

The Honorable Richard A. Jones

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IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ABDIQAFAR WAGAFE, *et al.*, on behalf of
himself and other similarly situated,

Plaintiffs,

v.

JOSEPH R. BIDEN, President of the United
States, *et al.*,

Defendants.

CASE NO. 2:17-cv-00094-RAJ

**DECLARATION OF BERNARD R.
SISKIN, PH.D.**

1 I, Bernard R. Siskin, Ph.D., hereby declare:

2 I make this Declaration based on my own personal knowledge and if called to testify, I could and
3 would do so competently, as follows:

4 1) I am a Director of BLDS, LLC, a specialty consulting firm. Prior to joining BLDS, I did
5 similar work at the specialty consulting firms, LECG, LLC, the Center for Forensic
6 Economic Studies, Inc., and National Economic Research Associates (NERA). Prior to that,
7 I was a tenured faculty member and Chairman of the Department of Statistics at Temple
8 University in Philadelphia. I received my Ph.D. in Statistics with a minor in Econometrics
9 from the Wharton School of the University of Pennsylvania in 1970. I have authored four
10 books on statistical methodology, three book chapters, four research monographs, and
11 numerous papers, including articles on the role of statistics in the analysis of employment
12 discrimination issues. Since receiving my Ph.D., I have specialized in the application of
13 statistics to the analysis of employment practices. In this capacity, I have been retained by
14 numerous governmental and private organizations including, but not limited to, the Third
15 Circuit Task Force on Race and Gender, the Equal Employment Opportunity Commission
16 (EEOC), the Civil Rights Division of the United States Justice Department, the Office of
17 Federal Contract Compliance (OFCCP), the Federal Bureau of Investigation, and various
18 states and municipalities as well as numerous private corporations.

19 **INTRODUCTION AND ASSIGNMENT**

20 2) I issued an amended report in this matter on July 17, 2020, which is attached as Exhibit A,
21 without the accompanying appendices referred to and discussed in that report.¹ My
22 background and resume were included in that report, and a copy of that resume is attached
23 here as Exhibit B. I also filed a response report on October 13, 2020, which is attached here
24

25 ¹ Subsequent to submitting my July 17, 2020 amended report, I noted an error in Table 33 and in the
26 titles of Tables 21 and 22 of the amended report. The numbers presented originally in Table 33
27 change slightly but do not alter any of my conclusions. The numbers presented in the report in
28 Tables 21 and 22 are correct and, as indicated on page 88, represent that “The results with respect to
USCIS and a Third Party being a source are presented in Tables 21 and 22” but the tables incorrectly
refer in the title and column headings to being the first or only source rather than simply a source.
Table 33 with the corrected numbers and Tables 21 and 22 with the correct titles and column
headings are appended as Appendix A-1.

1 as Exhibit C, without the appendices to that report. After preparing my response report, I
2 was supplied with additional data in January 2021 related to national security (NS) concern
3 types and sub-statuses of applicants whose applications for immigration benefits (I-485
4 applications for adjustment of benefits, or N-400 applications for naturalization) were
5 referred to CARRP, and also was supplied with the Supplemental Declaration of Sean M.
6 Kruskol (hereafter “Declaration”), dated March 4, 2021, in which he presents his analysis of
7 the CARRP concern type and sub-status data produced to Plaintiffs, and to me, in January
8 2021. I have been asked by Counsel for Defendants to review and comment on Mr.
9 Kruskol’s Declaration, and to analyze the January 2021 CARRP data to determine if it
10 changes any of my prior conclusions or causes me to offer new conclusions.

11 CONCLUSIONS

- 12 3) Mr. Kruskol is misinformed and incorrect in suggesting that the existence of multiple entries
13 and changes for CARRP-flagged cases in the FDNS database (FDNS-DS), including entries
14 back and forth even within the same day, raises questions about the validity of the data. The
15 USCIS personnel explained to me, and the FDNS-DS User Guide appears to confirm, that the
16 national security (NS) concern type and NS concern sub-status fields for the national security
17 CME cases that FDNS-DS tracks as part of the CARRP review of an immigration benefits
18 are designed to allow an officer to identify the changes in the results of his/her analysis based
19 on new information arising from the investigation and vetting of NS concerns. CARRP
20 review of an immigration for immigration benefits are supposed to allow an officer to
21 identify the changes in the results of his/her analysis based on new information arising from
22 the investigation and vetting of NS concerns regarding an applicant for immigration benefits.
23 Also, if an officer makes a mistake in data entry and then corrects it, both the mistaken entry
24 and the corrected entry will be retained and appear in the data. While the vast majority of the
25 applications processed in CARRP report zero or only one NS concern type change (91.6%)
26 recorded in FDNS-DS, when multiple changes sometimes appear in the data (even back and
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1 forth or on the same day), these appear to be data corrections; and when such changes are
2 made intentionally, rather than as data corrections, there is no reason to question the validity
3 of the data, rather than reading such changes as reflecting the changing or evolving view of
4 the officer as to the NS concern type or NS concern sub-class based on whatever information
5 the investigation might yield.

6 4) Mr. Kruskol is also wrong in suggesting either that USCIS' designation of an application as
7 having been referred to or processed in CARRP is unreliable, or that even if it is, the alleged
8 designation errors have any significance here. The designation of applications as having
9 been subject to CARRP was based on the open and closed dates of the CME² that correspond
10 to each applicant during the pendency of the I-485 or N-400 application at issue. Mr.
11 Kruskol reports that he can find only 139 cases in the data for the over 27,000 CARRP-
12 flagged applications where the new NS concern type and NS concern sub-status appears to be
13 inconsistent with the CME open and closed dates, and which he therefore suggests were
14 incorrectly reported by USCIS as referred to CARPP. Assuming that all 139 cases were
15 actually incorrectly flagged as having been referred to CARRP, the impact of excluding them
16 from any of the data analyses would be trivial. Also, since 74.8% of these 139 cases were
17 from applicants born in countries with a majority Muslim population, and this percentage
18 exceeds the overall percent for cases in the data reported as referred to CARRP, including the
19 139 cases only statistically augments Plaintiffs' allegation that USCIS has disproportionately
20 referred those born in majority Muslim countries to CARRP. Correcting the claimed error by
21 removing the 139 cases, as Mr. Kruskol suggests should be done, would only weaken the
22 alleged statistical support for Plaintiffs' claim that USCIS has engaged in anti-Muslim bias in
23 its referral of applications to CARRP. Regardless of whether the 139 cases are included or
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28 ² "CME," as my prior reports noted, is the Case Management Entry value corresponding to the
FDNS-DS computer system that tracks cases in CARRP.

1 excluded from the analyses, the statistical support for Plaintiffs' claim that USCIS has
2 engaged in anti-Muslim bias in its referral of applications to CARRP remains very weak, and
3 is no longer statistically significant after controlling for other factors that account for the
4 correlation, as discussed in detail in my previous reports submitted July 17, 2020, and
5 October 13, 2020.

6 5) Mr Kruskol's analyses are simple descriptive statistics of outcomes, and time to outcome,
7 based on an applicant's final NS concern type and NS concern sub-status at the time that the
8 application is adjudicated, or at the end of FY 2019 if not yet adjudicated. Mr. Kruskol never
9 tells us what any difference in outcomes or in time to outcome by NS concern type or by NS
10 concern sub-status implies about statistical issues relating to Plaintiffs' allegations in this
11 case, nor whether any of the differences he reports are statistically significant or meaningful.
12 Moreover, he never compares the outcomes or times by whether or not an applicant was born
13 in a country with a population which was majority Muslim.
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16 6) All Mr. Kruskol reports in his analyses of NS concern type in relation to adjudication
17 outcomes is that (a) those with an NS concern type other than Non-NS are much more likely
18 to be denied than those with a Non-NS concern type, and that (b) those found to not be a
19 national security concern and referred back for routine processing for adjudication comprise
20 91.25% of the applications referred to CARRP and have approval rates similar to those never
21 referred to CARRP and, conversely, that 8.75% of those who were initially considered as
22 potentially national security concerns turned out to actually be a national security concern.
23 Dr. Sageman's position that almost no one referred to CARRP is likely to be a national
24 security threat obviously does not apply to identifying national security concerns. Moreover,
25 referring someone to CARRP who potentially may be a national security concern but turns
26 out not to be a NS concern is not a mistake. That is the purpose of CARRP -- to investigate
27 those applicants who potentially may be a national security concern to determine who
28 actually is a national security concern, rather than simply accepting or rejecting the

1 preliminary national security flag as final. The only real error is referring to CARRP
2 someone whom there is no reason to believe may be a national security concern (for which
3 no identifiable data is known to exist), or failing to refer someone who there is reason to
4 believe may be a national security concern. As the data that would be informative as to bias
5 in CARRP referral does not exist, the data examined and discussed by Mr. Kruskol is of no
6 value in assessing whether the CARRP referrals are affected by bias against Muslims by
7 USCIS officers.

8 7) Statistical analyses of the CARRP dataset by NS concern type and sub-status in relation to
9 application outcome and time, reveals that there is no statistical support for Plaintiffs' claim
10 of an anti-Muslim bias or effect in the processing or adjudication in CARRP of applications
11 from applicants born in a Muslim majority country as compared to the applications from
12 applicants not born in a Muslim majority country.

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14 8) Unlike Mr. Kruskol, I analyzed the CARRP dataset produced January 2021, including NS
15 concern type and sub-status data, to determine if there was any meaningful difference in
16 outcomes (*e.g.*, adjudication and approval or denial), or time from application receipt to
17 outcome, comparing the outcomes and times for applications from applicants who were born
18 in a country with a population which is majority Muslim to applications from applicants not
19 born in a country with a population which is majority Muslim and who were similarly
20 situated with respect to their initial NS concern type, or final NS concern type, or final NS
21 concern type and NS concern sub-status, for each form type. The statistical data does not
22 support Plaintiffs' allegation that there was a pattern of differences in outcomes, or in times
23 to outcomes, between similarly situated applications when comparing applicants on the basis
24 of whether they were born in a county with a majority Muslim population. The question
25 presented for statistical analysis is whether there was an adverse outcome to those born in a
26 country with a majority Muslim population who were otherwise similarly situated due to
27
28 alleged bias of USCIS officials against Muslim applicants or those born in a Muslim majority

1 country. Examining the NS concern type and sub-status data, and the outcomes (*i.e.*,
2 approved, denied or pending) of each application included in the CARRP dataset, and the
3 length of time for each outcome, the answer is no. There is no valid statistical evidence that
4 whether the applicant was born in a majority Muslim country has any effect on the
5 immigration officers' decisions. There is no valid statistical evidence to support the
6 Plaintiffs' claims of an anti-Muslim bias or effect.

7
8 9) Specifically, I conducted analyses that determined that the Muslim status of the applicant's
9 country of birth had no meaningful impact under any of the circumstances statistically
10 examined. I studied whether the Muslim country status (whether born in a country with a
11 majority Muslim population) has a meaningful impact on an applicant's likelihood of (i)
12 having Non-NS as the final NS concern type given their initial concern type, (ii) having an
13 application approved when adjudicated given the initial NS concern type, and (iii) having
14 application approved if they had the same final NS concern type and NS concern sub-status.
15 The answer was no in all cases: the statistical evidence showed no meaningful impact of the
16 applicant's country of birth under any of the circumstances examined.

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18 10) I also specifically studied whether the Muslim status of an applicant had a meaningful impact
19 on (i) the distribution or median time to being adjudicated, controlling for final NS concern
20 type and final NS sub-status, (ii) the median time controlling for final NS concern type, NS
21 sub-status, and fiscal year of the application, and (iii) the mean and median time to approval
22 for adjudicated applications, controlling for final NS concern type and NS concern sub-
23 status. With rare exception, the answer was no in all the many comparisons by the different
24 NS final concern types and sub-statuses and fiscal years.

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26 11) The only outcome on which the applicant's country of birth might have some effect was the
27 likelihood that an applicant's initial concern type would be KST. While this was a relatively
28 rare event, occurring in less than 5% of the cases, those applicants born in countries with a

1 majority Muslim population were clearly more likely to have an initial concern type of KST
 2 than were other applicants. Assuming that the initial designation of KST means that the
 3 applicant's name had appeared on the KST list, and that investigation or confirmation would
 4 be needed to determine if the applicant was actually the same person on the KST list, then the
 5 initial designation of KST would not be a subjective determination by USCIS,³ and would
 6 not support an inference of anti-Muslim bias on the part of USCIS personnel, since they have
 7 no discretion on whether to refer applications from KSTs to CARRP. USCIS policy and
 8 practice is to automatically refer applications from KSTs for processing under CARRP.

9 **REVIEW OF THE SUPPLEMENTAL DECLARATION OF SEAN M. KRUSKOL**

10 A. Overview

11 12) Mr. Kruskol's Declaration dated March 4, 2021, is similar to his prior reports in that it
 12 contains only simple descriptive statistics. He presents descriptive statistics reporting the
 13 approval and adjudication counts and rates, and the mean and median times to adjudication,
 14 approval or pending, similar to what he presented in his prior reports. In his Declaration, Mr.
 15 Kruskol now reports the results categorized by the final National Security ("NS") concern
 16 type and/or NS concern sub-status of the application. He presents the counts and percentages
 17 of outcomes separately by the final NS concern type, and by NS concern sub-status
 18 separately, and then in combination by year of final status and overall. When reporting
 19 counts and percentages for applications still pending, he categorizes the results by year of
 20 application receipt rather than by year of final status.

21 13) Aside from the counts and percentages of adjudications, approvals, denials and applications
 22 still pending, Mr. Kruskol reports the mean and median time it took an application to be
 23 adjudicated, approved, and denied, or the time elapsed since application receipt for a non-
 24 adjudicated application that was pending at the end of 2019 Fiscal Year, by the applicant's
 25 final NS concern type or NS concern sub-status, or the combination of the final concern type
 26 and sub-status. All his calculations of mean and median times are done overall, with no
 27 control for the fiscal year of application receipt, nor the fiscal year adjudicated or fiscal year

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3 I offer no opinion as to whether the KST list is valid or might incorporate any bias, nor whether its
 use by USCIS meets a valid purpose, as that is beyond my expertise.

1 2019 if still pending.

2 14) Aside from presenting these purely descriptive statistics, Mr. Kruskol notes what he
 3 identifies and characterizes as three types of data anomalies. He lists 43 cases where the
 4 concern type corresponding to the CME open date is Non-NS, which he deems anomalous
 5 because he notes that it is not a valid code for the initial concern type. He also lists 98 cases
 6 where the final concern type is Non-NS and the final sub-status is NS Concern Resolved, and
 7 the CARRP dataset has no indication that these correspond to a CME open date. He then
 8 questions whether these are actually CARRP cases. Finally, he identifies 41 cases which do
 9 not have a concern type or sub-status value corresponding to the status date of the
 10 application. He also questions whether these are actually CARRP cases. Apart from this, he
 11 questions the accuracy of the data because some cases have multiple entries, including some
 12 with more than one entry on the same day.

13 B. Analysis of Mr. Kruskol's Concerns with the New Data.

14 1. Incomplete reporting of final sub-status for adjudicated cases.

15 15) Before getting into the specifics of Mr. Kruskol's concerns, it should be noted that the NS
 16 concern type and NS concern sub-status data that Mr. Kruskol examines contain 27,653
 17 applications that were approved, denied, or pending as of September 30, 2019. Of the 27,653
 18 applications, 249 do not have a valid⁴ NS concern type, and 88 do not have a valid⁵ NS
 19 concern sub-status associated with their last status date (*i.e.*, the final NS concern type and
 20 NS concern sub-status listed in the data). The NS concern type and NS concern sub-status
 21 data is supplied by the USCIS designated officer as a method to track the progress and status
 22 of the investigation of the national security concerns as part of processing an application in
 23 CARRP and which might impact the applicant's eligibility for the immigration benefits
 24 sought. As I discussed in detail in my prior reports, my experience in dealing with hundreds
 25 of large databases is that all large databases always have some degree of error. In this matter,
 26 and as prescribed by the FDNS-DS User Guide, the final Concern type for a CARRP case
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28 ⁴ During the period studied, the final concern should be Non-NS, Non-KST or KST.

⁵ During the period studied, the final sub-status should be NS Concern Resolved, NS Concern Unresolved, NS Confirmed, or NS Not Confirmed.

1 should be Non-NS, Non-KST or KST. Only 249 or 0.9% of the 27,653 final concern type
2 entries are in error in lacking Non-NS, Non-KST, or KST for the final entry. In this matter,
3 the valid NS concern sub-status types for entry in FDNS-DS for a CARRP case are NS
4 Concern Resolved, NS Concern Unresolved, NS Confirmed, or NS Not Confirmed. Only 88
5 or 0.3% of the 27,653 final NS concern sub-status field entries had an invalid final NS
6 concern sub-status, other than one of the four valid entries. Clearly, the error rate of entering
7 an invalid final NS concern type or NS concern sub-status is very low. However, when the
8 application is adjudicated, the FDNS-DS User Guide prescribes that the final entry in the
9 sub-status field should be either NS Resolved (which usually but not always means that the
10 application has been determined to not be a national security concern, so it can be returned to
11 routine adjudication), or NS Concern Unresolved (which means a nexus to a national security
12 concern exists and the case would be adjudicated though CARRP).⁶ The CARRP designated
13 officer is supposed to enter one of these two entries when, or immediately before or after, the
14 case is set for adjudication. However, the data shows that the final NS concern sub-status for
15 13.75% of the 22,058 cases that were adjudicated is not NS Concern Resolved nor NS
16 Concern Unresolved. Clearly, in about 1 in every 8 cases, when the CARRP designated
17 officers entering the data get to the adjudication stage, they fail to properly report the final
18 NS concern sub-status (and perhaps also the correct NS final concern type) that a CARRP
19 case has at the time of the final decision on adjudicating the application. USCIS personnel
20 familiar with tracking CARRP cases in FDNS-DS explained to me that to resolve what the
21 final NS sub-status (and NS concern type) is, they would need to research each case whose
22 final NS sub-status is not NS Concern Resolved or Unresolved. As discussed below, and
23 given the impracticality of researching each case having a NS concern sub-status that the
24 FDNS-DS User Guide does not contemplate as the final sub-status, there are two approaches
25 for addressing the analyses that include CARRP cases with a final sub-status other than NS
26 Concern Resolved or Unresolved.

27 16) The first of two options on how the analysis should handle the cases where the case is

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⁶ See FDNS-DS User Guide, Jan. 31, 2020, User Guide Release 16.2 Exhibit H-DEF00428622
Shinaberry deposition at pp 453-55 (at pp. 486-88 of DEF-00429107-00429109).

1 adjudicated and the final NS concern sub-status is not NS Concern Resolved or Unresolved is
2 simply to study the final concern type and sub-status as reported in the data. This is how Mr.
3 Kruskol handled the problem. However, Mr. Kruskol's approach might incorrectly exclude
4 outcomes associated with a final NS concern sub-status from the analysis. An alternative
5 approach is to assume that the final concern type reported is the actual final concern type
6 and, if the NS concern sub-status is NS Confirmed, recode the data for NS concern sub-status
7 to NS Concern Unresolved; and if the final NS concern sub-status is NS Not Confirmed,
8 recode it to NS Concern Resolved. Examining the pattern of the data suggests that this
9 reclassification is not always a correct assumption,⁷ but is likely correct in most of the cases.
10 To estimate the effect of the data error of a designated officer not always noting the proper
11 final NS concern sub-status, I have conducted my analysis looking at each sub-status as
12 recorded and also adjusting the sub-status for cases adjudicated, such that if the reported sub-
13 status was NS Not Confirmed, I adjusted the final status to NS Concern Resolved; and if the
14 final report sub-status was NS Confirmed, I converted it to NS Concern Unresolved.

15 2. Assessment of Mr. Kruskol's suggestion that the data is unreliable because it
16 includes 43 cases where Non-NS was the initial concern type despite it being an
17 invalid initial concern entry, and because some cases have multiple entries, even
18 on the same day, and some cases switch back and forth between the same two NS
19 concern types.

17) First, Mr. Kruskol's Exhibit BV lists 41 cases where the initial NS concern type entry is Non-
18 NS. It is Mr. Kruskol's belief that this is an invalid initial NS concern type entry. My
19 understanding, and as indicated in the FDNS-DS User Guide, is that the CARRP designated
20 officers making the data entries in FDNS-DS were instructed that the practice of entering
21 Non-NS as the first entry was not appropriate. USCIS personnel explained to me that Non-
22 NS should not be the first entry for NS concern type even though the CARRP designated
23 officer might not yet have sufficient evidence at that time to formally identify and confirm
24 the applicant as a national security concern, since there can be reason to believe such
25 evidence could be found on further vetting and investigating the applicant through the
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28 ⁷ Also, the recoding with respect to final concern type being Non-NS and final NS concern sub-
status being NS Confirm seems inconsistent.

1 CARRP process. Under such a condition (the absence of information sufficient to identify
2 the applicant as a NS concern), while Non-NS might ultimately be the proper NS concern
3 type it would be better to initially code the NS concern type as Non-KST. While officers
4 were discouraged from initially listing Non-NS as the initial concern type, it was not
5 formally disallowed as the initial NS concern type until August 25, 2015. All the entries
6 referenced in Mr. Kruskol's Exhibit BV occurred before March 2015, and thus were
7 consistent with what FDNS-DS then allowed. While not invalid, the entries of Non-NS as
8 the initial concern type were discouraged and occurred very rarely. Discouraging the use of
9 Non-NS as the first concern type was obviously very successful, as it was rarely used as the
10 initial entry even before it formally disallowed in FDNS-DS.

11 18) Mr. Kruskol's suggestion that the existence of multiple entries raises questions about the
12 validity of the data is misplaced. USCIS personnel explained to me that the NS concern type
13 and NS concern sub-status fields are supposed to allow an officer to identify the changes in
14 the results of his/her analysis based on investigation yielding new information. The data
15 entries in the CARRP dataset likewise reflect that CARRP is a dynamic process and that
16 changes in NS concern type or sub-status are to be expected, and do occur. The changes
17 happen because of the investigative nature of the CARRP process in vetting cases.
18 Moreover, if a mistake in data entry is made and then corrected, both the mistaken entry and
19 the corrected entry will be retained and appear in the data. Hence, the data will appear to
20 have multiple entries, perhaps on the same day, even time stamped minutes apart, and often
21 appearing to change back and forth due to data entry mistakes being corrected. Thus, the
22 changes for which Mr. Kruskol questions the accuracy are either due to new information
23 altering the state of the investigation's NS concerns or due to data errors and corrections.
24 Significantly, since Mr. Kruskol only studies the final NS concern type and NS concern sub-
25 status, the last entries should reflect the final state of the investigation and the correct data
26 entries⁸ and the changes he is questioning are not relevant to his analyses.

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28 ⁸ Though, as noted earlier, if the application is adjudicated and the final NS concern sub-status is not
NS Concern Resolved or Unresolved, the final data entry reported may not be the final entry after
the decision to adjudicate that is supposed to be made.

- 1 19) While the vast majority of the applications processed in CARRP report zero or only one
2 concern type change (91.6%), or at most only two NS concern sub-status changes (93.9%), a
3 few cases have multiple changes. Generally, it appears that most changes back and forth, to
4 and from any NS concern type or NS concern sub-status type for a single case entered in
5 FDNS-DS, appear to be data corrections; and when such changes are not back and forth as
6 apparent data corrections, there is no reason to doubt that the changes simply reflect the
7 changing view of the designated officer as to the NS concern type or NS concern sub-class.
8 Mr. Kruskol in his Exhibit CB presents examples of cases he believes challenge the validity
9 of the data. One of his examples is the application 76MR717w7f, which appears to be a case
10 where the designated officer entering the data on 9/8/2014 got confused in his data entry.
11 The two, three and four entries occurred only two minutes apart as three entries going back
12 and forth between Non-NS and Non-KST. This would appear to be simply changing the
13 concern type from Non-NS to Non-KST, either because the officer was correcting an entry
14 error or had some confusion about the use of the Non-NS concern type that accounted for
15 making multiple entries. The last entry, which occurs right before the application is
16 approved, converts the concern type to Non-NS. This is an example of the issue discussed
17 above where the final sub-status was NS Confirmed and was not changed to NS Concern
18 Resolved or NS Concern Unresolved when the cases was adjudicated. It would appear that
19 the designated officer may have mistakenly changed the concern type to Non-NS when the
20 application was approved rather than changing the NS concern sub-status to NS Concern
21 Unresolved. However, as discussed above, without investigating the circumstances for the
22 data entries on this case, one can only surmise what the correct final NS concern sub-status
23 and NS concern type would be for the case where the final NS concern sub-status is not NS
24 Concern Resolved or Unresolved.
- 25 20) Mr. Kruskol cites another example in his Exhibit CB (application PWQCALK4U2). Here,
26 he questions the NS concern sub-status changes, from NS Confirmed to NS Concern
27 Unresolved and then back to NS Not Confirmed, and then back and forth between NS
28 Concern Confirmed and NS Concern Not Confirmed (the concern type was always Non-

1 KST). These sub-status changes appear to occur because there was an expectation that the
2 case would be adjudicated at the time, and the NS concern sub-status NS Confirmed was
3 changed to NS Concern Unresolved. However, whether because of new information or other
4 reasons, the adjudication did not take place and NS concern sub-status changed to NS Not
5 Confirmed. After the designated officer(s), presumably as a result of the ongoing national
6 security concern review and vetting process, sees information confirming and not confirming
7 the Non-KST concern type and ultimately determines that the Non-KST concern type cannot
8 be confirmed, the concern type is changed to Non-NS and adjudicated via the routine
9 process, and the officer correctly changed the final NS concern sub-status to NS Concern
10 Resolved.

11 21) The bottom-line is that the data in any large database will have errors. This is especially
12 evident in one where data inputs depend on the designated officers who are tracking their
13 through-process, and are not data input specialists nor entering data in a highly automated
14 entry system and where the data tracks all entries, even those representing a correction to a
15 prior entry. Invalid data entries for CARRP cases tracked in FDNS-DS appear to be rare,
16 except for not updating the final NS concern sub-status at adjudication. The cases with
17 multiple entries on the same day appear to be simply due to correcting data input errors.
18 Other changes, even bouncing back and forth between concern types, should be expected as a
19 result of new information in an ongoing CARRP investigative process causing changes in the
20 NS concern type and NS concern sub-status of the cases. To actually estimate the true error
21 rates would require one to draw a data validation sample and test that sample. However,
22 there is no reason to believe that the level of error in the database would in any way bias any
23 conclusions drawn from the data, or make the data so unreliable that a proper analysis would
24 not be reliable. This is because even assuming the alleged data errors listed by Mr. Kruskol
25 are actually errors, they are few in number and would not meaningfully impact any analyses.
26 Moreover, most of Mr. Kruskol's data questions which he uses to imply that the data is
27 unreliable refer to the initial or intermediate NS concern type or NS concern sub-status
28 entries which not only could be reasonably explained as data corrections or proper tracking

1 of changes in the state of the CARRP investigative process, but are also not relevant to the
2 final NS concern type and NS concern sub-status, which is the only NS concern type and NS
3 concern sub-status data Mr. Kruskol actually studies. Moreover, the only error occurring
4 with any frequency is the failure of designated officers to enter the proper NS concern sub-
5 c\status when the case is adjudicated, and my analysis present later in this declaration shows
6 that this possible miscoding has no meaningful impact on the conclusion from the analysis of
7 the data.

8 3. Mr. Kruskol incorrectly suggests that there were 139 cases (his Exhibit BW
9 and BX) that were not actually referred to CARRP for processing, and hence that
10 the CARRP designation in the data is unreliable.

11 22) Mr. Kruskol's Exhibit BW lists 98 cases where the applicant had been in CARRP under an
12 earlier application, prior to when the later I-485 or N-400 application being studied was filed,
13 which was sometime during FY 2013 through FY 2019. Based on the open and closed CME
14 data in the file, these cases appear to have been open when the new application was received,
15 in which case they would have been referred to CARRP. However, the NS concern type and
16 sub-status data produced in January 2021 seems to indicate that the prior application had
17 been resolved and the new application may not have been referred to CARRP.

18 23) Mr. Kruskol's Exhibit BX lists 41 cases, in 34 of which the applicant had been in CARRP
19 prior to when the new application being studied was filed. Again, based on the open and
20 closed CME data in the file, these cases would appear to have been open when the new
21 application (the I-485 or N-400 received during FY 2013 through FY 2019) was filed, in
22 which case they would have been referred to CARRP. However, the new NS concern type
23 and sub-status data seems to indicate that the prior CME had been resolved and that the new
24 application was not have been referred to CARRP.

25 24) In order to definitely resolve these inconsistencies, USCIS personnel explained to me that it
26 would require review of the complete records of these cases. However, it is improbable that
27 the result of such an effort would have any meaningful impact on my or Mr. Kruskol's
28 analyses, as explained below.

25) If we rely on the new NS concern type and NS concern sub-status data rather than the open

1 and closed dates of CME to define which applications were referred to CARRP, then 139 or
2 0.5% of the 27,653 CARRP identified cases would have been misclassified as CARRP-
3 referred applications. The effect of originally defining an application as CARRP-referred
4 based on the CME open and closed dates alone would, at most, result in overstating the
5 number of CARRP identified cases by only a trivial amount that would not have
6 meaningfully impacted any of my studies, or Mr. Kruskol's studies. Moreover, the
7 applicants in 74.8% of the 139 cases were born in countries with a majority Muslim
8 population, which is higher than the 65.4% of cases counted as referred to CARRP. Thus,
9 not only would this error be trivial, but to the extent it has any impact, it would overstate the
10 number and percent of applications referred to CARRP both overall and from applicants
11 from countries with a majority-Muslim population. This alleged error would result in the
12 data overstating the Plaintiffs' claim that applicants from countries with majority Muslim
13 populations are overrepresented in CARRP because of anti-Muslim bias.

14 26) In his September 21, 2020 report, Mr. Kruskol alleged that there were 213,647 duplicate
15 records among the 10,621,174 Form I-485 and N-400 applications based on matching
16 individuals' data. I noted in my October 13, 2020 response report that many if not all of his
17 so-called duplicates may not be duplicates because the data he examined to define a duplicate
18 excluded important information, such as personal identifier data like name, birthdate,
19 address, and USCIS Alien number. I noted that I conferred with the USCIS data analyst
20 who created the database, and he examined all the information concerning the exemplar cases
21 of alleged duplications listed by Mr. Kruskol, and found that none were actually duplicates.
22 Moreover, the 213,647 so-called duplicate records that Mr. Kruskol claims to have found
23 among over 10.6 million listed applications were based on matching on only 27 of the 44
24 variables in the USCIS data base for this dataset produced in June 2020. When matching on
25 all 44 variables, I found only 147,971 potential duplicates; even if all of these records
26 actually were duplicates, for a rate of duplication of less than 1.5%, they would represent too
27 small a percent of cases to raise any meaningful questions about whether the USCIS database
28 is sufficiently accurate to support a statistical analysis. The new data produced in January

1 2021 for CARRP cases introduces additional variables on which to match to determine the
2 potential number of applications that could be duplicates within the limited data.

3 27) Unfortunately, of the 149,971 potential duplicates, almost all are non-CARRP, so the added
4 data is of no assistance in examining most of the potential duplicates since the additional data
5 refers only to CARRP applications. There were only five pairs of duplicate applications out
6 of the 147,971 which are CARRP applications. In matching, it becomes evident that two of
7 the five pairs are not duplicates. A review of the data by the USCIS data analyst found that
8 in all three remaining cases, the applicant is the same individual for both new IDs, but the
9 applicant filed two applications that were received in the mailroom on the same date. Thus,
10 they are not duplicate applications, because they have different receipt numbers.⁹ However,
11 in the two pairs, in addition to the unique receipt numbers, they also have unique history
12 action records indicating they were not duplicate applications; and in the third pair, one
13 application was administratively closed while the other remains pending (c4 was
14 decommissioned at the end of the last fiscal year). This might have been a true duplicate
15 found by the USCIS and then closed administratively. Hence out of the 28,214 CARRP¹⁰
16 cases, at most one was an actual duplicate.

17 C. Assessment of Mr. Kruskol's Analysis of the CARRP Data for NS concern
18 type and NS concern sub-status produced in January 2021.

19 28) Mr. Kruskol presents various tables which delineate the counts and approval rates and time
20 pending for all applications by form type, by NS concern type,¹¹ by NS concern sub-status,¹²
21 and by both NS concern type and NS concern sub-status combined.¹³

22 29) Unfortunately, Mr. Kruskol never tells us what any difference in outcomes by NS concern
23 type or NS concern sub-status implies about the allegations in this case, nor whether any of
24 the differences he reports are statistically significant or meaningful. The fact that the

25 ⁹ Why someone would file multiple applications can only be determined by manually reviewing the
26 physical A files.

27 ¹⁰ This includes the administratively closed, withdrawn and excluded applications which are
28 included in Mr. Kruskol's duplicate analysis but eliminated when studying approved denied and or
pending applications.

¹¹ See his Exhibits BM, BN, NP, BQ and BR.

¹² See his Exhibits BM, BN, NP, BQ and BR.

¹³ See his Exhibits BS, BT, and BU.

1 approval rates are lowest for those whose concern type is KST and highest for those whose
2 concern type is Non-NS is hardly surprising, and he offers no insight why this obvious
3 finding of differences in outcomes based upon the nature of extent of the NS concern is
4 relevant to Plaintiffs' claims. The fact that the approval rate for those whose NS concern
5 sub-status is NS Concern Unresolved (meaning a national security nexus existed at the date
6 of NS concern closure), is lower than the rate for those whose NS concern sub-status is NS
7 Concern Resolved (meaning no nexus to national security existed at the date of NS concern
8 closure) is similarly hardly surprising since the presence of a NS concern can impact an
9 applicant's eligibility for benefits sought and the outcome of an adjudication. Mr. Kruskol
10 offers no insight as to why this obvious finding is relevant to Plaintiffs' claims.

11 30) However, what is interesting and can be discerned from Mr. Kruskol's Exhibit BS and Table
12 S1, which examine the applications that were adjudicated for which the NS sub-status
13 reported is NS Concern Resolved or NS Concern Unresolved and the final concern type is
14 KST, Non-KST, or Non-NS, is that 90.64% of the cases are ultimately found to not be a
15 national security concern and are authorized to be returned to routine adjudication.

TABLE S1
N-400 or I-485 APPLICATIONS APPROVED OR DENIED
WITH NS CONCERN TYPE NON-NS OR KST OR NON-KST AND WITH
SUB-STATUS EITHER NS CONCERN RESOLVED OR UNRESOLVED

Final NS Concern	Final NS Concern Sub-Status	Applications	
		Number	Percent
Non-NS	NS Concern Resolved	17,310	90.64%
	NS Concern Unresolved	117	0.61%
	Either Resolved or Unresolved	17,427	91.25%
KST or Non-KST	NS Concern Resolved	319	1.67%
	NS Concern Unresolved	1,352	7.08%
	Either Resolved or Unresolved	1,671	8.75%
Total Applications		19,098	100.00%
Non-NS or Non-KST or KST	NS Concern Resolved	17,629	92.31%
	NS Concern Unresolved	1,469	7.69%

Source: Kruskol Exhibit BS

1 31) In 319 or 1.67% of the cases, the application was also authorized to be returned to routine
2 adjudication, but with a national security concern remaining.¹⁴ Conversely, 117 or 0.61% of
3 the cases had a final status of NS Concern Unresolved, but the final concern was Non-NS.
4 These few cases appear to be miscoded, and the sub-status should have been NS Concern
5 Resolved. Thus, 91.25% of the cases appear to have been determined to not actually be a
6 national security concern, while the remaining 8.75% of the cases were found to be a national
7 security concern. These cases (the 91.25%) were referred to CARRP for investigation and
8 vetting of possible national security concerns, found not to be a national security concern
9 after investigation, and returned for routine processing.

10 32) As I discussed in depth in my previous amended report,¹⁵ this 91.25% of the cases are what
11 might be called “false positives”. In the traditional sense, a false positive refers to a situation
12 in which is making a decision that someone fits in a category when in fact they do not. A
13 false negative would be deciding that someone does not fit in a category when in fact they
14 do. For example, in the lending world, one might decide on whether to extend a loan to
15 someone based on an assumption about their credit risk, and a false positive would be
16 deciding someone is a bad credit risk when he is not, while a false negative would be
17 deciding they are not a bad credit risk when they are. In the traditional situation, false
18 positives and false negatives are errors. The traditional false positive in this case would
19 occur if USCIS approved someone who should not be approved. There is no way to measure
20 that error. In the case, I originally defined a false positive as someone who was referred to
21 CARRP but approved. I noted, however, that is not an indication of an error in referring to
22 CARRP. Referring someone to CARRP can only be viewed as an error in hindsight. That is,
23 if what was known after the completion of the CARRP process was known beforehand, they
24 would not have been referred to CARRP for investigation and vetting of the national security
25 concern. The “false positives,” in this context, are cases that were referred to CARRP based
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27 14 The FDNS User Guide notes that NS Concern Resolved codes are “usually only used when a NS
28 concern has been determined to be Non-National Security [Non-NS] and closed.” However, the data
shows that while this is usually true, it is not exclusively used when a NS concern has been
determined to be Non-NS.

15 See pages 13-15 of my Amended Report dated July 17, 2020.

1 on a potential NS concern that, through CARRP processing and vetting, were successfully
2 resolved or culminated in the determination that an applicant's CME could be closed as Non-
3 NS. The characterization of a case as a "false positive" does not mean that the case was
4 inappropriate for referral to CARRP, or that a mistake was made in referring the case to
5 CARRP, or that the case was never subject to CARRP. In hindsight, a good decision can
6 turn out bad and a bad decision can turn out good. Consider the following dice game
7 illustration. In this game, if I roll a pair of dice honestly once, and come up with a pair of
8 sixes, you give me \$10, and otherwise I give you \$10. Assuming you can afford the \$10 and
9 have no moral objection to gambling, the right decision is to take the bet. Any decision that
10 scientists and most people with common sense who recognize that the chance of getting two
11 sixes is 1 in 16 would say they should take the bet, and that I was foolish to offer the bet.
12 However, if the dice roll does actually result in two sixes, in hindsight you would say you
13 should not have taken the bet, even though absent hindsight, the bet was the correct decision.
14 USCIS does not have the advantage of hindsight. Hence, with respect to the decision to refer
15 someone to CARPP, it would be a "false positive error" to send someone to CARRP only if
16 there was no potential national security concern to assess in processing the application, and a
17 "false negative error" would be to not refer someone to CARRP if there actually was a
18 national security concern to assess in processing the applications. Unfortunately, no data
19 exists to measure such true error rates in CARRP referrals.

20 33) The first key finding from the CARRP data for NS concern type and NS concern sub-status is
21 that while most cases referred to CARRP turn out after completing the CARRP process (*i.e.*,
22 vetting, deconfliction, *etc.*) to not be a national security concern (and thus the NS concern
23 type is changed to Non-NS), a meaningful percent (8.75%) actually were found to be a
24 national security concern. While the false positive rate of sending someone to CARRP is
25 small, it is not negligible. Moreover, the extreme false positive rate assumed by Dr.
26 Sageman, which he claims to base on his judgment and experience in national security and
27 counterterrorism, though not in CARRP, clearly does not refer to data of an applicant
28 referred to CARRP actually being determined to be a national security concern. This may be

1 due to Dr. Sageman focusing on who would actually conduct a terrorist act against the United
2 States as opposed to being a person of national security concern.

3 34) From Mr. Kruskol's Exhibit BS, one can also consider what the likelihood of having an
4 application approved would be given the applicant's final NS concern type and NS concern
5 sub-status. As discussed above, there are cases that are adjudicated with a final sub-status
6 code not being either NS Concern Resolved or NS Concern Unresolved. As discussed above
7 in section III.B, one can study only those with a NS Concern Resolved or NS Concern
8 Unresolved NS sub-status code, or one can assume that those cases with a last status of NS
9 Confirmed were NS Concern Unresolved and those with a last status of NS Not Confirmed
10 were NS Concern Resolved. Table S2, below, presents the approval rates by final concern
11 type and final sub-status for N-400 applications, and Table S3 presents the same data for I-
12 485 applications. The data clearly shows that the approval rate drops meaningfully when the
13 final concern type is KST or Non KST rather than Non-NS. This is true regardless of
14 whether the analysis uses only the cases where the reported final sub-status is NS Concerned
15 Resolved or Unresolved, or where one adjusts the final sub-status so that all adjudication are
16 either NS Concern Resolved or Unresolved.

TABLE S2
RATE OF APPROVAL OF N-400 APPLICANTS BY FINAL CONCERN TYPE
AND FINAL SUB-STATUS NS RESOLVED OR UNRESOLVED

		Total	Approved	Approval Rate	as % of Rate of Non-CARRP
Non-CARRP		4,879,338	4,835,184	91.76%	
CARRP		15,078	12,317	81.69%	100.00%
Final NS Concern	Final NS Concern Sub-Status				
Non-NS	NS Concern Resolved	11,688	10,064	86.11%	105.41%
	NS Concern Unresolved	72	52	72.22%	88.41%
	Either	11,760	10,116	86.02%	105.30%
Non-KST	NS Concern Resolved	225	189	84.00%	102.83%
	NS Concern Unresolved	927	604	65.16%	79.76%
KST	NS Concern Resolved	6	3	50.00%	61.21%
	NS Concern Unresolved	57	6	10.53%	12.89%
Final NS Concern	Adjusted* Final NS Concern Sub-Status				
Non-NS	NS Concern Resolved	12,541	10,815	86.24%	105.57%
	NS Concern Unresolved	127	98	77.17%	94.46%
	Either	12,668	10,913	86.15%	105.46%
Non-KST	NS Concern Resolved	866	557	64.32%	78.74%
	NS Concern Unresolved	1,276	764	59.87%	73.29%
KST	NS Concern Resolved	14	5	35.71%	43.72%
	NS Concern Unresolved	101	9	8.91%	10.91%

* = Adjusted means sub-status "NS Not Confirmed" considered as "NS Resolved" and "NS Confirmed" considered as "NS Unresolved"

Source: Kruskol Exhibit BU

TABLE S3
RATE OF APPROVAL OF I-485 APPLICANTS BY FINAL NS CONCERN TYPE
AND FINAL NS CONCERN SUB-STATUS NS RESOLVED OR UNRESOLVED

		<u>Total</u>	<u>Approved</u>	<u>Approval Rate</u>	<u>as % of Rate of Non-CARRP</u>
	Non-CARRP	3,817,513	3,559,984	93.25%	
	CARRP	7,316	5,844	79.88%	100.00%
	<u>Final NS Concern</u>				
					<u>Final NS Concern Sub-Status</u>
	Non-NS	5,622	4,823	85.79%	107.40%
		45	41	91.11%	114.06%
		5,667	4,864	85.83%	107.45%
	Non-KST	88	75	85.23%	106.69%
		336	178	52.98%	66.32%
	KST	-	-		0.00%
		42	7	16.67%	20.86%
	<u>Final NS Concern</u>				
					<u>Adjusted* Final NS Concern Sub-Status</u>
	Non-NS	5,977	5,138	85.96%	107.61%
		76	66	86.84%	108.72%
		6,053	5,204	85.97%	107.63%
	Non-KST	478	281	58.79%	73.59%
		593	294	49.58%	62.07%
	KST	1	-	0.00%	0.00%
		99	10	10.10%	12.65%

* Adjusted means sub-status "NS Not Confirmed" considered as "NS Concern Resolved" and "NS Confirmed" considered as "NS concern Unresolved"

Source: Kruskol Exhibit BT

1 35) The second key finding is that the approval rate of those who were referred to CARRP but
2 were finally determined not to be a national security concern is a few percentage points lower
3 than the rate of those not referred to CARRP. The approval rate among those referred to
4 CARRP and found not to be a national security concern exceeded 90% of the approval rate
5 for applications that were never referred to CARRP. In essence, those referred to CARRP
6 who ultimately were determined not to be national security concerns were similarly likely to
7 be approved as if they had not been referred to CARRP. However, they had to wait longer
8 before being approved, because of the time to identify, vet or otherwise resolve potential NS
9 concerns regarding their applications. Of course, the approval rate for those who are and
10 remained as actual national security concerns is much lower, with approximately 90% of the
11 adjudicated applications for KST applicants having a final sub-status of NS Concern
12 Unresolved or NS Concern Confirmed being denied. The 90% denial rate for this small sub-
13 group of CARRP cases is the highest denial rate among any of the sub-groups based on NS
14 concern type and NS concern sub-status.

15 36) I do not dispute Mr. Kruskol's conclusion that applications referred to CARRP take longer to
16 be adjudicated irrespective of whether approved or denied, or whether found not to be a
17 national security concern and returned to routine processing after vetting the potential
18 concern. However, as before, when studying time to adjudication or rates of approval, Mr.
19 Kruskol never considers the impact of time since application receipt on the mean and median
20 times for the applications still pending. Moreover, he never tells us whether the differences
21 he reports are statistically significant or otherwise meaningful. Also, when he compares the
22 mean and median time for applications still pending, he never controls for when the
23 application was received. As I explained in my July 17, 2020, amended report (see pages 53
24 and 54) and further explained in my October 13, 2020, response report (see pages 15-19),
25 when comparing times to adjudication, one must account for applications still pending; and
26 when studying time pending, one must account for when the application was received.
27 Moreover, I noted in my response report (see pages 15-16) that Mr. Kruskol's second
28 supplemental report (Sept. 2020) partially corrected for this problem in his tabulation of

1 mean and median times of pending applications by reporting the time by the fiscal year of
2 receipt, but in his recent Declaration (March 2021), he reverts to ignoring when a pending
3 application was received.

4 37) The biggest error in Mr. Kruskol's analysis is that he never reports any results by the Muslim
5 status of the applicant's country of birth, *i.e.*, whether the country's population is majority-
6 Muslim, though his July 2020 report focuses quite heavily on the differences in rates for
7 referring applications to CARRP when examined by whether the applicant was born in a
8 country with majority-Muslim population. Significantly, he never determines if any
9 difference in outcomes by NS concern type and NS concern sub-status between applicants
10 from countries with a majority Muslim population and those from countries without a
11 majority Muslim population exist and, if so, if the difference is statistically significant or
12 otherwise meaningful. He never determines if those from countries with a majority Muslim
13 population were more or less likely to be false positives, and whether those from majority
14 Muslim countries who had the same final concern type and sub-status were more likely to
15 have their adjudicated applications approved or denied, or how long they must wait for an
16 adjudication.

17 38) I have conducted such studies of the data, and present the results, and my related conclusions,
18 in the following section IV. Those results do not change, but instead expand analyses and
19 conclusions presented in my previous reports.

20 **ANALYSIS OF DIFFERENCES IN NS CONCERN TYPE, SUB-STATUS AND**
21 **ADJUDICATION OUTCOMES BY MUSLIM STATUS OF COUNTRY OF BIRTH OF**
22 **APPLICANT**

23 A. Initial and Final NS Concern Type by Muslim Status of Applicant Based on Country of Birth

24 39) While Mr. Kruskol examined the final NS concern type and NS concern sub-status, he never
25 examined the initial NS concern type nor whether any of the results differ by whether the
26 applicant was born in a majority Muslim country. Herein, I define the Muslim Status of an
27 application to be "Muslim" if the applicant was born in a country whose population was at
28 least 50% Muslim; otherwise, Muslim status is defined as "non-Muslim." This parallels the

1 approaches for determining an applicant’s Muslim Status, as presented in my previous
2 reports, and those by Mr. Kruskol. In the absence of comprehensive data as to each
3 applicant’s religion, which I understand is not usually sought, obtained and tracked by
4 USCIS for most applicants for the immigration benefits at issue, the Muslim Status of the
5 applicants’ country of birth is used in place of data on the applicant’s religion.

6 40) In looking at the initial NS concern type by Muslim status, there were 109 cases with
7 unknown country of birth in a population of 27,544 applications that were referred to
8 CARRP. I found that 1,322 or 4.8% of the 27,544 CARRP-referred N-400 and I-485
9 applications had no entry indicating a first or any subsequent NS concern type, and 1,232 had
10 an initial concern type of Non-NS. The Non-NS concern type of all but 44 of these 1,232
11 applications was changed to either KST or Non-KST in the next concern type reported,
12 which was often on the same day or shortly thereafter. For these cases, I considered the next
13 NS concern type reported as the initial NS concern type since Non-NS is not considered a
14 valid entry for the initial concern type. Hence, I had an initial concern type for 95% of the
15 CARRP-referred applications in the dataset.

16 41) Table S4 presents the initial NS concern type¹⁶ overall and by Muslim status, for each I-485
17 and N-400 application.

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16 Table S4 excludes data for any applicants whose initial concern type recorded in FDNS-DS was blank or Non-NS for which there is either no next concern type indicating KST or Non-KST. The next concern type for all but 44 of the 1,246 cases where the initial concern is Non-NS was either KST or Non-KST. I defined the initial concern type in these cases as the next concern type that was indicated.

TABLE S4
COMPARISON OF INITIAL NS CONCERN TYPES BY MUSLIM STATUS AND FORM TYPE

Form	Initial NS Concern Type	Applications by Muslim		Percent of Applications		Difference in Percent (Muslim - Non-Muslim)	80% Rule (non-Muslim/Muslim)	Statistically Significant?
		Muslim	Non-Muslim	Muslim	Non-Muslim			
I-485	KST	326	54	6.29%	1.52%	4.78%	24.1%	Yes
	Non-KST	4,856	3,508	93.71%	98.48%			
	Total	5,182	3,562					
N-400	KST	767	116	6.44%	2.05%	4.39%	31.8%	Yes
	Non-KST	11,143	5,548	93.56%	97.95%			
	Total	11,910	5,664					

Notes

Muslim status of application refers to the population of the country in which the applicant was born. "Muslim" means the percent Muslim of the country was >=50% Muslim and Non-Muslim means it was less than 50%.

If initial NS concern type was Non-NS and next concern type was KST or Non-KST the second reported NS concern type was defined as the initial concern type.

Statistical significance is based on the probability of disparity occurring by chance being less than or equal to 5%.

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1 42) Table S4 shows that the initial concern type is Non-KST approximately 95% of the time.

2 The initial concern was more likely to be KST for I-485 and N-400 applicants born in
3 countries whose population is majority Muslim, than was the case for applicants born in
4 countries without a Muslim majority. Assuming that the initial designation of KST means
5 that the applicant's name had appeared on the KST list and investigation would be needed to
6 determine if the applicant was actually the person on the KST list, then the initial designation
7 of KST would not be a subjective determination by USCIS,¹⁷ and would not support an
8 inference of Muslim bias on the part of USCIS personnel since USCIS personnel have no
9 discretion on whether to refer applications from KSTs to CARRP. I understand that USCIS
10 policy and practice is to automatically refer applications from KSTs for processing under
11 CARRP.

12 43) I next analyzed whether there was a difference among those born in a majority Muslim
13 country and those not born in a majority Muslim country in the percent of applications whose
14 last concern type was Non-NS and who had the same initial concern type. Table S5 presents
15 the findings for I-485 applications and N-400 applications.

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¹⁷ I offer no opinion as to whether the construction of the KST list is valid or its creation incorporates bias against Muslims, nor whether the use of the KST list by USCIS meets a valid purpose, as that is beyond my expertise.

TABLE S5
COMPARISON BY MUSLIM STATUS AND FORM TYPE OF THE PERCENT OF APPLICATIONS WITH THE SAME INITIAL STATUS

Form	NS Concern Type		Applications by Muslim		Percent of Applications By Muslim Status		Difference in Percent (Non-Muslim - Muslim)	80% Rule (Muslim/Non-Muslim)	Statistically Significant?
	Initial	Final	Muslim	Non-Muslim	Muslim	Non-Muslim			
I-485	KST	Non-NS	177	32	54.3%	59.3%	4.96%	91.6%	No
		ALL	326	54					
N-400	Non-KST	Non-NS	3,736	2,805	76.9%	78.7%	1.81%	97.7%	Yes
		ALL	4,856	3,562					
N-400	KST	Non-NS	520	78	67.8%	67.2%	-0.56%	100.8%	No
		ALL	767	116					
	Non-KST	Non-NS	8,821	4,453	79.2%	80.3%	1.14%	98.6%	No
		ALL	11,141	5,545					

Notes

Muslim status of application refers to the population of the country in which the applicant was born. "Muslim" means the percent Muslim of the country was $\geq 50\%$ Muslim and Non-Muslim means it was less than 50%.

If initial concern type was Non-NS and next concern type was KST or Non-KST the second reported concern type was defined as the initial concern type.

Statistical significance is based on the probability of disparity occurring by chance being less than or equal to 5%.

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1 44) In addition to reporting the percent of Non-NS final concern status applications from those
2 born in majority Muslim countries and those not born in majority Muslim countries
3 separately for each initial NS concern type, I also note whether the difference by the Muslim
4 status of the applicant is statistically significant at the 5% testing level,¹⁸ and present two
5 measures of practical significance - the absolute and relative difference in rates.¹⁹ The
6 disparity for each form type and for each initial NS concern type by Muslim status in the
7 percentage of applications whose final NS concern type was Non-NS is not statistically
8 significant. That is, the likelihood that an application's final concern status will be Non-NS
9 depends on the form type and the initial NS concern status, but that likelihood was
10 statistically the same whether or not the application was from an applicant born in a country
11 with a majority Muslim population.

12 45) I also analyzed by form type and Muslim status of applicants' birth country whether there
13 was a difference in the approval rate of adjudicated²⁰ applications that had the same initial
14 NS concern type. Table S6 presents the approval rates by form type for applicants by their
15 initial concern type. Again, I report the statistical significance of the differences along with
16 the absolute and relative difference in the approval rates. Statistical significance depends on
17 both the magnitude of the difference in the approval rates and the number of applications
18 being compared. When the number of applications being compared is large, small
19 differences will be statistically significant. Thus, when the difference is statistically
20 significant and the number of applications is large, the disparity may be judged to not be of
21 practical significance. The relative disparity (*i.e.*, the 80% rule value) is commonly used as a
22 measure to assess practical significance, with values below 80% indicating that the disparity
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24 18 This is consistent with the two standard deviation levels defined by the Supreme Court as
25 determining when differences are statistically significant. In *Hazelwood School Dist. v United*
26 *States*, 433 U.S. 299, 311 n.14 (1977) the Supreme Court relied upon a two to three standard
27 deviations difference: If the difference between the expected value and observed number is greater
28 than two or three standard deviations, then the hypothesis that teachers were hired without regard to
race would be suspect.

19 For a discussion of practical significance, see pages 81 and 95 of my July 17, 2020 Amended
Report.

20 Approved or denied applications.

1 is meaningful or practically significant.²¹ There is guidance in assessing the absolute
2 disparity. Table S6 shows that for I-485 applications from applicants whose initial concern
3 type is the same, there is no statistically significant difference in the probability of being
4 approved when examined by the Muslim status of the applicant's birth country. That is, I-485
5 applications with the same initial concern type are statistically equally likely to be approved
6 irrespective of the Muslim status of the applicant's birth country.

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²¹ This rule is only one of various measures assessing practical significance. The decision of practical significance is up to the decision maker and is a judgment based in part on statistics, but is not a statistical decision like statistical significance. The 80% Rule is presented by EEOC, *The Uniform Guidelines on Employment Selection Procedure*, 29 CFR 1607.4D, 28 CFR 50.14(4)D (1981), adopted by the EEOC and other federal agencies, utilizes an arbitrary four-fifths rule of thumb to assess impact. Under this rule, a difference in pass rates between two racial, ethnic or sex groups is considered substantial if the pass rate for one group falls below four-fifths (80%) of the pass rate for the higher group (Friedman J.L and Strickler Jr., G.M., *The Law of Employment Discrimination*, 2nd ed., The Foundation Press, Inc., 1987, p. 224). The 80% is offered as a rule of thumb, not a hard and fast decision rule for when federal agencies charged with enforcing employment discrimination laws would be concerned about a disparity between the rate of selection of protected and unprotected class in a selection practice.

TABLE S6
COMPARISON BY MUSLIM STATUS AND FORM TYPE
OF THE PERCENT OF APPLICATIONS APPROVED WITH THE SAME INITIAL NS CONCERN STATUS

Form	Initial NS Concern Type	Applications by Muslim Status*		Approved Applications by Muslim Status*		Approval Rate by Muslim Status*		Difference in Percent (Non-Muslim - Muslim)	80% Rule (Muslim/Non-Muslim)	Statistically Significant?
		Muslim	Non-Muslim	Muslim	Non-Muslim	Muslim	Non-Muslim			
I-485	KST	242	48	141	30	58.26%	62.50%	4.24%	93.22%	No
	Non-KST	3,846	2,829	3,111	2,342	80.89%	82.79%	1.90%	97.71%	No
N-400	KST	653	93	483	70	73.97%	75.27%	1.30%	98.27%	No
	Non-KST	9,372	4,428	7,668	3,823	81.82%	86.34%	4.52%	94.77%	Yes

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1 46) Table S6 shows for N-400 applications of applicants whose initial concern type was KST,
2 there is no statistically significant difference in the likelihood of being approved by Muslim
3 status of birth country. However, for applicants whose initial concern type was Non-KST,
4 the approval rates were statistically significantly lower for those born in a majority Muslim
5 country but “arguably”²² are not large enough to be practically significant. Among those N-
6 400 applications of applicants with a Non-KST initial concern type, 81.8% of those born in
7 majority Muslim countries were approved while 86.3% of those born in a non-majority
8 Muslim country were approved. Given the large number of applications from majority
9 Muslim and non-majority Muslim countries, the difference in rates is statistically significant.
10 However, the absolute difference in the rates is only .045 and the relative difference in rates
11 (the 80% Rule) is 94.8%. That is, the approval rate for applications of applicants born in
12 majority Muslim countries is approximately 95% of the approval rate for applications of
13 applicants not born in majority Muslim countries.²³ Hence, “arguably”, the disparity in
14 approval rates by Muslim status of N-400 applicants whose initial concern type was Non-
15 KST is not meaningfully (*i.e.*, practically) significant.

16 47) Finally, examining applications that were approved or denied, I compared the approval rate
17 of applications from applicants born in majority Muslim countries with that of applications
18 from applicants born in non-majority Muslim countries, and having the same final NS
19 concern type and NS concern sub-status. I conducted the analysis by each form type and for
20 each final NS concern type and NS concern sub-status category combination. I report the
21 counts and approval rates for applications by the Muslim status of the applicant’s birth
22 country. As with my other analyses, I present the difference in approval rates by Muslim
23

24 22 I add the qualifier “arguably” here and throughout the declaration because, unlike statistical
25 significance, that decision cannot be determined fully and objectively based solely based on
26 statistical analysis. I do not use “arguably” because I do not believe it is not (or is) practically
27 significant from a statistical perspective based on an assessment of the common statistical measures,
28 particularly the 80% rule for which there is a rule of thumb guidance of a standard, but since the
decision of what is practically significant is a judgment which can be determined only in part based
on statistical evidence. Moreover, that judgment is up to decision maker who is the trier of facts.
23 The shortfall in expected acceptances from majority Muslim countries is 136 applications, or
1.5% of all applications from applicants born in majority Muslim countries, and 8.0% of all denied
applications from applicants born in majority Muslim countries.

1 status of the applicant along with the absolute and relative differences in the approval rates
2 and note whether the difference is statistically significant. My first analysis, presented in
3 Table S7, looks at each pair of final concern types as reported for I-485 and N-400
4 applications separately.
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**TABLE S7
COMPARISON OF APPROVAL RATES OF APPLICATIONS WITH THE SAME FINAL NS CONCERN TYPE AND NS CONCERN SUB-STATUS BY FORM AND MUSLIM STATUS OF COUNTRY OF BIRTH OF APPLICANT**

Form	Concern	Final NS		Counts		Approval Rates		Approval Rate Gaps		80% Rule	Statistically Significant?
		Concern Sub-Status	Concern Sub-Status	Majority of Population Non-Muslim	Majority of Non-Muslim	Non-Muslim	Muslim	Non-Muslim - Muslim			
I485	KST	NS Concern Unresolved	NS Concern Unresolved	9	33	11.1%	18.2%	-7.1%	163.6	No	
I485	KST	NS Confirmed	NS Confirmed	6	51	16.7%	3.9%	12.7%	23.5	No	
I485	KST	NS Not Confirmed	NS Not Confirmed	0	1	.	0.0%	.	.	.	
I485	Non-KST	NS Concern Resolved	NS Concern Resolved	37	51	83.8%	86.3%	-2.5%	103.0	No	
I485	Non-KST	NS Concern Unresolved	NS Concern Unresolved	120	214	46.7%	56.5%	-9.9%	121.2	No	
I485	Non-KST	NS Confirmed	NS Confirmed	88	167	42.0%	46.7%	-4.7%	111.1	No	
I485	Non-KST	NS Not Confirmed	NS Not Confirmed	149	238	53.7%	52.5%	1.2%	97.8	No	
I485	Non-NS	NS Concern Resolved	NS Concern Resolved	2,299	3,317	86.7%	85.2%	1.6%	98.2	No	
I485	Non-NS	NS Concern Unresolved	NS Concern Unresolved	14	31	100.0%	87.1%	12.9%	87.1	No	
I485	Non-NS	NS Confirmed	NS Confirmed	11	20	81.8%	80.0%	1.8%	97.7	No	
I485	Non-NS	NS Not Confirmed	NS Not Confirmed	211	144	91.0%	85.4%	5.6%	93.9	No	

OVERALL											
Matched to Non Muslim NS Concern Sub-status distribution											
N400	KST	NS Concern Resolved	NS Concern Resolved	0	6	0.0%	50.0%	.	71.4	.	
N400	KST	NS Concern Unresolved	NS Concern Unresolved	7	49	14.3%	10.2%	4.1%	greater than 100.0	No	
N400	KST	NS Confirmed	NS Confirmed	8	34	0.0%	8.8%	-8.8%	33.3	No	
N400	KST	NS Not Confirmed	NS Not Confirmed	2	6	50.0%	16.7%	33.3%	103.1	No	
N400	Non-KST	NS Concern Resolved	NS Concern Resolved	50	175	82.0%	84.6%	-2.6%	77.9	Yes	
N400	Non-KST	NS Concern Unresolved	NS Concern Unresolved	244	654	79.9%	62.2%	17.7%	75.3	Yes	
N400	Non-KST	NS Confirmed	NS Confirmed	75	280	56.0%	42.1%	13.9%	84.3	Yes	
N400	Non-KST	NS Not Confirmed	NS Not Confirmed	198	435	65.2%	54.9%	10.2%	96.9	Yes	
N400	Non-NS	NS Concern Resolved	NS Concern Resolved	3,737	7,908	88.1%	85.4%	2.7%	76.4	1.43	
N400	Non-NS	NS Concern Unresolved	NS Concern Unresolved	18	53	88.9%	67.9%	21.0%	96.7	0.18	
N400	Non-NS	NS Confirmed	NS Confirmed	14	41	85.7%	82.9%	2.8%	98.0	0.58	
N400	Non-NS	NS Not Confirmed	NS Not Confirmed	225	628	89.3%	87.6%	1.8%			

COMPARISON BY MUSLIM STATUS OF SIMILARLY SITUATED APPLICANTS
 Matched to Non Muslim Concern Sub-status distribution

Notes

Statistical significance is based on the probability of disparity occurring by chance being less than or equal to 5%.

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1 48) As discussed above, there are applications where the final sub-status is not NS Concern
2 Resolved or NS Concern Unresolved. I assume that this is a failure of the CARRP officer to
3 enter the proper final NS concern sub-status when the case is ready for adjudication. Hence,
4 to test the sensitivity of my results to this possible oversight, I assumed that if the final
5 reported sub-status was NS Confirmed, the proper final sub-status should have been NS
6 Concern Unresolved; and if the final reported sub-status was NS Not Confirmed, the proper
7 final sub-status was NS Concern Resolved. These changes are noted as the “Adjusted Sub-
8 Status,” and the results are presented in Table S8.
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TABLE S8
COMPARISON OF APPROVAL RATES OF APPLICATIONS WITH THE SAME FINAL NS CONCERN TYPE AND ADJUSTED* SUB-STATUS
BY FORM AND MUSLIM STATUS OF COUNTRY OF BIRTH OF APPLICANT

Form	Concern	Final NS		Adjusted- Sub Status	Counts		Approval Rates		Approval Rate Gaps (Non-Muslim - Muslim)	80% Rule	Statistically Significant?
		Concern Sub-Status	Sub-Status		Majority of Population Non-Muslim	Muslim	Non-Muslim	Muslim			
1485	KST	NS Concern Unresolved	NS Concern Unresolved	NS Concern Unresolved	9	33					
1485	KST	NS Confirmed	NS Concern Unresolved	NS Concern Unresolved	6	51					
1485	KST	NS Not Confirmed	NS Concern Unresolved	NS Concern Unresolved	15	84	13.3%	9.5%	3.8%	71.4	No
1485	KST	NS Not Confirmed	NS Concern Unresolved	NS Concern Resolved	0	1					
1485	KST	NS Confirmed	NS Concern Resolved	NS Concern Resolved	0	1					
1485	Non-KST	NS Concern Resolved	NS Concern Resolved	NS Concern Resolved	37	51					
1485	Non-KST	NS Not Confirmed	NS Concern Resolved	NS Concern Resolved	149	238					
1485	Non-KST	NS Not Confirmed	NS Concern Resolved	NS Concern Resolved	186	289	59.7%	58.5%	1.2%	98.0	No
1485	Non-KST	NS Concern Unresolved	NS Concern Unresolved	NS Concern Unresolved	120	214					
1485	Non-KST	NS Confirmed	NS Concern Unresolved	NS Concern Unresolved	88	167					
1485	Non-KST	NS Concern Resolved	NS Concern Unresolved	NS Concern Unresolved	248	381	37.5%	52.0%	-14.5%	138.6	Yes
1485	Non-NS	NS Concern Resolved	NS Concern Resolved	NS Concern Resolved	2,299	3,317					
1485	Non-NS	NS Not Confirmed	NS Concern Resolved	NS Concern Resolved	211	144					
1485	Non-NS	NS Not Confirmed	NS Concern Resolved	NS Concern Resolved	2,510	3,461	87.1%	85.1%	2.0%	97.7	Yes
1485	Non-NS	NS Concern Unresolved	NS Concern Unresolved	NS Concern Unresolved	14	31					
1485	Non-NS	NS Confirmed	NS Concern Unresolved	NS Concern Unresolved	11	20					
1485	Non-NS	NS Confirmed	NS Concern Unresolved	NS Concern Unresolved	25	51	92.0%	84.3%	7.7%	91.6	No
COMPARISON BY MUSLIM STATUS OF SIMILARLY SITUATED APPLICANTS OVERALL											
Matched to Non Muslim Concern Sub-status distribution					80.9%	80.3%	0.6%	0.99	No		
N400	KST	NS Concern Resolved	NS Concern Resolved	NS Concern Resolved	0	6					
N400	KST	NS Not Confirmed	NS Concern Resolved	NS Concern Resolved	2	6					
N400	KST	NS Concern Unresolved	NS Concern Resolved	NS Concern Resolved	2	12	50.0%	33.4%	16.7%	66.7	No
N400	KST	NS Concern Unresolved	NS Concern Unresolved	NS Concern Unresolved	7	49					
N400	KST	NS Confirmed	NS Concern Unresolved	NS Concern Unresolved	8	34					
N400	KST	NS Confirmed	NS Concern Unresolved	NS Concern Unresolved	15	83	6.7%	9.6%	-3.0%	144.3	No
N400	Non-KST	NS Concern Resolved	NS Concern Resolved	NS Concern Resolved	50	175					
N400	Non-KST	NS Not Confirmed	NS Concern Resolved	NS Concern Resolved	198	435					
N400	Non-KST	NS Not Confirmed	NS Concern Resolved	NS Concern Resolved	248	610	68.6%	63.4%	5.2%	92.5	No
N400	Non-KST	NS Concern Unresolved	NS Concern Unresolved	NS Concern Unresolved	244	654					
N400	Non-KST	NS Confirmed	NS Concern Unresolved	NS Concern Unresolved	75	280					
N400	Non-KST	NS Concern Resolved	NS Concern Resolved	NS Concern Resolved	319	934	74.3%	56.2%	18.1%	75.6	Yes
N400	Non-NS	NS Not Confirmed	NS Concern Resolved	NS Concern Resolved	3,737	7,908					
N400	Non-NS	NS Not Confirmed	NS Concern Resolved	NS Concern Resolved	225	628					
N400	Non-NS	NS Concern Resolved	NS Concern Resolved	NS Concern Resolved	3,962	8,536	88.2%	85.6%	2.6%	97.0	Yes
N400	Non-NS	NS Concern Unresolved	NS Concern Unresolved	NS Concern Unresolved	18	53					
N400	Non-NS	NS Confirmed	NS Concern Unresolved	NS Concern Unresolved	14	41					
N400	Non-NS	NS Concern Unresolved	NS Concern Unresolved	NS Concern Unresolved	32	94	87.5%	74.4%	13.1%	85.1	No
COMPARISON BY MUSLIM STATUS OF SIMILARLY SITUATED APPLICANTS OVERALL											
Matched to Non Muslim Concern Sub-status distribution					85.9%	82.0%	4.0%	95.4%	Yes		

Notes

Adjusted* means that the distribution of final concern type and status of applications from applicants born in majority Muslim countries was adjusted to match the distribution of applications from applicants in non-majority Muslim countries.

Adjusted** means the final sub-status was adjusted by changing the final sub-status NS Concern Confirmed to NS Concern Resolved and final sub-status NS Concern Not Confirmed to NS Concern

Statistical significance is based on the probability of disparity occurring by chance being less than or equal to 5%.

49) While the analysis is conducted for each pair of final NS concern types and NS concern sub-status designations, of particular interest is the overall difference by Muslim status in outcome when comparing applications from applicants with the same final NS concern type and NS sub-status. One cannot simply add the results across the categories and then compare the difference if the distribution among the categories is different for the groups. This is statistically incorrect and can lead to misleading results. This problem is known as Simpson's Paradox, which can be better explained by the following simple illustration.

ILLUSTRATION OF SIMPSON'S PARADOX

Department Applied To	Male Applicants				Female Applicants			
	Number	Percent of Applications	Accepted	Percent Accepted	Number	Percent of Applications	Accepted	Percent Accepted
Mathematics	100	66.7%	75	75%	40	26.7%	30	75%
English	50	33.3%	15	30%	110	73.3%	33	30%
Total	150		90	60%	150		63	42%

Set Female Applications Distribution to Male Rate but Adjust Acceptances to Keep Approval Rate the Same as Actual.

Mathematics	100	66.7%	75	75%	100	66.7%	75	75%
English	50	33.3%	15	30%	50	33.3%	15	30%
Total	150		90	60%	150		90	60%

Set Male Applications Distribution to Female Rate but Adjust Acceptances to Keep Approval Rate the Same as Actual.

Mathematics	40	26.7%	30	75%	40	26.7%	30	75%
English	110	73.3%	33	30%	110	73.3%	33	30%
Total	150		63	42%	150		63	42%

1 50) As shown in the top of the illustration, males and females who apply for a position at the
2 same department are equally likely to be accepted; but if one simply sums over the
3 departments, the results appear to indicate that males are more likely than females to be
4 accepted. Both statements are correct, but seem in contradiction. The reason is that when
5 you simply sum applicants over the departments, the differences between the acceptance
6 rates can be caused by two factors: (1) the acceptance rates are different by department and
7 males and females apply proportionately differently to the departments, and/or (2) the
8 acceptance rates are different by gender among applications applying to the same
9 department. If the latter is the question of interest and you want an overall impact of that
10 possible disparity, it is necessary to standardize the application rate to departments by
11 gender, which can be done in two ways. You can ask what the impact of any difference is on
12 females if females had applied to departments at the same rate as males, or you can ask what
13 the impact of the difference is on females if males had applied to departments at the same
14 rate as females. Normally, one standardizes by adjusting the protected class distribution to
15 that of the non-protected class. If one wants to see the impact of the difference in where
16 males and females applied, the actual overall acceptance rate of females can be compared to
17 what occurs when the overall acceptance of females is computed after adjusting the
18 distribution of female applications to departments to match the male rate, but keeping the
19 acceptance rate of females in each department the same. Here, that means we can measure
20 the impact of the difference in the final NS concern types and final NS concern sub-statuses
21 on the approval rate by Muslim status by comparing the overall approval rate of those born in
22 majority Muslim countries to what it would be if the distribution of final concern types and
23 sub-statuses had matched that of applicants not born in majority Muslim countries, keeping
24 the approval rate by final concern type and sub-status unchanged.

25 51) Table S7 shows that among I-485 applicants, the approval rates of applicants for every pair
26 of final NS concern types and NS concern sub-statuses is the same, regardless of whether the
27 application is from an applicant born in a majority Muslim country. That is, given an
28 application's final NS concern type and NS concern sub-status, their Muslim country status

1 has no impact on whether they will be approved. Moreover, overall, adjusting for differences
2 in the distribution of final concern types and sub-statuses, the probability of being approved
3 was independent of an applicant's Muslim country status.

4 52) With respect to N-400 applications, for two combinations of final concern type and sub-
5 status (Non-KST/NS Concern Unresolved and Non-KST/NS Confirmed), the disparity is
6 statistically significant and is "arguably" meaningful. However, this represents only 934 or
7 9.1% of the 10,269 applications from applicants from majority Muslim countries. It is
8 enough to make the overall results statistically significant, but the overall Muslim rate is over
9 95% that of the overall non-Muslim rate and is "arguably" not meaningful (*i.e.*, not
10 practically significant). In Table S8, I test the sensitivity of the results by recoding the NS
11 concern sub-statuses that are not NS Concern Resolved or Unresolved. Specifically, I recode
12 NS Confirmed to NS Concern Unresolved and NS Not Confirmed to NS Concern Resolved,
13 which appear to be the parallel sub-status endpoints for each that are explained and defined
14 in the FDNS-DS User Guide. With respect to I-485 applications, the conclusion remains the
15 same. There is no statistical evidence whatsoever to support an allegation that an applicant's
16 Muslim country status impacted the decision to accept an application with a given final NS
17 concern type or NS concern sub-status. With respect to N-400 applications, the Non-KST
18 NS Concern Resolved sub-status remains statistically significant and "arguably" practically
19 significantly different by Muslim Status (*i.e.*, the whether the population of his country of
20 birth is majority Muslim). The combination of Non-NS and NS-Concern Resolved becomes
21 statistically significant primarily because of the large number of applications, as the actual
22 difference in rates is small. As previously noted, most CARRP-referred applications are
23 Non-NS by the time that the applications are adjudicated, and most also have a final NS
24 concern sub-status of NS Concern Resolved. The 80% Rule value is 97%, which means that
25 this disparity is relatively small and not practically significant when examined in the context
26 of the 80% Rule value. Overall, the disparity is statistically significant, but remains small,
27 and is not practically significant when examined in the context of the 80% Rule value, which
28 here is 95.4%.

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53) Finally, I looked at the impact of the difference in the distribution of final NS concern types and NS concern sub-status outcomes by the applicants' Muslim country status. Table S9 presents the findings.

TABLE S9
COMPARISON OF ACTUAL OVERALL APPROVAL RATES OF APPLICATIONS FROM APPLICANTS BORN IN A COUNTRY
WITH A MAJORITY MUSLIM POPULATION COMPARED TO THE APPROVAL RATE IF THEIR DISTRIBUTION
OF FINAL NS CONCERN TYPE AND NS CONCERN SUB-STATUS WAS THE SAME AS APPLICATIONS
FROM APPLICANTS NOT BORN IN A MAJORITY MUSLIM COUNTRY

Form	Concern Sub-Status	Number of Applications		APPROVAL RATES		Approval Rate Gaps (Adjusted - Actual)	80% Rule	Actual and Adjusted Statistically Significant Different?		
		Actual	Adjusted*	Actual	Adjusted*					
I-485	Actual reported	4,267	4,267	3,362	3,451	78.8%	80.9%	2.1%	97.4%	No
I-485	Adjusted**	4,267	4,267	3,362	3,425	78.8%	81.9%	3.1%	96.2%	No
N-400	Actual reported	10,269	10,269	8,297	8,408	80.8%	81.9%	1.1%	98.7%	No
N-400	Adjusted**	10,269	10,269	8,297	8,417	80.8%	82.0%	1.2%	98.6%	No

Notes

Adjusted* means that the distribution of final concern type and status of applications from applicants born in majority Muslim countries was adjusted to match the distribution of applications from applicants in non-majority Muslim countries.

Adjusted** means the final sub-status was adjusted by changing the final sub-status NS Concern Confirm to NS Concern Resolved and final sub-status NS Concern Not Confirmed to NS Concern Unresolved.

Statistical significance is based on the probability of disparity occurring by chance being less than or equal to 5%.

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1 54) Among both I-485 applications and N-400 applications, the impact on the difference in
2 approval rates by the applicant's Muslim country status due to the distribution of final NS
3 concern type and sub-class combinations is not statistically significant. That is, the
4 difference in the distribution of final outcomes (*i.e.*, application approvals compared to
5 denials) among applicants born in majority Muslim countries compared to applicants not
6 born in majority Muslim countries has no real impact on the likelihood approval for an
7 application from an applicant born in a majority Muslim country.

8 B. Analysis of mean and median times to adjudication and approval by the applicant's Muslim
9 country Status

10 55) Prior to receiving the NS concern type and NS sub-status data, there was no dispute that
11 applications referred to CARRP based on a potential national security concern took longer
12 than applications that had no such potential national security concern and thus were not
13 routed to CARRP for processing, investigating and resolving the NS concern if possible, and
14 adjudication.²⁴ Furthermore, my prior analysis showed that the processing time in CARRP
15 was not influenced by the Muslim status of the applicant's country of origin.²⁵ The more
16 recently produced data for the NS concern type and sub-status of the CARRP cases lets us
17 refine these previous findings.

18 56) I first conducted a survival analysis which estimates the median time to adjudication for
19 CARRP applications by the Muslim status of the applicant's country of birth, by form type
20 and by the final NS concern type and sub-status. Given the number of combinations of NS
21 concern types (3), NS concern sub-statuses (4), receipt fiscal years (7), and application types
22 (2), there are 168 difference survival analyses and, given the sample size limitations, running
23 the survival analysis by individual years would not be a reliable approach and would not
24 yield statistically meaningful results. Therefore, the survival analysis is run over all years

25 ²⁴ Presumably, if the CARRP program did not exist and such a potential national security concern
26 were identified or noticed, the processing time of such applications would still take longer to
27 adjudication that for applications presenting no potential NS concern because such a concern would
28 need to be investigated, at least from the standpoint of determining whether the applicant is eligible
for the benefits sought, and resolved if possible. However, I cannot presume the likelihood that such
a concern would have been noticed without the CARRP program, nor can I estimate the length of
time for investigating that concern without the CARRP program.

²⁵ See pages 98-105 of my July 17, 2020 Amended Report.

1 and assumes that the distribution of the time to adjudication if uncensored (*i.e.*, not truncated
2 based on the dataset's inclusion of data only for applications received during FY 2013
3 through FY 2019) would be the same for each receipt year for applications with the same
4 final concern type and sub-class. That is, if we had data for every application for the full
5 time of consideration until adjudication, rather than the censored data which lacks that
6 information for cases still pending as of the end of FY 2019 and any adjudications occurring
7 after FY 2019, the distribution of times to adjudication of the I-485 or N-400 applications for
8 applications with the same final NS concern type and NS concern sub-status would be the
9 same for each fiscal year of receipt. That is, if for example the distribution of times and
10 results and median time to adjudication for an application received in 2013 FY and having
11 final NS concern type of Non-KST and a final sub-status of NS Concern Resolved was 24
12 months, then the distribution of times and resultant median time to adjudication of similar
13 applications received in FY 2019 would be the same if we had all the data in the future as to
14 when the applications would be adjudicated. Table S10 presents the average number of
15 months to adjudication estimated via survival analysis for CAARP-referred applications by
16 form type and the applicant's Muslim country status, for applications with the same final
17 concern type, and also for applications not referred to CARRP.

TABLE S10
COMPARISON BY MUSLIM STATUS OF MEDIAN TIME TO ADJUDICATION IN MONTHS CONTROLLING FORM, WHETHER REFERRED TO CARRP, AND FINAL CONCERN TYPE ESTIMATED BY SURVIVAL ANALYSIS

Form	Whether Processed in CARRP?	Final		Median Time (in Mos) to Adjudication by Muslim Status		Difference in Median Time		Is Distribution of Time by Muslim Status Statistically Significant?
		Concern Type	Sub-status	Non-Muslim	Muslim	Absolute	Relative	
I-485	Yes	KST	Any	28.8	37.8	9.0	76.2%	No
		Non-KST	Any	29.0	29.7	0.7	97.6%	No
		Non-Ns	Any	18.9	20.1	1.2	94.0%	Yes
N-400	No	None	None	7.4	6.7	-0.7	110.4%	Yes
	Yes	KST	Any	37.7	35.6	-2.1	105.9%	No
		Non-KST	Any	27.3	26.7	-0.6	102.2%	Yes
	No	Non-Ns	Any	19.4	18.2	-1.2	106.6%	Yes
	No	None	None	6.5	6.6	0.1	98.5%	Yes

Note

Statistical Significance benchmark is 5%.

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57) I also examined the difference by the applicant's Muslim country status in the median time to adjudication for those applications referred for processing in CARRP, controlling for form and for both final concern type and sub-status.²⁶ In studying sub-status, I combined the NS Concern Resolved and NS Not Confirmed outcomes and the NS Concern Unresolved and NS Confirmed outcomes, since the only difference is supposed to be that one is still pending and the other is adjudicated. Table S11 presents the results.

TABLE S11
COMPARISON BY MUSLIM STATUS OF MEDIAN TIME TO ADJUDICATION
IN MONTHS CONTROLLING FOR FORM, FINAL NS CONCERN TYPE
AND FINAL NS CONCERN SUB-STATUS ESTIMATED BY SURVIVAL ANALYSIS

Form	Concern Type	Final NS Concern Sub-Status	Median Time (in Mos) to Adjudication By Muslim Status		Difference in Median Time		Is Distribution of Time by Muslim Status Statistically Significantly Different?
			Non-Muslim	Muslim	Absolute	Relative	
I-485	KST	NS Unresolved/Confirmed	29.0	39.3	10.3	73.8%	Yes
	Non-KST	NS Resolved/Not Confirmed	28.9	30.6	1.7	94.4%	No
	Non-KST	NS Unresolved/Confirmed	29.9	29.4	-0.5	101.7%	No
	Non-NS	NS Resolved/Not Confirmed	19.0	20.0	1	95.0%	Yes
		NS Unresolved/Confirmed	9.9	23.8	13.9	41.6%	Yes
N-400	KST	NS Unresolved/Confirmed	38.3	40.1	1.8	95.5%	No
	Non-KST	NS Resolved/Not Confirmed	27.1	24.8	-2.3	109.3%	Yes
	Non-NS	NS Unresolved/Confirmed	27.4	28.0	0.6	97.9%	No
	Non-NS	NS Resolved/Not Confirmed	19.4	18.1	-1.3	107.2%	Yes
	Non-NS	NS Unresolved/Confirmed	20.8	20.4	-0.4	102.0%	No

Note

Statistical Significance benchmark is 5%.

²⁶ There were too few cases of final concern type KST and sub-status of NS Concern Resolved or NS Confirmed to study separately.

1 58) With respect to the impact of the applicant’s Muslim country status on the time to
2 adjudication, both analyses (Table 10) show that there is no meaningful evidence that
3 Muslim status had any adverse impact on the time to adjudication. In three of the six cases,
4 when I controlled for form type and final NS concern type, the distribution of time to
5 adjudication was statistically significantly different by Muslim status, but in two of the three
6 cases, the median time to adjudication was longer for applications from applicants born in
7 countries without a Muslim majority. In all cases, the difference in the median times was
8 “arguably” not meaningful. In the one case where the time to adjudication was shorter for
9 those born in a country without a Muslim majority, the difference in the rates was only
10 slightly more than a month, and the relative disparity (the amount of time those born in a
11 majority non-Muslim country had to wait relative to the time for those born in majority
12 Muslim countries) was 94% of the wait time for applicants from a Muslim majority country
13 (*i.e.*, 6% less).

14 59) Looking further by form type, final NS concern type, and sub-status, we find three cases for
15 form I-485 applications where the disparity in time to adjudication by Muslim status is
16 statistically significant (See Table S11). In all cases, the median time is greater for those
17 born in a majority Muslim country. In two cases (KST with NS Concern
18 Unresolved/Confirmed sub-status, and Non-NS with NS concern Unresolved/Confirmed sub-
19 status), the disparity seems “arguably” meaningful, although they account for a relatively
20 small number of decisions (around 300 total of over 9,000 adjudications). The categorization
21 of the latter category (final concern type Non-NS and sub-status NS Concern Unresolved or
22 Confirmed) is questionable as discussed above in the data anomalies section. This category
23 impacts fewer than 100 cases, and includes cases for which the final concern type and sub-
24 status seem inconsistent. Looking at N-400 applications, the difference in time to
25 adjudication is statistically significantly different in two cases but, in both cases, the median
26 time to adjudication is shorter for applicants born in majority Muslim countries and, in both
27 cases, the differences are “arguably” not meaningful.

28 60) In sum, the survival analysis shows that there is little evidence to support an allegation that

1 the time to adjudication of applicants similarly situated with respect to the final concern type,
2 or with respect to the final concern type and sub-status, is impacted by whether the applicant
3 was born in a country with a majority Muslim population.

4 61) Survival analysis estimates the median time to adjudication and also tests whether the
5 distribution of time to adjudication is statistically significantly different by the applicant's
6 country of birth Muslim status for applications otherwise similarly situated with respect to
7 form type, and final NS concern type. It should be noted that this statistical test does not
8 directly measure the difference in the median. If the median is statistically significantly
9 different, then the distribution will be statistically significant; but, it is possible that the
10 distributions could be statistically significantly different when the medians are not. For
11 example, it may be that, in both populations, half of the applications are adjudicated within
12 24 months (*i.e.*, the medians are the same), but in one of the populations, a quarter of the
13 applications (25%) are adjudicated at the end of the 8th month, while in the other population
14 a quarter (25%) are not adjudicated until the end of the 16th month.

15 62) Focusing on just the median time to adjudication, not the full distributions, I have used the
16 Mood test of difference in medians, and compare results by fiscal year of receipt. Unlike the
17 survival analysis, the Mood test can be used to specifically test differences in the median by
18 the applicant's Muslim country status for each year and the combination of final concern type
19 and sub-status, and does not require the assumption of an equal distribution of outcomes over
20 fiscal years for applicants with the same form type, Muslim country status, and final concern
21 type and sub-status. However, if the assumptions hold, the survival analysis is a much more
22 powerful statistical test and estimator of the median. As shown below, the fact that the two
23 results yield essentially the same result – that Muslim status of country of origin has no
24 impact on how long an application will take to be adjudicated among applicants with the
25 same final concern type and sub-status – strongly supports my conclusions.

26 63) Hence, I am able to compare the median time to adjudication by the Muslim country status of
27 applicants similarly situated with respect to their application form, fiscal year of receipt, final
28 concern type, or final concern type and sub-status, provided there are enough observations to

1 conduct a statistical analysis. I report the detailed results and also the results by form type by
2 final concern type and sub-class aggregated across fiscal years, and by form type and fiscal
3 years aggregated across final concern type and sub-status. The term aggregation does not
4 imply that I have simply ignored the categorization type. To properly aggregate that data,
5 one must control for the factors impacting the outcomes being measured, and then aggregate
6 the controlled results over those factors.

7 64) Table S12 analyzes the data aggregating over the fiscal years for each form type, controlling
8 for final concern type and sub-status.

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TABLE S12
COMPARISON OF THE MEDIAN TIME TO ADJUDICATION BY MUSLIM STATUS AGGREGATED OVER THE FISCAL YEARS
BY FORM AND FINAL NS CONCERN AND NS CONCERN SUB-STATUS OF APPLICATION

Form	Concern	Final NS		Applications by Muslim Status		Median by Muslim		Difference in Median by Muslim Status		Is Difference Statistically Significant?
		Concern	Sub Status	Muslim	Non-Muslim	Muslim	Non-Muslim	Absolute	Relative	
I-485	KST	NS Unresolved/Confirmed		155	25	840	577	263	68.7%	No
I-485	Non-KST	NS Resolved/Not Confirmed		801	487	566	534	32	94.3%	No
I-485	Non-KST	NS Unresolved/Confirmed		575	324	761	775	-14	101.8%	No
I-485	Non-NS	NS Resolved/Not Confirmed		3,980	2,860	565	549	16	97.2%	No
I-485	Non-NS	NS Unresolved/Confirmed		56	29	679	421	258	62.0%	Yes
N-400	KST	NS Unresolved/Confirmed		181	34	843	663	180	78.6%	No
N-400	Non-KST	NS Resolved/Not Confirmed		1,511	728	476	469	7	98.5%	No
N-400	Non-KST	NS Unresolved/Confirmed		1,248	461	721	731	-10	101.4%	No
N-400	Non-NS	NS Resolved/Not Confirmed		9,534	4,617	504	509	-5	101.0%	No
N-400	Non-NS	NS Unresolved/Confirmed		107	38	619	577	42	93.2%	No

Notes

Statistical significance is based on Mood's test using a benchmark of 5% level to define statistically significant. Aggregated median is a weighted average with the weight being the total number of applications.

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65) The data shows that the median time to adjudication differs by Muslim status of the country in which the applicant was born for only I-485 applications with final concern type Non-NS and final sub-status NS Concern Unresolved or NS Confirmed. There was no significant disparity for any other combination of final concern type and sub-status. This corroborates the survival analysis. Moreover, the only category at issue is very small (85 cases out of 9,292, or less than 1%), and the final NS concern type and NS concern sub-status are seemingly inconsistent.²⁷

66) I also conducted the Mood test by individual year aggregated over final concern type and sub-status (see Table S13), as well as by individual year and final concern type and final sub-status (see Table S14 for I-485 applications and Table S15 for N-400 applications).

TABLE S13
COMPARISON OF THE MEDIAN TIME TO ADJUDICATION BY MUSLIM STATUS AGGREGATED OVER THE FINAL NS CONCERN AND NS CONCERN SUB-STATUS BY FORM AND FISCAL YEAR OF RECEIPT

Form	Fiscal Year of Receipt	Applications by Muslim Status		Median by Muslim Status		Difference in Medians by Muslim Status		Is Difference Statistically Significant?
		Muslim	Non-Muslim	Muslim	Non-Muslim	Absolute	Relative	
I-485	2013	660	699	531	338	193	63.7%	Yes
I-485	2014	703	510	524	534	-10	101.9%	No
I-485	2015	968	726	776	758	18	97.7%	No
I-485	2016	1,169	605	782	798	-16	102.0%	Yes
I-485	2017	944	582	666	681	-15	102.3%	No
N-400	2013	1,519	465	346	348	-2	100.6%	No
N-400	2014	2,195	740	411	394	17	95.9%	No
N-400	2015	2,699	1,138	649	639	10	98.5%	Yes
N-400	2016	2,280	1,212	733	749	-16	102.2%	No
N-400	2017	1,648	1,268	672	696	-24	103.6%	Yes

Notes

Statistical significance is based on Moods test using a benchmark of 5% level to define statistically significant. Aggregated median is a weighted average with the weight being the total number of applications.

²⁷ If the NS concern sub-status is NS Concern Unresolved or NS Confirmed which according to the FNDS_DS User Guide, Jan.31,2020, means that an articulable link to a risk to national security has been identified, then it would seem that the NS concern type should not be Non-NS or, conversely, if the NS concern type is Non-NS, the NS concern sub-status should be NS Concern Resolved or NS Not Confirmed.

**TABLE S14
COMPARISON OF THE MEDIAN TIME TO ADJUDICATION BY MUSLIMS STATUS FOR FORM I-485 APPLICATIONS
BY FISCAL YEAR OF RECEIPT AND FINAL NS CONCERN AND NS CONCERN SUB-STATUS**

Form	Fiscal Year of Receipt	Concern	Final NS Concern Sub Status		Applicants by Muslim Status		Median by Muslim Status		Difference in Median by Muslim Status		Is Difference Statistically Significant?
			Concern	Sub Status	Muslim	Non-Muslim	Muslim	Non-Muslim	Absolute	Relative	
I485	2013	KST	NS Unresolved/Confirmed	Confirmed	22	7	1,035	407	628	39.3%	No
I485	2013	Non-KST	NS Resolved/Not Confirmed	Confirmed	52	57	629	392	237	62.4%	No
I485	2013	Non-KST	NS Unresolved/Confirmed	Confirmed	73	31	731	731	0	100.0%	No
I485	2013	Non-NS	NS Resolved/Not Confirmed	Confirmed	496	591	461	294	167	63.8%	Yes
I485	2013	Non-NS	NS Unresolved/Confirmed	Confirmed	17	13	707	295	412	41.7%	Yes
I485	2014	Non-KST	NS Resolved/Not Confirmed	Confirmed	54	43	690	586	104	85.0%	No
I485	2014	Non-KST	NS Unresolved/Confirmed	Confirmed	62	44	768	1,009	-241	131.3%	No
I485	2014	Non-NS	NS Resolved/Not Confirmed	Confirmed	575	413	486	483	3	99.4%	No
I485	2014	Non-NS	NS Unresolved/Confirmed	Confirmed	12	10	349	292	57	83.6%	No
I485	2015	Non-KST	NS Resolved/Not Confirmed	Confirmed	63	44	998	951	47	95.3%	No
I485	2015	Non-KST	NS Unresolved/Confirmed	Confirmed	100	66	1,060	937	124	88.3%	No
I485	2015	Non-NS	NS Resolved/Not Confirmed	Confirmed	771	611	710	707	3	99.6%	No
I485	2016	Non-KST	NS Resolved/Not Confirmed	Confirmed	112	60	1,095	1,095	0	100.0%	No
I485	2016	Non-KST	NS Unresolved/Confirmed	Confirmed	142	54	1,057	1,095	-38	103.6%	No
I485	2016	Non-NS	NS Resolved/Not Confirmed	Confirmed	867	486	690	734	-44	106.3%	Yes
I485	2017	Non-NS	NS Resolved/Not Confirmed	Confirmed	656	431	641	661	-21	103.2%	No

Notes

Statistical significance is based on Mood's test using a benchmark of 5% level to define statistically significant. Aggregated median is a weighted average with the weight being the total number of applications.

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TABLE S15
COMPARISON OF THE MEDIAN TIME TO ADJUDICATION BY MUSLIM STATUS FOR FORM N-400 APPLICATIONS
BY FISCAL YEAR OF RECEIPT AND FINAL NS CONCERN AND NS CONCERN SUB-STATUS

Form of Receipt	Fiscal Year	Concern	Final NS Concern Sub-Status	Applications by Muslim Status		Percent Overall of Number Above the Median of Each Comparison by Muslim Status		Difference in Percent by Muslim Status		Is Difference Statistically Significant?
				Muslim	Non-Muslim	Muslim	Non-Muslim	Absolute	Relative	
N-400	2013	Non-NS	NS Unresolved/Confirmed	23	15	679	420	259	61.9%	No
N-400	2014	Non-KST	NS Resolved/Not Confirmed	158	34	459	500	-41	108.9%	No
N-400	2014	Non-KST	NS Unresolved/Confirmed	169	52	820	765	56	93.2%	No
N-400	2014	Non-NS	NS Resolved/Not Confirmed	1,794	644	352	350	2	99.4%	No
N-400	2014	Non-NS	NS Unresolved/Confirmed	37	6	578	469	109	81.1%	No
N-400	2015	KST	NS Unresolved/Confirmed	27	8	1,260	1,306	-46	103.7%	No
N-400	2015	Non-KST	NS Resolved/Not Confirmed	149	54	747	686	61	91.8%	No
N-400	2015	Non-KST	NS Unresolved/Confirmed	278	83	944	1,007	-63	106.7%	No
N-400	2015	Non-NS	NS Resolved/Not Confirmed	2,217	987	604	588	16	97.4%	yes
N-400	2015	Non-NS	NS Unresolved/Confirmed	25	6	571	622	-51	108.8%	No
N-400	2016	KST	NS Unresolved/Confirmed	27	7	1,095	1,095	0	100.0%	No
N-400	2016	Non-KST	NS Resolved/Not Confirmed	165	67	1,029	1,037	-8	100.8%	No
N-400	2016	Non-KST	NS Unresolved/Confirmed	256	89	937	1,013	-77	108.2%	yes
N-400	2016	Non-NS	NS Resolved/Not Confirmed	1,820	1,042	680	688	-8	101.2%	No
N-400	2016	Non-NS	NS Unresolved/Confirmed	12	7	744	1,095	-352	147.3%	Yes
N-400	2017	Non-NS	NS Resolved/Not Confirmed	1,194	902	650	682	-32	104.9%	yes

Note

Statistical significance is based on Mood's test using a benchmark of 5% level to define statistically significant. Aggregated median is a weighted average with the weight being the total number of applications.

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1 67) These results are consistent with the conclusion that there is little statistical evidence that the
2 Muslim status of the applicant's country of origin has any influence on the time to
3 adjudication among applicants with the same form type, and final NS concern type and sub-
4 status. In only seven cases among the 32 sets of comparisons is the disparity in the median
5 statistically different by whether an applicant was born in country whose population is
6 majority Muslim. In four cases of the seven, it favored those born in countries with majority
7 Muslim population. Finally, in addition to studying whether the Muslim status of the
8 applicant's country of birth had an impact on the time to adjudication, I also studied whether
9 the Muslim country status of applicants with approved applications had an impact on how
10 long they had to wait for approval compared to applicants similarly situated with respect to a
11 form type, final concern type, and final sub-status.²⁸ I measured the time to approval by
12 both the mean and median.

13 68) Table S16 presents the results.
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27 28 As noted earlier, since applications adjudicated are supposed to have a final sub-class of NS
28 Concern Resolved or Unresolved, I recoded those approvals with a final sub-status of NS Confirmed
to NS Concern Unresolved and with a final sub-status of NS Not Confirmed to NS Concern
Resolved.

TABLE S16
COMPARISON OF THE MEAN AND MEDIAN TIME TO APPROVAL BY MUSLIM STATUS FOR FORM I-485 AND FORM N-400 APPLICATIONS
CONTROLLING FOR FINAL NS CONCERN AND NS CONCERN SUB-STATUS BASED ON MOOD'S TEST OF MEDIANS

Form	Concern	Final NS		Number of Approvals by Muslim Status		Median Days to Approval		Difference in Median by Muslim Status		Is Difference Statistically Significant?	Mean Days to Approval		Difference in Mean by Muslim Status		Is Difference Statistically Significant?
		Adjusted Sub-Status	Muslim	Non-Muslim	Muslim	Non-Muslim	Absolute	Relative	Muslim		Non-Muslim	Absolute	Relative		
I-485	Non-KST	NS Resolved/Not Confirmed	169	111	611.0	544.0	67.0	89.0%	Yes	676.0	609.4	66.6	90.1%	No	
I-485	Non-KST	NS Unresolved/Confirmed	199	93	743.0	774.0	-31.0	104.2%	No	819.6	797.1	22.5	97.3%	No	
I-485	Non-NS	NS Resolved/Not Confirmed	2,948	2,186	576.0	534.0	42.0	92.7%	Yes	610.3	568.8	41.5	93.2%	Yes	
I-485	Non-NS	NS Unresolved/Confirmed	43	23	675.0	295.0	380.0	43.7%	Yes	700.8	357.9	342.9	51.1%	Yes	
I-485	Aggregated	Aggregated	3,359	2,413	587.3	543.9	43.4	92.6%	Yes	625.1	579.9	45.2	92.8%	Yes	
N-400	Non-KST	NS Resolved/Not Confirmed	387	170	540.0	709.0	-169.0	131.3%	Yes	575.2	667.4	-92.2	116.0%	Yes	
N-400	Non-KST	NS Unresolved/Confirmed	525	237	800.0	771.0	29.0	96.4%	No	818.7	795.4	23.3	97.2%	No	
N-400	Non-NS	NS Resolved/Not Confirmed	7,303	3,494	522.0	562.0	-40.0	107.7%	Yes	551.6	584.4	-32.8	105.9%	Yes	
N-400	Non-NS	NS Unresolved/Confirmed	70	28	540.0	570.5	-30.5	105.6%	No	576.9	657.8	-80.9	114.0%	No	
N-400	Aggregated	Aggregated	8,285	3,929	540.3	581.8	-41.5	107.7%	Yes	569.8	602.3	-32.4	105.7%	Yes	

Notes

Statistical significance benchmark is at 5% level.
 Statistical significance of median is based on Mood's test and the mean the t-test.
 Aggregated median is a weighted average with the weight being the total number of applications.

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1 69) The mean and median time to approval for similarly situated (*i.e.*, the same form and Final
2 NS concern type and NS concern sub-status) applications of those born in majority Muslim
3 countries was statistically significantly longer in three comparisons and statistically
4 significantly shorter in three comparisons. In only one case involving only 66 applications
5 was the disparity also meaningfully different. It was longer for the 43 applications of those
6 born in a majority Muslim country than the 23 applications of those not born in a majority
7 Muslim country where the final NS concern type reported was Non-NS and the final adjusted
8 NS concern sub-status was NS Unresolved. Notably, this is the comparison where the final
9 reported data is questionable. Moreover, overall, controlling for final concern and sub-class,
10 there is no statistical evidence that being born in a majority Muslim country causes the
11 decision to take longer.

12
13 I declare under penalty of perjury that the foregoing, and statements contained in my appended
14 reports, is true and correct. Executed this 19th day of April 2021, in Philadelphia, PA.

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19 BERNARD R. SISKIN, PH.D.
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APPENDIX A-1

TABLE 21

**ESTIMATED FIRST OR ONLY SOURCE OF NATIONAL SECURITY CONCERN
INFORMATION RESULTING IN CARRP REFERRAL BY FISCAL YEAR BY MUSLIM
STATUS FOR I-485 APPLICANTS**

Muslim Status Based on Birth Country

Fiscal Year	Estimated Percent of Applications Where Third Agency was a Source				Estimated Percent of Applications Where USCIS was a Source			
	non- Muslim	>=50% Muslim	>=90% Muslim	EO7 Countries	non- Muslim	>=50% Muslim	>=90% Muslim	EO7 Countries
2013	97.4%	96.4%	96.3%	95.6%	51.7%	52.0%	52.1%	52.5%
2014	96.6%	97.0%	96.6%	96.8%	52.0%	51.7%	51.9%	51.8%
2015	97.7%	97.7%	97.6%	97.1%	51.3%	51.4%	51.4%	51.7%
2016	96.6%	96.5%	96.5%	96.5%	52.1%	52.0%	52.0%	52.0%
2017	95.6%	94.7%	94.7%	94.7%	52.8%	53.2%	53.1%	53.1%
2018	95.0%	96.4%	96.5%	96.8%	53.1%	52.1%	52.0%	51.9%
2019	89.1%	92.7%	94.3%	96.1%	55.9%	54.1%	53.2%	52.3%
TOTAL	96.2%	96.2%	96.3%	96.2%	52.3%	52.2%	52.1%	52.2%

Title and column heading corrected 4/09/2021

TABLE 22

**ESTIMATED FIRST OR ONLY SOURCE OF NATIONAL SECURITY CONCERN
INFORMATION RESULTING IN CARRP REFERRAL BY FISCAL YEAR BY MUSLIM
STATUS FOR N-400 APPLICANTS**

Muslim Status Based on Birth Country

Fiscal Year	Estimated Percent of Applications Where Third Agency was a Source				Estimated Percent of Applications Where USCIS was a Source			
	non- Muslim	>=50% Muslim	>=90% Muslim	EO7 Countries	non- Muslim	>=50% Muslim	>=90% Muslim	EO7 Countries
2013	96.5%	95.7%	95.3%	92.8%	51.9%	52.2%	52.4%	53.6%
2014	98.6%	97.4%	97.3%	96.4%	50.8%	51.3%	51.4%	51.8%
2015	98.9%	99.0%	98.9%	98.8%	50.6%	50.6%	50.6%	50.6%
2016	98.1%	97.3%	97.5%	97.9%	51.0%	51.4%	51.3%	51.1%
2017	87.3%	96.9%	97.8%	97.7%	56.5%	51.6%	51.2%	51.2%
2018	88.3%	95.8%	96.1%	96.1%	55.9%	52.2%	52.0%	52.0%
2019	92.1%	94.1%	93.6%	93.7%	54.1%	53.1%	53.4%	53.3%
TOTAL	94.3%	97.0%	97.1%	96.7%	52.9%	51.5%	51.5%	51.7%

Title and column heading corrected 4/09/2021

TABLE 33

**SUMMARY OF RESULTS OF REGRESSION ANALYSIS
OF RELATIONSHIP BETWEEN REFERRALS TO CARRP
OF APPLICATIONS FROM PERSONS WHO ARE CITIZENS OF A COUNTRY
AND VARIOUS CHARACTERISTICS ASSOCIATED WITH THE COUNTRY**

Variable	Standardized Coefficients	Probability of Occurring by Chance
Percent Muslim of population of the country	0.097	0.067
Number of terroristic events associated with country	0.698	less than 0.001
Applications from persons born in the country	0.167	0.001
Whether country is state sponsor of terrorism	0.205	less than 0.001

Notes

Standardized coefficients adjust for the differences in measurement of the variables, so the coefficients of the different factors are comparable. Thus, if a standardized coefficient of one variable is 1, and the standardized coefficient of the other variable is 2, the effect of the second variable is twice that of the first.

If the probability of seeing as large an effect by chance is less than 0.05, one considers the effect to be statistically significant. If the probability is greater than 0.05, the observed effect is considered to be not statistically significant, so the analysis does not provide valid statistical evidence from which to conclude that the effect of the factor is real.

CERTIFICATE OF SERVICE

I hereby certify that on May 3, 2021, I electronically filed the foregoing UNDER SEAL via the Court's CM/ECF system, which will send notification of such filing to all counsel of record. Additionally, I directed that an encrypted copy of the foregoing SEALED submission be served on counsel for Plaintiffs via email.

/s/ W. Manning Evans
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