direct**

2 **functions versus others, but 400 have direct**

3 **access to the Secure Flight system, primarily for**

4 **performing the match functions.**

5 **BY MS. HOMER:**

6 Q And are some of those 400 individuals --

7 let me start over.

8 Are there individuals who have access to

9 the secure flight system on duty 24 hours a day?

10 MS. KONKOLY: Objection; vague.

11 You can answer.

12 THE WITNESS: So to re-clarify: There's

13 no individual that we have working 24 hours a day.

14 Q I would hope so.

15 **A Yeah.**

16 **We do operate 24 hours a day --**

17 Q Okay.

18 **A -- seven days a week.**

19 Q Of those 400 individuals, are some of them

20 private government contractors rather than TSA

21 employees?

22 **A No. They are TSA --**

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1 Q Okay.

2 **A -- employees.**

3 Q So all individuals under the authority of

4 the TSA who have access to Secure Flight for the

5 purposes of matching passengers against the TSDB

6 are TSA employees?

7 **A Yes.**

8 Q Okay.

9 Now, you mentioned that there was a

10 separate category of analysts who can review the

11 underlying derogatory information about

12 individuals in the TSDB; correct?

13 **A Correct.**

14 Q Is that a subset of the 400 employees we

15 just mentioned?

16 **A Yes.**

17 Q And approximately how large is that

18 subset?

19 **A I want to say it's probably -- I don't**

20 **want to speculate. It's -- we'd have to get**

21 **back -- there's a number; I just don't -- I'm not**

22 **exactly positive.**

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1 **I know certain subsets, but in terms of**

2 **the entire --**

3 Q Yeah. We could --

4 **A -- I think it's --**

5 Q We can clarify it later --

6 **A Yeah.**

7 Q -- but, like, is it less than 50?

8 **A It's about that.**

9 Q It's about 50?

10 **A Yeah.**

11 Q Okay.

12 THE VIDEOGRAPHER: We have about four

13 minutes left on the videotape.

14 MS. HOMER: Okay. I'll ask one more

15 question, and then we can take a break.

16 Q If an individual is removed from the TSDB,

17 does Secure Flight retain a record showing that

18 that person used to be on the TSDB?

19 MS. KONKOLY: Objection insofar as that

20 information calls for -- or that question calls

21 for any information protected by SSI and/or law

22 enforcement privilege.

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1 You can answer, to the extent that you
2 can.
3 THE WITNESS: So to confirm: TSA only
4 ever retains its most recent copy of the export
5 that it receives of the TSDB.
6 BY MS. HOMER:
7 Q If an individual is removed from the TSDB,
8 is there any reason that the TSA and Secure Flight
9 would retain that individual on any list for the
10 purposes of subjecting them to enhanced screening?
11 MS. KONKOLY: Objection; vague, calls for
12 speculation. Objection insofar as the question
13 calls for information protected by SSI or the law
14 enforcement privilege.
15 You can answer, if you can.
16 THE WITNESS: So the question is is there
17 any reason TSA would retain information of an
18 individual that's been removed from the TSDB for
19 the purposes of maintaining enhanced screening?
20 Q Correct.
21 MS. KONKOLY: Same objections.
22 THE WITNESS: So, generally, no. The only

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1 time we are retaining, as discussed before, beyond
2 the seven days are those of individuals where we
3 have had encounters.
4 However, for purposes of enhanced
5 screening, TSA's list -- or -- no, I think, if I'm
6 trying -- if I'm answer -- understanding your
7 question correctly, TSA does not retain
8 individuals who have been deleted from the TSDB in
9 order to provide them additional enhanced
10 screenings. It's not a direct --
11 MS. HOMER: Okay. I --
12 THE WITNESS: -- correlation.
13 MS. HOMER: -- think with that we can take
14 a break.
15 THE VIDEOGRAPHER: We're going off the
16 record. The time is 11:46 a.m.
17 (A recess was taken from 11:46 a.m. to
18 11:58 a.m.)
19 THE VIDEOGRAPHER: Here begins disk number
20 two in the videotaped deposition of Hao-Y
21 Froemling.
22 The time on the video monitor is

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1 11:58 a.m., and we have been on the record for two
2 hours.
3 BY MS. HOMER:
4 Q Does Secure Flight retain a record of
5 persons who used to be in the TSDB but have since
6 before removed for any purpose?
7 MS. KONKOLY: Objection insofar as that
8 question calls for any information protected by
9 law enforcement privilege or SSI.
10 You can answer, to the extent that you
11 can.
12 THE WITNESS: No, insofar as Secure Flight
13 only retains information related -- beyond the
14 seven days related to those individuals for which
15 it's encountered that have matched to the TSDB.
16 Q If a person had been on the TSDB but had
17 been cleared through the DHS TRIP process, would
18 Secure Flight receive a record of that from DHS
19 TRIP?
20 **A Yes. TSA -- Secure Flight receives the**
21 **TRIP cleared list.**
22 Q Does the TSA use any subsets of the TSDB

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1 for its screening purposes?
2 MS. KONKOLY: Objection; vague. Objection
3 insofar as that question calls for any information
4 protected by the law enforcement privilege or SSI.
5 You can answer, if you can.
6 THE WITNESS: Yes. TSA uses the export of
7 the TSDB it receives, in its Secure Flight
8 prescreening --
9 BY MS. HOMER:
10 Q And --
11 **A -- process.**
12 Q Okay. And from -- within that export that
13 the TSA receives, are there different subsets of
14 the TSDB?
15 MS. KONKOLY: Objection insofar as the
16 question calls for any information protected by
17 SSI or law enforcement privilege. Objection;
18 vague.
19 You can answer, if you can.
20 THE WITNESS: At a high level, I would say
21 the export, in and of itself, would, like,
22 effectively be what you would call subsets.

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<p style="text-align: right;">121</p> <p>1 So in answer, yes, TSA and Secure Flight 2 receives the export of the TSDB. 3 BY MS. HOMER: 4 Q Okay. Let me try to be more clear. 5 A Okay. 6 Q The TSA receives a copy of everyone listed 7 on the TSDB who is listed as a known or suspected 8 terrorist; correct? 9 A Correct. If they meet the reasonable 10 suspicion, yep. 11 Q And within the list, the TSA knows which 12 of those individuals listed as known or suspected 13 terrorists are designated as No-Fly? 14 A Correct. 15 Q And within the list the TSA receives of 16 the TSDB, it knows which individuals are listed as 17 selectees? 18 A Yes. 19 Q And within that list it receives, it knows 20 which individuals are on the TSDB but neither 21 listed as No-Fly or Selectee? 22 A Yes.</p>	<p style="text-align: right;">123</p> <p>1 on the TSDB, and therefore there are also specific 2 criteria that would designate it to be on the 3 Selectee. 4 As to which agency specifically, it 5 would -- I think it would depend on the 6 information. There is a process for it to be put 7 on the TSDB, so I don't know if I can answer, 8 because there is a -- there's a whole multiagency 9 process for an individual to be placed on the 10 TSDB. 11 BY MS. HOMER: 12 Q Does the TSA nominate individuals to the 13 TSDB? 14 A Yes. TSA may submit nominations for TSDB. 15 Q And does the TSA nominate individuals who 16 are already on the TSDB to be given Selectee List 17 status? 18 MS. KONKOLY: Objection; vague. 19 THE WITNESS: I think I need to quick 20 conference just to confirm the answer. 21 I know TSA submits nominations to the 22 watchlist and based on the specific criteria</p>
<p style="text-align: right;">122</p> <p>1 Q Is whether or not somebody is on the 2 Selectee List a designation that is housed 3 primarily in the TSDB itself? 4 MS. KONKOLY: Objection; vague. 5 THE WITNESS: So I won't answer for the 6 TSC and the actual TSDB itself. 7 I know that the export that TSA receives 8 of the TSDB does designate those that are No-Fly 9 and Selectee. 10 Q What agency determines whether an 11 individual in the TSDB should be on the Selectee 12 List? 13 MS. KONKOLY: Objection; vague. Objection 14 insofar as it calls for information outside of 15 TSA's purview. Objection insofar as it calls for 16 any information protected by law enforcement or 17 SSI. 18 You can answer, to the extent that you 19 can. 20 THE WITNESS: So there are specific 21 criterias to -- and standards to say those that 22 meet the reasonable suspicion standard for being</p>	<p style="text-align: right;">124</p> <p>1 given, but, again, it's a multiagency process to 2 determine different -- designation on the TSDB and 3 the Selectee status or not. 4 BY MS. HOMER: 5 Q So it's a multiagency process to determine 6 whether any one individual on the TSDB should or 7 should not be assigned Selectee status? 8 A So there is a review process, yes, to 9 confirm the information submitted meets the 10 standards and criteria associated. 11 Q Well, when the TSC submits a nomination to 12 the TSDB that will be reviewed by other agencies, 13 does the TSA indicate whether it believes that 14 nomination should also be on the -- to the 15 Selectee List? 16 MS. KONKOLY: Objection; vague. Objection 17 as to scope. 18 You can answer as to your understanding. 19 Objection insofar as the question calls 20 for any information protected by SSI or law 21 enforcement privilege. 22 Again, you can answer, to the extent you</p>

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1 can.
 2 THE WITNESS: I believe TSA follows the
 3 associated criteria that's been established for
 4 nominations to the TSDB.
 5 Sorry. I'm just, right now, blanking on
 6 the details of the Selectee List specifically for
 7 TSA's nomination. I'd have to --
 8 BY MS. HOMER:
 9 Q Okay. Yeah.
 10 **A -- get back. I'm just --**
 11 Q Well, I'll try and ask it --
 12 **A -- blanking right now.**
 13 Q -- a different way, and if not, we can
 14 come back.
 15 But can -- when the TSC submits a
 16 nomination of an individual to the TSDB, can it
 17 simultaneously nominate that individual to the
 18 Selectee List?
 19 MS. KONKOLY: Objection; vague. Objection
 20 insofar as it calls for any information presented
 21 by SSI or the law enforcement privilege.
 22 You can answer, if you can.

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1 THE WITNESS: So TSA submits nominations
 2 to the watchlist. It follows the standards and
 3 criteria established for the nomination.
 4 So to the extent if TSA has -- if the
 5 information that would meet the criteria for being
 6 a Selectee, then yes.
 7 BY MS. HOMER:
 8 Q Where is the criteria found regarding who
 9 can be nominated to the TSDB or the Selectee List?
 10 MS. KONKOLY: Objection; vague. Objection
 11 insofar as the question calls for any information
 12 protected by SSI or the law enforcement standard.
 13 You can answer, to the extent that you
 14 can, although I will specifically instruct you not
 15 to provide the actual standard, which I understand
 16 the question doesn't call for, but just to be
 17 clear.
 18 THE WITNESS: Right. So there have been
 19 standards established for watchlisting via the
 20 Watchlisting Advisory Council, and TSA follows
 21 that watchlisting guidance for the standards and
 22 criteria.

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1 BY MS. HOMER:
 2 Q And what is the current document that
 3 embodies the Watchlisting Advisory Council's
 4 standards for inclusion in the TSDB?
 5 MS. KONKOLY: Objection; scope.
 6 You can answer.
 7 THE WITNESS: That is the watchlisting
 8 guidance.
 9 Q And what year was it issued?
 10 MS. KONKOLY: Objection as to scope.
 11 You can answer, if you know.
 12 THE WITNESS: Yeah. I'm -- I want to say
 13 it was 2015, but I would need to go back and
 14 verify the exact year.
 15 Q Has it been updated since 2015, assuming
 16 that's the correct year?
 17 MS. KONKOLY: Objection as to scope.
 18 You can answer, if you know.
 19 THE WITNESS: I would have to confirm the
 20 last year that it was updated, basically. I
 21 believe it was 2015.
 22 Q Let me see if I can be a bit more precise

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1 in my question.
 2 Assuming that it is the 2015 watchlisting
 3 guidance --
 4 **A Yeah.**
 5 Q -- are there versions of it that say
 6 something akin to 2015 Watchlisting Guidance,
 7 footnote, minor updates made in 2017, or something
 8 like that? Or is the 2015 version the
 9 authoritative version as to your knowledge?
 10 MS. KONKOLY: Objection; vague.
 11 Objection; scope. Objection insofar as it calls
 12 for any information protected by SSI or law
 13 enforcement.
 14 You can answer, if you can.
 15 THE WITNESS: To my knowledge, the
 16 guidance is the guidance that was last published.
 17 Q Okay.
 18 Does being on the Selectee List require
 19 additional derogatory information than being
 20 listed in the TSDB alone?
 21 **A Yes.**
 22 Q What additional criteria is needed to

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<p style="text-align: right;">129</p> <p>1 designate someone as being on the Selectee List? 2 MS. KONKOLY: Objection; calls for 3 information protected by SSI and law enforcement 4 privilege. 5 I'm going to instruct the witness not to 6 answer that one. 7 MS. HOMER: I was expecting that, too. 8 THE WITNESS: Yeah. 9 BY MR. HOMER: 10 Q The TSA, through Secure Flight, is relying 11 on the Selectee List designation contained within 12 the TSDB; correct? 13 MS. KONKOLY: Objection; vague. 14 THE WITNESS: The TSA Secure Flight system 15 uses the information in the TSDB. 16 Q Does the Secure Flight system designate 17 anyone as being on the Selectee List who is not in 18 the TSDB? 19 MS. KONKOLY: Objection; vague. 20 THE WITNESS: Does the TSA Secure Flight 21 system designate anyone as being a Selectee that 22 is not on the Selectee? So do --</p>	<p style="text-align: right;">131</p> <p>1 insofar as that calls for any information 2 protected by SSI or the law enforcement privilege. 3 But you can answer, if you can. 4 THE WITNESS: So I could rephrase to TSA 5 does designate passengers for enhanced security 6 screening. It may include those that match to the 7 Selectee List, but there may also be other 8 individuals that are designated for enhanced 9 screening as well. 10 BY MS. HOMER: 11 Q Under what circumstances are other 12 individuals who are not on the Selectee List 13 designated for enhanced screening? 14 MS. KONKOLY: Objection insofar as the 15 answer to that question calls for information 16 protected by SSI or law enforcement privilege. 17 You can answer, to the extent that you 18 can. 19 THE WITNESS: So they may be -- from a 20 Secure Flight designation for enhanced screening, 21 it may be a random inclusion for enhanced 22 screening. It may be related to a -- particular</p>
<p style="text-align: right;">130</p> <p>1 BY MS. HOMER: 2 Q That is not on the Selectee List as 3 maintained by the TSDB. 4 MS. KONKOLY: Objection; vague. Objection 5 insofar as the answer calls for any information 6 protected by SSI or law enforcement privilege. 7 But you can answer, if you can. 8 THE WITNESS: So TSA Secure Flight system 9 does not designate a watchlist status. It 10 performs matches for passengers against the 11 watchlist, so therefore, Secure Flight would not 12 be designating someone as a Selectee, which, by 13 definition, is someone that is a Selectee on the 14 TSDB Selectee List, unless they were on the TSDB 15 as a Selectee. 16 Does that -- 17 Q Yes. 18 A Yeah. So the answer is no, I guess. 19 Q Does the TSA apply the Selectee level of 20 screening to anyone who is not on the Selectee 21 List as housed by the TSDB? 22 MS. KONKOLY: Objection; vague. Objection</p>	<p style="text-align: right;">132</p> <p>1 circumstances of a passenger's travel, it may 2 also designate enhanced screening. 3 BY MS. HOMER: 4 Q Okay. 5 I'd like to mark -- I believe it's going 6 to be Exhibit No. 2 for today's deposition. It's 7 a 2014 report from the GAO. 8 (Whereupon Plaintiff's Exhibit 2 was 9 marked for identification.) 10 And take a minute to familiarize yourself 11 with the document. 12 Do you recognize this document? 13 A At a high level, yes. 14 Q Have you read it before? 15 A In past years, yes, in some form. 16 Q And there was a confidential version of 17 this report that the GAO issued simultaneously; 18 correct? 19 MS. KONKOLY: Objection; foundation. 20 You can answer, if you know. 21 THE WITNESS: I don't. I don't know. 22 Q Okay.</p>

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<p style="text-align: right;">133</p> <p>1 Do you know whether the GAO, since 2014,</p> <p>2 has provided any further evaluations of the TSA's</p> <p>3 Secure Flight program?</p> <p>4 MS. KONKOLY: Objection; foundation.</p> <p>5 Objection as to scope. Also, vague.</p> <p>6 You can answer, if you know.</p> <p>7 THE WITNESS: I do not believe GAO has</p> <p>8 conducted another audit since this 2014 audit.</p> <p>9 Q Okay. To solve the foundation problem.</p> <p>10 What, generally, is this document?</p> <p>11 A What, generally, is this document?</p> <p>12 Q Yeah.</p> <p>13 A This is the GOA's report of its audit</p> <p>14 results of the Secure Flight system and program.</p> <p>15 Q Did this audit result in any changes to</p> <p>16 TSA policies?</p> <p>17 MS. KONKOLY: Objection; vague.</p> <p>18 Objection; scope.</p> <p>19 You can answer, if you know.</p> <p>20 I also object insofar as the question</p> <p>21 would call for any information protected by the</p> <p>22 deliberative process privilege, SSI, or the law</p>	<p style="text-align: right;">135</p> <p>1 So I want to ask some questions about how</p> <p>2 this flowchart outlines TSA screening procedures.</p> <p>3 So if you start in the top left, it says,</p> <p>4 you know, "passenger" with an arrow to "airline."</p> <p>5 Do you see that?</p> <p>6 A Mm-hm, yes.</p> <p>7 Q So this is what we talked about -- or this</p> <p>8 is representing what we talked about earlier is</p> <p>9 that passengers buy airline tickets through</p> <p>10 airlines --</p> <p>11 A Yes.</p> <p>12 Q -- correct? That may also encompass</p> <p>13 passengers check in to receive their boarding pass</p> <p>14 with an airline?</p> <p>15 A Yes.</p> <p>16 Q Okay. And then it has an arrow from</p> <p>17 "airline" going to "Secure Flight screening" in a</p> <p>18 black box. Do you see that?</p> <p>19 A Yes.</p> <p>20 Q So this is also what we talked about</p> <p>21 earlier, is that the airline verify -- or the</p> <p>22 airline sends the passenger information to Secure</p>
<p style="text-align: right;">134</p> <p>1 enforcement privilege.</p> <p>2 Again, you can answer, if you think you</p> <p>3 can and you know.</p> <p>4 THE WITNESS: I don't know if it directed</p> <p>5 changes to policy so much as it made</p> <p>6 recommendations to improving the process.</p> <p>7 BY MS. HOMER:</p> <p>8 Q Did the TSA take any actions to change its</p> <p>9 processes following the GOA's recommendations in</p> <p>10 this report?</p> <p>11 MS. KONKOLY: I'm going to, again, object</p> <p>12 as to the scope of the topics approved for this</p> <p>13 deposition. Object insofar as the answer would</p> <p>14 call for any information protected by SSI or law</p> <p>15 enforcement privilege, deliberative process</p> <p>16 privilege.</p> <p>17 You can answer, if you know.</p> <p>18 THE WITNESS: At a high level, yes, for</p> <p>19 those recommendations that TSA did seek to address</p> <p>20 them to improve its processes. So, yes.</p> <p>21 Q Okay. Could you please turn to page 19 of</p> <p>22 this document? It has a flowchart on it.</p>	<p style="text-align: right;">136</p> <p>1 Flight to match the passenger information against</p> <p>2 any Secure Flight list; is that correct?</p> <p>3 A Yes.</p> <p>4 Q Okay.</p> <p>5 Now, the Secure Flight then breaks into</p> <p>6 four separate boxes to our right, and I want to</p> <p>7 start at the top one. The top one is labeled "low</p> <p>8 risk." Do you see that?</p> <p>9 A Yes.</p> <p>10 Q Okay. And it says that Secure Flight</p> <p>11 matches against the TSA Pre-Check list. Do you</p> <p>12 see that?</p> <p>13 A Yes.</p> <p>14 Q What is the TSA Pre-Check list?</p> <p>15 MS. KONKOLY: I'm going to object as to</p> <p>16 scope.</p> <p>17 You can answer, if you know.</p> <p>18 THE WITNESS: So at a high level, there</p> <p>19 are multiple trusted-traveler or list space</p> <p>20 pre-vetted individuals that TSA has deemed as</p> <p>21 being low-risk where they may be eligible to</p> <p>22 receive expedited screening.</p>

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<p style="text-align: right;">137</p> <p>1 BY MS. HOMER: 2 Q You said there are multiple 3 trusted-traveler lists? What are those 4 trusted-traveler lists? 5 A So there's the CBP's Trusted Traveler 6 Program, such as Global Entry, SENTRI, NEXUS. 7 There's TSA's Pre-Check Application program. 8 Also, individuals that may have been, I 9 think, active duty military, civilians that have 10 been cleared and have opted in via the Department 11 of Defense and other such low-risk lists. 12 Q If you can briefly turn to page 46 of this 13 document, is the figure 4 graph a comprehensive 14 list of the trusted-traveler programs managed by 15 the TSA? 16 MS. KONKOLY: I'll just object as outside 17 of the scope of the topics for this deposition, 18 and also insofar as an answer will call for any 19 information protected by SSI or law enforcement 20 privilege. 21 But you can answer, if you can. 22 THE WITNESS: This list is accurate as of</p>	<p style="text-align: right;">139</p> <p>1 analysis of passenger data submitted to Secure 2 Flight for screening. 3 What is that talking about, generally? 4 MS. KONKOLY: Objection as to scope. 5 Objection insofar as the answer would call for any 6 information protected by SSI or law enforcement 7 privilege. 8 You can answer, if you can. 9 THE WITNESS: So at a very high level, on 10 any given flight, any given day, TSA's Secure 11 Flight program will -- using intelligence-based 12 information and criteria, may designate certain 13 passengers to be low-risk and eligible for TSA 14 Pre-Check. 15 So it's using its limited Secure 16 Flight-related information that it receives and 17 other information to make a designation on a 18 flight-by-flight basis. 19 BY MS. HOMER: 20 Q And you said that uses intelligence data 21 to make that assessment? 22 A No. It's grounded -- our risk</p>
<p style="text-align: right;">138</p> <p>1 the date of this report, which was 20 -- well, 2 April 2014, but no additional lists have been 3 added. 4 Such as GAO did not capture, for example, 5 our TSA Pre-Check Application Program, which began 6 at the very end of 2013. 7 BY MS. HOMER: 8 Q I think they do have it. 9 A Oh, do they have it? Am I just not seeing 10 it? 11 Q At the bottom column, it says -- on the 12 second from the left, it says TSA Pre-Check 13 Application Program. 14 A Oh, okay. Sorry. I wasn't reading this 15 table correctly. 16 But since 2014, nominally we also, for 17 example, have DHS employees that are opting in. 18 This is primarily -- 19 Q Okay. 20 On the right side of figure 4, there's a 21 separate smaller box that says: TSA Pre-Check 22 risk assessments, October 2013, TSA risk-based</p>	<p style="text-align: right;">140</p> <p>1 information, or the criteria that we use, are 2 based on intelligence information to determine 3 levels of risk. 4 Q But -- 5 A It's not intelligence data in the Secure 6 Flight system. That's just being -- to be very 7 clear. 8 Q But the TSA itself, based on intelligence 9 information, is establishing rules for who is 10 likely to be a low-risk passenger? 11 MS. KONKOLY: I'm going to object as -- 12 Q -- is that fair? 13 MS. KONKOLY: Let me object as to scope, 14 vagueness, also insofar as the answer would call 15 for any information protected by SSI or law 16 enforcement privilege. 17 You can answer, if you can. 18 THE WITNESS: So at a high level, on a 19 flight-by-flight basis, we are using 20 information -- that information to identify 21 somebody as eligible for low-risk screening, 22 expedited screening.</p>

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1 BY MS. HOMER:
2 Q And who at the TSA is creating that
3 criteria --
4 MS. KONKOLY: I'm going to --
5 Q -- to identify who, on a flight-by-flight
6 basis, is eligible for low-risk screening?
7 MS. KONKOLY: I'll object as to scope;
8 object as to the Privacy Act insofar as the
9 question's calling for name of the employee;
10 object insofar as the answer would implicate any
11 information protected by SSI or the law
12 enforcement privilege.
13 You can answer, if you can.
14 Q And to be clear, I'm looking for titles,
15 not names.
16 MS. KONKOLY: Okay. Thank you for the
17 clarification. Same objections.
18 You can answer.
19 THE WITNESS: So the criteria are
20 identified by a multi-office process and review,
21 and then it's confirmed by our TSA senior
22 leadership that -- to the privacy -- ultimately,

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1 the authority is with the administrator to make
2 the determination.
3 He is not doing one-by-one passenger, but
4 in terms of the -- what criteria and rules we're
5 applying for low-risk, it's a multi-office body
6 providing input into the criteria and rules to
7 identify those that would meet our threshold for
8 low-risk screening.
9 BY MS. HOMER:
10 Q And is the application of that criteria
11 through Secure Flight to determine low-risk
12 screening, is that an automated process?
13 MS. KONKOLY: Objection insofar as the
14 question calls for any information protected by
15 SSI, law enforcement privilege. Again, object as
16 to scope.
17 You can answer, if you can.
18 THE WITNESS: For those that may receive
19 TSA Pre-Check designations on their boarding pass,
20 it is automated in Secure Flight.
21 Q But the actual criteria that is applied is
22 determined through manual analysis as part of a

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1 multi-office review, subject to the authority of
2 the TSA administrator?
3 A Yes.
4 MS. KONKOLY: Object --
5 THE WITNESS: I'm sorry.
6 MS. KONKOLY: Okay.
7 BY MS. HOMER:
8 Q If somebody who already has TSA Pre-Check
9 status matches to the Secure Flight, are -- or
10 TSDB data, what happens to their TSA Pre-Check
11 status?
12 MS. KONKOLY: Objection; calls for
13 speculation. Objection; vague. Objection insofar
14 as the answer calls for information protected by
15 SSI or law enforcement privilege.
16 You can answer, if you can.
17 THE WITNESS: So it will depend. So in
18 general, TSA will make a determination and apply
19 the level of screening related to the threat.
20 So specific to Secure Flight, for the
21 given flight, if an individual has been determined
22 to be a match to the watchlist, a confirmed match

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1 to the watchlist, TSA will make a determination of
2 high-risk and apply the appropriate screening
3 that's commensurate.
4 BY MS. HOMER:
5 Q So if somebody is a confirmed match to the
6 Selectee List, they will be subject to enhanced
7 screening even if they have a TSA Pre-Check
8 application that was accepted?
9 MS. KONKOLY: Objection insofar as the
10 answer calls for any information protected by SSI
11 or law enforcement privilege.
12 You can answer, if you can.
13 THE WITNESS: So TSA will apply the level
14 of screening that's commensurate with the given
15 threat for the given passenger.
16 Q So would an individual's presence on the
17 Selectee List override any TSA Pre-Check status?
18 MS. KONKOLY: Objection insofar as the
19 answer calls for any information protected by SSI
20 or the law enforcement privilege. Also, asked and
21 answered.
22 Go ahead, if you can.

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1 THE WITNESS: So generally speaking,
2 because most of these lists are vetted at a
3 certain given point in time, TSA will use its most
4 current information based on the passenger's risk
5 to determine the level of enhanced or low-risk
6 screening that they may receive.
7 BY MS. HOMER:
8 Q So if somebody is added to the TSDB
9 Selectee List after having received, previously,
10 TSA Pre-Check, that person would then be
11 designated as a Selectee by Secure Flight?
12 MS. KONKOLY: I'm going to, again, object
13 insofar as the question calls for information
14 protected by SSI or the law enforcement privilege.
15 I'm also going to, again, object that this
16 question has been asked and answered several
17 times.
18 One last time, you can answer, if you can.
19 THE WITNESS: Right. So, again, it's TSA
20 will make a determination of its most recent
21 information of a passenger's risk to determine its
22 high-risk or low-risk screening.

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1 So to the extent that if the most recent
2 information is confirmed that they require
3 enhanced screening, TSA will apply the appropriate
4 level of screening.
5 BY MS. HOMER:
6 Q Does the TSA ever revoke a passenger's TSA
7 Pre-Check status?
8 MS. KONKOLY: Objection as to scope.
9 Objection insofar as information calls for -- the
10 answer calls for information protected by SSI or
11 the law enforcement privilege.
12 You can answer, if you can.
13 THE WITNESS: So to the extent it would
14 depend on how they received TSA Pre-Check. At any
15 given time, TSA can determine whether an
16 individual receives TSA Pre-Check in the Secure
17 Flight system on its boarding pass or not.
18 It could even be -- we've always stated
19 that we also have a component of random exclusion.
20 So by virtue of being on one of these lists, it's
21 not always a hundred percent guarantee that you
22 may receive TSA Pre-Check on every flight.

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1 TSA's -- so to the extent we will apply,
2 at the time of travel, our determination of what
3 type of screening to provide -- whether that's a
4 random exclusion, whether there's new overriding
5 security information -- to say that the individual
6 requires enhanced screening.
7 But since we do not revoke, potentially,
8 their reasons for potentially being on this list,
9 we just make a determination of whether they can
10 receive TSA Pre-Check on a given flight.
11 So just --
12 BY MS. HOMER:
13 Q So does TSA --
14 **A -- of the word "revoke."**
15 Q -- ever notify individuals that they are
16 not longer eligible for TSA Pre-Check on any
17 flight?
18 MS. KONKOLY: Objection as outside of the
19 scope of the approved topics for this deposition.
20 Objection; vague. Objection insofar as the answer
21 calls for information protected by SSI or law
22 enforcement.

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1 You can answer, if you can.
2 THE WITNESS: At a high level, it is not a
3 flight-by-flight notification.
4 More broadly, if they have, for example,
5 applied to TSA's Pre-Check Application Program and
6 there's something that is now making them
7 disqualified, then TSA would provide that
8 notification to them, but not for a given flight.
9 It's just more being a product of being part of
10 that program.
11 BY MS. HOMER:
12 Q Okay. So if a passenger applies for the
13 TSA Pre-Check program and is denied, do they
14 receive a notice that they have been denied?
15 **A Yes.**
16 Q If a passenger applies for TSA Pre-Check
17 and was accepted, do they receive a notice that
18 they've been accepted along with the Known
19 Traveler Number?
20 MS. KONKOLY: I'm going to, again, object
21 to the scope of this line of questioning.
22 You can answer, if you know.

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<p style="text-align: right;">149</p> <p>1 THE WITNESS: Yes. Speaking for the TSA</p> <p>2 Pre-Check Application Program.</p> <p>3 BY MS. HOMER:</p> <p>4 Q If a passenger has a Known Traveler Number</p> <p>5 because they are on TSA Pre-Check, but then is a</p> <p>6 match to a watchlist, do they receive a notice</p> <p>7 that they have been removed from TSA Pre-Check?</p> <p>8 MS. KONKOLY: I'm going to, again, object</p> <p>9 to scope, vagueness, and so far as the answer</p> <p>10 calls for information protected by SSI or law</p> <p>11 enforcement privilege.</p> <p>12 You can answer, if you know.</p> <p>13 THE WITNESS: So at a high level, for any</p> <p>14 of the criteria, if an individual on the TSA</p> <p>15 Pre-Check Application Program has been deemed to</p> <p>16 now be ineligible, and TSA determines that their</p> <p>17 application eligibility is now revoked, TSA would</p> <p>18 provide that notice to the individual.</p> <p>19 Q And would they provide the reasons why TSA</p> <p>20 Pre-Check had been revoked?</p> <p>21 MS. KONKOLY: Objection as to scope.</p> <p>22 Objection insofar as the question calls for</p>	<p style="text-align: right;">151</p> <p>1 information is a factor in our determination of</p> <p>2 your security threat assessment, and if TSA's</p> <p>3 determined, in its overall review, that you're --</p> <p>4 the individual is no longer eligible for the TSA</p> <p>5 Pre-Check Application Program, TSA would provide</p> <p>6 notice to the individual that they have been</p> <p>7 revoked.</p> <p>8 BY MS. HOMER:</p> <p>9 Q Would that notice state that they have</p> <p>10 been revoked because the TSA has identified them</p> <p>11 as being listed on a watchlist?</p> <p>12 MS. KONKOLY: Objection; vague. Objection</p> <p>13 as to scope. Objection insofar as the question</p> <p>14 calls for any information protected by SSI or law</p> <p>15 enforcement-privileged information.</p> <p>16 But you can answer, if you can.</p> <p>17 THE WITNESS: TSA does not provide notice</p> <p>18 of individuals of their status on a watchlist.</p> <p>19 TSA, in its revocation notices, identify --</p> <p>20 notifies individuals across the board that they</p> <p>21 have been determined ineligible and do not meet</p> <p>22 the criteria for eligibility in the program.</p>
<p style="text-align: right;">150</p> <p>1 information protected by SSI or law enforcement</p> <p>2 privilege.</p> <p>3 You can answer, if you know.</p> <p>4 THE WITNESS: At a high level, there would</p> <p>5 be a statement in the notification of why they</p> <p>6 were being revoked.</p> <p>7 BY MS. HOMER:</p> <p>8 Q If a person loses their TSA Pre-Check</p> <p>9 status because they were now on the Selectee List,</p> <p>10 would they receive a notification that they were</p> <p>11 now on the Selectee List?</p> <p>12 MS. KONKOLY: Objection; vague. Objection</p> <p>13 as to scope. Objection insofar as the answer</p> <p>14 calls for any information protected by law</p> <p>15 enforcement privilege or SSI. And</p> <p>16 mischaracterization of prior testimony. So</p> <p>17 objection; misleading. The question.</p> <p>18 But you can answer, if you understand the</p> <p>19 question and you know.</p> <p>20 THE WITNESS: So if there is information</p> <p>21 related to the security threat assessment,</p> <p>22 understanding that the Selectee or TSDB</p>	<p style="text-align: right;">152</p> <p>1 BY MS. HOMER:</p> <p>2 Q Is it possible for someone currently</p> <p>3 listed in Secure Flight's version of the TSDB to</p> <p>4 receive TSA Pre-Check status?</p> <p>5 MS. KONKOLY: Objection insofar as that</p> <p>6 question calls for information protected by SSI or</p> <p>7 the law enforcement privilege; calls for</p> <p>8 speculation.</p> <p>9 You can answer, if you know.</p> <p>10 THE WITNESS: So the question was is it</p> <p>11 possible for an individual in Secure Flight's</p> <p>12 export of the watchlist for them to be designated</p> <p>13 for -- I'm sorry?</p> <p>14 Q For TSA Pre-Check.</p> <p>15 MS. KONKOLY: Same objections.</p> <p>16 THE WITNESS: So, generally speaking, TSA</p> <p>17 does make designations in Secure Flight of</p> <p>18 ensuring that if an individual's been determined</p> <p>19 to be higher risk in requiring enhanced screening,</p> <p>20 that the Pre-Check -- that they would not then be</p> <p>21 deemed to receive low-risk screening.</p> <p>22 Q Okay.</p>

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1 **A Beyond that, I can't --**
 2 Q Can we turn --
 3 **A -- say.**
 4 Q -- back to page 19 of this GAO report.
 5 So just to round out this top box on
 6 low-risk, an individual who receives a TSA
 7 Pre-Check boarding pass is then provided with
 8 expedited screening at the airport to the extent
 9 the TSA Pre-Check line is open; is that correct?
 10 MS. KONKOLY: Objection; vague.
 11 Objection; mischaracterizes prior testimony.
 12 You can answer, if you can.
 13 THE WITNESS: Generally speaking, yes.
 14 However, there may be things that occur at the
 15 actual airport or checkpoint that may specify that
 16 the individual does not get expedited screening.
 17 Q Moving down to the next box where it says
 18 "unknown risk," do you see that?
 19 **A Yes.**
 20 Q And it says: Passengers do not match
 21 high- or low-risk lists. What does that mean?
 22 **A So going from a low-risk, they were not**

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1 **identified to receive TSA Pre-Check for that given**
 2 **flight related to low risk screening, as well as**
 3 **they did not meet the criteria for those that may**
 4 **be designated for enhanced screening.**
 5 **And as we discussed previously, that could**
 6 **be matches to the watchlist, random or particular**
 7 **circumstances of an individual's travel.**
 8 **So this is where they go into what we call**
 9 **our standard screening.**
 10 Q Roughly what parentage of passengers on a
 11 day-to-day basis are designated by Secure Flight
 12 as unknown risk?
 13 MS. KONKOLY: Objection insofar as the
 14 question calls for information protected by SSI,
 15 law enforcement.
 16 And I'll instruct the witness not to
 17 answer on that basis.
 18 Q Okay. So you just testified that the
 19 unknown risk level is sent to standard screening;
 20 correct?
 21 **A Designated for standard screening on their**
 22 **boarding pass, correct.**

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1 Q And does the designation of standard
 2 screening apply to the majority of commercial air
 3 travel passengers in America every day?
 4 MS. KONKOLY: Objection insofar as that
 5 question calls for information protected by SSI or
 6 the law enforcement privilege.
 7 You can answer, if you can, without
 8 waiving a privilege.
 9 THE WITNESS: So, no, I don't think we can
 10 share the amounts for the different levels.
 11 Q Also in this unknown risk box, it says the
 12 "TSA Pre-Check Disqualification List." Do you see
 13 that?
 14 **A Yes.**
 15 Q What is the TSA Pre-Check Disqualification
 16 List?
 17 MS. KONKOLY: Objection as to scope.
 18 You can answer, if you know.
 19 THE WITNESS: At a high level, there may
 20 be particular criteria or infractions that have
 21 identified passengers as being disqualified from
 22 receiving TSA Pre-Check.

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1 BY MS. HOMER:
 2 Q Okay. So if somebody had applied to TSA
 3 Pre-Check but been denied, would they appear on
 4 the TSA Pre-Check Disqualification List?
 5 MS. KONKOLY: Objection as to scope.
 6 Objection insofar as that answer calls for any
 7 information protected by SSI or law enforcement
 8 privilege.
 9 You can answer, if you can.
 10 THE WITNESS: Yes.
 11 Q And I want to clarify: That would be --
 12 I'm going to restate this slightly differently so
 13 we're clear.
 14 If somebody had applied for TSA Pre-Check
 15 and been denied, for any reason unrelated to a
 16 watchlist, they would appear on the TSA Pre-Check
 17 Disqualification List?
 18 MS. KONKOLY: Same objections.
 19 You can answer, if you can.
 20 THE WITNESS: At a high level, yes.
 21 Q Are there persons who appear on the TSA
 22 Pre-Check Disqualification List who have not

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<p style="text-align: right;">157</p> <p>1 submitted applications for TSA Pre-Check? 2 MS. KONKOLY: Objection insofar as that 3 question calls for any information protected by 4 SSI or law enforcement privilege, also as to 5 scope. 6 You can answer, if you can. 7 THE WITNESS: At a high level, yes, there 8 may be individuals that have not applied for TSA 9 Pre-Check that would also be potentially 10 disqualified from receiving TSA Pre-Check. 11 BY MS. HOMER: 12 Q So does the TSA proactively maintain a 13 list of individuals who, if they were to apply to 14 TSA Pre-Check, would be denied? 15 MS. KONKOLY: Objection insofar as that 16 question calls for any information protected by 17 SSI or law enforcement privilege. Also, vague. 18 You can answer, if you can. 19 THE WITNESS: So -- I'm sorry -- does TSA 20 -- can you -- proactively -- 21 MS. HOMER: Can you read back the 22 question, please?</p>	<p style="text-align: right;">159</p> <p>1 THE WITNESS: Right. At a high level, 2 this list is not TSA going out and identifying 3 anybody that should be on this list. 4 This list is primarily those individuals 5 that TSA has previously encountered, denied 6 application for -- there's multiple criteria. It 7 could be other related TSA instance for 8 infractions that have identified an individual as 9 being higher risk and should not receive TSA 10 Pre-Check screening. 11 So TSA is not proactively going out to 12 seek to expand or maintain this list, but the list 13 is updated regularly. 14 BY MS. HOMER: 15 Q Going to the right side of this chart 16 under where it says "screening" -- I just want to 17 make sure that we have this on the record -- what 18 does "expedited screening" mean? 19 A So at a high level, there's TSA Pre-Check 20 screening and Pre-Check lanes, which may mean -- 21 which means you can leave your shoes on, jackets 22 on, 3-1-1 liquids in your carry-on, laptops in the</p>
<p style="text-align: right;">158</p> <p>1 (Whereupon the record was read.) 2 MS. KONKOLY: Same objections. 3 THE WITNESS: So I will answer in more of 4 a rephrase, because I'm not sure I understand what 5 you mean by "proactively." 6 We regularly -- or we ensure that that 7 list is updated for any individuals that would be 8 disqualified from receiving TSA Pre-Check. 9 BY MS. HOMER: 10 Q Okay. So for -- 11 A Which -- so -- yeah. 12 Q So, for example, if somebody has a violent 13 criminal record such that they're listed in the 14 National Crime Information Center Database, for 15 example, would they appear on the TSA Pre-Check 16 Disqualification List even though they had not 17 applied for TSA Pre-Check? 18 MS. KONKOLY: Objection as to scope. 19 Objection; vague. Objection insofar as the answer 20 calls for any information protected by SSI or the 21 law enforcement privilege. 22 You can answer, if you can.</p>	<p style="text-align: right;">160</p> <p>1 bag. 2 There's also other variations of expedited 3 screening where it may not be every single one -- 4 it will depend on the airport -- and it may not be 5 in the Pre-Check designated lane. They may also 6 receive some form of expedited screening even in a 7 standard lane. 8 So at a very high level. 9 Q Okay. What is standard screening? 10 MS. KONKOLY: Objection insofar as it 11 calls for any information protected by SSI or law 12 enforcement privileges. 13 You can answer, to the extent you can. 14 THE WITNESS: Right. So at a high level, 15 it is removing shoes, divesting of the coat, 16 having your 3-1-1 liquids in a separate bag, 17 subject to your belongings scanned via x-ray. It 18 could be a combination or some component of a 19 walk-through metal detector or advanced imaging 20 technology. 21 Q And then what is Selectee screening? 22 MS. KONKOLY: Objection insofar as that</p>

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<p style="text-align: right;">161</p> <p>1 question calls for information protected by SSI 2 and/or the law enforcement privilege. Also, 3 vague. 4 You can answer, if you can. 5 THE WITNESS: So for enhanced screening, 6 those designated for enhanced screening, it would 7 be additional screening measures that we had 8 described previously that would be an inspection 9 of potentially the person, the physical 10 examination of the bags, the walk-through metal 11 detection, explosive trace detection, advanced 12 imaging technology. 13 BY MS. HOMER: 14 Q Does enhanced screening include a pat-down 15 of the individual? 16 MS. KONKOLY: Objection insofar as that 17 question calls for information protected by SSI or 18 the law enforcement privilege. 19 You can answer, to the extent you can. 20 THE WITNESS: Yes. As part of the 21 examination of the person, it would -- enhanced 22 screening would include that.</p>	<p style="text-align: right;">163</p> <p>1 what I stated for the pat-down, that's pretty much 2 all I can -- 3 BY MS. HOMER: 4 Q Is there ever -- 5 A -- say. 6 Q -- a circumstance when a TSA pat-down 7 would include a genital search? 8 MS. KONKOLY: Objection insofar as that 9 question calls for information protected by SSI 10 and/or the law enforcement privilege. Also, 11 vague. Calls for speculation. 12 You can answer, to the extent you can. 13 THE WITNESS: The pat-down may include a 14 pat-down of sensitive areas. 15 Q Does TSA enhanced screening with a 16 pat-down ever require passengers to remove all of 17 their clothing? 18 MS. KONKOLY: Objection insofar as that 19 question calls for any information protected by 20 SSI or law enforcement privilege. Vague. 21 You can answer, to the extent you can. 22 THE WITNESS: So at a high level, the</p>
<p style="text-align: right;">162</p> <p>1 BY MS. HOMER: 2 Q And what -- can you describe what a 3 pat-down is? 4 MS. KONKOLY: Objection; vague. Objection 5 insofar as that question calls for information 6 protected by SSI or the law enforcement privilege. 7 You can answer, to the extent that you 8 can. 9 THE WITNESS: At a high level, it is TSA 10 inspecting the person using -- the screening 11 officer will basically use the back of the hands 12 to inspect the person's -- the person and may -- 13 to confirm if there's anything that could be 14 potentially concealed or any prohibited items 15 being on the person. 16 Q Is there such a thing as an enhanced 17 pat-down? 18 MS. KONKOLY: Objection insofar as that 19 question calls for information protected by SSI or 20 the law enforcement privilege. 21 You can answer, to the extent you can. 22 THE WITNESS: I -- outside of just stating</p>	<p style="text-align: right;">164</p> <p>1 pat-down procedures are over the clothing. 2 To the extent if there are items 3 identified underneath the clothing that the 4 officer may need to confirm, such as a knee brace, 5 it may require lifting up the pants, for example, 6 to identify that that's what was identified in a 7 pat-down. 8 But the procedures do not require the 9 removal of all clothing. 10 BY MS. HOMER: 11 Q Are there any TSA procedures that require 12 the groping of sensitive areas in order to 13 determine whether or not those areas contain 14 contraband? 15 MS. KONKOLY: Objection; vague. Objection 16 insofar as the question calls for any information 17 protected by SSI or law enforcement privilege. 18 You can answer, to the extent that you 19 can. 20 THE WITNESS: So it would not use the term 21 "groping." I would say the pat-down procedures do 22 involve examination of sensitive areas to confirm</p>

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166	<p>1 MS. KONKOLY: Objection; vague. Objection</p> <p>2 insofar as the question calls for information</p> <p>3 protected by SSI or law enforcement privilege.</p> <p>4 You can answer, to the extent that you</p> <p>5 can.</p> <p>6 THE WITNESS: So there are specific</p> <p>7 procedures that our officers have for the enhanced</p> <p>8 screening. There's procedures for the related</p> <p>9 pat-down.</p> <p>10 So anything beyond that, to your question,</p> <p>11 I think would go into SSI.</p> <p>12 BY MS. HOMER:</p> <p>13 Q What document embodies the procedures that</p> <p>14 apply to enhanced screening --</p> <p>15 MS. KONKOLY: Objection --</p> <p>16 Q -- that is provided to officers?</p> <p>17 MS. KONKOLY: Okay.</p> <p>18 You can answer.</p> <p>19 THE WITNESS: There is security -- there</p> <p>20 is standard operating procedure documents for what</p> <p>21 should be done.</p> <p>22 Q Is it required that a supervisor, as</p>	168	<p>1 BY MS. HOMER:</p> <p>2 Q Are there officers who work at security</p> <p>3 checkpoints who have not been trained in enhanced</p> <p>4 screening procedures?</p> <p>5 MS. KONKOLY: Objection insofar as that</p> <p>6 would call for any information protected by SSI or</p> <p>7 law enforcement privilege. Also, vague.</p> <p>8 You can answer, to the extent that you</p> <p>9 can.</p> <p>10 THE WITNESS: At a high level -- actually,</p> <p>11 I don't know. I -- there could be a possibility</p> <p>12 that there's an officer, officer-in-training, such</p> <p>13 that might be at the checkpoint not fully trained</p> <p>14 or certified in the screening.</p> <p>15 Q Are enhanced screening procedures part of</p> <p>16 the regular curriculum to train TSA officers?</p> <p>17 MS. KONKOLY: Objection; vague. Objection</p> <p>18 insofar as it calls for any information protected</p> <p>19 by SSI or law enforcement privilege.</p> <p>20 You can answer, to the extent that you</p> <p>21 can.</p> <p>22 THE WITNESS: I think, at the high level,</p>

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1 I can say that that is part of our TSA officers'
 2 training.
 3 BY MS. HOMER:
 4 Q Is it a requirement that enhanced
 5 screening be performed by someone of the same
 6 gender as the passenger being subject to enhanced
 7 screening?
 8 **A Yes.**
 9 Q Are -- does the TSA involve any other
 10 agencies during the enhanced screening process?
 11 MS. KONKOLY: Objection insofar as that
 12 would call for any information protected by SSI or
 13 the law enforcement privilege.
 14 You can answer, to the extent that you
 15 can.
 16 THE WITNESS: So, generally speaking, for
 17 enhanced screening procedures, regardless of
 18 whether -- how it came about, it is not always --
 19 TSA is not always bringing in other agencies.
 20 That's TSA's authorities to perform those
 21 functions.
 22 Q Under what circumstances would the TSA

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1 bring in another agency during an enhanced
 2 screening?
 3 MS. KONKOLY: Objection; vague. Objection
 4 insofar as the question calls for any information
 5 protected by SSI or the law enforcement privilege.
 6 You can answer, to the extent that you
 7 can.
 8 THE WITNESS: I think, at a high level, it
 9 would be based on the circumstance in the
 10 situation, whether it was a law
 11 enforcement-specific or other security-specific
 12 circumstance that would require coordination with
 13 other agencies.
 14 BY MS. HOMER:
 15 Q Is the TSA a law enforcement agency?
 16 MS. KONKOLY: Objection; vague, calls for
 17 a legal conclusion.
 18 THE WITNESS: As an agency as a whole, no.
 19 But we do have a law enforcement component within
 20 the agency.
 21 Q Can you elaborate on what you mean by that
 22 the TSA has a law enforcement component within the

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1 agency?
 2 **A So we have an Office of Law Enforcement,**
 3 **Federal Air Marshal Services, that -- with**
 4 **employees designated as law enforcement functions.**
 5 Q And what do federal air marshals do in
 6 terms of law enforcement?
 7 MS. KONKOLY: Objection insofar as that
 8 question calls for information protected by SSI or
 9 the law enforcement privilege.
 10 You can answer, at a high level of
 11 generality, to the extent that you can.
 12 THE WITNESS: At a high level, they are an
 13 extension of TSA's protecting transportation
 14 security, and with that are deemed as law
 15 enforcement, whether that is performing onboard
 16 certain flights for -- to protect our -- as part
 17 of transportation security functions.
 18 They may also perform other law
 19 enforcement-related activities across all
 20 transportation modes.
 21 Q Do federal air marshals within the TSA
 22 perform any function at security checkpoints at

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1 airports?
 2 MS. KONKOLY: Objection insofar as that
 3 question calls for any information protected by
 4 SSI or the law enforcement privilege.
 5 You can answer, to the extent that you
 6 can.
 7 THE WITNESS: So it would depend on the
 8 circumstance or situation if it did require their
 9 presence, but it would depend on the situation,
 10 not as a general rule or process.
 11 BY MS. HOMER:
 12 Q The TSA does not have the authority to
 13 arrest passengers; is that correct?
 14 MS. KONKOLY: Objection; calls for a legal
 15 conclusion, scope.
 16 You can answer, if you know.
 17 THE WITNESS: Yeah. Actually, I don't
 18 know if we're performing the arrests.
 19 Q If a passenger, through screening, is
 20 found with illegal substances, or firearms, does
 21 the TSA involve any other law enforcement agencies
 22 at that point?

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173	<p>1 MS. KONKOLY: Objection; vague. Objection</p> <p>2 as to scope. Objection insofar as the question</p> <p>3 calls for information protected by SSI or the law</p> <p>4 enforcement privilege.</p> <p>5 You can answer, if you can.</p> <p>6 THE WITNESS: At a high level, depending</p> <p>7 on the situation, TSA may involve other law</p> <p>8 enforcement.</p> <p>9 BY MS. HOMER:</p> <p>10 Q What other law enforcement agencies may</p> <p>11 the TSA bring in to a situation where it's</p> <p>12 warranted?</p> <p>13 MS. KONKOLY: Objection insofar as that</p> <p>14 question calls for any information protected by</p> <p>15 law enforcement privilege or SSI; vague.</p> <p>16 You can answer, if you can.</p> <p>17 THE WITNESS: It would really depend on</p> <p>18 the situation and what law enforcement-related</p> <p>19 activity is required, whether it's local or other</p> <p>20 state, federal. It depends on the -- what the</p> <p>21 circumstance is.</p> <p>22 Q So does the TSA sometimes bring in the FBI</p>	175	<p>1 would call in state police officers --</p> <p>2 MS. KONKOLY: Objection --</p> <p>3 BY MS. HOMER:</p> <p>4 Q -- to deal with a situation with a</p> <p>5 passenger?</p> <p>6 MS. KONKOLY: Objection insofar as it</p> <p>7 calls for information protected by the law</p> <p>8 enforcement privilege or SSI. Object as to scope.</p> <p>9 You can answer, if you can.</p> <p>10 THE WITNESS: Yes.</p> <p>11 Q Are there situations in which the TSA</p> <p>12 would bring in city or local police officers in</p> <p>13 order to address a situation with a passenger?</p> <p>14 MS. KONKOLY: Same objections as to scope,</p> <p>15 as to the extent it calls for any information</p> <p>16 protected by law enforcement privilege or SSI.</p> <p>17 Again, you can answer, to the extent that</p> <p>18 you can.</p> <p>19 THE WITNESS: Yes.</p> <p>20 Q Does any TSA screening system contain an</p> <p>21 annotation that an FBI officer should be called in</p> <p>22 as a matter of course for that particular</p>
174	<p>1 during a screening process?</p> <p>2 MS. KONKOLY: Objection; vague. Objection</p> <p>3 as to scope. Objection insofar as the question</p> <p>4 calls for information protected by SSI or the law</p> <p>5 enforcement privilege.</p> <p>6 You can answer, if you can.</p> <p>7 THE WITNESS: So, again, to the -- it</p> <p>8 would depend on the circumstance and the situation</p> <p>9 related to that. Passenger situation would</p> <p>10 determine the level -- or which agency would be</p> <p>11 involved.</p> <p>12 BY MS. HOMER:</p> <p>13 Q Are there circumstances in which the TSA</p> <p>14 would call in the FBI to address a situation with</p> <p>15 a passenger?</p> <p>16 MS. KONKOLY: Objection as to scope.</p> <p>17 Objection; vague. Objection; asked and answered.</p> <p>18 Objection insofar as it calls for information</p> <p>19 protected by the law enforcement privilege or SSI.</p> <p>20 Again, you can answer, if you can.</p> <p>21 THE WITNESS: Yes.</p> <p>22 Q Are there situations in which the TSA</p>	176	<p>1 individual?</p> <p>2 MS. KONKOLY: Objection as to scope.</p> <p>3 Objection insofar as the information -- the answer</p> <p>4 calls for information protected by SSI or the law</p> <p>5 enforcement privilege. Vague.</p> <p>6 You can answer, if you can.</p> <p>7 THE WITNESS: Is there any system where it</p> <p>8 is annotated that the FBI should be called in as a</p> <p>9 --</p> <p>10 BY MS. HOMER:</p> <p>11 Q As a matter of course.</p> <p>12 A -- matter of course? At a high level,</p> <p>13 again, it would depend on the situation.</p> <p>14 Any more details would get into law</p> <p>15 enforcement-sensitive and SSI.</p> <p>16 Q Are there individuals who are met by the</p> <p>17 FBI every time they pass through airport security?</p> <p>18 MS. KONKOLY: Objection; vague, calls for</p> <p>19 speculation. Objection as to scope. Objection</p> <p>20 insofar as the answer calls for information</p> <p>21 implicating SSI or the law enforcement privilege.</p> <p>22 You can answer, if you think you can.</p>

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1 THE WITNESS: I don't think I can, at a
2 high level. It would depend on the situation and
3 the circumstance.
4 BY MS. HOMER:
5 Q Under what circumstances, generally, are
6 the FBI brought in to the screening process
7 conducted by the TSA?
8 MS. KONKOLY: Objection as to scope.
9 Objection; vague. Objection insofar as the
10 question calls for information protected by SSI or
11 the law enforcement privilege.
12 You can answer, if you can.
13 THE WITNESS: I don't think I can, beyond
14 what I've already answered.
15 Q Is it TSA policy to involve the FBI during
16 the screening process during every encounter with
17 an individual on the TSDB?
18 MS. KONKOLY: Objection; scope. Objection
19 insofar as it calls for information protected by
20 SSI or the law enforcement privilege.
21 You can answer, if you think you can --
22 no. You can answer, if you can.

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1 THE WITNESS: Again, at a high level, it
2 would depend on the situation. If -- to the
3 extent of involving the FBI in screening, the only
4 time I could answer is from what we had discussed
5 previously of -- the -- only in the prescreening
6 where Secure Flight is notifying the TSC of when
7 there is an encounter.
8 Everything else, I think I can't answer
9 beyond what I've already stated, if we're talking
10 screening at the airport.
11 BY MS. HOMER:
12 Q Okay. So the TSC is notified of every
13 screening encounter the TSA has with an individual
14 on the TSDB; correct?
15 **A No.**
16 Q No?
17 **A TSC is notified when Secure Flight --**
18 **every Secure Flight match to the watchlist.**
19 Q Does the TSA WebEOS [sic] system report
20 on -- does it report contemporaneously its
21 encounters with persons on the watchlist to the
22 TSC?

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1 MS. KONKOLY: Objection; scope. Objection
2 insofar as the question calls for information
3 protected by the law enforcement privilege or SSI.
4 You can answer, if you can.
5 Also, vague.
6 THE WITNESS: No.
7 BY MS. HOMER:
8 Q Okay.
9 **A Yeah.**
10 Q What is a secondary screening?
11 MS. KONKOLY: Objection; vague. Objection
12 insofar as that calls for any information
13 protected by SSI or the law enforcement privilege.
14 You can answer, to the extent you can.
15 THE WITNESS: So at a high level, for
16 enhanced screening, for example, if a passenger
17 alarms, they may be required to go through
18 additional enhanced screening until that alarm or
19 the reason for that alarm can be cleared.
20 Q Does the TSA use the phrase secondary
21 screening in its ordinary course of operations?
22 MS. KONKOLY: Objection; vague.

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1 THE WITNESS: I don't know. I'm more
2 familiar with the term enhanced screening.
3 BY MS. HOMER:
4 Q Does enhanced screening ever entail
5 conducting a second search, including a pat-down
6 or search of the luggage, of a passenger once
7 they're at the gate to board an airline?
8 MS. KONKOLY: Objection; vague. Objection
9 insofar as that calls for information protected by
10 SSI or the law enforcement privilege.
11 But you can answer, to the extent that you
12 can.
13 THE WITNESS: So -- I'm sorry -- the
14 question is -- actually, can you repeat the
15 question just to make sure? Or whoever.
16 MS. HOMER: Yeah. Go ahead.
17 (Whereupon the record was read.)
18 MS. KONKOLY: Same objections.
19 THE WITNESS: So at a high level, TSA has
20 multiple security procedures, and that may entail
21 additional screening after the checkpoint.
22 Q Is there a name that the TSA gives to

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<p style="text-align: right;">181</p> <p>1 additional screening that is conducted after the 2 checkpoint? 3 MS. KONKOLY: Objection; vague. Okay 4 insofar as the answer calls for information 5 protected by SSI or law enforcement. 6 You can answer, if you can. 7 THE WITNESS: Generally, screening -- 8 generally speaking, I wouldn't say there's a 9 specific name for the different security measures 10 that we -- that may occur after the checkpoint. 11 There's not a name given for that. 12 BY MS. HOMER: 13 Q So when you use the term "enhanced 14 screening," is that term limited to 15 out-of-the-ordinary screening conducted at a 16 checkpoint, or does it also encompass screening 17 that may occur after the passenger has left the 18 checkpoint? 19 MS. KONKOLY: Objection; vague. Objection 20 insofar as the question calls for information 21 protected by SSI or the law enforcement privilege. 22 You can answer, to the extent that you</p>	<p style="text-align: right;">183</p> <p>1 multiple security measures, some of which occur 2 post-security screening, and they can occur in 3 different areas of the sterile areas of the 4 airport to include screening measures at the gate. 5 Otherwise -- at a high level, yeah. 6 BY MS. HOMER: 7 Q And what types of security procedures are 8 those? 9 MS. KONKOLY: Objection; asked and 10 answered. Objection insofar as the question calls 11 for information protected by SSI or the law 12 enforcement privilege. 13 Again, you can answer to the extent that 14 you can without waiving any privilege. 15 THE WITNESS: At a high level, it could be 16 -- TSA has multiple security measures that it may 17 employ. 18 To go into more details beyond what was 19 already stated, would get into SSI. 20 Q Are there any post-checkpoint screening 21 procedures applied as a matter of course to 22 individuals on the Selectee List?</p>
<p style="text-align: right;">182</p> <p>1 can. 2 THE WITNESS: I believe my understanding 3 is that enhanced screening is primarily used for 4 -- at the checkpoint. 5 BY MS. HOMER: 6 Q Okay. What term do you use to describe 7 post-checkpoint screening? 8 MS. KONKOLY: Objection; vague. 9 Objection; scope. 10 THE WITNESS: There's not any one term. 11 TSA deploys multiple security measures 12 post-checkpoint screening that may occur to, 13 really, any passenger. So there's not any one 14 term post-security screening. 15 Q What sorts of post-security screening 16 measures does the TSA undertake, generally? 17 MS. KONKOLY: Objection insofar as that 18 question calls for information protected by SSI or 19 the law enforcement privilege. Objection; vague. 20 You can answer, to the extent that you 21 can. 22 THE WITNESS: At a high level, TSA has</p>	<p style="text-align: right;">184</p> <p>1 MS. KONKOLY: Objection. That information 2 calls for -- or that question calls for 3 information protected by SSI and the law 4 enforcement privilege. 5 I'm going to instruct the Witness not to 6 answer that. 7 BY MS. HOMER: 8 Q Does the TSA annotate any individual 9 records in Secure Flight that post-checkpoint 10 screening of that individual is required? 11 MS. KONKOLY: Objection; vague. 12 Objection; that calls for information protected by 13 SSI and the law enforcement privilege. 14 I will instruct the Witness not to answer. 15 THE WITNESS: Okay. 16 Q Does the TSA use screening of individuals 17 on the TSDB list as an opportunity to collect 18 intelligence on those listees? 19 MS. KONKOLY: Objection; vague, 20 misleading. Objection insofar as the question 21 calls for any information protected by SSI or the 22 law enforcement privilege.</p>

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1 You can answer, if you can.
 2 THE WITNESS: So to rephrase: Versus --
 3 using it as an opportunity to collect intelligence
 4 information? No, we do not perform intelligence
 5 collection on passengers at the airport.
 6 So -- yeah.
 7 BY MS. HOMER:
 8 Q The TSA reports on encounters it has with
 9 TSDB listees to the TSC; correct?
 10 **A Yes.**
 11 Q Do that -- does the TSA's report on those
 12 encounters contain any comments about the
 13 encounter, including any conversations the TSA may
 14 have had with the listee?
 15 MS. KONKOLY: Objection; vague. Objection
 16 insofar as the answer calls for any information
 17 protected by SSI or the law enforcement privilege.
 18 You can answer, if you can.
 19 THE WITNESS: So at a high level, we
 20 communicate the encounter, which would be the
 21 passenger information, flight information, and to
 22 the extent of did they check in. That is the

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1 general information that we are providing to the
 2 TSC on our encounter.
 3 BY MS. HOMER:
 4 Q Does the TSA have the option to add
 5 additional information about the encounter in
 6 notations to the TSC?
 7 MS. KONKOLY: Objection; vague. Objection
 8 insofar as the question calls for information
 9 protected by the law enforcement privilege or SSI.
 10 You can answer, if you can.
 11 THE WITNESS: So the question is can it be
 12 annotated in our notifications to the TSC
 13 additional information --
 14 Q Than what you report automatically --
 15 **A -- than what is standardly --**
 16 Q -- or regularly.
 17 **A -- reported?**
 18 MS. KONKOLY: Same objections.
 19 THE WITNESS: At a high level, it would
 20 depend on the situation if there was law
 21 enforcement or other related information. Other
 22 than that, we would be getting into SSI and law

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1 enforcement-sensitive information.
 2 BY MS. HOMER:
 3 Q Are encounters with persons listed on the
 4 TSDB reported automatically to the TSC?
 5 **A So not 100 percent automatic. There is**
 6 **always a review and an actual TSA person that is**
 7 **acknowledging, okay, we are sending information to**
 8 **the TSC.**
 9 **So does --**
 10 Q Okay. Is the information that the TSA is
 11 reporting to the TSC on encounters populated
 12 automatically, even though it is then subject to
 13 review by a TSA employee before actually being
 14 sent to the TSC?
 15 MS. KONKOLY: Objection; vague. Objection
 16 insofar as the question calls for information
 17 protected by SSI or the law enforcement privilege.
 18 You can answer, if you can.
 19 THE WITNESS: So there is certain
 20 information that is -- that the system pulls
 21 together, to an extent, but there is always an
 22 individual who is effectively confirming and

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1 populating some of the information before it is
 2 sent to the TSC.
 3 BY MS. HOMER:
 4 Q And does that individual, or any TSA
 5 individual, manually type in any notes about the
 6 encounter before sending it to the TSC?
 7 MS. KONKOLY: Objection; vague. Objection
 8 insofar as the question calls for information
 9 protected by the law enforcement privilege or SSI.
 10 You can answer, if you can.
 11 THE WITNESS: So generally speaking, no.
 12 We're providing the passenger and itinerary
 13 information, as discussed earlier, in our
 14 notifications to the TSC.
 15 Q Is there a box or field within the
 16 encounter reporting system where a TSA employee
 17 has an option to add detailed notes about the
 18 encounter before sending it to the TSC?
 19 MS. KONKOLY: Objection; vague.
 20 Objection; asked and answered. Objection insofar
 21 as the question calls for information protected by
 22 SSI or the law enforcement privilege.

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<p style="text-align: right;">189</p> <p>1 You can answer, if you can.</p> <p>2 THE WITNESS: Again, at the high level,</p> <p>3 that is not part of our standard procedure. It is</p> <p>4 only the information that we discussed previously</p> <p>5 that's shared about the passenger and the</p> <p>6 itinerary.</p> <p>7 Anything else would be more specific to</p> <p>8 law enforcement-sensitive SSI sharing.</p> <p>9 BY MS. HOMER:</p> <p>10 Q Does the TSA ever receive derogatory</p> <p>11 information about a passenger during the course of</p> <p>12 its screening functions?</p> <p>13 MS. KONKOLY: Objection; vague. Objection</p> <p>14 insofar as the question calls for information</p> <p>15 protected by law enforcement or SSI.</p> <p>16 You can answer, if you can.</p> <p>17 THE WITNESS: Does the TSA receive</p> <p>18 derogatory information during its screening? So</p> <p>19 I'm trying to make sure I'm just understanding the</p> <p>20 question.</p> <p>21 Is more your question is derogatory</p> <p>22 information provided to the screener, or are</p>	<p style="text-align: right;">191</p> <p>1 screening functions?</p> <p>2 MS. KONKOLY: Objection; vague. Objection</p> <p>3 insofar as that calls for any information</p> <p>4 protected by law enforcement privilege or SSI.</p> <p>5 You can answer, if you can.</p> <p>6 THE WITNESS: So I'm trying to understand.</p> <p>7 No, insofar as we are using the export of the TSDB</p> <p>8 that we have to determine, in Secure Flight, if</p> <p>9 there is a match -- passenger match to the</p> <p>10 watchlist.</p> <p>11 In the course of screening passengers who</p> <p>12 have been designated for enhanced security</p> <p>13 measures, or whichever type of screening -- so</p> <p>14 during the course of their physical screening is</p> <p>15 your question do they receive additional</p> <p>16 information that has changed since Secure Flight</p> <p>17 has --</p> <p>18 BY MS. HOMER:</p> <p>19 Q Okay. Let me try and --</p> <p>20 A -- performed its match?</p> <p>21 Q -- contextualize this.</p> <p>22 A Okay.</p>
<p style="text-align: right;">190</p> <p>1 you --</p> <p>2 BY MS. HOMER:</p> <p>3 Q Okay.</p> <p>4 A I'm getting caught up in the "during</p> <p>5 screening" part of the question. Sorry.</p> <p>6 Q You understand derogatory information to</p> <p>7 be a term used by the TSDB related to information</p> <p>8 specifically tying an individual to known or</p> <p>9 suspected terrorism; correct?</p> <p>10 I need a verbal answer.</p> <p>11 A So, yes, insofar as that information in</p> <p>12 the TSDB is deemed SSI information.</p> <p>13 Q Okay. But you are comfortable with me</p> <p>14 using the term --</p> <p>15 A Yeah.</p> <p>16 Q -- "derogatory information" to mean,</p> <p>17 generally, information which indicates that this</p> <p>18 individual may be a known or suspected terrorist?</p> <p>19 A Yes.</p> <p>20 Q Okay.</p> <p>21 Does the TSA encounter new derogatory</p> <p>22 information in the course of performing its</p>	<p style="text-align: right;">192</p> <p>1 Q Let's pretend a passenger goes through</p> <p>2 standard screening, and in the course of standard</p> <p>3 screening looks at the TSA and says, I have a bomb</p> <p>4 in my luggage and I want to blow this entire</p> <p>5 airport up.</p> <p>6 Which would be terrifying, but would the</p> <p>7 TSA report that information to the TSC?</p> <p>8 MS. KONKOLY: Objection insofar as it</p> <p>9 calls for anything protected by SSI or the law</p> <p>10 enforcement privilege.</p> <p>11 But you can answer, if you can.</p> <p>12 THE WITNESS: So it would be -- it would</p> <p>13 depend on the situation and the information that</p> <p>14 was provided, where we would respond accordingly</p> <p>15 with the appropriate security measures of whatever</p> <p>16 was identified during that course should there be</p> <p>17 -- so if a passenger just came through and they</p> <p>18 were in standard screening.</p> <p>19 Subsequent to that, if TSA determines that</p> <p>20 an individual meets the standards for watchlisting</p> <p>21 and therefore goes through that process, that</p> <p>22 would ultimately get to the TSC, then, yes, that's</p>

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<p style="text-align: right;">193</p> <p>1 how information would be sent to the TSC. 2 BY MS. HOMER: 3 Q So does the TSC -- does the TSA nominate 4 individuals to the watchlist based on derogatory 5 information it learns during the course of 6 screening? 7 MS. KONKOLY: Objection insofar as that 8 calls for anything protected by SSI or the law 9 enforcement privilege. Vague. 10 You can answer, if you can. 11 THE WITNESS: TSA will submit nominations 12 based on the information it would receive in total 13 and in whichever source it could be from 14 information identified in the course of screening 15 as well as other information, and we will follow 16 the watchlisting standards and criteria for 17 submitting nominations. 18 Q So if the TSA learns additional derogatory 19 information about an individual who is already on 20 the watchlist during the course of screening, does 21 it report that information to the TSC? 22 MS. KONKOLY: Objection insofar as it</p>	<p style="text-align: right;">195</p> <p>1 from a TSC purview, that they should be required 2 and need to have. 3 BY MS. HOMER: 4 Q Okay. 5 Looking back on page 19 on this high risk 6 box, we just spent a long time talking about 7 enhanced screening. Would that be your preferred 8 term to describe the screening that this chart 9 currently says is "Selectee screening"? If -- 10 that's vague. Hold on. Let me clarify. 11 A Yeah. 12 Q On the right side of this chart, there is 13 a black box that says "screening," and within the 14 "high risk" category, it calls it "Selectee 15 screening." Would a better term for that be 16 enhanced screening? 17 A Yes. 18 Q Okay. Okay. 19 Now, moving back to the left on this chart 20 where the words "high risk" appear, do you see 21 that? 22 A Yes.</p>
<p style="text-align: right;">194</p> <p>1 calls for information protected by SSI or the law 2 enforcement privilege. 3 You can answer, to the extent that you 4 can. 5 THE WITNESS: At a high level, depending 6 on the information and the circumstance, TSA will 7 notify the appropriate agencies, which may include 8 the TSC, depending on what the circumstance was at 9 screening at the checkpoint. 10 BY MS. HOMER: 11 Q And so the TSA may notify the TSC of 12 additional derogatory information it learns in the 13 course of encounters with persons on the 14 watchlist? 15 MS. KONKOLY: Same objections insofar as 16 it calls for anything protected by SSI or law 17 enforcement privilege. 18 You can answer, if you can. 19 THE WITNESS: Okay. I think it would 20 depend on the situation, but we also follow the 21 actual nomination process. 22 If there's additional information that,</p>	<p style="text-align: right;">196</p> <p>1 Q Okay. There are three bullets within that 2 chart, and I'm going to start at the bottom one 3 and move up. 4 So this says that high risk passengers 5 include those on the -- last bullet -- Selectee 6 List. Do you see that? 7 A Yes. 8 Q What is the Selectee List? 9 A So the Selectee List are -- is a 10 designation as part of the export of the TSDB that 11 TSA receives. 12 Q And this is what we discussed earlier, 13 which is that the Selectee List is a designation 14 within the TSDB that requires additional 15 derogatory information than just nomination to the 16 TSDB alone; is that correct? 17 A Correct. 18 Q But the TSA will not provide today what 19 that additional criteria is? 20 A Correct. 21 Q Okay. 22 Above the Selectee List, in this high risk</p>

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1 box, there's a bullet that says "Expanded Selectee
 2 List." What is the Expanded Selectee List?
 3 MS. KONKOLY: I'm going to object insofar
 4 as that question calls for any information
 5 protected by SSI or the law enforcement privilege.
 6 You can answer, if you can.
 7 THE WITNESS: So that is also a related
 8 designation for passengers that meet a certain set
 9 of criteria that I cannot share, similar to the
 10 Selectee List criteria.
 11 BY MS. HOMER:
 12 Q Can you please turn to page 14 in this
 13 document. I'm going to be reading from the top
 14 paragraph of page 14.
 15 In addition to the two ATSP-generated
 16 lists, Secure Flight incorporated an additional
 17 list derived from the TSDB into its screening
 18 activities in order to designate more passengers
 19 who are known or suspected terrorists as selectees
 20 for enhanced screening.
 21 Specifically, in April 2011, TSA began
 22 conducting watchlist matching against an Expanded

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1 Selectee List that includes all records in the
 2 TSDB with a full name, parentheses, first name and
 3 surname, closed parentheses, and full date of
 4 birth that meet the Terrorist Screening Center's
 5 reasonable suspicion standard to be considered a
 6 known or suspected terrorist, but that are not
 7 already included on the No-Fly or Selectee List.
 8 Did I read that correctly?
 9 **A Yes.**
 10 Q Is that information accurate?
 11 **A Yes.**
 12 Q Based on that information, is the expanded
 13 Selectee List a list of every individual in the
 14 TSDB who has name and birth date information and
 15 is considered a known or suspected terrorist?
 16 MS. KONKOLY: Objection -- you can answer.
 17 Withdraw.
 18 THE WITNESS: Similar to what I had stated
 19 before, I cannot share the exact criteria for what
 20 would be considered on the Expanded Selectee List,
 21 similar to that as I can't share the criteria for
 22 Selectee.

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1 MS. KONKOLY: Counsel, I'll just note it's
 2 a little after 1:30. Are you planning to break
 3 for lunch sometime soon? It doesn't need to be
 4 now. I just was wondering what you were thinking
 5 about that.
 6 MS. HOMER: Okay. Yeah. As soon as I
 7 finish these Expanded Selectee questions, we can
 8 break.
 9 MS. KONKOLY: Okay.
 10 BY MS. HOMER:
 11 Q So the -- stepping back, the TSA receives
 12 an export from the TSDB for purposes of Secure
 13 Flight, a list of all known and suspected
 14 terrorists currently listed in the TSDB; is that
 15 correct?
 16 **A Does TSA Secure Flight receive, in its**
 17 **TSDB export, the full list of every known and**
 18 **suspected terrorist?**
 19 Q Correct.
 20 MS. KONKOLY: I'm going to just object
 21 insofar as that question calls for any information
 22 protected by SSI or the law enforcement privilege.

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1 You can answer, if you can.
 2 THE WITNESS: Yes.
 3 BY MS. HOMER:
 4 Q And Secure --
 5 **A TSA's version of the export -- I'm trying**
 6 **to remember.**
 7 Q Okay. But the version of the TSDB that is
 8 exported to the TSA for purposes of Secure Flight
 9 does not include the list of individuals contained
 10 within the TSDB who are exceptions to the known or
 11 suspected terrorist standard; is that correct?
 12 MS. KONKOLY: Objection insofar as that
 13 calls for information protected by SSI or the law
 14 enforcement privilege. Potentially
 15 mischaracterizes prior testimony.
 16 You can answer, if you can.
 17 THE WITNESS: That is correct. Secure --
 18 passenger prescreening, we do not use for the
 19 exceptions.
 20 Q So is every individual that Secure Flight
 21 receives who is listed in the TSDB and for which
 22 the TSDB contains a full name and date of birth,

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1 also designated as being on the Expanded Selectee
2 List?
3 MS. KONKOLY: Objection; vague.
4 Objection; mischaracterizes prior testimony.
5 Objection insofar as the question calls for
6 anything implicated -- or I should say protected
7 by SSI or the law enforcement privilege.
8 You can answer, if you can.
9 THE WITNESS: So two parts. TSA receives
10 its export of the TSDB. Secure Flight's passenger
11 prescreening does receive the list with the full
12 name and date of birth in that list; however,
13 going into the criteria of which of the lists, or
14 how they're there, I cannot speak further. If I
15 understood the question correctly.
16 BY MS. HOMER:
17 Q Does the description of the Expanded
18 Selectee List that this document contains in the
19 top paragraph of page 14, is that a complete
20 description of what constitutes the Expanded
21 Selectee List?
22 MS. KONKOLY: I'll object as to scope.

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1 Objection; vague.
2 You can answer, if you can.
3 And insofar as it calls for any
4 information protected by SSI or law enforcement
5 privilege.
6 You can answer, if you can.
7 THE WITNESS: Right. I don't know if I
8 can answer for a complete description, but to the
9 extent -- without getting into SSI or law
10 enforcement information -- it -- that is an
11 accurate description.
12 BY MS. HOMER:
13 Q Does the TSA currently use the Expanded
14 Selectee List to determine that passengers are
15 subject to enhanced screening?
16 A Yes. The Secure Flight system does use
17 the Expanded Selectee List as part of its
18 determination of whether a passenger should
19 receive enhanced screening or not.
20 Q Okay.
21 I think that's a good breaking point for
22 lunch.

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1 A Okay.
2 MS. KONKOLY: How long do you guys want to
3 take?
4 MR. CLARK: Go off the record.
5 THE VIDEOGRAPHER: We are going off the
6 record. The time is 1:39 p.m.
7 (A recess was taken from 1:39 p.m. to 2:43
8 p.m.)
9 THE VIDEOGRAPHER: Here begins disk number
10 three in the videotaped deposition of Hao-Y
11 Froemling.
12 The time on the video monitor is
13 2:43 p.m., and we have been on the record for
14 three hours and 41 minutes.
15 MS. KONKOLY: Counsel, if I may, there
16 were two points that we'd like to just add
17 clarifications on the record with your leave.
18 MS. HOMER: Please do.
19 BY MS. KONKOLY:
20 Q Okay. First, Ms. Froemling, right before
21 the break you were discussing with Plaintiffs'
22 counsel what was introduced as Exhibit No. 2, a

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1 GAO report. Can I have you turn to page 14 of
2 that report again?
3 Okay. Do you see the paragraph at the
4 top, the Expanded Selectee List that you were
5 discussing with Plaintiffs' counsel right before
6 the break?
7 A Yes.
8 Q Okay. And does the definition of the
9 Expanded Selectee List offered in this paragraph
10 offer a complete and accurate definition of that
11 list?
12 A Yes.
13 Q Okay.
14 Second point of clarification from earlier
15 this morning, over the lunch break were you able
16 to confirm the number of intelligence analysts
17 employed by TSA who both conduct watchlist
18 matching and have access to the underlying
19 derogatory information?
20 A Yes. It's 68.
21 Q Okay. Thank you.
22 MS. HOMER: Thank you.

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1 Q So continuing with Exhibit 2, going back
 2 to page 19 above where we were where -- within
 3 high risk, we had just finished talking about the
 4 Expanded Selectee List.
 5 And above that it says "rules-based list."
 6 What is a rules-based list that the TSA uses to
 7 designate passengers for enhanced screening?
 8 MS. KONKOLY: I'm going to offer an
 9 objection based on scope. Additionally, to the
 10 extent that the information would call for
 11 information protected by SSI or law
 12 enforcement-protected privilege.
 13 You can answer, to the extent that you
 14 can.
 15 THE WITNESS: Okay. Sorry. So at a high
 16 level, similar to our discussion about the
 17 low-risk rules risk assessments, we also have high
 18 risk, where I mentioned before there may be
 19 particular circumstances of a passenger's travel.
 20 TSA, on a flight-by-flight basis, also has
 21 intelligence-based or derived information where we
 22 would identify criteria that may designate a

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1 passenger for -- as high risk.
 2 BY MS. HOMER:
 3 Q Does the TSA maintain a single list of
 4 individuals who, through the operation of rules,
 5 are designated for enhanced screening, or is this
 6 a case-by-case automatic assignment?
 7 MS. KONKOLY: Objection as to scope.
 8 Objection; vague. Objection insofar as the
 9 question calls for information protected either by
 10 SSI or the law enforcement privilege.
 11 But you can answer, to the extent that you
 12 can.
 13 THE WITNESS: So it is not a list direct,
 14 similar to our watchlist matching. It is
 15 rules-driven based on the particular travel --
 16 passenger circumstances of travel.
 17 So -- yeah, so it's a flight-by-flight
 18 distinction of identifying passengers that may be
 19 designated as high-risk based on the set of rules.
 20 Q Can a passenger -- start over.
 21 If a passenger is determined to be
 22 high-risk on the basis of these flight-by-flight

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1 rules, is that a basis for the TSA to then
 2 nominate them to the TSDB?
 3 MS. KONKOLY: Objection; vague. Objection
 4 insofar as the question calls for information
 5 protected by SSI or the law enforcement privilege.
 6 You can answer, to the extent that you
 7 can.
 8 THE WITNESS: So not directly. TSA
 9 follows very specific processes and information
 10 review to determine if they meet the criteria for
 11 watchlist nominations.
 12 There may be information, as a pointer, or
 13 others that may then lead TSA in its determination
 14 to go to watchlist matching. But the rules by
 15 themselves do not provide the basis for TSA
 16 watchlist nominations.
 17 BY MS. HOMER:
 18 Q If an individual, through the operation of
 19 the rule, is designated as high-risk for a
 20 particular flight, does the TSA have a systematic
 21 process for reviewing other individual -- like,
 22 for reviewing other information about those

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1 individuals in order to determine whether or not
 2 the TSA should nominate that individual to a
 3 watchlist?
 4 MS. KONKOLY: Objection; vague. Objection
 5 insofar as the answer calls for information
 6 protected by SSI or the law enforcement privilege.
 7 You can answer, to the extent that you
 8 can.
 9 THE WITNESS: So if I understand the
 10 question, TSA does not have a specific procedure
 11 to say every passenger, if they've been identified
 12 as high-risk, automatically pull them into a
 13 review for watchlist nominations.
 14 TSA, for the watchlist nominations, just
 15 pulls in multiple pieces of information. It may
 16 sometimes include information from the rules-based
 17 resultant information, but I would not say that
 18 that one thing direct from the rules drives the
 19 watchlist nomination process.
 20 BY MS. HOMER:
 21 Q So there are circumstances where an
 22 individual's inclusion on a rules-based list

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209	<p>1 identifying that individual for further screening</p> <p>2 could lead to the TSA's investigation of that</p> <p>3 individual for potential inclusion upon the</p> <p>4 watchlist?</p> <p>5 MS. KONKOLY: Objection; vague.</p> <p>6 Objection; mischaracterizes prior testimony.</p> <p>7 Objection insofar as the answer calls for</p> <p>8 information protected by the law enforcement</p> <p>9 privilege or SSI.</p> <p>10 You can answer, to the extent that you</p> <p>11 can.</p> <p>12 THE WITNESS: So -- I'm trying to think.</p> <p>13 So, generally speaking, that information</p> <p>14 of the designation for a higher-risk passenger</p> <p>15 does not directly go to watchlist.</p> <p>16 However, in the course of just TSA's</p> <p>17 overall security processes, additional information</p> <p>18 comes in or passengers are then subsequently</p> <p>19 identified as -- are detecting something as</p> <p>20 they're going through screening -- additional</p> <p>21 prohibited items or additional information or</p> <p>22 other investigation or other just information</p>	211	<p>1 high-risk.</p> <p>2 There may be other pieces of information</p> <p>3 that would feed into Secure Flight that then --</p> <p>4 for Secure Flight to then apply rules. So --</p> <p>5 BY MS. HOMER:</p> <p>6 Q Okay. Is Secure --</p> <p>7 A So not always.</p> <p>8 Q Okay. Is Secure Flight matching names on</p> <p>9 itineraries to names generated by a rules-based</p> <p>10 list?</p> <p>11 MS. KONKOLY: Objection; vague, and</p> <p>12 insofar as the answer calls for any information</p> <p>13 protected by law enforcement privilege or SSI.</p> <p>14 But you can answer, if you can.</p> <p>15 THE WITNESS: I would say sometimes,</p> <p>16 depending on the rules. We are matching -- it's</p> <p>17 more of the matching the passenger to the</p> <p>18 rules-based list.</p> <p>19 From an itinerary perspective, it may or</p> <p>20 may not come into play, depending on the -- sorry.</p> <p>21 There's just the different rules. It depends.</p> <p>22 Q Can you give me an example of the rules,</p>
210	<p>1 provided overall -- then it will go into a</p> <p>2 watchlist nomination process of does it meet the</p> <p>3 criteria for watchlist nomination.</p> <p>4 So, again, it is a -- may be a factor, but</p> <p>5 multiple pieces of information would need to be</p> <p>6 reviewed as well as meet the criteria for a</p> <p>7 watchlist nomination.</p> <p>8 BY MS. HOMER:</p> <p>9 Q If a passenger -- let me start over.</p> <p>10 Does -- is it Secure Flight that applies</p> <p>11 these rules to incoming itineraries in order to</p> <p>12 designate a passenger as potentially high-risk and</p> <p>13 subject to enhanced screening for that flight?</p> <p>14 MS. KONKOLY: Objection; vague. Objection</p> <p>15 insofar as the answer calls for information</p> <p>16 protected by SSI or law enforcement privilege.</p> <p>17 But you can answer, if you can.</p> <p>18 THE WITNESS: So depending, as there's</p> <p>19 multiple pieces of information that tie into the</p> <p>20 -- effectively, the rules, Secure Flight is the</p> <p>21 end engine that would be doing the matching to</p> <p>22 determine whether the passenger's been deemed</p>	212	<p>1 or the sort of rules, that trigger enhanced</p> <p>2 screening?</p> <p>3 MS. KONKOLY: I'm going to object to that</p> <p>4 question on the basis of law enforcement</p> <p>5 privilege, SSI, potentially state secrets</p> <p>6 privilege, and instruct the Witness not to answer.</p> <p>7 BY MS. HOMER:</p> <p>8 Q Is the country that a flight is traveling</p> <p>9 to, if it's an international flight, one basis for</p> <p>10 a rule that would subject passengers on that</p> <p>11 flight to enhanced screening?</p> <p>12 MS. KONKOLY: Objection on the basis of</p> <p>13 SSI, law enforcement privilege, potentially state</p> <p>14 secrets.</p> <p>15 I'm going to instruct the Witness not to</p> <p>16 answer based on those privileges.</p> <p>17 Q If a passenger is selected for enhanced</p> <p>18 screening on the basis of the application of a</p> <p>19 rules-based list, are they subject to the same</p> <p>20 level of enhanced screening as an individual on</p> <p>21 the Selectee List?</p> <p>22 MS. KONKOLY: Objection; vague.</p>

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<p style="text-align: right;">213</p> <p>1 Objection; calls for speculation. Objection 2 insofar as the answer implicates information 3 protected by SSI or the law enforcement privilege. 4 You can answer, if you can. 5 THE WITNESS: So at a high level, are 6 enhanced screening procedures at the checkpoint 7 effectively the same as -- 8 BY MS. HOMER: 9 Q Does the TSDB contain any information 10 about whether or not the TSA has applied any 11 rules-based list to passengers? 12 MS. KONKOLY: Objection as to scope and 13 insofar as that question implicates information 14 outside of the purview of TSA, also insofar as it 15 implicates information protected by state -- or -- 16 I'm sorry -- by law enforcement privilege or SSI. 17 But you can answer, if you can. 18 THE WITNESS: So does the TSC have 19 awareness that TSA applies rules-based list to -- 20 list? Was that the question. 21 Q Yeah. 22 A Sorry.</p>	<p style="text-align: right;">215</p> <p>1 You can answer, to the extent that you 2 can. 3 THE WITNESS: So at a high level, we do 4 not send -- because the TSC is about -- our 5 notifications are primarily about those that we 6 have matched on the watchlist, we do not 7 automatically send our -- all -- any passenger 8 that's been designated as high-risk or high -- for 9 enhanced screening. 10 BY MS. HOMER: 11 Q Is the operation of the TSA's rules-based 12 list entirely a TSA internal process? 13 MS. KONKOLY: Objection; vague. Objection 14 insofar as it might implicate information within 15 the purview of other agencies, and as to the scope 16 of the approved topics of this deposition. 17 Further objection insofar as the answer implicates 18 information protected by SSI or the law 19 enforcement privilege. 20 But you can answer, if you can. 21 THE WITNESS: So, no, not necessarily. 22 Q What other federal agencies are involved</p>
<p style="text-align: right;">214</p> <p>1 MS. KONKOLY: Same objections. 2 THE WITNESS: Okay. 3 MS. KONKOLY: Go ahead. 4 THE WITNESS: So just making sure I 5 understood the question. 6 So generally speaking, insofar as TSA has 7 stated that this is our procedure for identifying 8 passengers for a high-risk standard screening or a 9 low-risk, the TSC would know that we do have these 10 procedures in place. 11 BY MS. HOMER: 12 Q Would the TSC know for any individual 13 passenger whether that passenger had been flagged 14 for enhanced screening by operation of a TSA 15 rules-based list? 16 MS. KONKOLY: Objection; vague. Objection 17 as to scope, and so far as this answer calls for 18 information within the purview of the TSC as 19 opposed to TSA. 20 Further object insofar as the answer would 21 implicate information protected by SSI or the law 22 enforcement privilege.</p>	<p style="text-align: right;">216</p> <p>1 in the creation of rules-based lists? 2 MS. KONKOLY: Objection as to scope. 3 Objection insofar as the information -- or the 4 answer calls for information protected by SSI or 5 the law enforcement privilege. 6 You can answer, if you can. 7 THE WITNESS: So from the construct, for 8 example, of international, we may also collaborate 9 with CBP related to the identification of 10 high-risk passengers. 11 BY MS. HOMER: 12 Q Is being a traveling companion of someone 13 listed on the Selectee List a basis for being 14 subject to enhanced screening? 15 MS. KONKOLY: Objection. That question 16 has information protected by SSI as well as the 17 law enforcement privilege. 18 I'm going to instruct the Witness not to 19 answer. 20 Q How is the fact that someone has been 21 designated for enhanced screening indicated on 22 that person's boarding pass?</p>

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<p style="text-align: right;">217</p> <p>1 MS. KONKOLY: Objection insofar as that</p> <p>2 question calls for information protected by SSI or</p> <p>3 law enforcement privilege.</p> <p>4 But you can answer, if you can.</p> <p>5 THE WITNESS: TSA instructs the airlines</p> <p>6 to print an indicator for enhanced screening on</p> <p>7 the boarding pass.</p> <p>8 BY MS. HOMER:</p> <p>9 Q Is that indicator typically S-S-S-S?</p> <p>10 A Yes.</p> <p>11 Q What does SSSS stand for?</p> <p>12 MS. KONKOLY: Objection insofar as that</p> <p>13 question calls for information protected by law</p> <p>14 enforcement privilege or SSI.</p> <p>15 But you can answer, if you can.</p> <p>16 THE WITNESS: I don't know what -- if each</p> <p>17 S stands for something. At a high level, it is a</p> <p>18 designation used to designate enhanced screening.</p> <p>19 Q I have seen SSSS expanded as an acronym to</p> <p>20 Secondary Security Screening Selection. Is that a</p> <p>21 phrase that the TSA uses?</p> <p>22 MS. KONKOLY: Objection; vague.</p>	<p style="text-align: right;">219</p> <p>1 insofar as the answer calls for information</p> <p>2 protected by SSI or the law enforcement privilege.</p> <p>3 But you can answer, to the extent that you</p> <p>4 can.</p> <p>5 THE WITNESS: If they've identified a</p> <p>6 passenger that's been designated for enhanced</p> <p>7 screening, they will enact and conduct their</p> <p>8 enhanced screening procedures.</p> <p>9 BY MS. HOMER:</p> <p>10 Q Do TSA employees know that SSSS could mean</p> <p>11 that an individual is on a federal terrorist</p> <p>12 watchlist?</p> <p>13 MS. KONKOLY: Objection; vague, calls for</p> <p>14 speculation.</p> <p>15 THE WITNESS: So at a high level, they do</p> <p>16 know that there's multiple reasons why an</p> <p>17 individual may be designated for enhanced</p> <p>18 screening, and one of those may be that they have</p> <p>19 matched.</p> <p>20 Q Are TSA employees instructed to treat all</p> <p>21 individuals with SSSS on their boarding pass as a</p> <p>22 known or suspected terrorist?</p>
<p style="text-align: right;">218</p> <p>1 THE WITNESS: Yeah. I have not heard it</p> <p>2 written out that way all the time. I'd have to go</p> <p>3 back to confirm if that's actually what the four</p> <p>4 Ss stand for.</p> <p>5 BY MS. HOMER:</p> <p>6 Q Okay.</p> <p>7 Does the TSA ever use the phrase Quad-S as</p> <p>8 a further shortening of SSSS?</p> <p>9 A Yes.</p> <p>10 Q Does the TSA use any other phrase to</p> <p>11 indicate that a passenger has been selected for</p> <p>12 enhanced screening?</p> <p>13 MS. KONKOLY: Objection; vague.</p> <p>14 THE WITNESS: If -- we pretty much say</p> <p>15 enhanced screening.</p> <p>16 Q Okay. Is SSSS synonymous with enhanced</p> <p>17 screening?</p> <p>18 A It's synonymous with designation for</p> <p>19 enhanced screening.</p> <p>20 Q How are TSA employees instructed to handle</p> <p>21 boarding passes with the abbreviation SSSS?</p> <p>22 MS. KONKOLY: Objection; vague. Objection</p>	<p style="text-align: right;">220</p> <p>1 MS. KONKOLY: Objection; vague.</p> <p>2 Objection; misleading. Objection as to scope.</p> <p>3 Also, insofar as an answer would implicate any</p> <p>4 information protected by SSI or the law</p> <p>5 enforcement privilege.</p> <p>6 But you can answer, to the extent you can.</p> <p>7 THE WITNESS: No. They're instructed to</p> <p>8 conduct enhanced screening, not to -- to your</p> <p>9 question -- treat them as a known or suspected</p> <p>10 terrorist.</p> <p>11 BY MS. HOMER:</p> <p>12 Q Does the TSA apply any subdivisions within</p> <p>13 the enhanced screening category?</p> <p>14 MS. KONKOLY: Objection; vague. Objection</p> <p>15 insofar as the question calls for any information</p> <p>16 protected by SSI or the law enforcement privilege.</p> <p>17 You can answer, to the extent that you</p> <p>18 can.</p> <p>19 THE WITNESS: So insofar as conducting</p> <p>20 enhanced screening, passengers are designated for</p> <p>21 enhance screening with no subdivisions.</p> <p>22 When they're going through the screening</p>

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1 checkpoint, there's multiple reasons why they
 2 might have been designated for enhanced screening
 3 and the officers are instructed to carry out the
 4 enhanced screening procedures.
 5 BY MS. HOMER:
 6 Q Does the TSA apply any subdivisions
 7 between passengers designated for enhanced
 8 screening once those passengers have exited the
 9 screening area and are in the sterile area?
 10 MS. KONKOLY: I'm going to object to that
 11 question as calling for information protected by
 12 SSI and the law enforcement privilege and instruct
 13 the witness not to answer.
 14 Q Would you agree that all individuals
 15 designated for enhanced screening receive the same
 16 operational response at checkpoints when they pass
 17 through them?
 18 MS. KONKOLY: Objection; vague. Objection
 19 insofar as the question calls for information
 20 protected by law enforcement privilege or SSI.
 21 You can answer, to the extent that you
 22 can.

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1 THE WITNESS: So the enhanced screening
 2 procedures that are applied when passengers have
 3 been designated for enhanced screening are the
 4 same.
 5 BY MS. HOMER:
 6 Q If an infant is designated for enhanced
 7 screening, are the procedures applied to that
 8 infant the same as any other passenger?
 9 MS. KONKOLY: Objection; vague.
 10 Objection; calls for speculation. Objection
 11 insofar as the question implicates information
 12 protected by the law enforcement privilege or SSI.
 13 You can answer, to the extent that you
 14 can.
 15 THE WITNESS: So without going into SSI,
 16 TSA has enhanced screening procedures to be
 17 conducted for all passengers that have been
 18 designated for enhanced screening.
 19 Q Can an infant under the age of three
 20 receive enhanced screening by the TSA?
 21 MS. KONKOLY: Objection; vague. Objection
 22 insofar as the question calls for information

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1 protected by law enforcement privilege or SSI.
 2 You can answer, if you can.
 3 THE WITNESS: My answer would be the same
 4 of "can," is TSA has security procedures for
 5 enhanced screening for its passengers, so to the
 6 extent that there's a -- your question is "can."
 7 TSA applies its procedures for those passengers
 8 designated with enhanced screening on a boarding
 9 pass.
 10 BY MS. HOMER:
 11 Q Is a person on -- let me back up.
 12 Does the TSA add any annotations to the
 13 TSDB information it has in Secure Flight to
 14 indicate that that person is on the Enhanced
 15 Selectee List?
 16 MS. KONKOLY: Objection; vague.
 17 Objection; I think that might have been asked and
 18 answered this morning. Objection insofar as the
 19 question calls for information protected by SSI or
 20 the law enforcement privilege.
 21 You can answer, to the extent that you
 22 can.

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1 THE WITNESS: So -- sorry -- can you
 2 repeat the question of -- I'm just trying to --
 3 clarity of annotation where? Sorry.
 4 BY MS. HOMER:
 5 Q In Secure Flight.
 6 **A In Secure Flight?**
 7 Q Yeah.
 8 **A So to the extent that we receive**
 9 **information as part of our export of the TSDB,**
 10 **with the designations of the No-Fly the Selectee**
 11 **and the Expanded Selectee, Secure Flight would**
 12 **have that information when it's doing its**
 13 **watchlist matching.**
 14 **So to the extent that whether somebody is**
 15 **going in after the fact and annotating, it's not**
 16 **so much an after-the-fact. It's part of the**
 17 **Secure Flight system in the information when it's**
 18 **doing its matching.**
 19 Q Is Expanded Selectee a designation that
 20 the TSA receives from the TSC?
 21 MS. KONKOLY: Objection insofar as that
 22 question calls for any information protected by

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<p style="text-align: right;">225</p> <p>1 SSI or law enforcement privilege. 2 You can answer, to the extent that you 3 can. 4 THE WITNESS: I'm trying to -- without 5 getting into specific fields and systems, Secure 6 Flight has a way of identifying the difference 7 between the No-Fly, the Selectee, and the Expanded 8 Selectee. 9 So without getting into how it's actually 10 designated by field in the system, TSA knows -- it 11 can see, identify, the differences between those 12 subsets. 13 BY MS. HOMER: 14 Q Does the TSA have any discretion to not 15 apply enhanced screening to individuals on the 16 Selectee List? 17 MS. KONKOLY: Objection insofar as that 18 calls for any information protected by SSI or the 19 law enforcement privilege. 20 You can answer, to the extent that you 21 can. 22 THE WITNESS: I think that's SSI. I'm not</p>	<p style="text-align: right;">227</p> <p>1 screening receive SSSS on their boarding pass? 2 MS. KONKOLY: Objection insofar as that 3 calls for information protected by either the law 4 enforcement privilege or SSI. 5 You can answer, to the extent that you 6 can. 7 THE WITNESS: So to the extent if they 8 have been designated as being high-risk, they will 9 receive the Quad-S, the SSS [sic], on the boarding 10 pass to designate enhanced screening. 11 BY MS. HOMER: 12 Q Is there any additional annotation on 13 boarding passes which contain the SSSS designation 14 to differentiate between why the person has been 15 designated for enhanced screening? 16 MS. KONKOLY: Objection; vague. Objection 17 insofar as it calls for any information protected 18 by SSI or the law enforcement privilege. 19 You can answer, to the extent that you 20 can. 21 A Generally speaking, no, as it's -- if 22 Secure Flight has deemed the passenger as being</p>
<p style="text-align: right;">226</p> <p>1 sure that I can answer any further. 2 We have the authority of identifying -- 3 designating the appropriate level of screening to 4 be conducted commensurate with the threat 5 presented. Any further details, I don't think I 6 can share for SSI. 7 BY MS. HOMER: 8 Q Is the appropriate level of screening for 9 the threat presented by an individual on the 10 Selectee List always enhanced screening? 11 MS. KONKOLY: Objection; asked and 12 answered. Same objection insofar as the question 13 calls for any information protected by SSI or the 14 law enforcement privilege. 15 You can answer one more time, to the 16 extent that you can. 17 THE WITNESS: I can answer that for 18 case-by-case, TSA will apply the appropriate level 19 of security measures commensurate with the 20 associated passenger threat. 21 Q Is -- do both expanded Selectee and 22 Selectee Listees who are designated for enhanced</p>	<p style="text-align: right;">228</p> <p>1 designated for enhanced screening on the boarding 2 pass, there's no differentiation. 3 Q Does TSC impose any limits on how the TSA 4 uses TSDB information? 5 MS. KONKOLY: Objection; vague. Objection 6 as to scope. And also insofar as it calls for any 7 information protected by SSI or the law 8 enforcement privilege. 9 You can answer, to the extent that you 10 can. 11 THE WITNESS: So TSA is authorized to use 12 an export of the TSDB based on its authorities to 13 conduct the watchlist matching for passenger 14 prescreening. We follow the approved guidance 15 under our authorities to conduct watchlist 16 matching. 17 Q Is TSA free to use the TSDB-exported 18 information it receives as best as it sees fit to 19 fulfill its operational missions? 20 MS. KONKOLY: Objection; vague. Objection 21 insofar as it calls for any information protected 22 by SSI or the law enforcement privilege.</p>

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229	<p>1 You can answer, to the extent that you</p> <p>2 can.</p> <p>3 THE WITNESS: TSA uses the export of the</p> <p>4 TSDB based on its approved authorities to use that</p> <p>5 to secure transportation security.</p> <p>6 BY MS. HOMER:</p> <p>7 Q Approximately how many individuals are</p> <p>8 listed on the export of the TSDB that the TSA</p> <p>9 receives right now?</p> <p>10 MS. KONKOLY: Objection. That question</p> <p>11 calls for information protected by the law</p> <p>12 enforcement privilege, SSI, potentially state</p> <p>13 secrets.</p> <p>14 You can -- I'm going to instruct the</p> <p>15 Witness not to answer.</p> <p>16 Q Approximately how many individuals are</p> <p>17 designated as having Selectee status right now?</p> <p>18 MS. KONKOLY: Same objections: SSI, law</p> <p>19 enforcement privilege, additionally potentially</p> <p>20 state secrets.</p> <p>21 I'm instructing the Witness not to answer.</p> <p>22 Q Are you aware of Commissioner Piota</p>	231	<p>1 SSI or the law enforcement privilege.</p> <p>2 You can answer, if you can.</p> <p>3 THE WITNESS: Can't answer.</p> <p>4 Designing</p> <p>5 Q And you can't answer because you don't</p> <p>6 know?</p> <p>7 A Because of SSI.</p> <p>8 Q Okay.</p> <p>9 Approximately how many U.S. persons are on</p> <p>10 the Expanded Selectee List right now?</p> <p>11 MS. KONKOLY: Objection; information calls</p> <p>12 for -- or -- I'm sorry -- the question calls for</p> <p>13 information protected by SSI/law enforcement</p> <p>14 privilege, potentially state secrets.</p> <p>15 You can -- I'm sorry. I'm instructing the</p> <p>16 Witness not to answer.</p> <p>17 Q Approximately how many people each year</p> <p>18 receive enhanced screening?</p> <p>19 MS. KONKOLY: I'm going to object insofar</p> <p>20 as that calls for information protected by SSI or</p> <p>21 the law enforcement privilege, also on vagueness</p> <p>22 grounds.</p>
230	<p>1 (phonetic) publicly disclosing in 2014 an estimate</p> <p>2 of the number of persons on the Selectee List?</p> <p>3 MS. KONKOLY: Objection as to scope.</p> <p>4 But you can answer, if you know.</p> <p>5 THE WITNESS: I do not know.</p> <p>6 BY MS. HOMER:</p> <p>7 Q Approximately how many U.S. citizens are</p> <p>8 on the Selectee List right now?</p> <p>9 MS. KONKOLY: Objection; calls for</p> <p>10 information protected by SSI/law enforcement</p> <p>11 privilege, potentially state secrets.</p> <p>12 I'm instructing the Witness not to answer.</p> <p>13 Q Approximately how many people are on the</p> <p>14 Expanded Selectee List right now?</p> <p>15 MS. KONKOLY: Same objections: SSI/law</p> <p>16 enforcement privilege, potentially state secrets.</p> <p>17 Instructing the Witness not to answer.</p> <p>18 Q Is the number of people on the Expanded</p> <p>19 Selectee List greater than the number of people on</p> <p>20 the Selectee List?</p> <p>21 MS. KONKOLY: I will object insofar as</p> <p>22 that question calls for information protected by</p>	232	<p>1 You can answer, if you can.</p> <p>2 THE WITNESS: I don't think I can --</p> <p>3 MS. KONKOLY: No, I'm sorry. I will --</p> <p>4 THE WITNESS: -- provide that information.</p> <p>5 That's SSI.</p> <p>6 MS. KONKOLY: Okay.</p> <p>7 BY MS. HOMER:</p> <p>8 Q How many enhanced screenings have led to a</p> <p>9 terrorism-related arrest?</p> <p>10 MS. KONKOLY: Objection; vague, calls for</p> <p>11 speculation. Objection insofar as that calls for</p> <p>12 information protected by SSI or the law</p> <p>13 enforcement privilege.</p> <p>14 You can answer, if you can.</p> <p>15 THE WITNESS: I can't answer that.</p> <p>16 Q On the basis of SSI?</p> <p>17 A Yeah.</p> <p>18 Q Is it possible for the TSA to calculate</p> <p>19 the total number of persons on the Selectee List?</p> <p>20 A So insofar as we receive an export of the</p> <p>21 TSDB, which includes the No-Fly and Selectee, yes,</p> <p>22 we would be able to identify --</p>

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1 Q Is it possible --

2 **A -- those records.**

3 Q -- for the TSA to calculate the total

4 number of persons currently on the Expanded

5 Selectee List?

6 **A Yes.**

7 Q Is it possible for the TSA to calculate

8 how many U.S. citizens are on either the Selectee

9 or Expanded Selectee List?

10 MS. KONKOLY: Objection; compound, vague.

11 You can answer.

12 THE WITNESS: To the extent -- same answer

13 as before: To the extent that we only have the

14 TSDB export information that we have and that it's

15 indicated, it could be calculated.

16 Q Is it possible for the TSA to calculate

17 the number of enhanced screenings that have led to

18 a terrorism-related arrest within the last year?

19 MS. KONKOLY: Objection; vague. Objection

20 insofar as that calls for information protected by

21 SSI or the law enforcement privilege.

22 You can answer, if you think you can.

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1 THE WITNESS: I don't think I can, for SSI

2 and law enforcement-sensitive.

3 BY MS. HOMER:

4 Q Is it possible for the TSA to calculate

5 the number of children under the age of five who

6 are included in the TSDB export the TSA receives?

7 MS. KONKOLY: Objection; vague. Objection

8 insofar as that calls for information protected by

9 SSI or the law enforcement privilege.

10 You can answer.

11 THE WITNESS: So same answer as before:

12 To the extent that we have an export of the TSDB,

13 which require also the full name and date of

14 birth, it is -- could be calculated.

15 Q Is the TSA authorized to share TSDB

16 information with any other entities?

17 MS. KONKOLY: Objection; vague. Objection

18 insofar as that question calls for information

19 protected by SSI or the law enforcement privilege.

20 But you can answer, to the extent you can.

21 THE WITNESS: Yes.

22 Q Is the TSA authorized to share Secure

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1 Flight information, excluding the TSDB, with any

2 other entities?

3 MS. KONKOLY: Objection; vague. Objection

4 insofar as the question calls for information

5 protected by SSI or the law enforcement privilege.

6 But you can answer, to the extent that you

7 can.

8 THE WITNESS: At a high level, yes.

9 BY MS. HOMER:

10 Q Does the TSA share -- is there a term you

11 use to describe Secure Flight information?

12 MS. KONKOLY: Objection; vague.

13 THE WITNESS: No.

14 Q Or do you -- does the TSA ever use the

15 phrase "Secure Flight Passenger Data"?

16 **A Yes.**

17 Q Okay. And is that phrase, Secure Flight

18 Passenger Data, does it generally refer to all of

19 the information the TSA has in Secure Flight?

20 **A No.**

21 MS. KONKOLY: Objection; vague.

22 Q What subset of the information that the

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1 TSA has in Secure Flight does Secure Flight

2 Passenger Data refer to?

3 MS. KONKOLY: Objection insofar as that

4 calls for anything protected by SSI or law

5 enforcement-protected information.

6 You can answer, if you can.

7 THE WITNESS: Secure Flight Passenger Data

8 typically refers to the passenger data provided to

9 Secure Flight from airlines.

10 BY MS. HOMER:

11 Q And Secure Flight Passenger Data would not

12 include, therefore, the risk assessment that the

13 TSA applies to that data?

14 MS. KONKOLY: Objection; potentially

15 mischaracterizes prior testimony. Objection;

16 vague. Objection insofar as that calls for any

17 information protected by SSI or the law

18 enforcement privilege.

19 But you can answer, if you can.

20 THE WITNESS: So generally speaking, when

21 we reference the Secure Flight Passenger Data, we

22 are referring to the information we are receiving

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1 from the airlines; therefore, no.
 2 BY MS. HOMER:
 3 Q Okay.
 4 Does the TSA share the risk assessment
 5 applied by Secure Flight to passenger data with
 6 any other entities?
 7 MS. KONKOLY: Objection; vague. Objection
 8 insofar as it calls for anything protected by SSI
 9 or law enforcement, also as to the scope of the
 10 approved topics for this deposition.
 11 You can answer, if you can.
 12 THE WITNESS: So to the extent that Secure
 13 Flight is designating the -- its results to be
 14 printed on the boarding pass, we are providing the
 15 designation for what should be printed on the
 16 boarding pass back to the airlines.
 17 Q Does the Secure -- does the TSA provide
 18 Secure Flight risk assessment designation to other
 19 federal agencies?
 20 MS. KONKOLY: Objection; vague.
 21 THE WITNESS: It would depend on the
 22 circumstance and the situation.

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1 Q As a matter of course, does the TSA share
 2 Secure Flight risk assessment determinations with
 3 the TSC?
 4 MS. KONKOLY: Objection; vague. Objection
 5 insofar as that question calls for anything
 6 protected by law enforcement or SSI.
 7 You can answer, if you can.
 8 THE WITNESS: Generally speaking, as
 9 stated earlier, no.
 10 For example, same thing, the low risk,
 11 that is a risk assessment designation. That's --
 12 the risk designation is for what should be applied
 13 on the boarding pass, so it's not a matter of
 14 course.
 15 BY MS. HOMER:
 16 Q Does the TSA, as a matter of course,
 17 provide Secure Flight Passenger Data with the
 18 TSC -- to the TSC?
 19 MS. KONKOLY: Objection insofar as that
 20 calls for anything protected by SSI or other law
 21 enforcement privilege.
 22 You can answer, to the extent that you

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1 can.
 2 THE WITNESS: So it'll be primarily the
 3 passenger name and potentially itinerary. May not
 4 be every field provided from an airline.
 5 Q The -- okay.
 6 **A Which is how we had defined Secure Flight**
 7 --
 8 Q So is --
 9 **A -- passenger data.**
 10 Q Okay. Let me see if I can clarify that.
 11 Does the TSA provide all Secure Flight
 12 passenger itinerary information on a given day to
 13 the TSC?
 14 MS. KONKOLY: Objection insofar as that
 15 calls for anything protected by the law
 16 enforcement privilege or SSI.
 17 You can answer, to the extent that you
 18 can.
 19 THE WITNESS: No.
 20 Q Does the TSA share Secure Flight Passenger
 21 Data with the CBP?
 22 **A Is the question all Secure Flight**

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1 Passenger Data --
 2 Q Yeah.
 3 **A -- or --**
 4 Q All Secure Flight Passenger Data.
 5 MS. KONKOLY: I will object insofar as
 6 that calls for anything protected by SSI or the
 7 law enforcement privilege.
 8 You can answer, to the extent that you
 9 can.
 10 THE WITNESS: No, we do not share all
 11 passenger data with CBP.
 12 Q Does the TSA share all itinerary
 13 information contained in Secure Flight with the
 14 CBP on a given day?
 15 MS. KONKOLY: Objection insofar as that
 16 calls for anything protected by the law
 17 enforcement privilege or SSI.
 18 You can answer, to the extent that you
 19 can.
 20 THE WITNESS: TSA does not share all --
 21 Q Is there any --
 22 **A -- passenger itinerary information with**

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<p style="text-align: right;">241</p> <p>1 CBP.</p> <p>2 Q Yeah. Let me try and get rid of this.</p> <p>3 Does the CSA [sic] share -- I'll make it</p> <p>4 broader.</p> <p>5 What Secure Flight information does the</p> <p>6 TSA share with the CBP?</p> <p>7 MS. KONKOLY: I'm going to object insofar</p> <p>8 as that calls for anything protected by SSI or the</p> <p>9 law enforcement privilege.</p> <p>10 You can answer, to the extent that you</p> <p>11 can.</p> <p>12 THE WITNESS: So to the extent of -- I'll</p> <p>13 harken back to what I'd stated previously: We do</p> <p>14 provide our encounter information to a common</p> <p>15 operating platform. Anything else would be</p> <p>16 dependent on the situation and circumstances, in</p> <p>17 terms of sharing passenger information with CBP.</p> <p>18 Q Does Secure Flight contain information</p> <p>19 about a non-U.S. citizen's immigration status?</p> <p>20 MS. KONKOLY: Objection insofar as that</p> <p>21 calls for anything protected by the law</p> <p>22 enforcement privilege or SSI.</p>	<p style="text-align: right;">243</p> <p>1 that correct?</p> <p>2 A Yes.</p> <p>3 Q Does the TSA share any TSDB information</p> <p>4 with other federal agencies?</p> <p>5 MS. KONKOLY: Objection; vague. Objection</p> <p>6 insofar as it calls for anything protected by SSI</p> <p>7 or law enforcement privilege.</p> <p>8 You can answer, to the extent that you</p> <p>9 can.</p> <p>10 THE WITNESS: So depending on the</p> <p>11 situation or specific case, TSA may share with</p> <p>12 other agencies.</p> <p>13 Q Does the TSA share any TSDB information</p> <p>14 with federal agencies who do not themselves have</p> <p>15 access to TSDB exports?</p> <p>16 MS. KONKOLY: Objection; vague. Objection</p> <p>17 insofar as that calls for any information</p> <p>18 protected by SSI or the law enforcement privilege.</p> <p>19 You can answer, to the extent that you</p> <p>20 can.</p> <p>21 THE WITNESS: So TSA only shares with</p> <p>22 those individuals and agencies with a -- who are</p>
<p style="text-align: right;">242</p> <p>1 You can answer, to the extent that you</p> <p>2 can.</p> <p>3 Also, I'll object on vagueness, but you</p> <p>4 can still answer.</p> <p>5 THE WITNESS: So generally speaking,</p> <p>6 Secure Flight does not have visibility to a</p> <p>7 passenger's immigration status.</p> <p>8 BY MS. HOMER:</p> <p>9 Q Does Secure Flight have visibility into a</p> <p>10 passenger's country of citizenship?</p> <p>11 MS. KONKOLY: I'll again object insofar as</p> <p>12 that implicates anything protected by SSI or the</p> <p>13 law enforcement privilege.</p> <p>14 But you can answer, to the extent that you</p> <p>15 can.</p> <p>16 THE WITNESS: No, that is not -- no, with</p> <p>17 the exception of when we receive the passport</p> <p>18 information that's submitted to us. We could then</p> <p>19 derive the country, but it is not a field</p> <p>20 submitted to TSA.</p> <p>21 Q You said earlier that the TSA does share</p> <p>22 TSDB information with other entities sometimes; is</p>	<p style="text-align: right;">244</p> <p>1 authorized and with a need to know related to the</p> <p>2 SSI TSDB information.</p> <p>3 BY MS. HOMER:</p> <p>4 Q What other federal agencies does the TSA</p> <p>5 share TSDB information with who are authorized and</p> <p>6 need to know that information?</p> <p>7 MS. KONKOLY: Objection; vague. Objection</p> <p>8 insofar as it calls for anything protected by SSI</p> <p>9 or the law enforcement privilege.</p> <p>10 You can answer, to the extent that you</p> <p>11 can.</p> <p>12 THE WITNESS: So -- I'm sorry -- was it</p> <p>13 other federal agencies with a need to know? Was</p> <p>14 that --</p> <p>15 Q Mm-hm.</p> <p>16 MS. KONKOLY: Same objections, but you can</p> <p>17 answer.</p> <p>18 THE WITNESS: So depending on the</p> <p>19 situation and the circumstance, TSA may share with</p> <p>20 the appropriate -- whether it's law enforcement or</p> <p>21 other DHS-related components with a need to know,</p> <p>22 but it depends on the situation and the</p>

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1 circumstance.
 2 BY MS. HOMER:
 3 Q Does the TSA share TSDB information with
 4 CBP?
 5 MS. KONKOLY: Objection; asked and
 6 answered.
 7 THE WITNESS: Yeah -- yes.
 8 Q Does the TSA share TSDB information with
 9 private screeners participating in the TSA's
 10 Screening Partnership Program?
 11 MS. KONKOLY: Objection; vague.
 12 THE WITNESS: No, not as a matter of
 13 course. If the -- an individual within one of
 14 those programs has an authorized need to know, it
 15 may be shared, but it is -- no, TSA's sharing with
 16 TSA entities.
 17 Q So would private screeners in TSA's
 18 Screening Partnership Program who encounter a
 19 person on the watchlist know that they were
 20 encountering a person on the watchlist?
 21 MS. KONKOLY: Objection; vague,
 22 misleading. Objection insofar as that calls for

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1 anything protected by SSI or the law enforcement
 2 privilege.
 3 But you can answer, to the extent that you
 4 can.
 5 THE WITNESS: Not necessarily. As stated
 6 earlier, what screeners would know is if a
 7 passenger had been designated for enhanced
 8 screening.
 9 BY MS. HOMER:
 10 Q Do kind of line-level TSA agents at
 11 security checkpoints receive any TSDB information?
 12 MS. KONKOLY: Objection; vague. Objection
 13 insofar as that calls for anything protected by --
 14 for information protected by the law enforcement
 15 privilege or SSI.
 16 You can answer, to the extent that you
 17 can.
 18 THE WITNESS: So to the extent depending
 19 on the situation, if the individual has a need to
 20 know, they may be aware of whether an individual
 21 was a match to the watchlist.
 22 Q What constitutes a need to know whether

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1 somebody is a match to the watchlist?
 2 MS. KONKOLY: Objection; vague. Objection
 3 insofar as that calls for anything protected by
 4 the law enforcement privilege or SSI.
 5 You can answer, to the extent that you
 6 can.
 7 THE WITNESS: So overall, from an SSI
 8 regulations and protections -- or protecting
 9 information related to SSI, only those individuals
 10 that have been authorized and they need to know in
 11 order to carry out their functions and duties,
 12 that would be the need to know as bound by our SSI
 13 regulations.
 14 BY MS. HOMER:
 15 Q What TSA employees receive access and --
 16 let me start over.
 17 What categories of TSA employees receive
 18 access to TSDB information as a matter of course?
 19 MS. KONKOLY: Objection; vague, also
 20 insofar as it protects -- it calls for any
 21 information protected by SSI or the law
 22 enforcement privilege.

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1 But you can answer, to the extent that you
 2 can.
 3 THE WITNESS: Okay. So at a high level,
 4 there are those that are actually performing the
 5 watchlist matching; therefore, they would need
 6 to -- they would see that information and they
 7 need to perform that as part of their functions.
 8 Insofar as if we have certain intelligence
 9 analysts as -- that also have a need to know and
 10 would have access to the TSA's export of the TSDB
 11 information for those that are matches to the
 12 watchlist, we do share with the federal security
 13 TSA employee -- federal security directors at the
 14 airports as well as specific individuals at --
 15 locally at the airport that would need to know to
 16 perform their security functions.
 17 They would have awareness of some of the
 18 TSDB information such that whether individuals
 19 have matched the watchlist.
 20 There may also be other offices on a
 21 case-by-case basis, depending on what their
 22 function is, that may need to know for a specific

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1 case.
 2 So it's hard to describe all of them,
 3 but --
 4 BY MS. HOMER:
 5 Q Do you have any estimate of the total
 6 number of employees at the TSA who have access to
 7 TSDB information above and beyond the 400 Secure
 8 Flight analysts you mentioned earlier today?
 9 **A So there are also an additional, something**
 10 **like, 428 that also have, I would say, indirect**
 11 **access. It could be certain individuals in the**
 12 **Secure Flight program or our Office of**
 13 **Intelligence and Analysis who may need to perform**
 14 **specific reporting functions or running, whether**
 15 **it's in our IT database administrator functions,**
 16 **as well as those individuals I mentioned of if the**
 17 **certain airports, there's an encounter of a**
 18 **watchlist match that may be transiting through**
 19 **their airport, those individuals.**
 20 **The federal security directors and their**
 21 **staff with the need to know would also know.**
 22 Q Does the TSA ever share TSDB information

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1 with state or local governments?
 2 MS. KONKOLY: Objection insofar as that
 3 calls for anything protected by law enforcement
 4 privilege or SSI.
 5 You can answer, to the extent that you
 6 can.
 7 THE WITNESS: It would depend on the
 8 circumstance and whether they are authorized and
 9 need to know in performing out their functions,
 10 security functions.
 11 BY MS. HOMER:
 12 Q Does the TSA, as a matter of course,
 13 provide TSDB information to state or local
 14 governments?
 15 MS. KONKOLY: Objection; vague. Objection
 16 insofar as it calls for anything protected by law
 17 enforcement privilege or SSI.
 18 You can answer, to the extent that you
 19 can.
 20 THE WITNESS: So --
 21 Q That was vague. Hold on. Let me --
 22 **A Okay.**

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1 Q Let me correct it.
 2 Does the TSA share TSDB information
 3 automatically with state or local governments such
 4 as those that may be operating in the jurisdiction
 5 of an airport?
 6 MS. KONKOLY: Same objections: Vague and
 7 so far as it calls for anything protected by SSI
 8 or the law enforcement privilege.
 9 But you can answer, to the extent that you
 10 can.
 11 THE WITNESS: No.
 12 BY MS. HOMER:
 13 Q Does the TSD -- start over.
 14 Does the TSA share TSDB information with
 15 foreign governments operating foreign airports?
 16 MS. KONKOLY: Objection insofar as that
 17 calls for anything protected by the law
 18 enforcement privilege or SSI.
 19 You can answer, to the extent that you
 20 can.
 21 THE WITNESS: So as a matter of course or
 22 general purposes, we do not share with foreign

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1 partners; however, there may be certain instances
 2 or certain circumstances with -- for those with
 3 the -- again, the need to know, we may share
 4 case-specific individual information.
 5 BY MS. HOMER:
 6 Q Does the TSA share TSDB information with
 7 any private government contractors pursuant to
 8 those contractors' duties?
 9 MS. KONKOLY: Objection; vague. Objection
 10 insofar as the answer calls for anything protected
 11 by the law enforcement privilege or SSI.
 12 But you can answer, to the extent that you
 13 can.
 14 THE WITNESS: Does TSA provide it to TSA
 15 private government contractors? There may be
 16 individuals, as I mentioned before, that have
 17 the -- may have indirect access, so, yes. For the
 18 reporting or the IT database administration are
 19 some examples.
 20 Q What government contractors are
 21 responsible for performing IT database
 22 administration on the Secure Flight system?

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1 MS. KONKOLY: Objection; scope.
 2 You can answer, to the extent that you
 3 can.
 4 THE WITNESS: We have Secure Flight
 5 contractors under the Secure Flight program to
 6 facilitate just the management of the system
 7 itself.
 8 BY MS. HOMER:
 9 Q Do you know the names of any of those
 10 contractors? Names as in the company names.
 11 MS. KONKOLY: Objection as to scope.
 12 You a can answer, if you know.
 13 THE WITNESS: So the primary ITs, we have
 14 IBM, as our development contractor, and InfoZen.
 15 Q And does the TSA have written contracts
 16 with IBM and InfoZen regarding the confidentiality
 17 of any information they may come into contact with
 18 during their work on the Secure Flight system?
 19 MS. KONKOLY: Objection as to scope, and
 20 vague.
 21 But you can answer, if you know.
 22 THE WITNESS: Yes, as in the contract they

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1 are also bound with the appropriate handling
 2 sensitive secure information and sensitive
 3 personally-identifying information, so yes.
 4 BY MS. HOMER:
 5 Q Do the contracts for IBM and InfoZen
 6 specifically mention that they may come into
 7 contact with TSDB information?
 8 MS. KONKOLY: Objection as to scope.
 9 Objection; vague, insofar as it calls for anything
 10 protected by SSI or the law enforcement privilege.
 11 But you can answer, to the extent that you
 12 can.
 13 THE WITNESS: So to the extent that the
 14 contract describes the duties and the requirements
 15 of the Secure Flight systems, yes, the contract
 16 would reference -- I don't know explicitly, and
 17 there's also acquisition-sensitive information of
 18 what's in the contract, but to the extent that the
 19 Secure Flight program's scope and mission are
 20 described in there, yes.
 21 Q Does the contracts that the TSA has with
 22 IBM and InfoZen contain an express limitation on

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1 further dissemination of sensitive information?
 2 MS. KONKOLY: Objection as to scope and
 3 vagueness.
 4 You can answer, if you know.
 5 THE WITNESS: Yes. I mean, it has clauses
 6 regarding protecting, securing, and handling
 7 security-sensitive information.
 8 BY MS. HOMER:
 9 Q Does the TSA share TSDB information with
 10 any private corporate providers of background
 11 checks?
 12 MS. KONKOLY: Objection; vague.
 13 THE WITNESS: So TSA does not generally
 14 just share with private corporations conducting
 15 background checks. If -- yeah.
 16 Q Do private airlines receive access to the
 17 Secure Flight database?
 18 MS. KONKOLY: Objection; vague. Objection
 19 insofar as that calls for anything protected by
 20 SSI or the law enforcement privilege.
 21 But you can answer, to the extent that you
 22 can.

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1 THE WITNESS: Yes, airlines that are
 2 regulated by TSA for specific TSA requirements do
 3 receive an -- a subset or a portion of TSA's
 4 export of the TSDB or Secure Flight watchlist
 5 information.
 6 BY MS. HOMER:
 7 Q What is the Secure Flight subset of
 8 information that private airlines which are
 9 regulated by the TSA have access to?
 10 MS. KONKOLY: Objection insofar as it
 11 calls for anything protected by SSI or the law
 12 enforcement privilege.
 13 But you can answer, to the extent that you
 14 can.
 15 THE WITNESS: So the same export -- so not
 16 the actual TSDB information, but the individuals
 17 or the names that are on the export of Secure --
 18 TSDB export for Secure Flight watchlist matching
 19 purposes is also shared with covered airlines for
 20 them to carry out certain requirements under TSA
 21 regulations.
 22 It's not for passenger matching, but

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1 Secure Flight does for --
 2 BY MS. HOMER:
 3 Q Okay.
 4 **A Yeah.**
 5 Q So are private airlines given a copy of
 6 the export of the TSDB that the TSA receives?
 7 MS. KONKOLY: Objection; vague. Objection
 8 insofar as that calls for anything protected by
 9 SSI or the law enforcement privilege.
 10 But you can answer, to the extent that you
 11 can.
 12 THE WITNESS: So not an exact copy. They
 13 receive the associated watchlist information for
 14 them to perform matching for those employees that
 15 may be accessing sensitive information. So their
 16 employees that may be accessing sensitive
 17 information.
 18 So they are not getting the full copy that
 19 TSA receives; however, they have sufficient
 20 information to conduct the name matching against
 21 their personnel who may be accessing sensitive
 22 information.

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1 Q What, I guess, job descriptions of private
 2 airline employees are given access to TSDB
 3 information provided by the TSA?
 4 MS. KONKOLY: Objection; vague.
 5 THE WITNESS: So I can't speak to their
 6 job descriptions, but those authorized
 7 representatives from the airlines who are
 8 responsible for conducting the watchlist matching
 9 for their employees that are accessing sensitive
 10 information, those are the individuals from the
 11 airlines that are authorized to receive the export
 12 information.
 13 BY MS. HOMER:
 14 Q Who determines that a private airline
 15 employee is an authorized representative who can
 16 access TSDB information?
 17 MS. KONKOLY: Objection; vague.
 18 THE WITNESS: So at a high level, the
 19 airlines that are required to perform this
 20 matching submit to TSA an application of -- for
 21 the user to be able to receive access. TSA will
 22 review and approve whether that person has access

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1 or not.
 2 BY MS. HOMER:
 3 Q At a high level, what is the TSDB matching
 4 function that the private airlines you just
 5 mentioned are performing?
 6 MS. KONKOLY: Objection; vague.
 7 THE WITNESS: So at a high level, there
 8 are employees -- let's say, corporate employees --
 9 that are not otherwise screened or vetted by TSA
 10 that may be access -- have access to sensitive
 11 information, and the airlines are required to
 12 ensure that employees with access to sensitive
 13 information do not match the watchlist.
 14 Q What is the Computer-Assisted Passenger
 15 Prescreening System? Abbreviated as CAPPS.
 16 **A Yeah. So at a high level, I believe that**
 17 **is an airline's related system. The -- I'm not as**
 18 **familiar -- I mean, airlines-managed system**
 19 **related to their passengers that -- I mean, I**
 20 **can't speak further.**
 21 Q Is that the airline system you had in mind
 22 that is conducting matching regarding passengers

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1 in the TSDB?
 2 MS. KONKOLY: Objection; vague. And
 3 objection as to scope.
 4 You can answer, if you know.
 5 THE WITNESS: So when we were just talking
 6 about airlines being required to confirm that
 7 against -- that none of their employees who have
 8 access to sensitive information are on -- are
 9 matches to the watchlist, no, I was not talking
 10 about CAPPS, which is a passenger -- airline's
 11 passenger systems.
 12 BY MS. HOMER:
 13 Q What is the name of the airline system you
 14 were talking about?
 15 MS. KONKOLY: Objection; scope.
 16 If you know, you can answer.
 17 THE WITNESS: I don't know. Every airline
 18 will probably have different names. It's -- their
 19 requirement is to ensure that employees that have
 20 access to sensitive information are not matches to
 21 the watchlist.
 22 Q Does the TSA issue criteria that airline

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1 employees must meet in order to be granted access
2 to TSDB information?
3 **A Does the -- I'm sorry. Say that again.**
4 **Does the --**
5 Q Does the TSA issue criteria that airline
6 employees must meet before they can be granted
7 access to TSDB information?
8 **A So TSA does, in its requirements, state --**
9 **it's not so much the criteria for them to access**
10 **the TSDB so much as TSA issues requirements to the**
11 **airlines of what security functions they must do.**
12 **TSA is the one that reviews the**
13 **applications for those individuals being granted**
14 **access to the export of the TSDB to perform the**
15 **matching for employees with access to sensitive**
16 **information.**
17 **I'm just trying to make sure I'm --**
18 Q What --
19 **A -- understanding your question.**
20 Q What information does the TSA require
21 airline employees to submit to the TSA in order
22 for those airline employees to be granted access

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1 to TSDB information?
2 MS. KONKOLY: Objection as to scope.
3 Objection; vague.
4 You can answer, if you know.
5 THE WITNESS: So at a high level, it would
6 be the individual's information, like, who they
7 are, what their functions are, and their -- the
8 security functions to justify why they should be
9 authorized to have access.
10 BY MS. HOMER:
11 Q Before the TSA approves the application of
12 an airline employee to access TSDB data, does the
13 TSA confirm that that airline employee is not
14 themselves on the watchlist?
15 MS. KONKOLY: Objection; vague. Objection
16 as to scope.
17 You can answer, if you know.
18 THE WITNESS: So part of the authorization
19 process is to confirm whether the individual can
20 secure the information and is authorized to have
21 access.
22 I can't really get into, like, all the

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1 checks or -- in order to provide the
2 authorization, but so --
3 BY MS. HOMER:
4 Q Can a --
5 **A -- I don't know.**
6 Q Yeah. Can an airline employee receive
7 access to the TSDB if that airline employee is a
8 known or suspected terrorist?
9 MS. KONKOLY: Objection; vague. Objection
10 as to scope. Objection insofar as the answer
11 calls for anything protected by SSI or law
12 enforcement privilege.
13 But you can answer, to the extent that you
14 can.
15 THE WITNESS: To the extent -- TSA will
16 ensure that individuals who have been authorized
17 access meet TSA's criteria for being granted the
18 access. I --
19 Q Is --
20 **A -- can't really give a direct answer of**
21 **wether they're --**
22 Q Is whether or not an airline employee is

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1 listed on the TSDB one factor the TSA considers in
2 determining whether or not that airline employee
3 is eligible to receive access to the TSDB?
4 MS. KONKOLY: Objection as to scope.
5 Objection; vague. Objection insofar as the
6 question calls for any information protected by
7 SSI or the law enforcement privilege.
8 But you can answer, to the extent that you
9 can.
10 THE WITNESS: So to the extent that to say
11 we'll look at multiple factors and the -- whether
12 they are under our covered requirements in
13 authorizing to know, to say we'll take that all
14 into account.
15 BY MS. HOMER:
16 Q Does the TSA permit -- does the TSA
17 authorize any individual to access the TSDB if
18 that person is listed on the TSDB?
19 MS. KONKOLY: Objection; vague. Objection
20 as to scope. Objection insofar as the question
21 calls for anything protected by SSI or the law
22 enforcement privilege.

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1 But you can answer, to the extent that you
2 can.
3 THE WITNESS: So because you said
4 "anyone," so to the extent we are sharing related
5 TSDB information, it would really depend on who
6 the party is in terms of -- so the question is
7 does TSA confirm anyone who's accessing the TSDB
8 is a known or suspected terrorist? I'm just
9 trying to make sure I heard the --
10 BY MS. HOMER:
11 Q Yes. That's the question.
12 MS. KONKOLY: Same objections.
13 But you can answer, to the extent that you
14 can.
15 THE WITNESS: So to the extent where we
16 are providing direct access, say, to the systems,
17 TSA is performing vetting to include the watchlist
18 matching to the extent that it -- depending on the
19 situation we are sharing with related law
20 enforcement or other related parties, the
21 assumption is that they are authorized and have
22 the need to know and -- by association. But I

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1 can't speculate on that --
2 BY MS. HOMER:
3 Q So in --
4 **A -- side of --**
5 Q So in the circumstance where the TSA
6 itself is directly providing airline employees
7 with access to the TSDB, the TSA is confirming
8 that that airline employee is not itself --
9 himself or herself on the TSDB?
10 MS. KONKOLY: Objection; mischaracterizes
11 prior testimony. Objection; potentially does --
12 potentially -- I'm sorry.
13 Objection; vague. Objection insofar as
14 that calls for anything protected by SSI or the
15 law enforcement privilege.
16 But you can answer.
17 THE WITNESS: So to the extent that we are
18 authorizing users to be able to access the export
19 of the TSDB for the airline employee matching, I
20 believe to the extent that we have the -- that
21 user information, I believe we are -- that is a
22 criteria as part of the authorization.

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1 Q Are airline employees who have access to
2 TSDB information given any access to the
3 underlying derogatory information to those names
4 listed on the TSDB?
5 **A Are any employees -- I'm sorry.**
6 MS. KONKOLY: Okay.
7 BY MS. HOMER:
8 Q Can you read back the question?
9 (Whereupon the record was read.)
10 MS. KONKOLY: I'll object as to vagueness.
11 But you can answer.
12 THE WITNESS: No. They are only, as
13 discussed before, given the export of the subset
14 just to perform the matching.
15 Q Are private airlines flying to the U.S.
16 from a foreign airport tasked with themselves
17 matching passenger itineraries to the TSDB?
18 MS. KONKOLY: Objection; vague.
19 THE WITNESS: So any airline employees in
20 foreign airports flying to the U.S.? So only
21 those U.S. carriers -- I believe it's the
22 airline -- carriers with access to sensitive

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1 information -- I'm sorry.
2 Was the question given access or vetted?
3 Sorry.
4 BY MS. HOMER:
5 Q Are they --
6 **A I didn't remember the question.**
7 Q -- responsible for --
8 **A Okay.**
9 Q -- screening TSDB information against
10 passengers?
11 MS. KONKOLY: Objection --
12 THE WITNESS: No.
13 MS. KONKOLY: -- vague.
14 THE WITNESS: I'm sorry. You said
15 screening information related to passengers? I'm
16 sorry. I'm just getting mixed up.
17 Q Yeah. Let me start over.
18 **A Okay.**
19 Q Let me start over.
20 What are the circumstances in which an
21 airline performs the matching of a passenger to
22 the TSDB rather than Secure Flight performing that

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269	<p>1 matching and returning a result to the airline?</p> <p>2 MS. KONKOLY: Objection; vague. Objection</p> <p>3 insofar as that calls for anything protecting --</p> <p>4 protected by law enforcement privilege or SSI.</p> <p>5 But you can answer, to the extent that you</p> <p>6 can.</p> <p>7 THE WITNESS: So airlines -- to your</p> <p>8 question of coming to the U.S., so covered by</p> <p>9 Secure Flight -- are not doing watchlist matching</p> <p>10 for passengers.</p> <p>11 BY MS. HOMER:</p> <p>12 Q Are there any other airlines, domestic or</p> <p>13 foreign, that are themselves performing the</p> <p>14 matches between the TSDB and the list of their</p> <p>15 passengers?</p> <p>16 MS. KONKOLY: Objection; vague. Objection</p> <p>17 as to scope. Objection insofar as that calls for</p> <p>18 information protected by law enforcement privilege</p> <p>19 or SSI.</p> <p>20 But you can answer, to the extent that you</p> <p>21 can.</p> <p>22 THE WITNESS: So, again, those airlines on</p>	271	<p>1 bathroom break. Five minutes.</p> <p>2 MS. HOMER: Okay.</p> <p>3 THE VIDEOGRAPHER: We're going off the</p> <p>4 record. The time is 4:04 p.m.</p> <p>5 (A recess was taken from 4:04 p.m. to 4:17</p> <p>6 p.m.)</p> <p>7 THE VIDEOGRAPHER: Here begins disk number</p> <p>8 four in the videotaped deposition of Hao-Y</p> <p>9 Froemling.</p> <p>10 The time on the video monitor is 4:17 p.m.</p> <p>11 We have been on the record or five hours and two</p> <p>12 minutes.</p> <p>13 BY MS. HOMER:</p> <p>14 Q Are private airlines with access to TSDB</p> <p>15 information given any ability to recommend</p> <p>16 additional nominations to the TSDB?</p> <p>17 MS. KONKOLY: Objection; vague. Objection</p> <p>18 insofar as that calls for anything protected by</p> <p>19 SSI or the law enforcement privilege.</p> <p>20 But you can answer, to the extent that you</p> <p>21 can.</p> <p>22 THE WITNESS: Generally, no.</p>
270	<p>1 flights covered by Secure Flight, so coming to the</p> <p>2 U.S., Secure Flight is performing the matching,</p> <p>3 not the airlines.</p> <p>4 BY MS. HOMER:</p> <p>5 Q Are there flights not covered by Secure</p> <p>6 Flight where airlines are themselves matching TSDB</p> <p>7 data to passengers' data?</p> <p>8 MS. KONKOLY: Same objections: Vague,</p> <p>9 scope, and so far as the answer calls for anything</p> <p>10 protected by law enforcement privilege or SSI.</p> <p>11 But you can answer.</p> <p>12 THE WITNESS: So to the extent if it's</p> <p>13 information -- TSDB export information provided by</p> <p>14 TSA, no.</p> <p>15 To the extent if there are somehow other</p> <p>16 airlines, for whatever other reasons have it,</p> <p>17 that's not something that TSA can answer.</p> <p>18 MS. KONKOLY: Could we take a break</p> <p>19 sometime soon?</p> <p>20 MS. HOMER: Sure. Now is fine.</p> <p>21 MS. KONKOLY: Now is good for us, if that</p> <p>22 works for you. I think we just need maybe a quick</p>	272	<p>1 Q Are airline pilots informed when a</p> <p>2 specific passenger on their flight is on the TSDB?</p> <p>3 MS. KONKOLY: Objection, vague. Objection</p> <p>4 insofar as it calls for anything protected by SSI</p> <p>5 or the law enforcement privilege.</p> <p>6 But you can answer, to the extent that you</p> <p>7 can.</p> <p>8 THE WITNESS: No.</p> <p>9 BY MS. HOMER:</p> <p>10 Q Are private airlines generally informed</p> <p>11 whenever a passenger who is on the TSDB is present</p> <p>12 on one of their flights?</p> <p>13 MS. KONKOLY: Objection; vague. Objection</p> <p>14 insofar as that calls for anything protected by</p> <p>15 SSI or the law enforcement privilege.</p> <p>16 But you can answer, to the extent that you</p> <p>17 can.</p> <p>18 THE WITNESS: No.</p> <p>19 Q When gate agents for a private airline</p> <p>20 check in a passenger, are they provided with any</p> <p>21 information about whether that passenger is on the</p> <p>22 TSDB?</p>

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<p style="text-align: right;">273</p> <p>1 MS. KONKOLY: Objection; vague. Objection 2 insofar as that calls for anything protected by 3 SSI or the law enforcement privilege. 4 But you can answer, to the extent that you 5 can. 6 THE WITNESS: No. 7 BY MS. HOMER: 8 Q A private airline employee who checks in a 9 passenger who is on the TSDB is able to see the 10 SSSS designation on a boarding pass; correct? 11 A Yes. 12 Q But that SSSS designation does not 13 necessarily mean that the individual is on the 14 TSDB? 15 A That is correct. 16 Q Okay. 17 Has the TSA ever subjected a child under 18 the age of five to enhanced screening? 19 MS. KONKOLY: Objection insofar as that 20 calls for information protected by SSI or the law 21 enforcement privilege. 22 You can answer, to the extent that you</p>	<p style="text-align: right;">275</p> <p>1 information? I don't know. I would -- well, to 2 the extent of which one, I don't know. 3 BY MS. HOMER: 4 Q Would improper disclosure of TSDB 5 information be a basis for a TSA employee to be 6 disciplined? 7 MS. KONKOLY: Objection; vague. 8 THE WITNESS: Generally speaking, yes. 9 Q Has any TSA employee ever been disciplined 10 for improperly screening a TSDB listee? 11 MS. KONKOLY: Objection as to scope. 12 Objection; vague. 13 THE WITNESS: I know that TSA has 14 disciplinary procedures for the full -- not 15 carrying out screening procedures, but I don't 16 know that I can answer specific for Selectees. 17 Q Does the TSA track the number of times 18 that TSA employees failed to screen a TSDB listee 19 at the appropriate level of screening for that 20 listee? 21 MS. KONKOLY: Objection; vague. Objection 22 as to scope. Objection insofar as it calls for</p>
<p style="text-align: right;">274</p> <p>1 can. 2 THE WITNESS: So I would refer to the 3 prior testimony to the extent of any passenger 4 that's designated for enhanced security screening, 5 TSA will conduct its enhanced screening procedures 6 overall, like, protocols. 7 BY MS. HOMER: 8 Q And there are passengers under the age of 9 five who have been designated for advanced -- 10 enhanced security screenings? 11 MS. KONKOLY: Objection; mischaracterizes 12 prior testimony. Objection; calls for information 13 protected by SSI, the law enforcement privilege. 14 Also, asked and answered. 15 I will instruct the Witness not to answer 16 that one. 17 THE WITNESS: Okay. 18 Q Has any TSA employee ever been disciplined 19 for improper disclosure of TSDB information? 20 MS. KONKOLY: Objection; vague. 21 THE WITNESS: I don't know. I don't 22 believe so. Improper disclosure of TSDB</p>	<p style="text-align: right;">276</p> <p>1 anything protected by SSI or the law enforcement 2 privilege. 3 But you can answer, to the extent that you 4 can. 5 THE WITNESS: So at a high level, we do 6 have that -- we do record if there are cases where 7 individuals may have been improperly screened. 8 BY MS. HOMER: 9 Q Has a travel companion of someone 10 subjected to enhanced screening ever been 11 themselves subjected to enhanced screening? 12 MS. KONKOLY: Objection. That calls for 13 information protected by SSI and the law 14 enforcement privilege. 15 I will instruct the Witness not to answer. 16 Q Has the TSA ever revoked an airline 17 employee's access to the TSDB based on their 18 improper disclosure of TSDB information? 19 MS. KONKOLY: Objection; scope. 20 Objection; vague. 21 THE WITNESS: Not that I'm aware of. 22 Q Has --</p>

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1 **A More to -- just to clarify: We have not**
 2 **identified cases where an airline employee's**
 3 **improperly disclosing, which would require us to**
 4 **then revoke.**
 5 Q Has the TSA ever revoked an airline
 6 employee's access to the TSDB on the basis that
 7 that airline employee is themselves listed in the
 8 TSDB?
 9 MS. KONKOLY: Objection; vague. Objection
 10 insofar as it calls for anything protected by SSI
 11 or law enforcement-sensitive information.
 12 You can answer, to the extent that you
 13 can.
 14 THE WITNESS: No. I think that those
 15 situations would be SSI.
 16 Q So you're not going to answer on the
 17 basis --
 18 **A So I cannot answer.**
 19 Q Okay.
 20 Has the TSA ever revoked somebody's TWIC
 21 card on the basis that they are now listed in the
 22 TSDB?

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1 MS. KONKOLY: I'm going to object as to
 2 scope; vague. Going to object insofar as it calls
 3 for anything protected by SSI and law
 4 enforcement-privileged information.
 5 You can answer, to the extent that you
 6 know.
 7 THE WITNESS: So to the extent -- again,
 8 for TWIC security threat assessments, we use the
 9 TSDB as a pointer, but we have multiple criteria
 10 to identify eligibility for being issued or
 11 maintaining their credential.
 12 So, yes, there have been instances where
 13 the information of an individual being on a TSDB
 14 has led to a broader security threat assessment
 15 review to determine that the TWIC should be
 16 revoked.
 17 BY MS. HOMER:
 18 Q Is it possible for an individual to
 19 maintain their TWIC card even though they are
 20 listed on the TSDB?
 21 MS. KONKOLY: Objection insofar as that
 22 information -- that question calls for information

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1 protected by SSI or the law enforcement privilege.
 2 THE WITNESS: I can't answer that --
 3 MS. KONKOLY: I will instruct you not to
 4 answer that one.
 5 THE WITNESS: -- it's SSI.
 6 BY MS. HOMER:
 7 Q Has a TSA employee with access to the TSDB
 8 ever been identified as themselves being on the
 9 TSDB?
 10 MS. KONKOLY: Objection; scope.
 11 You can answer, if you know.
 12 THE WITNESS: I think it's SSI. I mean --
 13 Q So you're not going to answer on that
 14 basis?
 15 **A Right. I don't think I can answer that.**
 16 Q Okay.
 17 I want to talk about the TSDB's role in
 18 nominating persons to -- sorry.
 19 I want to talk about the TSA's role in
 20 nominating persons to the TSDB. Does the TSA
 21 submit nominations to the TSDB?
 22 MS. KONKOLY: Objection; asked and

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1 answered.
 2 THE WITNESS: Yes.
 3 BY MS. HOMER:
 4 Q Does the TSA have the ability to approve
 5 nominations to the TSDB?
 6 MS. KONKOLY: Objection; asked and
 7 answered.
 8 THE WITNESS: So TSA submits nominations
 9 to the TSDB. As discussed earlier, there is a
 10 multiple agency review process for names that are
 11 entered on the TSDB.
 12 Q Does the TSC exercise ultimate approval of
 13 the nominations the TSA submits to the TSDB?
 14 MS. KONKOLY: Objection; asked and
 15 answered.
 16 THE WITNESS: Right. As stated
 17 previously, it's a multiple agency review and
 18 approval process for what goes on the TSDB.
 19 Q Who is the -- I guess, what agency has the
 20 final authority to click "accept" such that
 21 somebody gets added to the TSDB?
 22 MS. KONKOLY: Objection as to scope.

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1 Objection insofar as that calls for information
 2 outside of the purview of the TSA. Objection;
 3 vague.
 4 You can answer.
 5 THE WITNESS: So in terms of which agency
 6 would actually be doing the database, effectively,
 7 addition, it is the TSC that is the steward of the
 8 actual TSDB.
 9 Different from the question of who has
 10 ultimate approval authority, which was answered
 11 previously.
 12 BY MS. HOMER:
 13 Q Does the TSA ever come into contact with
 14 information about individuals on the TSDB that
 15 undermines that individual's basis for inclusion
 16 on the TSDB?
 17 MS. KONKOLY: Objection; vague. Objection
 18 as to scope.
 19 You can answer.
 20 THE WITNESS: So I'm trying to understand
 21 what you mean by "undermine."
 22 Q Let's see if I can clarify. Does the TSA

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1 ever come into contact with information about
 2 individuals on the TSDB that mitigates the
 3 derogatory information about that person such
 4 that, in the TSA's view, the individual should no
 5 longer be on the TSDB?
 6 MS. KONKOLY: Objection; vague. Objection
 7 as to scope.
 8 You can answer, if you can.
 9 THE WITNESS: So I will answer more
 10 broadly of the TSA can make nominations for -- to
 11 the watchlist, as well as provide updated
 12 information to be included in the watchlisting and
 13 review process.
 14 So that --
 15 BY MS. HOMER:
 16 Q And does the TSA provide updated
 17 information about individuals on the TSDB to the
 18 TSC on a regular basis?
 19 **A We -- I wouldn't say "regular." It**
 20 **would -- when TSA has information that meets the**
 21 **criteria or threshold for watchlist nominations or**
 22 **updates, TSA will do so.**

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1 **So it's not a timed regular frequency. It**
 2 **is when we have information, then we will do so.**
 3 Q Does the TSA ever recommend that
 4 individuals should be removed from the TSDB?
 5 MS. KONKOLY: Objection; vague.
 6 THE WITNESS: So back to the previous
 7 response is if TSA has updated or new information,
 8 TSA will provide it via the watchlisting
 9 nomination update process.
 10 Q And on occasion, that updated information
 11 is information that would warrant the removal of
 12 that person from the TSDB?
 13 MS. KONKOLY: Objection; mischaracterizes
 14 prior testimony. Objection; vague. Objection
 15 insofar as it calls for anything protected by law
 16 enforcement privilege or SSI.
 17 But you can answer, to the extent that you
 18 can.
 19 THE WITNESS: I can answer to the extent
 20 that information that TSA has provided has
 21 generated updates to the TSDB.
 22 Q Does the TSA itself have any ability to

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1 unilaterally remove individuals from the TSDB?
 2 MS. KONKOLY: Objection; vague.
 3 THE WITNESS: So as stated previously, TSA
 4 is part -- the watchlist or TSDB update, watchlist
 5 update, is part of a multi-agency review, so TSA
 6 does not unilaterally make updates to the TSDB.
 7 BY MS. HOMER:
 8 Q If the TSA had itself nominated an
 9 individual for inclusion in the TSDB, and the TSA
 10 later determines that that individual should not
 11 be in the TSDB, does the removal, in that
 12 circumstance, still need to go through the
 13 multi-agency review process you just described?
 14 MS. KONKOLY: Objection; vague.
 15 Objection; misleading.
 16 You can answer.
 17 THE WITNESS: So TSA, for the disposition
 18 of the TSDB, follows the watchlisting guidance for
 19 submissions for updates to the TSDB. That is the
 20 process that TSA follows.
 21 Q What is the role of the TSA administrator
 22 in removing persons from the TSDB?

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1 MS. KONKOLY: Objection; vague.
 2 Objection; potentially calls for a legal
 3 conclusion. Objection as to scope.
 4 You can answer, if you can.
 5 THE WITNESS: Right. So to be very clear:
 6 The administrator has authority over the
 7 transportation security and the appropriate
 8 measures for screening of passengers as it relates
 9 to -- and decisions related to transportation
 10 aviation security, so related to passengers
 11 boarding commercial aircraft.
 12 The TSDB is a broader federal government
 13 watchlist with multiagency oversight. So to that
 14 extent, TSA is a participant of part of that
 15 multi-agency review, nomination process.
 16 BY MS. HOMER:
 17 Q Is the TSA administrator's approval one of
 18 the approvals that is required before an
 19 individual can be removed from the TSDB?
 20 **A So it's -- no. As I stated previously**
 21 **that it is a multi-agency process. If TSA has**
 22 **submitted updates, nominations, to the watchlist,**

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1 **it will go through that governance and review**
 2 **process.**
 3 **The TSA administrator, his direct approval**
 4 **for each of those is not required. His domain and**
 5 **authority, however, is ultimately how are the**
 6 **individuals -- what security measures are to take**
 7 **place for the level of screening as it pertains to**
 8 **transportation security.**
 9 Q Is the TSA administrator's approval
 10 required before an individual can be removed from
 11 the Selectee List?
 12 MS. KONKOLY: Objection; calls for a legal
 13 conclusion.
 14 THE WITNESS: I would say --
 15 MS. KONKOLY: Objection; scope.
 16 You can answer, if you know.
 17 THE WITNESS: The answer is the same as I
 18 stated before: As it pertains to the TSDB, which
 19 is a broader watchlist database, if you will, the
 20 TSA administrator has authority over what
 21 screening and security procedures are taking
 22 place.

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1 TSA is part of the discussions of the
 2 overall watchlist, and if we make nominations and
 3 updates, it does not require that TSA -- his
 4 approval on every individual case for those
 5 watchlist update nominations to be submitted for
 6 the broader review of the TSDB.
 7 BY MS. HOMER:
 8 Q Is the TSA administrator's approval
 9 required on all removals from the TSDB that are
 10 the product of the DHS TRIP redress report
 11 process?
 12 MS. KONKOLY: I'm going to object as to
 13 scope of the topics that are properly the subject
 14 of this deposition. Also, calls for a legal
 15 conclusion. I'll allow this line of questioning
 16 for a little while.
 17 You can answer, if you know.
 18 THE WITNESS: I can't speak as the expert
 19 on the DHS TRIP and its process.
 20 Your question was is the TSA
 21 administrator's approval required for removal from
 22 the TSDB for those that have been cleared by TRIP?

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1 Q Yes.
 2 **A So, again, to the same extent discussed**
 3 **before, TSA submits nominations and updates to the**
 4 **watchlist through the watchlist nomination**
 5 **process. The TSA administrator's approval for**
 6 **every specific case or submission is not required.**
 7 **As it relates to DHS TRIP, I don't --**
 8 **BY MS. HOMER:**
 9 Q What is the --
 10 **A -- know the answer.**
 11 MS. KONKOLY: Wait. Let's just make sure
 12 that is clear on the record.
 13 THE WITNESS: Okay.
 14 MS. KONKOLY: Can you just state your last
 15 sentence so we've got a clear --
 16 THE WITNESS: As it relates to --
 17 MS. KONKOLY: -- transcript?
 18 THE WITNESS: -- DHS TRIP cases, I do not
 19 know the answer.
 20 Q What is the TSA's involvement in the DHS
 21 TRIP redress process, generally?
 22 MS. KONKOLY: Objection as to scope of the

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1 subjects that are properly subject of this
2 deposition. Objection; vague. Objection
3 potentially calls for a legal conclusion.
4 You can answer as to your understanding,
5 if you have one.
6 THE WITNESS: So TSA, to the extent if
7 there are cases that DHS TRIP is reviewing, they
8 may come to TSA and ask for additional information
9 to perform their review of a case. So TSA
10 provides associated information that it may have.
11 BY MS. HOMER:
12 Q If an individual complains to the TSA
13 about the screening they received, does the TSA
14 refer those incidents to DHS TRIP?
15 MS. KONKOLY: Objection as to scope.
16 Objection; vague.
17 You can answer as to your knowledge.
18 I'd note that there was a separate
19 deposition as to the DHS TRIP program.
20 THE WITNESS: Okay.
21 MS. KONKOLY: So you can answer as to your
22 understanding for now.

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1 THE WITNESS: I think it would -- my
2 understanding is it depends on the situation and
3 the nature of the complaint.
4 BY MS. HOMER:
5 Q And what sorts of complaints does the TSA
6 refer to DHS TRIP?
7 MS. KONKOLY: Objection; vague. Objection
8 as to scope.
9 You can answer, if you know.
10 THE WITNESS: I don't know which specific
11 ones. If it's -- I don't know. I think I'd have
12 to go back and confirm.
13 Q Approximately how many airports are there
14 in the United States?
15 MS. KONKOLY: Objection; scope.
16 THE WITNESS: So those that are regulated
17 and defined as regulated commercial airports, it's
18 over 4 -- it's about 400 or so. I don't know --
19 Q Are there airports --
20 **A -- the exact number.**
21 Q Are there airports in the United States
22 which are not regulated commercial airports?

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1 MS. KONKOLY: Objection as to scope.
2 THE WITNESS: Yes.
3 BY MS. HOMER:
4 Q What role does the TSA play in the
5 regulation of the airports which are not regulated
6 commercial airports?
7 MS. KONKOLY: I would just object that
8 this seems to be pretty far afield of the scope of
9 the topics approved for today's deposition. I'm
10 not sure where this is going.
11 I'll allow the Witness to answer, if she
12 knows, but not too much further.
13 THE WITNESS: So generally speaking, TSA
14 may regulate aircraft operators operating at
15 unregulated airports.
16 Q Does --
17 **A -- if they -- yeah. Not all, but to**
18 **certain -- there are certain programs that TSA**
19 **regulates of aircraft operators that may be**
20 **operating at unregulated airports.**
21 Q Does the TSA use Secure Flight data to
22 match passengers on airplanes at unregulated

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1 airports to the TSDB?
2 MS. KONKOLY: Objection; vague. Objection
3 as to scope.
4 You can answer, if you know.
5 Objection insofar as the question might
6 call for information protected by SSI or the law
7 enforcement privilege as well.
8 THE WITNESS: So Secure Flight's scope
9 relates to the commercial aircrafts that are
10 flying within Secure Flight's scope that we
11 discussed -- into, out of, over -- so in as far
12 if -- I'm trying to -- because we're talking about
13 the non-regulated airports, how best to answer
14 that Secure Flight's scope is about passengers on
15 commercial aircraft into, out of, over.
16 I don't know to the extent if there are
17 any commercial aircraft operating at non-regulated
18 airports. To the extent what I spoke of for TSA
19 regulations on aircraft operators, at
20 non-regulated airports, they are more typically
21 your noncommercial aircraft. So there's no clean
22 answer --

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1 Q And are you okay --

2 **A -- on that.**

3 Q -- if I call the noncommercial aircraft,

4 you know, private airport for right now?

5 **A We typically --**

6 Q Or is there a better --

7 **A -- refer to them as general aviation,**

8 **recognizing that there are subgroups within that**

9 **depending on the regulation. Sorry.**

10 Q I just remembered I saw the term general

11 aviation at the Air and Space Museum.

12 **A Yeah.**

13 Q Okay.

14 Does the TSA undertake any measures

15 related to general aviation to ensure that

16 individuals listed on the TSDB are subject to

17 enhanced screening prior to boarding general

18 aviation aircraft?

19 MS. KONKOLY: Objection insofar as that

20 question calls for any information protected by

21 SSI or the law enforcement privilege.

22 But you can answer, to the extent that you

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1 can.

2 THE WITNESS: So TSA does have certain --

3 regulations over certain general aviation aircraft

4 operators that do require screening of passengers

5 at those non-regulated airports.

6 However, that process is not via Secure

7 Flight, and TSA is not performing passenger

8 screening at those non-regulated airports.

9 BY MS. HOMER:

10 Q What TSA processes at non-regulated

11 airports do exist to screen passengers at

12 non-regulated airports against the TSDB?

13 MS. KONKOLY: Objection insofar as that

14 calls for any information protected by SSI or the

15 law enforcement privilege.

16 You can answer, to the extent that you

17 can.

18 THE WITNESS: So TSA does perform

19 watchlist matching for those aircraft operators,

20 pilots, crew, that are operating in those general

21 aviation-regulated programs.

22 Those general aviation aircraft operators

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1 for specific flights are required to perform

2 watchlist matching for those passengers. I guess,

3 like, private charter.

4 So this is a clarification to the earlier

5 discussion when we were talking about sharing of

6 the TSDB. We talked before of the commercial

7 airlines that have access for matching against the

8 watchlist for their airline employees who have

9 access to sensitive information.

10 For specific general aviation aircraft

11 operators, namely the aircraft operators of planes

12 that are 12,500 pounds or more or private

13 charters, they also vet it the same way and

14 receive access to confirm that their passengers

15 for those particular flights do not match the

16 watchlist.

17 BY MS. HOMER:

18 Q So commercially-operated aircraft at

19 non-regulated airports in, I believe you said,

20 excess of 12,500 pounds --

21 **A So --**

22 Q -- are screening their passengers against

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1 the TSDB internally?

2 **A So I would say --**

3 MS. KONKOLY: Objection; mischaracterizes

4 prior testimony.

5 THE WITNESS: Yeah.

6 MS. KONKOLY: Objection; vague.

7 THE WITNESS: Okay.

8 MS. KONKOLY: Objection insofar as that

9 calls for any information protected by SSI or the

10 law enforcement privilege.

11 But you can answer, to the extent you can.

12 THE WITNESS: Right. So this is the

13 differentiation between commercial airlines where

14 all the passenger vetting is conducted by Secure

15 Flight versus the general aviation aircraft

16 operators operating aircraft that are greater than

17 12,500 pounds.

18 We don't consider those commercial

19 aircraft operators. For those, they are

20 conducting the watchlist matching for passengers.

21 By MS. HOMER:

22 Q For general aviation operators operating

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1 aircraft that is less than 12,500 pounds, is any
2 matching of passengers against the TSDB performed?
3 MS. KONKOLY: Objection insofar as that
4 calls for information protected by SSI or the law
5 enforcement privilege.
6 You can answer, to the extent that you can
7 -- or -- I'm going -- I will instruct the Witness
8 not to answer --
9 THE WITNESS: Okay.
10 MS. KONKOLY: -- based on those
11 privileges. I'm sorry. I apologize for that
12 confusion, but I'm actually going to instruct
13 based on those privileges.
14 THE WITNESS: Okay.
15 BY MS. HOMER:
16 Q Are there individual -- is -- strike that.
17 Is there a circumstance in which
18 individuals on the No-Fly List can fly on general
19 aviation flights in the United States?
20 MS. KONKOLY: I am going to note that that
21 information is both outside of the scope of the
22 protective order entered by the court, which

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1 expressly excluded questions about the No-Fly
2 List, as well as calls for information protected
3 by SSI and the law enforcement privilege.
4 THE WITNESS: Should I answer?
5 MS. KONKOLY: Okay. I -- you can answer,
6 to the extent that you know.
7 THE WITNESS: I'm sorry. Could you repeat
8 the question? Because I forgot. Which aircraft
9 and which No -- No-Flys on which aircraft? I'm
10 sorry.
11 MS. KONKOLY: Okay. I'm sorry. Can
12 you -- maybe we can re-read the question?
13 MS. HOMER: Yeah.
14 THE WITNESS: Okay.
15 MS. KONKOLY: I'll issue my instructions
16 and objections --
17 MS. HOMER: Okay.
18 MS. KONKOLY: -- and we can just take it
19 from the top.
20 THE WITNESS: Okay.
21 (Whereupon the record was read.)
22 MS. KONKOLY: Okay. And I am going to

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1 again invoke the protective order, which excluded
2 questions as to the No-Fly List and the operation
3 thereof, as well as the law enforcement privilege,
4 and I am going to instruct the Witness not to
5 answer on the basis of those grounds.
6 THE WITNESS: Okay.
7 BY MS. HOMER:
8 Q Does the TSA operate any security
9 checkpoints at non-regulated airports?
10 MS. KONKOLY: Objection; vague. Objection
11 as to scope.
12 You can answer -- objection insofar as it
13 calls for any information protected by SSI or the
14 law enforcement privilege.
15 You can answer, to the extent that you
16 can.
17 THE WITNESS: Not as a normal operation,
18 no.
19 Q Do any private security screeners --
20 correction.
21 Does the TSA require non-regulated
22 airports to employ private security screeners for

300

1 passengers boarding flights at non-regulated
2 airports?
3 MS. KONKOLY: Objection insofar as that
4 calls for any information protected by SSI or the
5 law enforcement privilege. Objection; vague.
6 You can answer, to the extent that you
7 can.
8 THE WITNESS: No. The Screening
9 Partnership Program related to private security
10 screeners is -- are regulated airports.
11 BY MS. HOMER:
12 Q Are there non-regulated airports in the
13 United States which employ no pre-boarding
14 passenger screening measures?
15 MS. KONKOLY: Objection insofar as that
16 calls for any information protected by SSI or the
17 law enforcement privilege, and I will instruct the
18 Witness not to answer based on those privileges.
19 THE WITNESS: Okay.
20 Q Can individuals listed on the TSDB board
21 general aviation flights without having undergone
22 any passenger screening?

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1 MS. KONKOLY: Objection insofar as that
2 calls for any information based on SSI or
3 potentially law enforcement.
4 I will instruct the Witness not to answer
5 that question either.
6 BY MS. HOMER:
7 Q Does the TSA instruct its employees who
8 are conducting screenings to not profile persons
9 based on their race?
10 MS. KONKOLY: Objection; vague. Objection
11 as to scope of the topics for this deposition.
12 But you can answer, to the extent that you
13 can.
14 THE WITNESS: So TSA's training of all its
15 personnel is to ensure that we are not profiling
16 according to any ethnicity, race, all the
17 protected privacy and civil liberties reasons.
18 Q Has the TSA ever disciplined a TSA agent
19 conducting screenings for inappropriately
20 screening a person on the basis of a protected
21 civil liberty such as race? Religion?
22 MS. KONKOLY: I'm going to object as to

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1 scope. I'm going to object as to vagueness.
2 And also, insofar as it calls for any
3 information protected by the Privacy Act, I
4 instruct you not to provide any names, but you can
5 answer, to the extent that you can.
6 THE WITNESS: Over all, TSA does
7 discipline employees if they have not been
8 conducting appropriate screening measures per
9 their protocols, which would fall -- and which
10 would be -- violating privacy and civil rights
11 concerns, per our procedures.
12 BY MS. HOMER:
13 Q And does the TSA prepare reports of the
14 number of TSA agents who are disciplined for
15 violating civil rights per year?
16 MS. KONKOLY: Objection as to scope.
17 You can answer, if you know.
18 I would say this is pretty far outside of
19 the scope of the topics that the court approved
20 pursuant to its order last week, so I'll allow the
21 Witness to answer this question, but probably cut
22 this line off pretty soon.

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1 THE WITNESS: So to the extent that TSA
2 does record all its disciplinary -- when employees
3 have been disciplined for improper screening,
4 inappropriate screening, TSA does record all the
5 incidences of discipline. I -- yeah.
6 BY MS. HOMER:
7 Q Does the TSA store information about the
8 encounters it has with persons listed on the TSDB?
9 MS. KONKOLY: Objection; vague.
10 Objection; asked and answered.
11 THE WITNESS: Yes. So for matches as we
12 identify them as potential matches as encounters,
13 we do store the records.
14 Q How long does the TSA store encounter
15 information for?
16 **A I believe it's seven years for a potential**
17 **matches.**
18 Q If an individual generates -- let me -- if
19 the TSA has an encounter record with an individual
20 who is later determined to not be on the TSDB,
21 does the TSA retain a copy of that encounter
22 information?

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1 MS. KONKOLY: Objection; vague.
2 THE WITNESS: So the TSA stores its
3 encounter information for seven years, so to the
4 extent -- your question is do we store information
5 of individuals removed from the TSDB? Is that
6 your question?
7 BY MS. HOMER:
8 Q Yeah. So let me rephrase it --
9 **A Okay.**
10 Q -- this way: If, during the seven years
11 that the TSA is storing encounter information, the
12 person with whom the TSA had an encounter is
13 removed from the TSDB, does the TSA immediately
14 delete the encounter information it has?
15 **A No, as we are storing all encounter**
16 **information for seven years.**
17 Q Who at the TSA has access to prior
18 encounter information that the TSA has had with
19 persons listed in the TSDB?
20 MS. KONKOLY: Objection; vague. Objection
21 insofar as the answer would implicate anything
22 protected by SSI or the law enforcement privilege.

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1 You can answer, to the extent you know.
 2 THE WITNESS: So --
 3 MS. KONKOLY: Oh, let me just also add an
 4 objection based on the Privacy Act, so with an
 5 instruction not to divulge any individual employee
 6 names in the course of your answer.
 7 THE WITNESS: So at a high level, to the
 8 same of those individuals that have access to the
 9 TSDB information are the same individuals that are
 10 conducting our Secure Flight prescreening. And
 11 our intelligence analysts have access to the
 12 encounter information that we store.
 13 And then to the previously-provided
 14 response of if there's any reason for specific
 15 cases of encounters to be shared, it is the same
 16 individuals. If they had a need to know in
 17 carrying out their specific -- authorized need to
 18 know in carrying out their specific duties, they
 19 may have access.
 20 BY MS. HOMER:
 21 Q So as a matter of daily practice, the TSA
 22 employees who have access to prior TSA encounter

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1 data include the approximately 400 Secure Flight
 2 analysts we discussed earlier?
 3 A So --
 4 Q If that's incorrect, please correct me.
 5 A **Yeah. Yeah. It is not so much a matter**
 6 **of daily practice. So those individuals primarily**
 7 **are conducting matches for passengers that are**
 8 **planning to travel under Secure Flight scope.**
 9 **However, if there is information that they**
 10 **are required to access related to prior encounter**
 11 **information, they may, if it's related to their**
 12 **specific duties, whether that is intelligence**
 13 **analysts or -- yeah.**
 14 **It is not everybody is going and checking**
 15 **all prior encounter information.**
 16 Q Does the TSA have access to encounter
 17 information that other agencies have had with
 18 individuals on the TSDB?
 19 A **So to the extent if there is a need to**
 20 **know to carry out our information, and that it has**
 21 **been shared -- the example being the CB -- the**
 22 **Common Operating Picture where TSA and CBP are**

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1 **sharing information, we do have this ability into**
 2 **their encounters.**
 3 Q Does -- is the TS -- or are you aware of a
 4 TSC database called TSS?
 5 MS. KONKOLY: Objection as to scope.
 6 But you can answer, if you know.
 7 THE WITNESS: I -- no. I don't think I've
 8 heard of a database --
 9 Q Okay. Does the TSA have access to the
 10 details of all encounters with all persons on the
 11 TSDB that is maintained by the TSC?
 12 MS. KONKOLY: Objection as to scope. You
 13 can answer, if you know.
 14 THE WITNESS: Only if there was a specific
 15 need to know and the information was shared. TSA
 16 is not, part of its normal procedures, scanning
 17 all encounter information in the TSC.
 18 Q Does the TSA use encounter information it
 19 receives from other agencies as a basis for
 20 applying enhanced screening?
 21 MS. KONKOLY: Objection; vague. Objection
 22 insofar as that might call for anything protected

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1 by SSI or law enforcement privilege.
 2 You can answer, to the extent that you
 3 can.
 4 THE WITNESS: It -- so our primary basis
 5 for enhanced screening is, as what we discussed
 6 previously, related to our Secure Flight system
 7 providing watchlist matching or identifying
 8 passengers for high-risk for enhanced screening or
 9 randomly or whichever.
 10 Other agency encounter information could
 11 contribute to TSA's processes, but it is not the
 12 basis.
 13 BY MS. HOMER:
 14 Q How exactly -- let me delete the adverb
 15 exactly.
 16 How does the Secure Flight system match
 17 identifying information about individuals that it
 18 has from travel itineraries to the identifying
 19 information it has about individuals from the TSDB
 20 export?
 21 MS. KONKOLY: Objection insofar as that
 22 calls for information protected by SSI or the law

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1 enforcement privilege.
 2 You can answer, to the extent that you
 3 can.
 4 THE WITNESS: So we have the minimum
 5 required data that we receive related to
 6 passengers, and we have our export of the TSDB for
 7 the Secure Flight prescreening purposes. And we,
 8 to the extent we can, try to confirm a match.
 9 But to go into any more detail about how
 10 the match is conducted, I cannot provide that
 11 for -- due to SSI reasons.
 12 BY MS. HOMER:
 13 Q What is a confirmed match to the TSDB?
 14 MS. KONKOLY: Objection insofar as that
 15 calls for anything protected by SSI or the law
 16 enforcement privilege. You can answer to the
 17 extent that you can.
 18 THE WITNESS: At the high level, to the
 19 extent that we can confirm the information
 20 provided via the TSDB with the passenger
 21 information, we -- that's how we would confirm the
 22 match.

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1 I don't know how to go in -- without going
 2 into more detailed SSI of the confirmation.
 3 BY MS. HOMER:
 4 Q What is a potential match to the TSDB?
 5 MS. KONKOLY: Objection insofar as that
 6 calls for anything protected by SSI or the law
 7 enforcement privilege.
 8 You can answer, to the extent that you
 9 can.
 10 THE WITNESS: So, again, without going
 11 into SSI, to the extent we are conducting the
 12 matches between the two sources -- the passenger
 13 information and the export of the TSDB -- if we
 14 believe that there's a potential match, then we
 15 will also conduct procedures to confirm identity
 16 verification to a confirm that it is a match.
 17 I'm sorry. It's very high level without
 18 getting into SSI.
 19 Q What are the procedures the TSDB applies
 20 to determine whether or not a potential match is,
 21 in fact, a confirmed match to the TSDB?
 22 MS. KONKOLY: Objection insofar as that

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1 calls for anything protected by SSI or the law
 2 enforcement privilege. Also, objection on
 3 vagueness grounds.
 4 You can answer, to the extent that you
 5 can.
 6 THE WITNESS: To the extent of the
 7 available data that we have via the TSDB and the
 8 passenger information, we will compare the
 9 information to confirm the match.
 10 BY MS. HOMER:
 11 Q Does the TSA engage in a manual review of
 12 all potential matches to the TSDB in order to
 13 determine whether or not they are actual matches
 14 to the TSDB?
 15 MS. KONKOLY: Objection insofar as that
 16 calls for anything protected by SSI or the law
 17 enforcement privilege.
 18 You can answer, to the extent that you
 19 can.
 20 THE WITNESS: So again, for the potential
 21 matches, our analysts will perform a manual review
 22 comparing the information available from the

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1 watchlist as well as the available passenger
 2 information to confirm a match.
 3 BY MS. HOMER:
 4 Q During the process of reviewing matches,
 5 does the TSA add any comments or remarks
 6 describing the basis for the match --
 7 MS. KONKOLY: Objection --
 8 Q -- to --
 9 MS. KONKOLY: -- vague. Go ahead. Sorry.
 10 Q -- the records of the individual
 11 itinerary?
 12 MS. KONKOLY: Objection; vague. Objection
 13 insofar as that calls for anything protected by
 14 SSI or the law enforcement privilege.
 15 You can answer, to the extent that you
 16 can.
 17 THE WITNESS: So at a high level, during
 18 the manual review, an analyst -- the analyst may
 19 annotate on the record the information to
 20 whether -- confirm or -- confirm the individual
 21 was a match or not a match. So -- yes.
 22 Q Do the analysts ever annotate or flag a

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1 record as a potential mismatch?
 2 MS. KONKOLY: Objection; vague. Objection
 3 insofar as it calls for anything protected by SSI
 4 or the law enforcement privilege.
 5 But you can answer, to the extent that you
 6 can.
 7 THE WITNESS: So I would rephrase and
 8 point back to the prior response of for potential
 9 matches, the analyst will go through a series of
 10 just comparing the information to confirm the
 11 passenger that is set to travel is a match or not
 12 to the watchlist and would make an annotation of
 13 whether it was a confirmed match or not. I would
 14 not term it as a "mismatch."
 15 BY MS. HOMER:
 16 Q Does the TSA ever use the term
 17 "misidentification" to describe the result of its
 18 inquiry into whether a potential match to the TSDB
 19 was, in fact, a match to the TSDB?
 20 MS. KONKOLY: Objection; vague.
 21 THE WITNESS: Generally speaking, that is
 22 not a term that we use.

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1 Q What term does the TSDB [sic] use to
 2 indicate that a potential match, upon further
 3 review, is definitely not a match to the TSDB?
 4 MS. KONKOLY: Objection; vague.
 5 THE WITNESS: So TSA, in its review, the
 6 analyst, I believe, only annotates no match.
 7 BY MS. HOMER:
 8 Q No match?
 9 **A Right. I believe it's no match.**
 10 Q Does the TSA retain a list of individuals
 11 who are no match so that they will not be flagged
 12 by Secure Flight as potential matches in the
 13 future?
 14 MS. KONKOLY: Objection; vague. Objection
 15 insofar as that calls for information protected by
 16 SSI or the law enforcement privilege.
 17 You can answer, to the extent that you
 18 can.
 19 THE WITNESS: So TSA retains all potential
 20 matches; therefore, if then it was determined
 21 later, as part of that process, that they were a
 22 no match, the information is retained because it

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1 was in the potential match grouping.
 2 However, to the second portion of the
 3 question, for purposes of -- can you confirm the
 4 second part of the question?
 5 BY MS. HOMER:
 6 Q Does the TSA retain a list of no matches
 7 to ensure that the same name does not have to be
 8 re-reviewed in full as a potential match in the
 9 future?
 10 MS. KONKOLY: Objection; vague. Objection
 11 insofar as that question calls for anything
 12 protected by SSI or law enforcement privilege.
 13 You can answer, to the extent that you
 14 can.
 15 THE WITNESS: Without getting into further
 16 SSI of how TSA performs its matches, generally
 17 speaking, no, TSA does not create a separate no
 18 match list to then be compared again. If I
 19 understood the question correctly.
 20 Q Roughly what percentage of potential
 21 matches to the TSDB are ultimately determined by
 22 Secure Flight analysts to be no matches?

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1 MS. KONKOLY: Objection insofar as that
 2 calls for information protected by SSI or the law
 3 enforcement privilege.
 4 And, actually, on the basis of those
 5 privileges, I will instruct the Witness not to
 6 answer.
 7 BY MS. HOMER:
 8 Q Does the TSA calculate the percentage of
 9 potential matches which are ultimately determined
 10 to be no matches on an annual basis?
 11 **A No.**
 12 Q Could the TSA calculate the number
 13 amassed?
 14 **A It's -- yes. Data is there that TSA could**
 15 **try to calculate that.**
 16 Q Does the TSA prepare error reports
 17 regarding its matching systems to the TSDB?
 18 MS. KONKOLY: Vague. I'm sorry.
 19 Objection; vague. And I'll also object insofar as
 20 the question calls for any information protected
 21 by the SSI or law enforcement privileges.
 22 But you can answer, to the extent that you

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1 can.
 2 THE WITNESS: I think I need clarification
 3 by what do you mean by "error" --
 4 BY MS. HOMER:
 5 Q Okay.
 6 A -- reports.
 7 Q The -- do errors occur in the Secure
 8 Flight matching process to the TSDB?
 9 MS. KONKOLY: Objection insofar as that
 10 calls for information protected by SSI or the law
 11 enforcement privilege. Also, vague.
 12 You can answer, to the extent that you can
 13 without waiving a privilege.
 14 THE WITNESS: So I'm trying to think
 15 through without getting into the SSI matching
 16 process.
 17 So the question is does TSA prepare error
 18 reports for -- what was the second part? Error
 19 reports for?
 20 Q Error reports regarding the matching of
 21 identifying information between the Secure Flight
 22 data and the TSDB data.

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1 A So no --
 2 MS. KONKOLY: Let me just note the same
 3 objections.
 4 THE WITNESS: I think it's -- without
 5 getting into the details of the SSI, generally
 6 speaking, we do not have error reports, if we're
 7 talking about just the system matching.
 8 To the extent we do, there is some
 9 other -- I don't think I can get into that without
 10 getting into analysts and system matching
 11 procedures, but -- so, yeah, I don't think we can
 12 say from error reports. I can't answer.
 13 BY MS. HOMER:
 14 Q Could you go back to Exhibit 2, the GAO
 15 report, and turn to pages 34 and 35.
 16 So the first sentence in the first
 17 paragraph of -- or -- sorry.
 18 The first sentence in the second paragraph
 19 of page 34 says: TSA does not have timely and
 20 reliable information on past Secure Flight system
 21 matching errors.
 22 Did I read that correctly?

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1 A You read it correctly, yes.
 2 Q Okay. And then the first full sentence on
 3 page 35 says: However, when we asked TSA for
 4 complete information on the extent and causes of
 5 system matching errors, we found that TSA does not
 6 have readily-available or complete information.
 7 Did I read that part correctly?
 8 A You read it correctly, yes.
 9 Q Okay.
 10 So what I'm trying to understand is since
 11 the time of this GAO report in 2014, has the TSA
 12 improved, in any way, its generation of
 13 information in order to evaluate Secure Flight
 14 system matching errors?
 15 MS. KONKOLY: I'm going to object as to
 16 scope. I'm going to object on grounds of
 17 vagueness. Further, insofar as the answer would
 18 call for information protected by the law
 19 enforcement privilege or SSI.
 20 You can answer, to the extent that you can
 21 without waiving a privilege.
 22 THE WITNESS: Sure. So this goes back to

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1 my difficulty in answering it before in the same
 2 -- in the discuss with GAO is the -- if my
 3 understanding was correct, the basis of this
 4 question was how does TSA create, effectively,
 5 reports for when individuals have matched to the
 6 No-Fly and Selectee List and have flown, and TSA
 7 did not know about it.
 8 So the reason why it took months was
 9 because it went into a discussion of how do we
 10 conduct reports on things we did not know about
 11 it. So it was circular logic.
 12 So to the extent if there are instances
 13 where TSA is otherwise made aware that the system,
 14 or as part of the analyst review, did not confirm
 15 a match to the export of the TSDB and then was
 16 subsequently made aware, somehow, we have -- that
 17 is the match review board process, and for those
 18 particular instances, we address how to improve.
 19 But -- so that's why it was -- can't
 20 really answer the regular errors of how do you
 21 create error reports for things that you didn't
 22 know about.

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1 BY MS. HOMER:
 2 Q Okay.
 3 **A Does --**
 4 Q Okay.
 5 **A -- that make sense?**
 6 Q If the TSA -- if the TSA's automated
 7 system does conclude that an individual is a match
 8 to the TSDB, but in the subsequent TSA manual
 9 review of that result the TSA concludes the
 10 individual is not, in fact, in the TSDB, does the
 11 TSA generate a regular report reflecting how often
 12 that occurs?
 13 MS. KONKOLY: Objection; vague. Objection
 14 insofar as that would call for any information
 15 protected by SSI or law enforcement privilege.
 16 But you can answer, to the extent that you
 17 can.
 18 THE WITNESS: So without getting into
 19 details of how the system conducts its matches for
 20 potential matches, TSA does have data where an
 21 analyst then, subsequent with manual review, is
 22 able to either confirm or not match.

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1 We do have reports on that, yes.
 2 They're -- without getting into the full
 3 processes, we do have ways of pulling various
 4 reports of what the system identifies versus what
 5 an analyst may identify and TSA made somehow
 6 otherwise aware of things the system hadn't. We
 7 wouldn't call, though, error reports.
 8 BY MS. HOMER:
 9 Q Okay. Thank you. I appreciate the
 10 clarification.
 11 **A Yeah.**
 12 Q I may have asked this question earlier,
 13 but I honestly don't remember. Does the TSA
 14 conduct any pre-boarding screening for passengers
 15 boarding trains in the United States?
 16 MS. KONKOLY: Objection; vague. Objection
 17 insofar as a that calls for information protected
 18 by SSI or the law enforcement privilege. I also
 19 do believe it was asked and answered.
 20 But you can --
 21 THE WITNESS: Right. I believe, as the
 22 norm, we do not have any program that is

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1 performing passenger screening.
 2 BY MS. HOMER:
 3 Q Can individuals listed on the TSDB board
 4 passenger trains in the United States?
 5 MS. KONKOLY: Objection; vague.
 6 THE WITNESS: So I can't answer that
 7 directly. I can say that TSA does not conduct
 8 prescreening, or even screening, of passengers
 9 prior to boarding trains.
 10 Q Is the TSA aware of anyone conducting
 11 screening of passengers prior to them boarding
 12 trains in the United States where that screening
 13 matches the passengers against the TSDB?
 14 MS. KONKOLY: Objection insofar as that
 15 calls for any information protected by the law
 16 enforcement privilege or SSI.
 17 You can answer, to the extent that you
 18 can.
 19 THE WITNESS: For trains in the U.S. and
 20 for boarding or prescreening, I am not aware of
 21 any terrorist watch -- of -- TSA does not operate
 22 any program that's performing passenger

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1 prescreening against the watchlist.
 2 BY MS. HOMER:
 3 Q Have acts of terrorism occurred on trains
 4 in the United States?
 5 MS. KONKOLY: Objection; vague.
 6 Objection; scope.
 7 THE WITNESS: I don't believe so. I think
 8 it was the terrorist -- I do not think so, not for
 9 domestic.
 10 Q To your knowledge, have acts of terrorism
 11 occurred on trains anywhere in the world?
 12 MS. KONKOLY: Objection; vague.
 13 Objection; scope.
 14 THE WITNESS: Yes.
 15 Q To your knowledge, have acts of terrorism
 16 occurred on general aviation aircraft anywhere in
 17 the United States?
 18 MS. KONKOLY: Objection; vague.
 19 Objection; scope. I'll also object insofar as the
 20 answer calls for anything protected by SSI or the
 21 law enforcement privilege.
 22 You can answer.

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1 THE WITNESS: I am not aware of any
2 publicly -- any that are available from a non-SSI
3 perspective for general aviation.
4 BY MS. HOMER:
5 Q Have -- yeah.
6 Have terrorist incidents involving general
7 aviation aircraft, or the foreign equivalent,
8 occurred anywhere in the world?
9 MS. KONKOLY: Objection; vague.
10 Objection; scope. Objection insofar as that would
11 call for any information protected by SSI or the
12 law enforcement privilege.
13 You can answer, to the extent that you
14 can.
15 THE WITNESS: Not as familiar with general
16 aviation abroad, so I don't know that I can answer
17 just from my knowledge.
18 Q I understand.
19 If a passenger who would have been
20 designated as subject to enhanced screening at a
21 TSA-regulated airport boards a plane at an
22 unregulated airport, what is the procedure for

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1 that -- let me start over.
2 Does it ever happen that planes leave
3 unregulated airports and fly to regulated
4 airports?
5 MS. KONKOLY: Objection; scope.
6 You can answer, if you know.
7 THE WITNESS: Possibly, yes.
8 BY MS. HOMER:
9 Q If a plane that left an unregulated
10 airport is flying to a regulated airport and has
11 an individual on the Selectee List onboard, does
12 that airplane need to get any sort of special TSA
13 clearance to land at a regulated airport?
14 MS. KONKOLY: Objection insofar as that
15 would call for information protected by SSI,
16 potentially law enforcement.
17 And I'm going to instruct the Witness not
18 to answer based on those privileges.
19 Q Has it ever happened that a plane which
20 departed an unregulated airport and is carrying a
21 Selectee passenger has had -- or has, in fact,
22 obtained clearance in flight in order to land at a

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1 regulated airport?
2 MS. KONKOLY: I'm going to object as to
3 scope. I'm going to object that that question
4 calls for information protected by SSI,
5 potentially law enforcement.
6 I'm going to instruct the Witness not to
7 answer based on those privileges.
8 BY MS. HOMER:
9 Q If the TSA learns that a Selectee
10 passenger who was not screened at the point of
11 departure is landing at a regulated airport, will
12 the TSA subject that Selectee passenger to
13 screening after the airplane lands?
14 MS. KONKOLY: Objection. This question,
15 again, calls for information protected by SSI,
16 potentially law enforcement.
17 I'm going to instruct the Witness not to
18 answer based on those privileges.
19 MS. HOMER: Can we take a quick break?
20 MS. KONKOLY: Sure.
21 THE VIDEOGRAPHER: Going off the record.
22 The time is 5:32 p.m.

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1 (A recess was taken from 5:32 p.m. to 5:48
2 p.m.)
3 THE VIDEOGRAPHER: Here begins disk number
4 five in the videotaped deposition of Hao-Y
5 Froemling.
6 The time on the video monitor is
7 5:48 p.m., and we are back on the record.
8 MS. KONKOLY: And with Counsel's
9 permission, we did have an additional
10 clarification we'd like to officer for the record.
11 MS. HOMER: Please go ahead.
12 MS. KONKOLY: Ms. Froemling, did you have
13 a clarification you wanted to offer as to how long
14 TSA retains records in the Secure Flight program?
15 THE WITNESS: Yes. Before I'd stated for
16 potential matches, we retain information for seven
17 years. For confirmed matches, we retain the
18 information for 99 years.
19 BY MS. HOMER:
20 Q Okay. And information about how long you
21 obtain data in the Secure Flight system is found
22 in TSA's Privacy Impact Assessments; correct?

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1 **A That is correct.**

2 Q Does Secure Flight receive imports of

3 information from any other federal agency that is

4 not DHS or the TSC?

5 MS. KONKOLY: Objection insofar as that

6 calls for any information protected by SSI or the

7 law enforcement privilege. Also, as to scope.

8 You can answer, to the extent that you

9 can.

10 THE WITNESS: Yes.

11 Q What other agencies provide information

12 that is imported into Secure Flight?

13 MS. KONKOLY: Again, objection insofar as

14 that question calls for information protected by

15 SSI or the law enforcement privilege.

16 You can answer, to the extent that you

17 can.

18 THE WITNESS: So it's -- a clarification:

19 I should know this, but I don't -- other entities?

20 Just the Center for Disease Control Do-Not-Board

21 list. I don't know if that was federal agency or

22 not, but that is an example of another list that

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1 we receive in Secure Flight.

2 BY MS. HOMER:

3 Q Okay. Let me rattle off the ones --

4 **A So -- sorry.**

5 Q -- I remember.

6 So the -- Secure Flight receives imports

7 of the Center for Disease Controls's Do-Not-Board

8 list; correct?

9 **A Yes.**

10 Q And Secure Flight receives imports of

11 certain information within the TSDB from the TSC's

12 -- from the TSC through the DHS Watchlisting

13 Service; correct?

14 **A Correct.**

15 Q And Secure Flight -- does Secure Flight

16 receive any imports of information directly from

17 Customs and Boarder Patrol?

18 MS. KONKOLY: I'm going to object to that

19 insofar as it calls for any information protected

20 by SSI or the law enforcement privilege.

21 You can answer, if you can provide an

22 answer without waiving a privilege.

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1 THE WITNESS: Yes. There is information

2 that TSA receives from CBP.

3 BY MS. HOMER:

4 Q And, I apologize, I said Customs and

5 Boarder Patrol, and it's Customs and Boarder

6 Protection. Just to clarify the record.

7 What information does Secure Flight import

8 from Customs and Boarder Protection?

9 MS. KONKOLY: Objection insofar as that

10 calls for information protected by SSI,

11 potentially law enforcement, potentially state

12 secrets.

13 You can answer, if you can do so without

14 waiving any of those privileges.

15 THE WITNESS: There's certain information

16 received related to their trusted travelers, and

17 then there is information that we share related to

18 our -- the encounters that we discussed

19 previously, and then coordination related to

20 international travelers. And that was -- I'm

21 trying to think what's SSI and what's not.

22 And then there's coordination that we do

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1 related to our risk assessments that we coordinate

2 with CBP.

3 BY MS. HOMER:

4 Q Okay. Does Secure Flight contain trusted

5 traveler information from other agencies that are

6 not CBP?

7 MS. KONKOLY: Objection; vague. Objection

8 asked and answered. Objection insofar as the

9 answer implicates any information protected by SSI

10 or the law enforcement privilege.

11 You can answer, if you can.

12 THE WITNESS: So it was discussed earlier:

13 The chart previously related to those other

14 agencies that we receive information from related

15 to Pre-Check-eligible individuals.

16 Q Okay. So other than trusted traveler

17 information and the other CBP information you just

18 mentioned and the Do-Not-Board Centers for Disease

19 Control list and the TSDB, does Secure Flight

20 incorporate imports of data from any other

21 government agency?

22 MS. KONKOLY: Objection insofar as that

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1 calls for information protected by SSI,
 2 potentially law enforcement privilege.
 3 You can answer, to the extent that you
 4 can.
 5 THE WITNESS: Can I get a 30-second
 6 conference related to an SSI-or-not kind of
 7 question?
 8 MS. HOMER: That's fine.
 9 THE VIDEOGRAPHER: We're going off the
 10 record. The time is 5:54 p.m.
 11 (A recess was taken from 5:54 p.m. to 5:58
 12 p.m.)
 13 THE VIDEOGRAPHER: We are back on the
 14 record. The time is 5:58 p.m.
 15 MS. KONKOLY: Can we have the question
 16 read back?
 17 (Whereupon the record was read.)
 18 MS. KONKOLY: And I'll, again, object
 19 insofar as that question calls for any information
 20 protected by SSI or the law enforcement privilege.
 21 But you can answer, to the extent that you
 22 can.

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1 THE WITNESS: Okay. So Secure Flight also
 2 incorporates lost and stolen passport information.
 3 So Interpol's --
 4 BY MS. HOMER:
 5 Q And does lost and stolen passport
 6 information come from the State Department?
 7 **A No. It's from Interpol.**
 8 Q Oh, it's from Interpol.
 9 **A Yeah.**
 10 Q Oh.
 11 Does Secure Flight incorporate any
 12 information that is exported by the National
 13 Counter-Terrorism Center?
 14 MS. KONKOLY: Objection insofar as that
 15 calls for anything protected by SSI or the law
 16 enforcement privilege. Also, as to scope.
 17 But you can answer, if you can.
 18 THE WITNESS: So the question was does TSA
 19 incorporate any information from the National --
 20 Q Counter-Terrorism --
 21 **A -- Counter-Terrorism --**
 22 Q -- Center.

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1 MS. KONKOLY: I'm going to assert the same
 2 objections: Law enforcement-sensitive and SSI.
 3 And I need to actually instruct the
 4 Witness not to answer that question on the basis
 5 of those privileges.
 6 BY MS. HOMER:
 7 Q Okay.
 8 Earlier we discussed the circumstances
 9 under which the TSA would provide TSDB information
 10 to certain employees at private airlines. Do you
 11 remember that?
 12 **A Yes.**
 13 Q Are there any other private corporations,
 14 other than airlines, to which the TSA provides
 15 access to TSDB information?
 16 MS. KONKOLY: Objection insofar as that
 17 calls for anything protected by SSI or the law
 18 enforcement privilege.
 19 You can answer that, to the extent that
 20 you can.
 21 THE WITNESS: Yes.
 22 Q What other private corporations does the

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1 TSA provide access to TSDB information to?
 2 MS. KONKOLY: Again, I'll object on the
 3 basis -- or insofar as the answer would implicate
 4 anything protected by SSI or the law enforcement
 5 privilege.
 6 But you can answer, to the extent that you
 7 can.
 8 THE WITNESS: So to clarify my response, I
 9 did not catch that it was from private
 10 corporations in terms of other entities that -- so
 11 from a private -- let me qualify the answer. The
 12 yes was not for private corporations. I was
 13 thinking other entities.
 14 And other than what we had discussed
 15 related to the commercial airlines and general
 16 aviation-regulated aircraft operators for private
 17 corporations, I do not believe we share TSDB
 18 information.
 19 I'm trying to think of -- if an airport
 20 is -- sorry -- considered a --
 21 BY MS. HOMER:
 22 Q Well, I'll ask that --

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1 **A -- private corporation.**
 2 Q -- question --
 3 **A Okay.**
 4 Q -- more directly.
 5 **A Sorry.**
 6 Q Does the TSA provide TSDB information to
 7 the airport as an entity?
 8 MS. KONKOLY: I'll object insofar as the
 9 answer would implicate any information protected
 10 by SSI or the law enforcement privilege.
 11 You can answer, to the extent that you
 12 can.
 13 THE WITNESS: Yes.
 14 Q Does the TSA provide TSDB information to
 15 any other partners in the transportation industry?
 16 MS. KONKOLY: Objection; vague. Objection
 17 insofar as the answer would implicate any
 18 information protected by SSI or the law
 19 enforcement privilege.
 20 But you can answer, to the extent that you
 21 can.
 22 THE WITNESS: No, in that not a normal

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1 here's-access-to-the-TSDB.
 2 I'm trying to think from a private entity
 3 if there was ever a very, very, very specific need
 4 to know, but I do not believe so. That's
 5 primarily more of the law enforcement and others
 6 that we had discussed previously.
 7 BY MS. HOMER:
 8 Q The TSA does -- does the TSA provide
 9 access to TSDB information with the operators of
 10 train stations?
 11 **A No.**
 12 MS. KONKOLY: I --
 13 THE WITNESS: Oh, sorry.
 14 Q Does the TSA provide access to TSDB
 15 information to the operators of bus stations?
 16 MS. KONKOLY: Objection insofar as that
 17 calls for anything protected by law enforcement
 18 privilege or SSI.
 19 You can answer, to the extent that you
 20 can.
 21 THE WITNESS: No.
 22 Q Does the TSA provide access to TSDB

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1 information to the operators of maritime ports?
 2 MS. KONKOLY: Again, objection insofar as
 3 the answer would call for anything protected by
 4 law enforcement privilege or SSI.
 5 You can answer, to the extent that you
 6 can.
 7 THE WITNESS: No.
 8 BY MS. HOMER:
 9 Q Does the TSA provide access to TSDB
 10 information to the operators of public transit
 11 systems like the DC Metro or New York subway?
 12 MS. KONKOLY: Objection insofar as the --
 13 that calls for any information protected by LE --
 14 by the law enforcement privilege or SSI.
 15 Objection; vague. Objection, I believe that was
 16 asked and answered earlier today.
 17 You can answer, to the extent that you
 18 can.
 19 THE WITNESS: No.
 20 Q Does the TSA view the Terrorist Screening
 21 Database as an effective tool in countering
 22 terrorism?

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1 MS. KONKOLY: Objection; vague.
 2 THE WITNESS: Yes --
 3 BY MS. HOMER:
 4 Q Why --
 5 **A -- it is one of them.**
 6 Q Why does the TSA consider the TSDB to be
 7 an effective tool in countering terrorism?
 8 MS. KONKOLY: Objection insofar as a
 9 complete answer to that question would call for
 10 information protected by SSI, law enforcement
 11 privilege, potentially state secrets privilege.
 12 You can answer, in general terms.
 13 THE WITNESS: So TSA's mission is
 14 protecting our nation's transport -- it's
 15 transportation security across all modes of
 16 transportation, so insofar as the TSDB is our
 17 federal government watchlist of our -- those that
 18 meet the reasonable suspicion standard for known
 19 or suspected terrorists, it is very effective in
 20 identifying potential threats to our
 21 transportation security.
 22 We are continually identifying concerns

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1 and threats to our transportation security, and
 2 having the access to the watchlist is one of those
 3 key pieces of information.
 4 BY MS. HOMER:
 5 Q Is it the opinion of the TSA that every
 6 individual listed on the TSDB as a known or
 7 suspected terrorist is, in fact, a known or
 8 suspected terrorist?
 9 MS. KONKOLY: Objection; vague. Objection
 10 insofar as an answer would call for any
 11 information protected by SSI or the law
 12 enforcement privileges.
 13 But you can answer.
 14 THE WITNESS: So the question is is it my
 15 opinion that every individual listed as a known or
 16 suspected terrorist in the TSDB is a known or
 17 suspected terrorist?
 18 Q Yeah. And to clarify --
 19 **A Sorry.**
 20 Q -- I mean the agency's opinion.
 21 **A Okay.**
 22 Q Is it the agency's opinion that -- let me

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1 rephrase the question.
 2 Is it the agency's opinion that the TSDB
 3 represents an accurate list of known or suspected
 4 terrorists?
 5 MS. KONKOLY: Objection; vague. Objection
 6 as to scope. Objection insofar as an answer would
 7 call for -- a complete answer would call for
 8 information protected by SSI or the law
 9 enforcement privilege.
 10 But you can answer, to the extent you can.
 11 THE WITNESS: So TSA believes and is, as
 12 part of the Watchlisting Advisory Council, is part
 13 of the discussions of the criteria for individuals
 14 being placed on the TSDB. We do believe that they
 15 meet the reasonable suspicion standard for being a
 16 known or suspected terrorist.
 17 BY MS. HOMER:
 18 Q Does the TSA believe that the current
 19 reasonable suspicion standard accurately predicts
 20 whether or not an individual is a known or
 21 suspected terrorist?
 22 MS. KONKOLY: Objection; vague. Objection

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1 insofar as it potentially calls for a legal
 2 conclusion, also insofar as the answer would
 3 implicate information protected by SSI or the law
 4 enforcement privilege.
 5 You can answer, to the extent that you
 6 can.
 7 THE WITNESS: So I'll answer -- I won't
 8 answer to the accurately predicts portion, but I
 9 will go back to we believe they meet the standards
 10 for -- to be -- the reasonable suspicion standard
 11 or being a known or suspected terrorist.
 12 BY MS. HOMER:
 13 Q Is there any way in which the TSA
 14 considers the TSDB to be under-inclusive of
 15 persons who are known or suspected terrorists?
 16 MS. KONKOLY: Objection; vague. Objection
 17 insofar as it calls for information protected by
 18 SSI or the law enforcement privilege.
 19 You can answer, to the extent that you
 20 can.
 21 THE WITNESS: Can you repeat the question
 22 about under-predicts the known -- or -- I'm sorry.

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1 MS. KONKOLY: Yeah.
 2 Can you please re-read that -- the
 3 question?
 4 (Whereupon the record was read.)
 5 MS. KONKOLY: And same objections.
 6 THE WITNESS: So to my prior response:
 7 Again, we are part of the Watchlisting Advisory
 8 Council as -- which provides the standards and the
 9 criteria, and we believe those that are on the
 10 TSDB meet the reasonable suspicion standard for
 11 being a known or suspected terrorist.
 12 BY MS. HOMER:
 13 Q Does the TSA consider the TSDB to be
 14 effective at preventing terrorism on commercial
 15 airplanes?
 16 MS. KONKOLY: Objection; vague. Objection
 17 to insofar as that calls for information protected
 18 by SSI or the law enforcement privilege.
 19 You can answer, to the extent that you
 20 can.
 21 THE WITNESS: So similar to the previous
 22 question and response: Our mission is to ensure

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<p style="text-align: right;">345</p> <p>1 transportation security, and the TSDB, which is 2 the federal government's watchlist for individuals 3 that meet the reasonable suspicion standard of 4 being a known or suspected terrorist, is one of 5 the key pieces and therefore effective as one of 6 the tools that TSA uses for protecting 7 transportation security. 8 BY MS. HOMER: 9 Q Does the TSA consider the TSDB to be 10 effective at preventing terrorism on United States 11 trains? 12 MS. KONKOLY: Objection; vague. Objection 13 insofar as the answer calls for information 14 protected by SSI or the law enforcement privilege. 15 Again, you can answer, to the extent that 16 you can. 17 THE WITNESS: So is the TSDB effective at 18 preventing terrorism on trains? Is that -- 19 Q Mm-hm. 20 MS. KONKOLY: Same objections. 21 THE WITNESS: So to the extent that we've 22 answered previously, TSA -- and I -- from a -- in</p>	<p style="text-align: right;">347</p> <p>1 MS. KONKOLY: Objection; vague. 2 Objection; asked and answered. Objection insofar 3 as the answer calls for any information protected 4 by SSI or the law enforcement privilege. 5 You can answer, to the extent that you 6 can. 7 THE WITNESS: So TSA has multiple 8 screening measures and activities to secure all 9 modes of transportation to include those of 10 trains, so information related to known or 11 suspected terrorists would help in TSA's efforts. 12 But as answered before, we do not directly 13 use the TSDB for passenger screening on trains. 14 BY MS. HOMER: 15 Q Does the TSA view the TSDB as an effective 16 measure to prevent terrorism by semi trucks in the 17 United States? 18 MS. KONKOLY: Objection; vague. Objection 19 insofar as a complete answer would call for any 20 information protected by SSI or the law 21 enforcement privilege. 22 Again, you can answer, to the extent that</p>
<p style="text-align: right;">346</p> <p>1 the U.S. and watchlist matching, I'm not aware of 2 any programs, and TSA does not steward any 3 programs, that conduct watchlist matching for 4 trains. So I cannot answer related to that being 5 effective, because it's not used there. 6 However, more broadly, for the broader 7 security safety law enforcement community and its 8 overall protections, I'm not sure if I can -- I 9 believe it's an effective tool in our nation's 10 efforts definitely across the board in securing -- 11 protecting us from potential terrorist attacks, 12 which would be inclusive of potential terrorist 13 attacks on trains. 14 But to direct answer your question of the 15 TSDB effective on trains, I'm not sure I can 16 answer that from the perspective of a direct are 17 we -- is there prescreening or ties to that. 18 BY MS. HOMER: 19 Q Okay. Let me try it this way. 20 Does the TSA regularly use the TSDB as a 21 tool to prevent terrorism on trains in the United 22 States?</p>	<p style="text-align: right;">348</p> <p>1 you can. 2 THE WITNESS: Sure. So two parts. I 3 would reiterate, again, overall information 4 related to those that meet the reasonable 5 suspicion standard for known or suspected 6 terrorists, we do find very valuable and effective 7 tool in combating terrorism, period, and 8 particularly in our scope for transportation 9 security. As -- so that would apply to semi truck 10 drivers just overall. 11 As it talks to screening or vetting of 12 semi truck drivers, we vet those truck drivers in 13 our vetting and credentialing programs, such as 14 hazardous -- those that are hauling hazardous 15 materials requiring a Hazardous Materials 16 Endorsement on the commercial driver's license, or 17 if those semi truck drivers are accessing 18 TSA-regulated operations or functions under our 19 vetting and credentialing programs. 20 It is an effective tool for those 21 particular programs where we are conducting 22 vetting of those truck drivers against the TSDB.</p>

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1 BY MS. HOMER:
2 Q Would you agree that the TSDB is not an
3 effective screening tool to prevent terrorism on
4 trains?
5 MS. KONKOLY: Objection; vague.
6 Objection; asked and answered. Objection insofar
7 as --
8 MS. HOMER: I'm going to rephrase it. So
9 --
10 MS. KONKOLY: Okay.
11 MS. HOMER: Yeah.
12 Q Would you agree the TSDB, as currently
13 used, is not effective to prevent terrorism on
14 trains?
15 MS. KONKOLY: Objection; vague.
16 Objection; asked and answered. Objection insofar
17 as the answer calls for information protected by
18 SSI or the law enforcement privilege.
19 You can answer, to the extent that you
20 can.
21 THE WITNESS: Right. So I've already
22 stated previously I believe that information

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1 related to known or suspected terrorists is an
2 effective tool overall for combatting terrorism.
3 And I will also state that we are not
4 using the TSDB to conduct screening on trains.
5 BY MS. HOMER:
6 Q Do you believe that not using the TSDB to
7 conduct screening on trains reduces the
8 effectiveness of the TSDB as a terrorism
9 prevention tool?
10 MS. KONKOLY: Objection; vague.
11 Objection; leading. Objection; asked and
12 answered. Objection insofar as the question calls
13 for information protected by SSI and/or the law
14 enforcement privilege.
15 You can answer, to the extent that you
16 can.
17 I feel like a version of this question has
18 been asked many times, so I'll allow the Witness
19 to answer it one last time.
20 MS. HOMER: I'm looking for a yes or no,
21 so it hasn't been answered.
22 Anyway, go ahead.

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1 THE WITNESS: Okay. Can you repeat the
2 question? Because I thought I have answered it in
3 some way, shape, or form in the previous
4 questions.
5 MS. HOMER: Can you read back the most
6 recent iteration of that question?
7 (Whereupon the record was read.)
8 MS. KONKOLY: And I'm going to assert all
9 the same objections and again note that, in
10 particular, this question has been asked and
11 answered several times.
12 If you have anything to add, you can add
13 it here.
14 THE WITNESS: So to make sure I'm not
15 saying something in a double-negative: No, I do
16 not believe not using the TSDB for passenger
17 screening on trains reduces the effectiveness of
18 the TSDB.
19 So to clarify again, I still believe the
20 TSDB is an effective tool in combating terrorism.
21 BY MS. HOMER:
22 Q What is the basis for your conclusion that

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1 the TSDB -- or that not using the TSDB to screen
2 trains reduces its effectiveness?
3 MS. KONKOLY: Objection; asked and
4 answered. Objection; vague. Objection insofar as
5 this answer calls for information implicating SSI
6 and the law enforcement privilege, and potentially
7 the state secrets privilege.
8 You can answer, to the extent that you
9 can.
10 This is going to be the absolute last
11 question I'm going to allow on this same subject.
12 THE WITNESS: So I will say again, your
13 question is asking not using it for screening
14 passengers on trains, does it reduce the
15 effectiveness of the TSDB, period.
16 I will answer the -- or in the
17 affirmative: I view them as -- just because they
18 aren't used on trains does not mean that the TSDB
19 is not effective. I believe -- to make sure it's
20 not a double-negative -- it is an effective tool
21 in combating terrorism.
22 We have -- without getting into SSI and

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1 law enforcement-sensitive information, we do use
 2 the TSDB in multiple areas for securing
 3 transportation security, and we have seen that it
 4 is an effective tool in combating terrorism.
 5 BY MS. HOMER:
 6 Q Do you believe the TSDB would be more
 7 effective if it was used in more contexts to
 8 screen passengers on the United States
 9 transportation systems?
 10 MS. KONKOLY: Objection; vague.
 11 Objection; calls for speculation. Objection
 12 insofar as a complete answer might implicate
 13 information protected by SSI or the law
 14 enforcement privilege.
 15 You can answer, to the extent that you
 16 can.
 17 I guess I will also add an objection as to
 18 scope. Her personal opinion is not the same as
 19 the agency's.
 20 MS. HOMER: We can clarify that as the
 21 agency's opinion. My apologies.
 22 MS. KONKOLY: All of the same objections.

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1 You can answer, to the extent that you
 2 can.
 3 THE WITNESS: So more broadly, again, the
 4 TSDB is an effective counter-terrorism tool.
 5 If it were to be applied in use for
 6 screening in trains, it would, again, be an
 7 additional securities measure for securing our
 8 transportation security.
 9 I would, again, not couch the that makes,
 10 therefore, the TSDB more effective. I would just
 11 say using it in other modes that it's not
 12 currently being used would, yes, provide
 13 additional layers of security.
 14 BY MS. HOMER:
 15 Q Has the TSA ever recommended to the
 16 Watchlisting Advisory Council that the TSDB should
 17 be used to screen United States transportation in
 18 additional contexts?
 19 MS. KONKOLY: I'm going to object to that
 20 on the basis of the deliberative process
 21 privilege, also potentially SSI and law
 22 enforcement privilege and instruct the Witness not

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1 to answer.
 2 BY MS. HOMER:
 3 Q How many incidents of terrorism has the
 4 TSA prevented due to its use of the Terrorist
 5 Screening Database?
 6 MS. KONKOLY: Objection; vague. I believe
 7 that's been asked and answered. Further objection
 8 based on -- to the extent the answer would call
 9 for any information protected by SSI or the law
 10 enforcement privilege, potentially state secrets
 11 privilege.
 12 If you believe that there is additional
 13 information to provide to that answer that you
 14 haven't already, you can answer.
 15 THE WITNESS: So without getting into SSI
 16 and law enforcement-specific information of
 17 certain instances, overall, yes, use of the TSDB
 18 is an effective tool and has contributed to
 19 preventing terrorism overall, as just -- whether
 20 we were to call it a deterrent for our adversaries
 21 because they know we are doing this as a --
 22 without getting into law enforcement,

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1 security-sensitive information -- it does provide
 2 us effective and additional measures of security
 3 for us to implement. We've discussed previously.
 4 So, yes, overall -- I can't speak to
 5 actual numbers, per your question -- but it is, to
 6 an extent, immeasurable in terms of the deterrence
 7 as well as the additional security measures that
 8 we put in place by our use of the TSDB to prevent
 9 potential attacks.
 10 BY MS. HOMER:
 11 Q Does the TSA have any internal documents
 12 estimating the number of incidents of terrorism
 13 that the TSA has prevented in the United States
 14 due to its use of the TSDB?
 15 MS. KONKOLY: Objection; vague. Objection
 16 insofar as the answer would implicate any
 17 information protected by SSI or law enforcement
 18 privilege.
 19 You can answer, to the extent that you
 20 can.
 21 THE WITNESS: So, again, there's specific
 22 information that's SSI and law

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<p style="text-align: right;">357</p> <p>1 enforcement-sensitive, and then there's also just 2 the unquantifiable of from a deterrence 3 perspective of TSA implementing security 4 protocols, which brings in TSDB information as one 5 of its multiple security measures to prevent 6 terrorist attacks. 7 So because our adversary knows that we 8 have security measures in place, to the extent 9 there is an immeasurable -- to say is there a 10 document for every single one? No, because there 11 is that whole we-have-multiple-layers-in-place. 12 The TSDB is one of the very effective 13 tools to inform our security screening measures 14 that we put in place. 15 And then there's SSI, law 16 enforcement-sensitive information that I cannot 17 share that -- of documented types of cases. 18 BY MS. HOMER: 19 Q What is the basis of the TSA's belief that 20 the TSDB deters terrorism? 21 MS. KONKOLY: Objection; vague. Objection 22 insofar as a complete answer would call for</p>	<p style="text-align: right;">359</p> <p>1 security, so based on those cases that we've 2 identified, what we continually see with the 3 evolving threats and plots at large on aviation 4 and transportation security, we -- 5 BY MS. HOMER: 6 Q Does the TSA evaluate whether its use of 7 the TSDB could be more effective? 8 MS. KONKOLY: Objection; vague. Objection 9 insofar as that answer calls for any information 10 protected by LDS -- or, I'm sorry, law 11 enforcement-sensitive or SSI privileges. 12 You can answer, to the extent that you 13 can. 14 THE WITNESS: So I would answer more 15 broadly in that TSA is continually reviewing how 16 we can be more effective at security or screening 17 and ensuring our transportation security. 18 One of those is our use, as we've 19 discussed, of the TSDB. So overall, we are 20 continually looking at how we can be more 21 effective in what security measures we need to put 22 in place or adjust as we receive more and more</p>
<p style="text-align: right;">358</p> <p>1 information protected by law enforcement 2 privilege, SSI, potentially state secrets 3 privilege. Objection insofar as a very close 4 version of this question has been asked and 5 answered, I believe, a couple of times. 6 But you can answer, to the extent that you 7 can and you have anything to add. 8 THE WITNESS: So TSA has employed multiple 9 security measures, many of which we've discussed 10 earlier today, which are informed by our use of 11 the TSDB. 12 We continue to receive and identify 13 information of terrorists planning for attacks on 14 our nation's aviation -- civil aviation security. 15 We've seen it abroad with plots to conduct 16 terrorist attacks on aviation. 17 We've identified it when we have different 18 screening measures in place that have identified, 19 whether it's prohibited items or other security 20 threat concerns. Without getting into SSI or law 21 enforcement-sensitive information, but we have 22 identified multiple threats to our aviation</p>	<p style="text-align: right;">360</p> <p>1 evolving threat information about terrorists 2 trying to attack our transportation system. 3 BY MS. HOMER: 4 Q How has the TSA's use of the TSDB evolved 5 over time? 6 MS. KONKOLY: Objection as to scope. 7 Objection; vague. Objection insofar as an answer 8 would call for -- a complete answer would cal for 9 information protected by the law enforcement 10 privilege or SSI. 11 You can answer that, to the extent that 12 you can. 13 THE WITNESS: So when TSA first started, 14 we have the use, in the Secure Flight program and 15 it's use of the TS -- the export of the TSDB, we 16 had discussed that earlier of the measures we put 17 in place related to the use of TSDB for Secure 18 Flight. 19 It's evolved over time in that our vetting 20 and credentialing, there have been multiple 21 programs that have been stood up over the years 22 where they are also using the TSDB. So in terms</p>

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<p style="text-align: right;">361</p> <p>1 of the evolve over time, we've identified 2 additional security programs and measures that 3 incorporate the use of the TSDB. 4 BY MS. HOMER: 5 Q When did the TSA start to use the Expanded 6 Selectee List in order to determine that 7 individuals were subject to enhanced screening? 8 A It's in here. I can't remember the exact 9 year. If it was 20 -- page 14? 10 2011. 11 Q Okay. Does the TSA believe that the TSDB, 12 as currently constituted, includes all known or 13 suspected terrorists in the United States? 14 A I'm sorry. Can -- 15 Q Sorry. 16 A -- you repeat the question? 17 Q I'll repeat that. 18 Does the TSA believe that the TSDB, as 19 currently constituted, includes all known or 20 suspected terrorists in the United States? 21 MS. KONKOLY: Objection; vague. 22 Objection; calls for speculation. Objection</p>	<p style="text-align: right;">363</p> <p>1 MS. KONKOLY: Objection as to scope. 2 Objection insofar as that answer could call for 3 information protected by SSI or the law 4 enforcement privilege. 5 You can answer, if you know and to the 6 extent that you can. 7 THE WITNESS: Was it can commercial 8 airlines leave from non-regulated airports? 9 Sorry. 10 BY MS. HOMER: 11 Q Sorry. Other way around. Can a 12 commercial airplane leave a regulated airport and 13 land at an unregulated airport. 14 MS. KONKOLY: Same objections. 15 THE WITNESS: I think it's possible. 16 Q Do you know whether that happens on a 17 regular basis? 18 MS. KONKOLY: Again, objection as to 19 scope. 20 THE WITNESS: I don't think it's on a 21 regular basis. I'm not as familiar with the 22 unregulated airports.</p>
<p style="text-align: right;">362</p> <p>1 insofar as the answer may call for information 2 protected by the law enforcement privilege or SSI. 3 You can answer, to the extent that you 4 can. 5 THE WITNESS: So does TSA believe that the 6 TSDB includes all instances of known or suspected 7 terrorists in the United States? 8 I will go back to what we stated before: 9 The TSDB includes those that meet the reasonable 10 suspicion standard of being a known or suspected 11 terrorist. Whether they are physically in the 12 United States or not, I can't answer that. 13 BY MS. HOMER: 14 Q Do unregulated airports have what, in 15 commercial airports, the TSA refers to as sterile 16 areas? 17 MS. KONKOLY: Objection as to scope. 18 You can answer, if you know. 19 THE WITNESS: I don't -- I don't know the 20 answer about the unregulated. 21 Q Can commercial planes which leave a 22 regulated airport land at unregulated airports?</p>	<p style="text-align: right;">364</p> <p>1 BY MS. HOMER: 2 Q Is there a mechanism in place to prevent 3 an individual listed on the TSDB from landing at a 4 regulated airport with -- if that individual 5 listed on the TSDB has been not previously 6 screened? 7 MS. KONKOLY: Objection; vague. Objection 8 as to scope. 9 THE WITNESS: I don't think I can answer. 10 MS. KONKOLY: Objection further that that 11 information -- that that answer would call for 12 information protected by SSI as well as the law 13 enforcement privilege. 14 And on the basis of those privileges, I 15 will instruct the Witness not to answer. 16 Q And I don't think I asked this precise 17 question earlier, but are prospective TSA 18 employees screened against the Terrorist Screening 19 Database prior to being hired? 20 MS. KONKOLY: Objection as to scope. 21 Objection as -- insofar as the question calls for 22 information protected by SSI, potentially law</p>

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1 enforcement privilege.
 2 Yeah, I -- you can answer, to the extent
 3 that you can, but this is outside of the scope of
 4 what the approved topics are here.
 5 THE WITNESS: So TSA employees -- or
 6 applicants, as a condition prior to them becoming
 7 an employee, must undergo a series of background
 8 checks to be a TSA employee. The screening
 9 against the watchlist is one of those checks prior
 10 to becoming an employee.
 11 BY MS. HOMER:
 12 Q Are the watchlisting guidelines
 13 promulgated by the Watchlisting Advisory Council
 14 binding on the TSA?
 15 MS. KONKOLY: Objection as to scope.
 16 Objection; vague. Objection insofar as the answer
 17 might call for information protected by the law
 18 enforcement privilege or SSI.
 19 You can answer as to your understanding,
 20 if you can do so without waiving a privilege.
 21 THE WITNESS: So we follow the guidance in
 22 the watchlisting guidance --

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1 BY MS. HOMER:
 2 Q Are there --
 3 **A -- so -- yeah.**
 4 Q Are there any aspects of the watchlisting
 5 guidance that the TSA chooses not to follow?
 6 MS. KONKOLY: Objection as to scope.
 7 Objection; vague. Objection insofar as the answer
 8 might call for information protected by the law
 9 enforcement privilege or SSI, and further
 10 objection that question is misleading.
 11 You can answer --
 12 THE WITNESS: Right.
 13 MS. KONKOLY: -- to the extent that you
 14 can.
 15 THE WITNESS: We are a part of the
 16 Watchlisting Advisory Council, and we follow the
 17 watchlisting guidance.
 18 MS. HOMER: I think we're at seven hours.
 19 Yeah.
 20 MS. KONKOLY: Okay.
 21 MS. HOMER: Okay.
 22 MS. KONKOLY: Do we need to consult?

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1 Okay.
 2 THE WITNESS: Okay.
 3 MS. KONKOLY: Do you have anything you
 4 want to talk about?
 5 We'll take a break.
 6 MS. HOMER: Take a two-minute break.
 7 THE VIDEOGRAPHER: We're going off the
 8 record. The time is 6:36 p.m.
 9 (A recess was taken from 6:36 p.m. to 6:39
 10 p.m.)
 11 THE VIDEOGRAPHER: We are back on the
 12 record. The time is 6:39 p.m.
 13 MS. HOMER: Plaintiffs' counsel has no
 14 further questions.
 15 MS. KONKOLY: And Defense counsel has no
 16 questions for redirect.
 17 We will have our witness read and sign.
 18 THE VIDEOGRAPHER: We are going off the
 19 record. The time is 6:39 p.m.
 20 (Off the record at 6:39 p.m.)
 21
 22

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1 ACKNOWLEDGMENT OF DEPONENT
 2 I, HAO-Y FROEMLING, do hereby acknowledge
 3 that I have read and examined the foregoing
 4 testimony and the same is a true, correct and
 5 complete transcription of the testimony given by
 6 me and any corrections appear on the attached
 7 errata sheet signed by me.
 8
 9 _____
 10 (SIGNATURE) (DATE)
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CERTIFICATE OF SHORTHAND REPORTER
NOTARY PUBLIC

I, TASIANA T. BASDEKIS, Registered Professional Reporter and Notary Public, the officer before whom the foregoing deposition was taken, do hereby certify that the foregoing transcript is a true and correct record of the testimony given; that said testimony was taken by me stenographically and thereafter reduced to typewriting under my supervision; that reading and signing was requested; and that I am neither counsel for or related to, nor employed by any of the parties to this case and have no interest, financial or otherwise, in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 27 day of March, 2018.

My commission expires September 30, 2021.

NOTARY PUBLIC IN AND FOR
THE COMMONWEALTH OF VIRGINIA