

EXHIBIT C

The Honorable Richard A. Jones

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ABDIQAFAR WAGAFE, *et al.*,
Plaintiffs,
v.
UNITED STATES CITIZENSHIP AND
IMMIGRATION SERVICES, *et al.*,
Defendants.

No. 2:17-cv-00094-RAJ

**DECLARATION OF MATTHEW D.
EMRICH IN SUPPORT OF
DEFENDANTS' OPPOSITION TO
PLAINTIFFS' MOTION TO
COMPEL**

I, Matthew D. Emrich, do hereby declare and say:

1. I am the Associate Director of the Fraud Detection and National Security (“FDNS”) Directorate, U.S. Citizenship and Immigration Services (“USCIS”), Department of Homeland Security (“DHS”). I have held this position since November 15, 2015.

2. I have been delegated the authority of the Director of USCIS to assert the law enforcement and deliberative process privileges on behalf of USCIS regarding the documents at issue in this litigation.

3. I am aware of the Motion to Compel filed by Plaintiffs on January 9, 2020 challenging the assertion of law enforcement and deliberative process privilege over certain documents produced in discovery in *Wagafe v. Trump*, No. 2:17-cv-00094 (W.D. Wash.). Thirty documents are addressed in this declaration.

4. The matters contained in this declaration are based upon my review of the documents in which certain information has been withheld, my personal knowledge, my knowledge of the documents kept by USCIS in the course of ordinary business, and information

1 provided to me by other USCIS employees in the course of my official duties as Associate
2 Director of FDNS.

3 5. I submit this declaration and incorporate my prior declarations in support of
4 USCIS' privilege claims made on: February 20, 2018, regarding the law enforcement privilege,
5 Dkt. No. 119-2; May 10, 2018, regarding the law enforcement and deliberative process
6 privileges; September 26, 2018, regarding the law enforcement and deliberative process
7 privileges; February 13, 2019, regarding the law enforcement and deliberative process privileges;
8 March 25, 2019, regarding the law enforcement and deliberative process privileges; June 6,
9 2019, regarding the law enforcement and deliberative process privileges; June 19, 2019
10 regarding the law enforcement and deliberative process privileges; July 15, 2019, regarding the
11 law enforcement and deliberative process privileges; August 16, 2019, regarding the law
12 enforcement and deliberative process privileges; and September 23, 2019, regarding the law
13 enforcement and deliberative process privileges. The May 10, 2018, September 26, 2018, and
14 February 13, 2019 declarations were provided to the Plaintiffs at the time privilege logs were
15 produced, and were attached to Dkt. No. 266, and are also attached here. The latter six
16 declarations, which are attached here, were provided to Plaintiffs at the time privilege logs were
17 produced, but were not filed with the Court.

18 6. The aforementioned declarations asserted deliberative process and law
19 enforcement privilege over 25 documents challenged in Plaintiffs' motion to compel. I continue
20 to assert the law enforcement and/or deliberative process privileges over those documents:

- 21 a. Evaluation of the Utility of Checks: March 5, 2012 [DEF-00004010- DEF-00004017];
- 22 b. Executive Summary: CARRP Enforcement Practice Proposal: November 5, 2012
23 [DEF-00005579 - DEF-00005582];
- 24 c. Controlled Application Review and Resolution Program (CARRP) Processing for
25 Known or Suspected Terrorist (KST) Cases [DEF-00017542- DEF-00017557];
- 26 d. Controlled Application Review and Resolution Program (CARRP) Version 2.2 [DEF-
27 00021130- DEF-00021338];

- 1 e. FDNS CARRP Training Course (FCPTC) Version 2.3 Instructor Guide [DEF-
2 00026674- DEF-00026725];
- 3 f. FDNS Senior Official CARRP Training [DEF-00044548- DEF-00044737];
- 4 g. FDNS-DS System Generated Notifications Interim Standard Operating Procedures:
5 April 28, 2015 [DEF-00044891- DEF-00044911];
- 6 h. Deconfliction, Internal and External Vetting and Adjudication of NS Concerns [DEF-
7 00052177- DEF-00052362];
- 8 i. Extreme Screening and Vetting Options [DEF-00096541-DEF-00096545];
- 9 j. Executive Order 13780 Updates [DEF-00096701- DEF-00096705]
- 10 k. USCIS Response to CRCL's Memorandum on Options for Guidance on Religious
11 Questioning (August 2, 2011) [DEF-00174739- DEF-00174741];
- 12 l. UNTITLED [DEF-00181890- DEF-00181899];
- 13 m. Western Region Comments: Gaps in CARRP Policy and Procedure [DEF-00181912-
14 DEF-00181915];
- 15 n. UNTITLED [DEF-00184286- DEF-00184289];
- 16 o. UNTITLED [DEF-00184291- DEF-00184293];
- 17 p. UNTITLED [DEF-00184306- DEF-00184309];
- 18 q. Initial Blue Sky Screening Proposals [DEF-00254790- DEF-00254796];
- 19 r. Continuous Immigration Vetting Overview [DEF-00255323];
- 20 s. Continuous Immigration Vetting Overview as of July 25, 2017 [DEF-00255332- DEF-
21 00255333];
- 22 t. USCIS Interviews Recommendation Report [DEF-00270098- DEF-00270106];
- 23 u. Continuous Immigration Vetting Project Plan: April 29, 2016 [DEF-00280914- DEF-
24 00280920];
- 25 v. List of Executive Order (EO)-related accomplishments to be completed in the next 90
26 days [DEF-00285830- DEF-00285839];
- 27 w. Procedures for Identifying CARRP Concerns [DEF-00329157- DEF-00329162];
- 28

- x. Fraud Detection and National Security (FDNS) Deconfliction Job Aid [DEF-00329296- DEF-00329303]; and
- y. Enhanced Information Sharing with Law Enforcement: 2013 [DEF-0074376- DEF-0074384];

7. The aforementioned declarations also asserted the law enforcement privilege and deliberative process privilege over redacted information in duplicates or near duplicates of five Certified Administrative Record (CAR) documents challenged in Plaintiffs motion to compel. I continue to assert the law enforcement privilege and/or deliberative process privilege over those documents:

- a. Operational Guidance for Vetting and Adjudicating Cases with National Security Concerns (Attachment for DOMO – 4.24.2008)).pdf [DEF-00095009-DEF-00095054];
- b. Nabisco Continuing Updates.doc [DEF-00003593-DEF-00003791];
- c. CARRP Fact Sheet FAQ [DEF-00132598-DEF-00132636];
- d. CARRP Module 3 – CARRP Overview Lecture – Instructor Notes (OCC Cleared May 2016) [DEF-00373850-DEF-00373989]; and
- e. CARRP Module 5 – Demonstrating Eligibility and Vetting National Security Concerns (cleared June 2017) – Instructor Notes [DEF-00116759-DEF-00116957].

8. I understand that prior to the filing of Plaintiffs’ instant motion, Plaintiffs identified 84 documents and the entire CAR as potentially subject to their motion. In response, Defendants reproduced 17 CAR duplicate or near-duplicate documents and several of the 84 documents with fewer redactions. I understand Plaintiffs’ January 9, 2020 motion challenged the CAR and only 64 of the 84 documents. I also understand that, following the Court’s January 16, 2020 order, all but one of the CAR duplicates or near duplicates and several of the 64 documents then at issue were reproduced with fewer or no redactions. I understand that this second reproduction resulted in Plaintiffs maintaining their challenge to only 36 of the 64 documents, 25 of which are addressed in this declaration, and to challenging the redactions in 5 CAR duplicates or near duplicates, all of which are addressed in this declaration. In this effort, USCIS

1 endeavored to reduce the issues in dispute and provide Plaintiffs with as much information as
2 possible.

3 9. Following this review, only the most sensitive information remains withheld
4 pursuant to the deliberative process and law enforcement privileges. Such information generally
5 falls into two categories:

- 6 a. Deliberative process information related to an unimplemented policy,
7 guidance, or procedure that was not adopted by USCIS, or not adopted in the
8 form described.
- 9 b. Information that originates with or relates to third agencies, generally related
10 to information sharing with those agencies, or to the use and operation of their
11 electronic systems, which includes law enforcement sensitive and national
12 security information, as well as other information.

13 **Pre-decisional, Deliberative Information**

14 10. I assert the deliberative process privilege for fourteen documents: DEF-00004010,
15 DEF-00005579, DEF-00096541, DEF-00096701, DEF-00174739, DEF-00181890, DEF-
16 00181912, DEF-00254790, DEF-00255323, DEF-00255332, DEF-00270098, DEF-00280914,
17 DEF-00285830, and DEF-0074376.

18 11. DEF-00004010 describes a pilot project that was designed to consider whether
19 USCIS should change its screening and vetting methods to add an additional type of security
20 check for CARRP cases. The conclusion following the pilot was that it should not be adopted.
21 The information withheld in this document describes the pilot and proposed changes that were
22 not implemented or otherwise adopted by USCIS.

23 12. Similarly, DEF-00005579 is a draft executive summary of a considered practice
24 proposal. The proposal reflects suggestions and options for a change in vetting. Portions of the
25 proposal may have been adopted in a different form than was proposed in this document. Other
26 proposals in this document were never adopted or implemented.

27 13. DEF-00174739 is a memorandum from USCIS' then Deputy Director to a DHS
28 Officer for Civil Rights and Civil Liberties (CRCL). It describes various options to implement

1 recommendations from CRCL. This document withholds options that were presented by CRCL
2 but were not ultimately implemented into a policy, guidance, or procedure. It discloses the
3 options that were adopted to meet the CRCL's recommendations.

4 14. Five of these documents describe an array of options for enhancing USCIS'
5 vetting and/or establishing uniform screening. These documents include proposals for changes in
6 policy, guidance, and/or practice which were never adopted. Other portions of these documents
7 may describe proposals that may ultimately have been adopted in a different form than
8 described. Documents that fit within this category are: DEF-00096541, DEF-00096701, DEF-
9 00254790, DEF-00270098, and DEF-00285830.

10 15. Four of these documents relate to continuous immigration vetting (CIV).
11 Information has been withheld from those documents that describes potential future iterations of
12 CIV that are not finalized, that may not occur as contemplated within the documents, or may
13 never occur in any form. Documents that withhold this type of information about potential,
14 unimplemented considerations about the future of CIV include: DEF-00096541, DEF-
15 00255323, DEF-00255332, and DEF-00280914.

16 16. Two of the documents described in paragraph 15 also discuss the screening
17 platform, ATLAS (not an acronym). ATLAS is a platform of screening technologies within the
18 Fraud Detection and National Security Data System (FDNS-DS) that ingests certain information
19 from USCIS and other systems to automatically perform screening. Many of the documents
20 described above also discuss contemplated future options for expanding or improving ALTAS,
21 which are not implemented, and may not be adopted at all or in the same form as contemplated
22 in the documents. Documents of this nature include: DEF-00255323 and DEF-00255332.

23 17. Two documents describe suggestions from field offices to USCIS Headquarters
24 about potential changes to guidance/policy process. The documents reflect responses to
25 solicitations for ideas, suggestions, and recommendations for clarifying, changing, or improving
26 CARRP policy/guidance/process. The content in these document were not adopted at all, or not
27 in the form described in the documents. Documents of this nature include: DEF-00181890 and
28 DEF-00181912.

1 18. DEF-0074376 describes a policy proposal for enhanced information sharing with
2 law enforcement that was ultimately not adopted.

3 19. Disclosure of the pre-decisional documents described above are likely to cause
4 two harms. First, it is crucial that USCIS employees can candidly make recommendations to
5 agency leadership to improve government processes without concern that such pre-decisional
6 deliberations will be scrutinized before they are final. If individuals are concerned that pre-
7 decisional deliberations will be disclosed, they may sanitize their statements and reduce the free-
8 flow of ideas. This would be detrimental to USCIS' ability to base decisions on the best
9 information available.

10 20. Even if the pre-decisional discussions ultimately contribute to a change in policy,
11 guidance, or process, early reflections of proposals before they are finalized may contain
12 incomplete considerations, inclusion of ideas that were not ultimately adopted, or candid
13 discussions about the reasons why certain proposals should or should not be adopted. Disclosure
14 of this type of information results in the same harm as when the pre-decisional deliberations do
15 not lead to any changes in policy, guidance, and/or process. Essentially, if individuals are
16 concerned that pre-decisional deliberations will be disclosed, they may sanitize their statements
17 and reduce the free-flow of ideas. This would be detrimental to USCIS' ability to base decisions
18 on the best information available. Further, in these situations, documents that reflect final
19 adoptions of policy, guidance, or process would have been provided and not withheld as
20 deliberative.

21 21. Second, providing Plaintiffs with a document containing descriptions of
22 unimplemented ideas, proposals, and recommendations is confusing and has the potential to
23 mislead. Plaintiffs may assume that such ideas, proposals and recommendations are currently
24 ongoing or in effect. They may believe that early versions of ideas or proposals were in fact
25 implemented as described, although they were not. Ultimately, disclosure of confusing and
26 potentially misleading material could chill officials' future candor in decision-making.

27 22. I am aware that in this present litigation the parties have entered into a Stipulated
28 Protective Order, ECF No. 86, and I have reviewed the terms of this Stipulated Protective Order.

1 However, release under this Protective Order would not cure the harms from disclosure because
2 Plaintiffs would likely seek to explore these pre-decisional and deliberative policy discussions in
3 depositions or testimony, further chilling open and candid communications about contemplated
4 policy changes.

5 **Law-enforcement privilege**

6 **Third agency information**

7 23. Twenty-five of the documents at issue here are protected by the law enforcement
8 privilege because they contain third agency law enforcement information. This includes
9 information that may originate with USCIS, but the disclosure of which would provide insight
10 into third agency law enforcement information. These documents include: DEF-00004010,
11 DEF-00005579, DEF-00017542, DEF-00021130, DEF-00026674, DEF-00044548, DEF-
12 00044891, DEF-00052177, DEF-00096541, DEF-00181890, DEF-00181912, DEF-00184286,
13 DEF-00184291, DEF-00184306, DEF-00254790, DEF-00255323, DEF-00255332, DEF-
14 00280914, DEF-00329157, DEF-00329296, DEF-00116759, DEF-00373850, DEF-00132598,
15 DEF-00003593, and DEF-00095009.

16 24. The documents listed above contain a variety of information that relates to the law
17 enforcement operations of other agencies. Certain documents include names of sensitive
18 electronic systems, as well as codes, instructions, and guidance on how USCIS may utilize and
19 operate law enforcement and intelligence partners' electronic systems, including screenshots.
20 Some withheld information provides insight into the operations of those databases.

21 25. Redacted information may further describe the interplay between the operation of
22 these electronic systems and the Terrorist Screening Center's ("TSC") Terrorist Screening
23 Database ("TSDB") or pertain to the operation of the TSDB.

24 26. Withheld information in the above documents contains redacted information
25 related to the Federal Bureau of Investigation's ("FBI") National Namecheck Program and
26 fingerprint check. It also includes the manner in which the FBI obtains and collects information
27 and shares it with USCIS.

1 27. Some documents contain hypothetical exercises that are largely unredacted.
2 However, limited information, such as electronic system codes and information that may provide
3 insight into third agency investigations, has been withheld. I understand that the Court's January
4 16, 2020 order permits redaction of third agency information within hypotheticals, so long as any
5 additional information is released. The remaining redactions in hypotheticals qualify as this type
6 of information.

7 28. Withheld information may further describe specific countries of interest identified
8 by third agencies. USCIS does not currently use such countries of interest to identify particular
9 individuals for vetting or screening. Therefore, disclosure may harm a third agency interest,
10 while providing little to no value to this litigation.

11 29. USCIS does not disclose information it has obtained or that was derived from
12 partner agencies that it understands to be law enforcement or otherwise privileged. In some
13 cases, USCIS has entered into formal agreements not to disseminate such information without
14 the permission of the agency from whom the information was obtained or derived.

15 30. Even without a formalized agreement, USCIS generally adheres to what is known
16 as the Third Agency Rule. According to this policy, USCIS should not disseminate third agency
17 information without the express consent of the agency from whom the information originated or
18 was derived. *See* USCIS Policy Manual, Chapter 7(D)(4), available at
19 <https://www.uscis.gov/policy-manual/volume-1-part-a-chapter-7>.

20 31. These agreements and principles operate to protect USCIS' relationships with its
21 law enforcement and intelligence partners to ensure that it can obtain necessary, timely, and
22 accurate information to inform the adjudication of immigration benefit applications. Further, it
23 recognizes that USCIS may not be in the best position to fully understand all the sensitivities of
24 such information, as it may not be aware of additional purposes for its use and how disclosure in
25 certain circumstances may impair the mission of those agencies.

26 32. USCIS asserts law enforcement privilege over third agency law enforcement
27 privileged information because the disclosure of such information could impair USCIS' ability to
28 share and collect necessary information to determine if an individual is eligible for an

1 immigration benefit. If USCIS' law enforcement and intelligence partners believe that providing
2 USCIS with information is risky because it is may be revealed through litigation, it could harm
3 the collaborative relationship between USCIS and its partners and reduce the critical sharing of
4 information. This would prevent USCIS from fulfilling its mission and degrade USCIS' ability to
5 collect information it needs to prevent potential bad actors from infiltrating the immigration
6 system, despite ineligibility for an immigration benefit. Disclosure could also degrade other law
7 enforcement or intelligence agencies' missions or operations.

8 33. I understand that some of USCIS' third agency partners are providing their own
9 declarations to further describe the sensitivity of the law enforcement privileged information at
10 issue and the harms that may result if it is disclosed.

11 USCIS databases and USCIS information that interacts with third agency information

12 34. Fifteen of the documents at issue here are protected by the law enforcement
13 privilege because they include information that may originate with USCIS, but the disclosure of
14 which would provide insight into third agency law enforcement information. While this
15 information generally originates with USCIS, given the information-sharing environment and
16 need to work together on complex matters that may affect the equities and investigations of
17 multiple agencies, this information implicates third agency law enforcement information as well.
18 These documents include: DEF-00017542, DEF-00021130, DEF-00026674, DEF-00044548,
19 DEF-00044891, DEF-00255323, DEF-00255332, DEF-00096541, DEF-00096701, DEF-
20 00181890, DEF-00254790, DEF-00116759, DEF-00373850, DEF-00132598, and DEF-
21 00095009.

22 35. Within this category, withheld information describes the processes and techniques
23 USCIS utilizes to seek and obtain relevant national security information from its law
24 enforcement and intelligence partners. They also describe sensitive information about those
25 partners, such as substantive categories of third agency investigations, and which may reveal
26 investigative information obtained from such partners.

27 36. Withheld information contains information relating to the operation and
28 navigation of USCIS' case management system FDNS-DS, some of which include screenshots.

1 FDNS-DS is USCIS' primary case management system used to record requests and case
2 determinations involving immigrant benefit fraud, public safety, and national security concerns.
3 *See Privacy Impact Assessment for the Fraud Detection and National Security Data System*
4 *(FDNS-DS)*, at 1, DHS/USCIS/PIA-013(a), May 18, 2016, available at [https://www.dhs.gov](https://www.dhs.gov/sites/default/files/publications/privacy-pia-uscis-fdnsds-november2017.pdf)
5 [/sites/default/files/publications/privacy-pia-uscis-fdnsds-november2017.pdf](https://www.dhs.gov/sites/default/files/publications/privacy-pia-uscis-fdnsds-november2017.pdf). This system
6 includes derogatory information from background checks, records from administrative
7 investigations, USCIS investigative referrals to law enforcement agencies ("LEAs") regarding
8 fraud, public safety, and national security, referrals and leads from other government agencies
9 and LEAs, information collected from LEAs and intelligence agencies, referrals from the public
10 or others regarding fraud, information about fraud rates and trends, adverse information
11 identified by USCIS, and adjudicative summaries and decisions. *Id.* at 7. Information within
12 FDNS-DS may include the results of background checks from other agencies. It allows for
13 enhanced analytical capabilities which may, for example, allow USCIS to determine if an
14 individual has applied for a benefit with multiple biographic identifies or aliases. *Id.*

15 37. While certain, more general information about certain functionalities and
16 information contained in FDNS-DS has been provided to the Plaintiffs in an effort to reach a
17 compromise, the information that remains redacted is particularly detailed and sensitive. The
18 withheld information generally provides insight in how to navigate FDNS-DS. This requires
19 careful protection because disclosure could reveal technical capabilities of the system and permit
20 unauthorized users, such as computer hackers, to access or manipulate records. Generally, this
21 type of information, which largely provides instruction to ensure officers maintain adequate and
22 complete records within FDNS-DS, does not provide substantial insight into how the CARRP
23 policy operates.

24 38. To ensure the integrity of the information, access to FDNS-DS, even within
25 USCIS, is limited and constrained. Disclosure of information within FDNS-DS would provide
26 individuals with access to USCIS administrative investigations which may be ongoing. This
27 information may originate or be derived from third agencies, including the types of information
28 described in the portion of this declaration related to third party information.

1 39. Similarly, some documents describe detailed information about the operation of
2 ATLAS, which is a USCIS platform that that allows for the issuance of System Generated
3 Notifications (SGNs) within FDNS-DS that may alert FDNS-DS gatekeepers that certain
4 derogatory information may exist about an individual. ATLAS interacts with, among other
5 information, TECS. TECS is a database principally owned and operated by Customs and Border
6 Protection (CBP) and contains law enforcement information. Again, although ATLAS is a
7 USCIS platform, insight into its operations could create a vulnerability that could allow bad
8 actors to penetrate the system to obtain information about both USCIS and third agency
9 investigations.

10 40. Next, withheld information includes information about actual cases that are or
11 were under a USCIS administrative investigation and which may have also been under
12 investigation by third agency law enforcement agencies. Descriptions of the cases themselves are
13 generally revealed within these documents; however, more specific information that may be
14 sufficient to identify a particular individual, such as the date upon which the individual filed a
15 benefit application, remains redacted. In this way, Plaintiffs have been provided as much
16 information as possible, without compromising an investigation.

17 41. Disclosure of information sufficient to identify individuals, even of past
18 investigations, can cause harm if the individual applies for another immigration benefit in the
19 future. That individual may then become aware of derogatory information that USCIS or other
20 government agencies possess, which may cause bad actors with a strong incentive to falsify or
21 misrepresent information, such as encounters, activities, or associations that pose evidence of
22 fraud, public safety, or national security concerns. This may impact testimony and
23 representations to USCIS, which may obstruct enforcement, implementation, and application of
24 the law, because USCIS will be unable to fully evaluate evidence. This may impair USCIS'
25 ability to properly vet cases, and could lead to individuals being granted immigration benefits for
26 which they are not eligible.

27 42. Access to information about USCIS' investigations, or law enforcement or
28 intelligence investigations may allow individuals to ascertain that they are the subject of a

1 USCIS administrative investigation, or a law enforcement or intelligence investigation, as well as
2 the focus or purpose of the investigation. This may lead an individual to alter behavior, conceal
3 evidence of wrongdoing, or attempt to influence witnesses or adjust communication methods or
4 financial dealings to avoid further collection of evidence, and undermine ongoing investigations.

5 43. Premature disclosure of such information may provide bad actors with a strong
6 incentive to falsify or misrepresent information, such as encounters, activities, or associations
7 that pose evidence of fraud, public safety, or national security concerns. This may impact
8 testimony and representations to USCIS, which may obstruct enforcement, implementation, and
9 application of the law, because USCIS will be unable to fully evaluate evidence. This may
10 impair USCIS' ability to properly vet cases, and could lead to individuals being granted
11 immigration benefits for which they are not eligible.

12 44. Withheld information may also disclosure procedures and practices for the
13 handling of classified information, which if disclosed, could provide a roadmap to allow an
14 individual to determine if a third agency possess classified information about them.

15 45. Release of the law-enforcement privileged information described in this
16 declaration under the Stipulated Protective Order in this case is not acceptable because disclosure
17 of the information withheld would pose a risk to national security or public safety. Because
18 these documents apply to ongoing and future vetting and adjudication of immigration benefit
19 applications, even disclosure under a protective order would not mitigate the risk to national
20 security or public safety because sensitive law enforcement information would be provided to
21 third parties outside of the federal government.

22 46. Consistent with the court's January 16, 2020 order, several of the documents at
23 issue have been provided to plaintiffs under an Attorneys' Eyes Only Protective Order. Versions
24 of those document release detailed information about USCIS' vetting. Additional withheld
25 information cannot be provided under such protective order because it implicates the law
26 enforcement privileges of third agencies, either because the information originates with third
27 agencies (such as database codes) or because disclosure of USCIS information would provide
28 insight into third agency information (such as withheld FDNS-DS information).

Conclusion

47. Based on the reasons set forth above and the reasons set forth in my prior declarations asserting privilege over the information contained within these documents (February 20, 2018, Dkt. No. 119-2; May 10, 2018; September 26, 2018; February 13, 2019; March 25, 2019; June 6, 2019; June 19, 2019; July 15, 2019; August 16, 2019; and September 23, 2019), I assert the deliberative process and law enforcement privileges for the aforementioned information which the government seeks to keep withheld.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 4th day of February, 2020 at Washington, D.C.



Matthew D. Emrich
Associate Director, FDNS
U.S. Citizenship and Immigration Services
Washington, D.C.

EXHIBIT C-1

The Honorable Richard A. Jones

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ABDIQAFAR WAGAFE, *et al.*,

Plaintiffs,

v.

UNITED STATES CITIZENSHIP AND

IMMIGRATION SERVICES, *et al.*,

Defendants.

No. 2:17-cv-00094-RAJ

**FIRST SUPPLEMENTAL
AFFIDAVIT OF MATTHEW D.
EMRICH IN SUPPORT OF THE
ASSERTION OF THE LAW
ENFORCEMENT AND
DELIBERATIVE PROCESS
PRIVILEGES**

I, Matthew D. Emrich, do hereby declare and say:

1. I am the Associate Director of the Fraud Detection and National Security (“FDNS”) Directorate, U.S. Citizenship and Immigration Services (“USCIS”), Department of Homeland Security (“DHS”). I have held this position since November 15, 2015.

2. L. Francis Cissna, Director of USCIS, has delegated to me the authority to assert the law enforcement and deliberative process privileges on his behalf regarding the documents at issue in this litigation.

3. I submit this supplemental affidavit and incorporate my prior affidavits in support of USCIS’s privilege claims made on: February 20, 2018, regarding the law enforcement privilege, Dkt. No. 119-2; April 9, 2018, regarding the law enforcement and deliberative process privileges, Dkt. No. 146-3; and April 30, 2018, regarding the deliberative process privilege, Dkt. No. 174-3.

1 4. The matters contained in this declaration are based upon my review of exemplar
2 documents in which certain information has been withheld in the case of *Wagafe, et al., v.*
3 *Trump, et al.*, Case No. 2:17-cv-00094 in the United States District Court for the Western
4 District of Washington, my personal knowledge, my knowledge of the documents kept by
5 USCIS in the course of ordinary business, and on information provided to me by other USCIS
6 employees in the course of my official duties as Associate Director of FDNS.

7 5. This supplemental affidavit is based on the documents contained in Production
8 Volume Defendant USCIS 005-011 and the privilege logs associated with these production
9 volumes.

10 6. With regard to the assertion of the law enforcement and deliberative process
11 privileges, the following categories of documents are covered by this declaration:

- 12 • Documents related to Continuous Immigration Vetting (“CIV”), including
13 draft documents and internal deliberations;
- 14 • Documents related to the Senior Leadership Review Board (“SLRB”),
15 including draft documents and internal deliberations;
- 16 • Documents reflecting guidance regarding fraud indicators in employment-
17 based visa applications;
- 18 • Documents relating to, or discussing the use and operation of, U.S.
19 Customs and Border Protection’s (“CBP”) Automated Targeting System (“ATS”),
20 including internal notes and deliberations and draft documents;
- 21 • Documents reflecting and discussing processes and procedures for sharing
22 information with, or obtaining information from, law enforcement or intelligence
23 partners, including draft documents and internal deliberations;
- 24 • Documents reflecting and discussing the processes and procedures
25 associated with the terrorist watchlist, including draft documents and internal
26 deliberations;
- 27 • Documents related to expanded interviews for Form I-485, Adjustment of
28 Status, adjudications, including draft documents and internal deliberations;

- 1 • Documents related to processes and procedures for national-security-
2 related Interagency Border Inspection System (“IBIS”) results, including draft
3 documents and internal deliberations;
- 4 • Documents related to how information is maintained in USCIS systems
5 such as the FDNS Data System (“FDNS-DS”), including draft documents and
6 internal deliberations;
- 7 • Documents related to the FDNS Intelligence Scorecard, including internal
8 documents discussing and evaluating it;
- 9 • Documents related to USCIS’s internal division of responsibilities,
10 including draft policies and internal deliberations;
- 11 • Documents related to the handling of Form I-765, Application for
12 Employment Authorization, including when interim employment authorization
13 benefits are requested by law enforcement agencies, including draft policies and
14 internal deliberations; and,
- 15 • Documents related to CARRP-related training, including draft policies and
16 internal deliberations.

17 I have recently reviewed an exemplar of the information withheld in each of the categories listed
18 above.

19 7. I am aware that in this present litigation the parties have entered into a Stipulated
20 Protective Order, ECF No. 85, and I have reviewed the terms of this Stipulated Protective Order.
21 For the reasons mentioned in the below paragraphs, disclosure of the information withheld would
22 pose a risk to national security or public safety. Because these documents apply to ongoing and
23 future vetting and adjudication of immigration benefit applications, even disclosure under a
24 protective order would not mitigate the risk to national security or public safety because sensitive
25 law enforcement information would be provided to third parties outside of the federal
26 government. In addition, the existence of the protective order does not change my assessment of
27 the importance of shielding the internal pre-decisional agency deliberations from disclosure.
28 Even under a protective order, disclosure of deliberative, pre-decisional information would have

1 a chilling effect on future agency deliberations and result in detrimental consequences to future
2 agency action.

3 8. I submit this declaration as the formal assertion invoking the law enforcement and
4 deliberative process privileges. In addition to the descriptions of the information withheld listed
5 in my prior declarations, the information withheld relates to the following:

- 6 • It identifies sensitive information about screening and vetting practices
7 and related law enforcement checks, including discussion of new policies and
8 procedures or revisions to existing policies and procedures. USCIS has
9 determined the extent to which it can publicly release information about screening
10 and vetting practices and the types of law enforcement checks that it performs,
11 and it has released that information as appropriate. The withheld portions of the
12 documents here contain information USCIS has determined it cannot reveal
13 because it relates to sensitive processes, discloses information about third party
14 law enforcement or intelligence partners, or discloses the types of sensitive
15 information that certain law enforcement checks may contain. Disclosure of this
16 information would reveal sensitive, internal law enforcement case handling
17 procedures and if disclosed will risk circumvention or evasion of the law.
18 Further, deliberative, pre-decisional discussion about such screening and vetting
19 practices and related law enforcement checks may disclose shortcomings or
20 vulnerabilities in USCIS's vetting that require further action to resolve and
21 address, the disclosure of which might reveal sensitive law enforcement
22 investigative information, techniques, and procedures. Disclosure of techniques
23 that may be employed in the future might reveal sensitive law enforcement
24 investigative information, techniques, and procedures that could be used at a
25 future time.
- 26 • It identifies sensitive information about how USCIS analyzes the risk level
27 certain national security indicators may present, how national security cases
28 should be prioritized based on their risk level, specific duties involved in final

1 adjudication, and the specific security-related processes that are involved prior to
2 making a final determination on cases with national security concerns. The
3 disclosure of this information would reveal substantial internal practices,
4 techniques, and procedures used by USCIS in civil and law enforcement
5 investigations related to immigration benefits fraud and national security issues,
6 and such disclosure could reasonably be expected to risk circumvention of the
7 law.

8 • It identifies sensitive information about sharing information with, or
9 obtaining information from, law enforcement or intelligence partners. The
10 disclosure of such information could impair USCIS's ability to share and collect
11 necessary information to determine if an individual is eligible for an immigration
12 benefit and could impact other law enforcement or intelligence agencies' missions
13 or operations. USCIS is obligated to protect information that it obtains that is
14 owned by a third-party agency.

15 9. The disclosure of the withheld information would result in the same type of harms
16 that I described in prior declarations. Dkt. No. 119-2; Dkt. No. 146-3; and Dkt. No. 174-3.

17 10. Based on the reasons set forth above and the reasons set forth in my prior
18 declarations, I invoke the law enforcement and deliberative process privileges for the requested
19 information which the Government seeks to keep withheld.

20 I declare under penalty of perjury that the foregoing is true and correct.

21
22 Executed this 10th day of May, 2018 at Washington, D.C.

23
24
25 

26 Matthew D. Emrich
27 Associate Director, FDNS
28 U.S. Citizenship and Immigration Services
Washington, D.C.

EXHIBIT C-2

The Honorable Richard A. Jones

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ABDIQAFAR WAGAFE, *et al.*,

Plaintiffs,

v.

UNITED STATES CITIZENSHIP AND
IMMIGRATION SERVICES, *et al.*,

Defendants.

**SECOND SUPPLEMENTAL
AFFIDAVIT OF MATTHEW D.
EMRICH IN SUPPORT OF THE
ASSERTION OF THE LAW
ENFORCEMENT AND
DELIBERATIVE PROCESS
PRIVILEGES REGARDING PROD.
VOLS. 12 AND 13**

No. 2:17-cv-00094-RAJ

I, Matthew D. Emrich, do hereby declare and say:

1. I am the Associate Director of the Fraud Detection and National Security (“FDNS”) Directorate, U.S. Citizenship and Immigration Services (“USCIS”), Department of Homeland Security (“DHS”). I have held this position since November 15, 2015.

2. L. Francis Cissna, Director of USCIS, has delegated to me the authority to assert the law enforcement and deliberative process privileges on his behalf regarding the documents at issue in this litigation.

3. I submit this supplemental affidavit and incorporate my prior affidavits in support of USCIS’s privilege claims made on: February 20, 2018, regarding the law enforcement privilege, Dkt. No. 119-2; April 9, 2018, regarding the law enforcement and deliberative process privileges, Dkt. No. 146-3; April 30, 2018, regarding the deliberative process privilege, Dkt. No. 174-3; May 10, 2018 First Supplemental Affidavit regarding the law enforcement and

1 deliberative process privileges; and July 5, 2018 Affidavit regarding the deliberative process
2 privileges, Dkt. No. 198-1.

3 4. The matters contained in this declaration are based upon my review of exemplar
4 documents in which certain information has been withheld in the case of *Wagafe, et al., v.*
5 *Trump, et al.*, Case No. 2:17-cv-00094 in the United States District Court for the Western
6 District of Washington, my personal knowledge, my knowledge of the documents kept by
7 USCIS in the course of ordinary business, and on information provided to me by other USCIS
8 employees in the course of my official duties as Associate Director of FDNS.

9 5. This supplemental affidavit is based on the documents contained in Production
10 Volumes Defendant USCIS 012-013 and the privilege logs associated with these production
11 volumes.

12 6. With regard to the assertion of the law enforcement and deliberative process
13 privileges, the following categories of documents, including any draft documents and internal
14 deliberations, are covered by this declaration:

- 15 • Documents related to the Senior Leadership Review Board (“SLRB”);
- 16 • Documents related to the Quick Reference Guide for Conducting
17 Intelligence Name Checks;
- 18 • Documents relating to, or discussing the use and operation of, U.S.
19 Customs and Border Protection’s (“CBP”) Automated Targeting System (“ATS”),
20 including internal notes and deliberations and draft documents;
- 21 • Documents reflecting and discussing processes and procedures for sharing
22 information with, or obtaining information from, law enforcement or intelligence
23 partners;
- 24 • Documents related to processes and procedures for national-security-
25 related Interagency Border Inspection System (“IBIS”) results;
- 26 • Documents related to how information is maintained in USCIS systems
27 such as the FDNS Data System (“FDNS-DS”);
- 28 • Documents related to National Security Monthly Workload aging reports;

- 1 • Documents related to the Standard Operating Procedures (“SOP”) for
2 Presidential Management Fellows;
- 3 • Documents related to Declassification and Use of Classified Information
4 in Immigration Proceedings, including draft policies and internal deliberations;
- 5 • Documents related to USCIS’ internal division of responsibilities,
6 including draft policies and internal deliberations;
- 7 • Documents related to FDNS’s management conferences, including draft
8 policies and internal deliberations;
- 9 • Documents related to FDNS’s Internal Guidance for Processing of
10 Request for Assistance (“RFAs”), including draft policies and internal
11 deliberations;
- 12 • Documents related to the Controlled Application Review and Resolution
13 Program (“CARRP”) policy-related training, guidance and work flows, including
14 draft policies and internal deliberations;
- 15 • Documents related to USCIS Handbook National Background Identity and
16 Security Check Operating Procedures (“NaBISCOP”);
- 17 • Documents related to guidance and instructions for using various law
18 enforcement databases, to include National Crime Information Center (“NCIC”)
19 and National Law Enforcement Telecommunications System (“NLETS”);
- 20 • Documents describing the processes and procedures related to identifying
21 and vetting national security concerns;
- 22 • Documents related to FDNS Officer Basic Training, including instructor
23 manuals and monthly reports;
- 24 • Documents related to FDNS Immigration Officer Journeyman Course;
- 25 • Documents related to the procedures for transmission, handling, and
26 storage of Tear-line documents, including draft documents, policy memorandum
27 and internal deliberations;
- 28

- 1 • Documents related to the Background Check and Adjudicative
- 2 Assessment, including draft documents and internal deliberations;
- 3 • Documents relating to FDNS Field Managers Training Course;
- 4 • Documents related to USCIS Supplemental Guidance Revision of
- 5 Responsibilities for CARRP Cases Involving Known or Suspected Terrorists;
- 6 • Documents related to the CARRP Executive Dashboard Presentation
- 7 Deck;
- 8 • Documents related to the meetings of the Screening Coordination
- 9 Working Group (“SCWG”), including draft documents, meeting minutes, and
- 10 internal deliberations;
- 11 • Documents related to Exective Summary: CARRP Enforcement Practice
- 12 Proposals;
- 13 • Documents related to USCIS Memorandum HQ 70/43 Clarification and
- 14 Delineation of Vetting and Adjudication Responsibilities for CARRP in Domestic
- 15 Field Offices;
- 16 • Documents related to USCIS Memorandum Additional Guidance on
- 17 Issues Concerning the Vetting and Adjudication of Cases Involving National
- 18 Security Concerns;
- 19 • Documents related to “Just in Time Checks” and the CBP Enforcement
- 20 Vetting system; and,
- 21 • Documents related to or prepared in conjunction with reports detailing
- 22 data and statistics related to applications in the various stages of the CARRP
- 23 process.

24 I have recently reviewed an exemplar of the information withheld in each of the categories listed
25 above.

26 7. I am aware that in this present litigation the parties have entered into a Stipulated
27 Protective Order, ECF No. 85, and I have reviewed the terms of this Stipulated Protective Order.
28 For the reasons mentioned in the below paragraphs, disclosure of the information withheld would

1 pose a risk to national security or public safety. Because these documents apply to ongoing and
2 future vetting and adjudication of immigration benefit applications, even disclosure under a
3 protective order would not mitigate the risk to national security or public safety because sensitive
4 law enforcement information would be provided to third parties outside of the federal
5 government. In addition, the existence of the protective order does not change my assessment of
6 the importance of shielding the internal pre-decisional agency deliberations from disclosure.
7 Even under a protective order, disclosure of deliberative, pre-decisional information would have
8 a chilling effect on future agency deliberations and result in detrimental consequences to future
9 agency action.

10 8. Regarding the deliberative process privilege, the documents identified as being
11 subject to the deliberative process privilege in the privilege logs associated with Production
12 Volumes Defendant USCIS 012-013 reflect the deliberative, pre-decisional processes of USCIS
13 personnel engaged in efforts to generate, review, revise, discuss, and otherwise formulate policy
14 and procedure for the agency related to the processing national security and fraud cases. Those
15 documents include draft memoranda, policy manual content, as well as emails, training, and
16 other documents memorializing the internal process of discussion and deliberation related to
17 policy formulation and/or revision. Disclosure of the withheld portions of these documents
18 would jeopardize USCIS' ability to engage in decision making by discouraging future candid
19 discussion and debate within USCIS. USCIS personnel would be reluctant to share their opinions
20 for or against a particular decision if those predecisional comments were subject to disclosure,
21 and to future use for the purpose of challenging the final decision and/or the process by which it
22 was achieved.

23 9. Regarding the law enforcement privilege, the documents identified as being
24 subject to the law enforcement privilege in the privilege logs associated with Production
25 Volumes Defendant USCIS 012-013 are withheld consistent with the descriptions of the
26 information withheld listed in my prior declarations, which I incorporate here by reference, and
27 in addition the information withheld relates to the following:
28

1 • It identifies sensitive information about screening and vetting practices
2 and related law enforcement checks, including discussion of new policies and
3 procedures or revisions to existing policies and procedures. USCIS has
4 determined the extent to which it can publicly release information about screening
5 and vetting practices and the types of law enforcement checks that it performs,
6 and it has released that information as appropriate. The withheld portions of the
7 documents here contain information USCIS has determined it cannot reveal
8 because it relates to sensitive processes, discloses information about third party
9 law enforcement or intelligence partners, or discloses the types of sensitive
10 information that certain law enforcement checks may contain. Disclosure of this
11 information would reveal sensitive, internal law enforcement case handling
12 procedures and if disclosed will risk circumvention or evasion of the law.
13 Further, deliberative, pre-decisional discussion about such screening and vetting
14 practices and related law enforcement checks may disclose shortcomings or
15 vulnerabilities in USCIS' vetting that require further action to resolve and
16 address, the disclosure of which might reveal sensitive law enforcement
17 investigative information, techniques, and procedures. Disclosure of techniques
18 that may be employed in the future might reveal sensitive law enforcement
19 investigative information, techniques, and procedures that could be used at a
20 future time.

21 • It identifies USCIS internal case information and handling procedures
22 related to the adjudication of immigration benefit applications, to include vetting
23 methods used to evaluate an applicant's eligibility for the immigration benefit,
24 and information regarding actual fraud and/or national security cases, which
25 might reveal law enforcement sensitive case information as well as methods and
26 techniques used to uncover or elicit information that relates to eligibility for an
27 immigration benefit.

- 1 • It contains record identification numbers and similar codes, information
2 identifying law enforcement agencies, and narrative text, the disclosure of which
3 might reveal sensitive law enforcement investigative information, techniques, and
4 procedures.
- 5 • It identifies sensitive information about how USCIS analyzes the risk level
6 certain national security indicators may present, how national security cases
7 should be prioritized based on their risk level, specific duties involved in final
8 adjudication, and the specific security-related processes that are involved prior to
9 making a final determination on cases with national security concerns. The
10 disclosure of this information would reveal substantial internal practices,
11 techniques, and procedures used by USCIS in civil and law enforcement
12 investigations related to immigration benefits fraud and national security issues,
13 and such disclosure could reasonably be expected to risk circumvention of the
14 law.
- 15 • It identifies sensitive information about sharing information with, or
16 obtaining information from, law enforcement or intelligence partners. The
17 disclosure of such information could impair USCIS's ability to share and collect
18 necessary information to determine if an individual is eligible for an immigration
19 benefit and could impact other law enforcement or intelligence agencies' missions
20 or operations. USCIS is obligated to protect information that it obtains that is
21 owned by a third-party agency.
- 22 • Documents, such as meeting minutes from working groups, may disclose
23 shortcomings or vulnerabilities in USCIS's vetting that requires further action to
24 resolve and address, the disclosure of which might reveal sensitive law
25 enforcement investigative information, techniques, and procedures. Documents
26 also discuss consideration of investigatory tools or techniques that have been
27 considered, but not implemented. Disclosure of techniques that may be employed
28

1 in the future might reveal sensitive law enforcement investigative information,
2 techniques, and procedures that could be used at a future time.

3 10. The disclosure of the withheld information would result in the same type of harms
4 that I described in my prior declarations, which are incorporated here by reference.

5 11. Based on the reasons set forth above and the reasons set forth in my prior
6 declarations, I invoke the law enforcement and deliberative process privileges for the requested
7 information which the Government seeks to keep withheld.

8 I declare under penalty of perjury that the foregoing is true and correct.

9 Executed this 26th day of September, 2018 at Washington, D.C.

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13 _____
14 Matthew D. Emrich
15 Associate Director, FDNS
16 U.S. Citizenship and Immigration Services
17 Washington, D.C.
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EXHIBIT C-3

The Honorable Richard A. Jones

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ABDIQAFAR WAGAFE, *et al.*,
Plaintiffs,

v.

UNITED STATES CITIZENSHIP AND
IMMIGRATION SERVICES, *et al.*,
Defendants.

**THIRD SUPPLEMENTAL
AFFIDAVIT OF MATTHEW D.
EMRICH IN SUPPORT OF THE
ASSERTION OF THE LAW
ENFORCEMENT AND
DELIBERATIVE PROCESS
PRIVILEGES REGARDING PROD.
VOLS. 15 TO 24**

No. 2:17-cv-00094-RAJ

I, Matthew D. Emrich, do hereby declare and say:

1. I am the Associate Director of the Fraud Detection and National Security (“FDNS”) Directorate, U.S. Citizenship and Immigration Services (“USCIS”), Department of Homeland Security (“DHS”). I have held this position since November 15, 2015.

2. L. Francis Cissna, Director of USCIS, has delegated to me the authority to assert the law enforcement and deliberative process privileges on his behalf regarding the documents at issue in this litigation.

3. The matters contained in this declaration are based upon my review of exemplar documents in which certain information has been withheld in *Wagafe v. Trump*, No. 2:17-cv-00094 (W.D. Wash.), my personal knowledge, my knowledge of the documents kept by USCIS in the course of ordinary business, and on information provided to me by other USCIS employees in the course of my official duties as Associate Director of FDNS.

1 4. I submit this supplemental affidavit and incorporate my prior affidavits in support
2 of USCIS' privilege claims made on: February 20, 2018, regarding the law enforcement
3 privilege, Dkt. No. 119-2; April 9, 2018, regarding the law enforcement and deliberative process
4 privileges, Dkt. No. 146-3; April 30, 2018, regarding the deliberative process privilege, Dkt. No.
5 174-3; May 10, 2018, regarding the law enforcement and deliberative process privileges; July 5,
6 2018, regarding the deliberative process privileges, Dkt. No. 198-1; and September 26, 2018,
7 regarding the law enforcement and deliberative process privileges.

8 5. As in the aforementioned affidavits, I continue to assert the law enforcement and
9 deliberative process privileges over the following categories of information and documents,
10 including final documents, predecisional and deliberative documents, and discussions regarding
11 such information:

- 12 • Controlled Application Review and Resolution Program ("CARRP")
13 policies, procedures, and guidance and documents related to the identification,
14 vetting, deconfliction, and adjudication of applications for immigration benefits
15 sought by individuals who could pose national security and public safety
16 concerns;
- 17 • CARRP Working Group ("CARRP WG"), Situational Review Process
18 ("SRP"), and documents related to reviewing, discussing, revising, and
19 developing CARRP policies, procedures, training and guidance;
- 20 • USCIS' background, identity and security check policies, procedures, and
21 guidance;
- 22 • USCIS Handbook National Background Identity and Security Check
23 Operating Procedures ("NaBISCOP") Advisory Panel ("NAP") and documents
24 related reviewing, discussing, revising, and developing agency policies,
25 procedures, and guidance for background, identity, and security checks;
- 26 • CARRP-related training, courses, and seminars;
- 27 • Background, identity and security check-related training, courses, and
28 seminars;

- 1 • CARRP-related job aids and worksheets;
- 2 • USCIS' electronic systems, including but not limited to Fraud Detection
3 and National Security-Data Systems ("FDNS-DS"), ATLAS, and Electronic
4 Immigration System ("USCIS ELIS"), including how to access, record, and
5 handle information contained within such systems;
- 6 • Case assessment, prioritization, and tracking;
- 7 • Access, handling, and use of national security and classified information,
8 including but not limited to the declassification of such information in
9 immigration proceedings;
- 10 • Screening Coordination Working Group ("SCWG") and documents
11 related to reviewing screening, background, identity, and security checks, and hit
12 resolution policies, procedures, and guidance; ensuring coordination and
13 consistency within USCIS and with DHS regarding screening, and identifying and
14 developing new policies, procedures, and guidance for screening and information
15 sharing;
- 16 • Senior Leadership Review Board ("SLRB");
- 17 • Reports, data, and statistics related to CARRP;
- 18 • Alien Files ("A-Files"), which may contain but are not limited to
19 information provided by the individual to DHS or Department of State ("DOS");
20 publically available information: information shared by other agencies, including
21 federal, state, and local governments, various courts and regulatory agencies,
22 foreign government agencies, and international organizations through information
23 sharing agreements, reports of investigations, and written referrals from other
24 entities;
- 25 • Information identifying individuals whose applications are or have been
26 processed pursuant to the CARRP policy or who present national security
27 concerns;
- 28

- 1 • Information identifying individuals who are of interest to law enforcement
- 2 or intelligence agencies, or the subject of a law enforcement or intelligence
- 3 investigation;
- 4 • USCIS' internal division of responsibilities, organizational charts, and
- 5 reorganization;
- 6 • Reassignment of USCIS personnel;
- 7 • Policies, procedures, and guidance regarding applications, petitions, and
- 8 requests that raise fraud concerns or have indications of potential fraud;
- 9 • Policies, procedures, and guidance regarding immigrant benefit
- 10 applications other than adjustment of status or naturalization that present national
- 11 security concerns or which are of interest to law enforcement agencies;
- 12 • Policies, procedures, and guidance regarding Presidential Management
- 13 Fellows;
- 14 • Management of FDNS, including but not limited to management
- 15 conferences, goals, and priorities;
- 16 • Policies, procedures, and guidance regarding immigration interviews;
- 17 • Continuous Immigration Vetting ("CIV") policies, procedures, guidance,
- 18 and training;
- 19 • Expanded interviews for Form I-485, *Adjustment of Status*, adjudications;
- 20 • Improving, expanding, and enhanced interview training, including
- 21 contracts for such training;
- 22 • Code 5 identity verification or documents related to biometrics collected at
- 23 Application Support Centers ("ASCs");
- 24 • Policies, procedures, guidance, and training related to Joint Terrorism
- 25 Task Forces ("JTTF"), including documents related to policies, procedures,
- 26 guidance, and training for personnel detailed to JTTFs;
- 27 • Policies, procedures, guidance, and training related to a personnel detailed
- 28 to other government agencies;

- 1 • Policies, procedures, guidance, and training related to sharing information
2 with, or obtaining information from, law enforcement and intelligence partners,
3 including use and access of those partners' databases, systems, and information;
4 and
- 5 • Information derived from third agencies, including but not limited to CBP,
6 U.S. Immigration and Customs Enforcement ("ICE"), Transportation and Security
7 Administration ("TSA"), DOS, and FBI.

8 6. This supplemental affidavit is based on the documents contained in Production
9 Volumes Defendant USCIS 015-024 and the privilege logs associated with these production
10 volumes.

11 7. I assert the law enforcement and deliberative process privileges over the
12 following categories of information and documents, including final documents, predecisional and
13 deliberative documents, and discussions regarding such information:

- 14 • Documents related to USCIS' implementation of Executive Order 13780;
- 15 • Documents related to a proposed executive order regarding enhanced
16 vetting capabilities in the U.S. Refugee Admissions Program ("RAP");
- 17 • Media vetting policies, procedures, guidance, and training;
- 18 • Documents related to policies, procedures, guidance, and training related
19 to U.S. Department of State systems, such as the Mantis Tech Alert List,
20 including how to access and handle information contained within;
- 21 • Documents related to policies, procedures, guidance, and training related
22 to ICE systems, such as the Enforcement Integrated Database ("EID") Arrest
23 Graphic User Interface for Law Enforcement ("EAGLE"), including how to
24 access and handle information contained within; and
- 25 • Documents related Notice to Appear ("NTA") policies, procedures,
26 guidance, and training.

27 I have recently reviewed an exemplar of the information withheld in each of the categories listed
28 above.

1 8. I am aware that in this present litigation the parties have entered into a Stipulated
2 Protective Order, ECF No. 86, and I have reviewed the terms of this Stipulated Protective Order.
3 For the reasons mentioned in the below paragraphs, disclosure of the information withheld would
4 pose a risk to national security or public safety. Because these documents apply to ongoing and
5 future vetting and adjudication of immigration benefit applications, even disclosure under a
6 protective order would not mitigate the risk to national security or public safety because sensitive
7 law enforcement information would be provided to third parties outside of the federal
8 government. In addition, the existence of the protective order does not change my assessment of
9 the importance of shielding the internal pre-decisional agency deliberations from disclosure.
10 Even under a protective order, disclosure of deliberative, pre-decisional information would have
11 a chilling effect on future agency deliberations and result in detrimental consequences to future
12 agency action.

13 9. Regarding the deliberative process privilege, the documents identified as being
14 subject to the deliberative process privilege in the privilege logs associated with Production
15 Volumes Defendant USCIS 015-024 reflect the deliberative, pre-decisional processes of USCIS
16 personnel engaged in efforts to generate, review, revise, discuss, and otherwise formulate policy
17 and procedure for the agency related to the of processing national security and fraud cases and
18 the implementation of executive orders. Those documents include draft memoranda, policy
19 manual content, as well as emails, training, and other documents memorializing the internal
20 process of discussion and deliberation related to policy formulation and/or revision. Disclosure
21 of the withheld portions of these documents would jeopardize USCIS' ability to engage in
22 decision making by discouraging future candid discussion and debate within USCIS. USCIS
23 personnel would be reluctant to share their opinions for or against a particular decision if those
24 predecisional comments were subject to disclosure, and to future use for the purpose of
25 challenging the final decision and/or the process by which it was achieved. Pre-decisional
26 documents also reflect ongoing conversations with other government agencies who provide
27 partnership and assistance. The disclosure of these pre-decisional, deliberative conversations
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1 would have a chilling effect on information-sharing and candid conversations with important
2 partners.

3 10. Regarding the law enforcement privilege, the documents identified as being
4 subject to the law enforcement privilege in the privilege logs associated with Production
5 Volumes Defendant USCIS 015-024 are withheld consistent with the descriptions of the
6 information withheld listed in my prior declarations, which I incorporate here by reference. In
7 addition, the information withheld relates to the following:

- 8 • Sensitive information about screening and vetting practices and related
9 law enforcement checks, including discussion of new policies and procedures or
10 revisions to existing policies and procedures. USCIS has determined the extent to
11 which it can publicly release information about screening and vetting practices
12 and the types of law enforcement checks that it performs, and it has released that
13 information as appropriate. The withheld portions of the documents here contain
14 information USCIS has determined it cannot reveal because it relates to sensitive
15 processes, discloses information about third party law enforcement or intelligence
16 partners, or discloses the types of sensitive information that certain law
17 enforcement checks may contain. Disclosure of this information would reveal
18 sensitive, internal law enforcement case handling procedures and if disclosed will
19 risk circumvention or evasion of the law. Further, deliberative, pre-decisional
20 discussion about such screening and vetting practices and related law enforcement
21 checks may disclose shortcomings or vulnerabilities in USCIS' vetting that
22 require further action to resolve and address, the disclosure of which might reveal
23 sensitive law enforcement investigative information, techniques, and procedures.
24 Disclosure of techniques that may be employed in the future might reveal
25 sensitive law enforcement investigative information, techniques, and procedures
26 that could be used at a future time;
- 27 • USCIS internal case information and handling procedures related to the
28 adjudication of immigration benefit applications, to include vetting methods used

1 to evaluate an applicant's eligibility for the immigration benefit, and information
2 regarding actual fraud and/or national security cases, which might reveal law
3 enforcement sensitive case information as well as methods and techniques used to
4 uncover or elicit information that relates to eligibility for an immigration benefit;

5 • Record identification numbers and similar codes, information identifying
6 law enforcement agencies and narrative text, the disclosure of which might reveal
7 sensitive law enforcement investigative information, techniques, and procedures;

8 • Sensitive information about how USCIS analyzes the risk level certain
9 national security indicators may present, how national security cases should be
10 prioritized based on their risk level, specific duties involved in final adjudication,
11 and the specific security-related processes that are involved prior to making a
12 final determination on cases with national security concerns. The disclosure of
13 this information would reveal substantial internal practices, techniques, and
14 procedures used by USCIS in civil and law enforcement investigations related to
15 immigration benefits fraud and national security issues, and such disclosure could
16 reasonably be expected to risk circumvention of the law;

17 • Sensitive information about sharing information with, or obtaining
18 information from, law enforcement or intelligence partners. The disclosure of
19 such information could impair USCIS' ability to share and collect necessary
20 information to determine if an individual is eligible for an immigration benefit
21 and could impact other law enforcement or intelligence agencies' missions or
22 operations. USCIS is obligated to protect information that it obtains that is owned
23 by a third-party agency; and

24 • Documents, such as meeting minutes from working groups, may disclose
25 shortcomings or vulnerabilities in USCIS' vetting that requires further action to
26 resolve and address, the disclosure of which might reveal sensitive law
27 enforcement investigative information, techniques, and procedures. Documents
28 also discuss consideration of investigatory tools or techniques that have been

1 considered, but not implemented. Disclosure of techniques that may be employed
2 in the future might reveal sensitive law enforcement investigative information,
3 techniques, and procedures that could be used at a future time.

4 11. The disclosure of the withheld information would result in the same type of harms
5 that I described in my prior declarations, which are incorporated here by reference.

6 12. Based on the reasons set forth above and the reasons set forth in my prior
7 declarations, I assert the law enforcement and deliberative process privileges for the
8 aforementioned information which the Government seeks to keep withheld.

9 I declare under penalty of perjury that the foregoing is true and correct.

10 Executed this 13 day of February, 2019 at Washington, D.C.

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14 Matthew D. Emrich

15 Associate Director, FDNS

16 U.S. Citizenship and Immigration Services

17 Washington, D.C.
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EXHIBIT C-4

The Honorable Richard A. Jones

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ABDIQAFAR WAGAFE, *et al.*,
Plaintiffs,
v.
UNITED STATES CITIZENSHIP AND
IMMIGRATION SERVICES, *et al.*,
Defendants.

**FOURTH SUPPLEMENTAL
AFFIDAVIT OF MATTHEW D.
EMRICH IN SUPPORT OF THE
ASSERTION OF THE LAW
ENFORCEMENT AND
DELIBERATIVE PROCESS
PRIVILEGES REGARDING PROD.
VOL. 26**

No. 2:17-cv-00094-RAJ

I, Matthew D. Emrich, do hereby declare and say:

1. I am the Associate Director of the Fraud Detection and National Security (“FDNS”) Directorate, U.S. Citizenship and Immigration Services (“USCIS”), Department of Homeland Security (“DHS”). I have held this position since November 15, 2015.

2. L. Francis Cissna, Director of USCIS, has delegated to me the authority to assert the law enforcement and deliberative process privileges on his behalf regarding the documents at issue in this litigation.

3. The matters contained in this declaration are based upon my review of exemplar documents in which certain information has been withheld in *Wagafe v. Trump*, No. 2:17-cv-00094 (W.D. Wash.), my personal knowledge, my knowledge of the documents kept by USCIS in the course of ordinary business, and on information provided to me by other USCIS employees in the course of my official duties as Associate Director of FDNS.

1 4. I submit this supplemental affidavit and incorporate my prior affidavits in support
2 of USCIS' privilege claims made on: February 20, 2018, regarding the law enforcement
3 privilege, Dkt. No. 119-2; April 9, 2018, regarding the law enforcement and deliberative process
4 privileges, Dkt. No. 146-3; April 30, 2018, regarding the deliberative process privilege, Dkt. No.
5 174-3; May 10, 2018, regarding the law enforcement and deliberative process privileges; July 5,
6 2018, regarding the deliberative process privileges, Dkt. No. 198-1; September 26, 2018,
7 regarding the law enforcement and deliberative process privileges; and February 13, 2019,
8 regarding the law enforcement and deliberative process privileges.

9 5. As in the aforementioned affidavits, I continue to assert the law enforcement and
10 deliberative process privileges over the following categories of information and documents,
11 including final documents, predecisional and deliberative documents, and discussions regarding
12 such information:

- 13 • Controlled Application Review and Resolution Program ("CARRP")
14 policies, procedures, and guidance and documents related to the identification,
15 vetting, deconfliction, and adjudication of applications for immigration benefits
16 sought by individuals who could pose national security and public safety
17 concerns;
- 18 • CARRP Working Group ("CARRP WG"), Situational Review Process
19 ("SRP"), and documents related to reviewing, discussing, revising, and
20 developing CARRP policies, procedures, training and guidance;
- 21 • USCIS' background, identity and security check policies, procedures, and
22 guidance;
- 23 • USCIS Handbook National Background Identity and Security Check
24 Operating Procedures ("NaBISCOP") Advisory Panel ("NAP") and documents
25 related reviewing, discussing, revising, and developing agency policies,
26 procedures, and guidance for background, identity, and security checks;
- 27 • CARRP-related training, courses, and seminars;

- 1 • Background, identity and security check-related training, courses, and
2 seminars;
- 3 • CARRP-related job aids and worksheets;
- 4 • USCIS' electronic systems, including but not limited to Fraud Detection
5 and National Security-Data Systems ("FDNS-DS"), ATLAS, and Electronic
6 Immigration System ("USCIS ELIS"), including how to access, record, and
7 handle information contained within such systems;
- 8 • Case assessment, prioritization, and tracking;
- 9 • Access, handling, and use of national security and classified information,
10 including but not limited to the declassification of such information in
11 immigration proceedings;
- 12 • Screening Coordination Working Group ("SCWG") and documents
13 related to reviewing screening, background, identity, and security checks, and hit
14 resolution policies, procedures, and guidance; ensuring coordination and
15 consistency within USCIS and with DHS regarding screening, and identifying and
16 developing new policies, procedures, and guidance for screening and information
17 sharing;
- 18 • Senior Leadership Review Board ("SLRB");
- 19 • Reports, data, and statistics related to CARRP;
- 20 • Alien Files ("A-Files"), which may contain but are not limited to
21 information provided by the individual to DHS or Department of State ("DOS");
22 publically available information: information shared by other agencies, including
23 federal, state, and local governments, various courts and regulatory agencies,
24 foreign government agencies, and international organizations through information
25 sharing agreements, reports of investigations, and written referrals from other
26 entities;

- 1 • Information identifying individuals whose applications are or have been
2 processed pursuant to the CARRP policy or who present national security
3 concerns;
- 4 • Information identifying individuals who are of interest to law enforcement
5 or intelligence agencies, or the subject of a law enforcement or intelligence
6 investigation;
- 7 • USCIS' internal division of responsibilities, organizational charts, and
8 reorganization;
- 9 • Reassignment of USCIS personnel;
- 10 • Policies, procedures, and guidance regarding applications, petitions, and
11 requests that raise fraud concerns or have indications of potential fraud;
- 12 • Policies, procedures, and guidance regarding immigrant benefit
13 applications other than adjustment of status or naturalization that present national
14 security concerns or which are of interest to law enforcement agencies;
- 15 • Policies, procedures, and guidance regarding Presidential Management
16 Fellows;
- 17 • Management of FDNS, including but not limited to management
18 conferences, goals, and priorities;
- 19 • Policies, procedures, and guidance regarding immigration interviews;
- 20 • Continuous Immigration Vetting ("CIV") policies, procedures, guidance,
21 and training;
- 22 • Expanded interviews for Form I-485, *Adjustment of Status*, adjudications;
- 23 • Improving, expanding, and enhanced interview training, including
24 contracts for such training;
- 25 • Code 5 identity verification or documents related to biometrics collected at
26 Application Support Centers ("ASCs");
- 27
- 28

- 1 • Policies, procedures, guidance, and training related to Joint Terrorism
- 2 Task Forces (“JTTF”), including documents related to policies, procedures,
- 3 guidance, and training for personnel detailed to JTTFs;
- 4 • Policies, procedures, guidance, and training related to a personnel detailed
- 5 to other government agencies;
- 6 • Policies, procedures, guidance, and training related to sharing information
- 7 with, or obtaining information from, law enforcement and intelligence partners,
- 8 including use and access of those partners’ databases, systems, and information;
- 9 • Information derived from third agencies, including but not limited to CBP,
- 10 U.S. Immigration and Customs Enforcement (“ICE”), Transportation and Security
- 11 Administration (“TSA”), DOS, and FBI.
- 12 • Documents related to USCIS’ implementation of Executive Order 13780;
- 13 • Documents related to a proposed executive order regarding enhanced
- 14 vetting capabilities in the U.S. Refugee Admissions Program (“RAP”);
- 15 • Media vetting policies, procedures, guidance, and training;
- 16 • Documents related to policies, procedures, guidance, and training related
- 17 to U.S. Department of State systems, such as the Mantis Tech Alert List,
- 18 including how to access and handle information contained within;
- 19 • Documents related to policies, procedures, guidance, and training related
- 20 to ICE systems, such as the Enforcement Integrated Database (“EID”) Arrest
- 21 Graphic User Interface for Law Enforcement (“EAGLE”), including how to
- 22 access and handle information contained within; and
- 23 • Documents related Notice to Appear (“NTA”) policies, procedures,
- 24 guidance, and training.

25 6. This supplemental affidavit is based on the documents contained in Production
26 Volume Defendant USCIS 026 and the privilege log associated with it.

1 7. I assert the law enforcement and deliberative process privileges over the
2 following categories of information and documents, including final documents, predecisional and
3 deliberative documents, and discussions regarding such information:

- 4 • Documents related to asylum, refugee, and the credible fear and reasonable
5 fear processes;
- 6 • Documents related to USCIS' implementation of Executive Order 13769; and
- 7 • Documents prepared in response to, or in anticipation of a Congressional
8 inquiry or Congressional hearing.

9 I have recently reviewed an exemplar of the information withheld in each of the categories listed
10 above.

11 8. I am aware that in this present litigation the parties have entered into a Stipulated
12 Protective Order, ECF No. 86, and I have reviewed the terms of this Stipulated Protective Order.
13 For the reasons mentioned in the below paragraphs, disclosure of the information withheld would
14 pose a risk to national security or public safety. Because these documents apply to ongoing and
15 future vetting and adjudication of immigration benefit applications, even disclosure under a
16 protective order would not mitigate the risk to national security or public safety because sensitive
17 law enforcement information would be provided to third parties outside of the federal
18 government. In addition, the existence of the protective order does not change my assessment of
19 the importance of shielding the internal pre-decisional agency deliberations from disclosure.
20 Even under a protective order, disclosure of deliberative, pre-decisional information would have
21 a chilling effect on future agency deliberations and result in detrimental consequences to future
22 agency action.

23 9. Regarding the deliberative process privilege, the documents identified as being
24 subject to the deliberative process privilege in the privilege logs associated with Production
25 Volume Defendant USCIS 026 reflect the deliberative, pre-decisional processes of USCIS
26 personnel engaged in efforts to generate, review, revise, discuss, and otherwise formulate policy
27 and procedure for the agency related to the of processing national security and fraud cases and
28 the implementation of executive orders. Those documents include draft memoranda, policy

1 manual content, as well as emails, training, and other documents memorializing the internal
2 process of discussion and deliberation related to policy formulation and/or revision. Disclosure
3 of the withheld portions of these documents would jeopardize USCIS' ability to engage in
4 decision making by discouraging future candid discussion and debate within USCIS. USCIS
5 personnel would be reluctant to share their opinions for or against a particular decision if those
6 predecisional comments were subject to disclosure, and to future use for the purpose of
7 challenging the final decision and/or the process by which it was achieved. Pre-decisional
8 documents also reflect ongoing conversations with other government agencies who provide
9 partnership and assistance. The disclosure of these pre-decisional, deliberative conversations
10 would have a chilling effect on information-sharing and candid conversations with important
11 partners.

12 10. Regarding the law enforcement privilege, the documents identified as being
13 subject to the law enforcement privilege in the privilege logs associated with Production Volume
14 Defendant USCIS 026 are withheld consistent with the descriptions of the information withheld
15 listed in my prior declarations, which I incorporate here by reference. In addition, the
16 information withheld relates to the following:

- 17 • Sensitive information about screening and vetting practices and related
18 law enforcement checks, including discussion of new policies and procedures or
19 revisions to existing policies and procedures. USCIS has determined the extent to
20 which it can publicly release information about screening and vetting practices
21 and the types of law enforcement checks that it performs, and it has released that
22 information as appropriate. The withheld portions of the documents here contain
23 information USCIS has determined it cannot reveal because it relates to sensitive
24 processes, discloses information about third party law enforcement or intelligence
25 partners, or discloses the types of sensitive information that certain law
26 enforcement checks may contain. Disclosure of this information would reveal
27 sensitive, internal law enforcement case handling procedures and if disclosed will
28 risk circumvention or evasion of the law. Further, deliberative, pre-decisional

1 discussion about such screening and vetting practices and related law enforcement
2 checks may disclose shortcomings or vulnerabilities in USCIS' vetting that
3 require further action to resolve and address, the disclosure of which might reveal
4 sensitive law enforcement investigative information, techniques, and procedures.
5 Disclosure of techniques that may be employed in the future might reveal
6 sensitive law enforcement investigative information, techniques, and procedures
7 that could be used at a future time;

8 • USCIS internal case information and handling procedures related to the
9 adjudication of immigration benefit applications, to include vetting methods used
10 to evaluate an applicant's eligibility for the immigration benefit, and information
11 regarding actual fraud and/or national security cases, which might reveal law
12 enforcement sensitive case information as well as methods and techniques used to
13 uncover or elicit information that relates to eligibility for an immigration benefit;

14 • Record identification numbers and similar codes, information identifying
15 law enforcement agencies and narrative text, the disclosure of which might reveal
16 sensitive law enforcement investigative information, techniques, and procedures;

17 • Sensitive information about how USCIS analyzes the risk level certain
18 national security indicators may present, how national security cases should be
19 prioritized based on their risk level, specific duties involved in final adjudication,
20 and the specific security-related processes that are involved prior to making a
21 final determination on cases with national security concerns. The disclosure of
22 this information would reveal substantial internal practices, techniques, and
23 procedures used by USCIS in civil and law enforcement investigations related to
24 immigration benefits fraud and national security issues, and such disclosure could
25 reasonably be expected to risk circumvention of the law;

26 • Sensitive information about sharing information with, or obtaining
27 information from, law enforcement or intelligence partners. The disclosure of
28 such information could impair USCIS' ability to share and collect necessary

1 information to determine if an individual is eligible for an immigration benefit
2 and could impact other law enforcement or intelligence agencies' missions or
3 operations. USCIS is obligated to protect information that it obtains that is owned
4 by a third-party agency; and

5 • Documents, such as meeting minutes from working groups, may disclose
6 shortcomings or vulnerabilities in USCIS' vetting that requires further action to
7 resolve and address, the disclosure of which might reveal sensitive law
8 enforcement investigative information, techniques, and procedures. Documents
9 also discuss consideration of investigatory tools or techniques that have been
10 considered, but not implemented. Disclosure of techniques that may be employed
11 in the future might reveal sensitive law enforcement investigative information,
12 techniques, and procedures that could be used at a future time.

13 11. The disclosure of the withheld information would result in the same type of harms
14 that I described in my prior declarations, which are incorporated here by reference.

15 12. Based on the reasons set forth above and the reasons set forth in my prior
16 declarations, I assert the law enforcement and deliberative process privileges for the
17 aforementioned information which the Government seeks to keep withheld.

18 I declare under penalty of perjury that the foregoing is true and correct.

19 Executed this 25th day of March, 2019 at Washington, D.C.

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23 Matthew D. Emrich

24 Associate Director, FDNS

25 U.S. Citizenship and Immigration Services

26 Washington, D.C.
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EXHIBIT C-5

The Honorable Richard A. Jones

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ABDIQAFAR WAGAFE, *et al.*,
Plaintiffs,
v.
UNITED STATES CITIZENSHIP AND
IMMIGRATION SERVICES, *et al.*,
Defendants.

**SIXTH SUPPLEMENTAL
AFFIDAVIT OF MATTHEW D.
EMRICH IN SUPPORT OF THE
ASSERTION OF THE LAW
ENFORCEMENT AND
DELIBERATIVE PROCESS
PRIVILEGES REGARDING PROD.
VOL. 28**

No. 2:17-cv-00094-RAJ

I, Matthew D. Emrich, do hereby declare and say:

1. I am the Associate Director of the Fraud Detection and National Security (“FDNS”) Directorate, U.S. Citizenship and Immigration Services (“USCIS”), Department of Homeland Security (“DHS”). I have held this position since November 15, 2015.

2. L. Francis Cissna, Director of USCIS, has delegated to me the authority to assert the law enforcement and deliberative process privileges on his behalf regarding the documents at issue in this litigation.

3. The matters contained in this declaration are based upon my review of exemplar documents in which certain information has been withheld in *Wagafe v. Trump*, No. 2:17-cv-00094 (W.D. Wash.), my personal knowledge, my knowledge of the documents kept by USCIS in the course of ordinary business, and on information provided to me by other USCIS employees in the course of my official duties as Associate Director of FDNS.

1 4. I submit this supplemental affidavit and incorporate my prior affidavits in support
2 of USCIS' privilege claims made on: February 20, 2018, regarding the law enforcement
3 privilege, Dkt. No. 119-2; April 9, 2018, regarding the law enforcement and deliberative process
4 privileges, Dkt. No. 146-3; April 30, 2018, regarding the deliberative process privilege, Dkt. No.
5 174-3; May 10, 2018, regarding the law enforcement and deliberative process privileges; July 5,
6 2018, regarding the deliberative process privileges, Dkt. No. 198-1; September 26, 2018,
7 regarding the law enforcement and deliberative process privileges; February 13, 2019, regarding
8 the law enforcement and deliberative process privileges; March 25, 2019, regarding the law
9 enforcement and deliberative process privileges; April 23, 2019, regarding the law enforcement
10 and deliberative process privileges; and April 24, 2019, regarding the law enforcement and
11 deliberative process privileges.

12 5. As in the aforementioned affidavits, I continue to assert the law enforcement and
13 deliberative process privileges over the following categories of information and documents,
14 including final documents, predecisional and deliberative documents, and discussions regarding
15 such information:

- 16 • Controlled Application Review and Resolution Program ("CARRP")
17 policies, procedures, and guidance and documents related to the identification,
18 vetting, deconfliction, and adjudication of applications for immigration benefits
19 sought by individuals who could pose national security and public safety
20 concerns;
- 21 • CARRP Working Group ("CARRP WG"), Situational Review Process
22 ("SRP"), and documents related to reviewing, discussing, revising, and
23 developing CARRP policies, procedures, training and guidance;
- 24 • USCIS' background, identity and security check policies, procedures, and
25 guidance;
- 26 • USCIS Handbook National Background Identity and Security Check
27 Operating Procedures ("NaBISCOP") Advisory Panel ("NAP") and documents
28

1 related reviewing, discussing, revising, and developing agency policies,
2 procedures, and guidance for background, identity, and security checks;

- 3 • CARRP-related training, courses, and seminars;
- 4 • Background, identity and security check-related training, courses, and
5 seminars;
- 6 • CARRP-related job aids and worksheets;
- 7 • USCIS' electronic systems, including but not limited to Fraud Detection
8 and National Security-Data Systems ("FDNS-DS"), ATLAS, and Electronic
9 Immigration System ("USCIS ELIS"), including how to access, record, and
10 handle information contained within such systems;
- 11 • Case assessment, prioritization, and tracking;
- 12 • Access, handling, and use of national security and classified information,
13 including but not limited to the declassification of such information in
14 immigration proceedings;
- 15 • Screening Coordination Working Group ("SCWG") and documents
16 related to reviewing screening, background, identity, and security checks, and hit
17 resolution policies, procedures, and guidance; ensuring coordination and
18 consistency within USCIS and with DHS regarding screening, and identifying and
19 developing new policies, procedures, and guidance for screening and information
20 sharing;
- 21 • Senior Leadership Review Board ("SLRB");
- 22 • Reports, data, and statistics related to CARRP;
- 23 • Alien Files ("A-Files"), which may contain but are not limited to
24 information provided by the individual to DHS or Department of State ("DOS");
25 publically available information: information shared by other agencies, including
26 federal, state, and local governments, various courts and regulatory agencies,
27 foreign government agencies, and international organizations through information
28

1 sharing agreements, reports of investigations, and written referrals from other
2 entities;

3 • Information identifying individuals whose applications are or have been
4 processed pursuant to the CARRP policy or who present national security
5 concerns;

6 • Information identifying individuals who are of interest to law enforcement
7 or intelligence agencies, or the subject of a law enforcement or intelligence
8 investigation;

9 • USCIS' internal division of responsibilities, organizational charts, and
10 reorganization;

11 • Reassignment of USCIS personnel;

12 • Policies, procedures, and guidance regarding applications, petitions, and
13 requests that raise fraud concerns or have indications of potential fraud;

14 • Policies, procedures, and guidance regarding immigrant benefit
15 applications other than adjustment of status or naturalization that present national
16 security concerns or which are of interest to law enforcement agencies;

17 • Policies, procedures, and guidance regarding Presidential Management
18 Fellows;

19 • Management of FDNS, including but not limited to management
20 conferences, goals, and priorities;

21 • Policies, procedures, and guidance regarding immigration interviews;

22 • Continuous Immigration Vetting ("CIV") policies, procedures, guidance,
23 and training;

24 • Expanded interviews for Form I-485, *Adjustment of Status*, adjudications;

25 • Improving, expanding, and enhanced interview training, including
26 contracts for such training;

27 • Code 5 identity verification or documents related to biometrics collected at
28 Application Support Centers ("ASCs");

- 1 • Policies, procedures, guidance, and training related to Joint Terrorism
- 2 Task Forces (“JTTF”), including documents related to policies, procedures,
- 3 guidance, and training for personnel detailed to JTTFs;
- 4 • Policies, procedures, guidance, and training related to a personnel detailed
- 5 to other government agencies;
- 6 • Policies, procedures, guidance, and training related to sharing information
- 7 with, or obtaining information from, law enforcement and intelligence partners,
- 8 including use and access of those partners’ databases, systems, and information;
- 9 • Information derived from third agencies, including but not limited to CBP,
- 10 U.S. Immigration and Customs Enforcement (“ICE”), Transportation and Security
- 11 Administration (“TSA”), DOS, and FBI.
- 12 • USCIS policies, procedures, and guidance related to implementation of
- 13 Executive Orders 13769 and 13780;
- 14 • Documents related to a proposed executive order regarding enhanced
- 15 vetting capabilities in the U.S. Refugee Admissions Program (“RAP”);
- 16 • Media vetting policies, procedures, guidance, and training;
- 17 • Documents related to policies, procedures, guidance, and training related
- 18 to U.S. Department of State systems, such as the Mantis Tech Alert List,
- 19 including how to access and handle information contained within;
- 20 • Documents related to policies, procedures, guidance, and training related
- 21 to ICE systems, such as the Enforcement Integrated Database (“EID”) Arrest
- 22 Graphic User Interface for Law Enforcement (“EAGLE”), including how to
- 23 access and handle information contained within;
- 24 • Documents related Notice to Appear (“NTA”) policies, procedures,
- 25 guidance, and training;
- 26 • Documents related to asylum, refugee, and the credible fear and
- 27 reasonable fear processes;
- 28

- 1 • Documents prepared in response to, or in anticipation of a Congressional
- 2 inquiry or Congressional hearing;
- 3 • Policies, procedures, and guidance related to Information Services
- 4 Modernization;
- 5 • Documents related to the management and leadership of USCIS,
- 6 including, but not limited to initiatives, goals, and priorities the Transformation
- 7 Leadership Council;
- 8 • Documents related to USCIS funding, fees, costs, and the filing method
- 9 for various applications;
- 10 • Documents related to Deferred Action for Childhood Arrivals (“DACA”);
- 11 and,
- 12 • Documents prepared during the course of and in defense of *Wagafe v.*
- 13 *Trump*, No. 2:17-cv-00094 (W.D. Wash.).

14 6. This supplemental affidavit is based on the documents contained in Production
15 Volume Defendant USCIS 028 and the privilege log associated with it.

16 7. I assert the law enforcement and deliberative process privileges over the
17 following categories of information and documents, including final documents, predecisional and
18 deliberative documents, and discussions regarding such information:

- 19 • Documents prepared during the course of and in defense of federal
- 20 litigation unrelated to *Wagafe v. Trump*, No. 2:17-cv-00094 (W.D. Wash.);
- 21 • Documents related to the EB-5 program or the Immigrant Investor
- 22 Program Office; and,
- 23 • Documents related to USCIS’ handling of and response to Requests for
- 24 Information (“RFI”).

25 I have recently reviewed an exemplar of the information withheld in each of the categories listed
26 above.

27 8. I am aware that in this present litigation the parties have entered into a Stipulated
28 Protective Order, ECF No. 86, and I have reviewed the terms of this Stipulated Protective Order.

1 For the reasons mentioned in the below paragraphs, disclosure of the information withheld would
2 pose a risk to national security or public safety. Because these documents apply to ongoing and
3 future vetting and adjudication of immigration benefit applications, even disclosure under a
4 protective order would not mitigate the risk to national security or public safety because sensitive
5 law enforcement information would be provided to third parties outside of the federal
6 government. In addition, the existence of the protective order does not change my assessment of
7 the importance of shielding the internal pre-decisional agency deliberations from disclosure.
8 Even under a protective order, disclosure of deliberative, pre-decisional information would have
9 a chilling effect on future agency deliberations and result in detrimental consequences to future
10 agency action.

11 9. Regarding the deliberative process privilege, the documents identified as being
12 subject to the deliberative process privilege in the privilege logs associated with Production
13 Volume Defendant USCIS 028 reflect the deliberative, pre-decisional processes of USCIS
14 personnel engaged in efforts to generate, review, revise, discuss, and otherwise formulate policy
15 and procedure for the agency related to the of processing national security and fraud cases and
16 the implementation of executive orders. Those documents include draft memoranda, policy
17 manual content, as well as emails, training, and other documents memorializing the internal
18 process of discussion and deliberation related to policy formulation and/or revision. Disclosure
19 of the withheld portions of these documents would jeopardize USCIS' ability to engage in
20 decision making by discouraging future candid discussion and debate within USCIS. USCIS
21 personnel would be reluctant to share their opinions for or against a particular decision if those
22 predecisional comments were subject to disclosure, and to future use for the purpose of
23 challenging the final decision and/or the process by which it was achieved. Pre-decisional
24 documents also reflect ongoing conversations with other government agencies who provide
25 partnership and assistance. The disclosure of these pre-decisional, deliberative conversations
26 would have a chilling effect on information-sharing and candid conversations with important
27 partners.

1 10. Regarding the law enforcement privilege, the documents identified as being
2 subject to the law enforcement privilege in the privilege logs associated with Production Volume
3 Defendant USCIS 028 are withheld consistent with the descriptions of the information withheld
4 listed in my prior declarations, which I incorporate here by reference. In addition, the
5 information withheld relates to the following:

6 • Sensitive information about screening and vetting practices and related
7 law enforcement checks, including discussion of new policies and procedures or
8 revisions to existing policies and procedures. USCIS has determined the extent to
9 which it can publicly release information about screening and vetting practices
10 and the types of law enforcement checks that it performs, and it has released that
11 information as appropriate. The withheld portions of the documents here contain
12 information USCIS has determined it cannot reveal because it relates to sensitive
13 processes, discloses information about third party law enforcement or intelligence
14 partners, or discloses the types of sensitive information that certain law
15 enforcement checks may contain. Disclosure of this information would reveal
16 sensitive, internal law enforcement case handling procedures and if disclosed will
17 risk circumvention or evasion of the law. Further, deliberative, pre-decisional
18 discussion about such screening and vetting practices and related law enforcement
19 checks may disclose shortcomings or vulnerabilities in USCIS' vetting that
20 require further action to resolve and address, the disclosure of which might reveal
21 sensitive law enforcement investigative information, techniques, and procedures.
22 Disclosure of techniques that may be employed in the future might reveal
23 sensitive law enforcement investigative information, techniques, and procedures
24 that could be used at a future time;

25 • USCIS internal case information and handling procedures related to the
26 adjudication of immigration benefit applications, to include vetting methods used
27 to evaluate an applicant's eligibility for the immigration benefit, and information
28 regarding actual fraud and/or national security cases, which might reveal law

1 enforcement sensitive case information as well as methods and techniques used to
2 uncover or elicit information that relates to eligibility for an immigration benefit;

3 • Record identification numbers and similar codes, information identifying
4 law enforcement agencies and narrative text, the disclosure of which might reveal
5 sensitive law enforcement investigative information, techniques, and procedures;

6 • Sensitive information about how USCIS analyzes the risk level certain
7 national security indicators may present, how national security cases should be
8 prioritized based on their risk level, specific duties involved in final adjudication,
9 and the specific security-related processes that are involved prior to making a
10 final determination on cases with national security concerns. The disclosure of
11 this information would reveal substantial internal practices, techniques, and
12 procedures used by USCIS in civil and law enforcement investigations related to
13 immigration benefits fraud and national security issues, and such disclosure could
14 reasonably be expected to risk circumvention of the law;

15 • Sensitive information about sharing information with, or obtaining
16 information from, law enforcement or intelligence partners. The disclosure of
17 such information could impair USCIS' ability to share and collect necessary
18 information to determine if an individual is eligible for an immigration benefit
19 and could impact other law enforcement or intelligence agencies' missions or
20 operations. USCIS is obligated to protect information that it obtains that is owned
21 by a third-party agency; and

22 • Documents, such as meeting minutes from working groups, may disclose
23 shortcomings or vulnerabilities in USCIS' vetting that requires further action to
24 resolve and address, the disclosure of which might reveal sensitive law
25 enforcement investigative information, techniques, and procedures. Documents
26 also discuss consideration of investigatory tools or techniques that have been
27 considered, but not implemented. Disclosure of techniques that may be employed
28

1 in the future might reveal sensitive law enforcement investigative information,
2 techniques, and procedures that could be used at a future time.

3 11. The disclosure of the withheld information would result in the same type of harms
4 that I described in my prior declarations, which are incorporated here by reference.

5 12. Based on the reasons set forth above and the reasons set forth in my prior
6 declarations, I assert the law enforcement and deliberative process privileges for the
7 aforementioned information which the Government seeks to keep withheld.

8 I declare under penalty of perjury that the foregoing is true and correct.

9 Executed this 6th day of June, 2019 at Washington, D.C.

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12 Matthew D. Emrich

13 Associate Director, FDNS

14 U.S. Citizenship and Immigration Services

15 Washington, D.C.
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EXHIBIT C-6

The Honorable Richard A. Jones

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ABDIQAFAR WAGAFE, *et al.*,

Plaintiffs,

v.

UNITED STATES CITIZENSHIP AND

IMMIGRATION SERVICES, *et al.*,

Defendants.

No. 2:17-cv-00094-RAJ

**SEVENTH SUPPLEMENTAL
AFFIDAVIT OF MATTHEW D.
EMRICH IN SUPPORT OF THE
ASSERTION OF THE LAW
ENFORCEMENT AND
DELIBERATIVE PROCESS
PRIVILEGES REGARDING PROD.
VOL. 29**

I, Matthew D. Emrich, do hereby declare and say:

1. I am the Associate Director of the Fraud Detection and National Security (“FDNS”) Directorate, U.S. Citizenship and Immigration Services (“USCIS”), Department of Homeland Security (“DHS”). I have held this position since November 15, 2015.

2. L. Francis Cissna, former Director of USCIS, has delegated to me the authority to assert the law enforcement and deliberative process privileges on his behalf regarding the documents at issue in this litigation.

3. The matters contained in this declaration are based upon my review of exemplar documents in which certain information has been withheld in *Wagafe v. Trump*, No. 2:17-cv-00094 (W.D. Wash.), my personal knowledge, my knowledge of the documents kept by USCIS in the course of ordinary business, and on information provided to me by other USCIS employees in the course of my official duties as Associate Director of FDNS.

1 4. I submit this supplemental affidavit and incorporate my prior affidavits in support
2 of USCIS' privilege claims made on: February 20, 2018, regarding the law enforcement
3 privilege, Dkt. No. 119-2; April 9, 2018, regarding the law enforcement and deliberative process
4 privileges, Dkt. No. 146-3; April 30, 2018, regarding the deliberative process privilege, Dkt. No.
5 174-3; May 10, 2018, regarding the law enforcement and deliberative process privileges; July 5,
6 2018, regarding the deliberative process privileges, Dkt. No. 198-1; September 26, 2018,
7 regarding the law enforcement and deliberative process privileges; February 13, 2019, regarding
8 the law enforcement and deliberative process privileges; March 25, 2019, regarding the law
9 enforcement and deliberative process privileges; April 23, 2019, regarding the law enforcement
10 and deliberative process privileges; April 24, 2019, regarding the law enforcement and
11 deliberative process privileges and June 6, 2019, regarding the law enforcement and deliberative
12 process privileges.

13 5. As in the aforementioned affidavits, I continue to assert the law enforcement and
14 deliberative process privileges over the following categories of information and documents,
15 including final documents, predecisional and deliberative documents, and discussions regarding
16 such information:

- 17 • Controlled Application Review and Resolution Program ("CARRP")
18 policies, procedures, and guidance and documents related to the identification,
19 vetting, deconfliction, and adjudication of applications for immigration benefits
20 sought by individuals who could pose national security and public safety
21 concerns;
- 22 • CARRP Working Group ("CARRP WG"), Situational Review Process
23 ("SRP"), and documents related to reviewing, discussing, revising, and
24 developing CARRP policies, procedures, training and guidance;
- 25 • USCIS' background, identity and security check policies, procedures, and
26 guidance;
- 27 • USCIS Handbook National Background Identity and Security Check
28 Operating Procedures ("NaBISCOP") Advisory Panel ("NAP") and documents

1 related reviewing, discussing, revising, and developing agency policies,
2 procedures, and guidance for background, identity, and security checks;

- 3 • CARRP-related training, courses, and seminars;
- 4 • Background, identity and security check-related training, courses, and
5 seminars;
- 6 • CARRP-related job aids and worksheets;
- 7 • USCIS' electronic systems, including but not limited to Fraud Detection
8 and National Security-Data Systems ("FDNS-DS"), ATLAS, and Electronic
9 Immigration System ("USCIS ELIS"), including how to access, record, and
10 handle information contained within such systems;
- 11 • Case assessment, prioritization, and tracking;
- 12 • Access, handling, and use of national security and classified information,
13 including but not limited to the declassification of such information in
14 immigration proceedings;
- 15 • Screening Coordination Working Group ("SCWG") and documents
16 related to reviewing screening, background, identity, and security checks, and hit
17 resolution policies, procedures, and guidance; ensuring coordination and
18 consistency within USCIS and with DHS regarding screening, and identifying and
19 developing new policies, procedures, and guidance for screening and information
20 sharing;
- 21 • Senior Leadership Review Board ("SLRB");
- 22 • Reports, data, and statistics related to CARRP;
- 23 • Alien Files ("A-Files"), which may contain but are not limited to
24 information provided by the individual to DHS or Department of State ("DOS");
25 publically available information: information shared by other agencies, including
26 federal, state, and local governments, various courts and regulatory agencies,
27 foreign government agencies, and international organizations through information
28

1 sharing agreements, reports of investigations, and written referrals from other
2 entities;

3 • Information identifying individuals whose applications are or have been
4 processed pursuant to the CARRP policy or who present national security
5 concerns;

6 • Information identifying individuals who are of interest to law enforcement
7 or intelligence agencies, or the subject of a law enforcement or intelligence
8 investigation;

9 • USCIS' internal division of responsibilities, organizational charts, and
10 reorganization;

11 • Reassignment of USCIS personnel;

12 • Policies, procedures, and guidance regarding applications, petitions, and
13 requests that raise fraud concerns or have indications of potential fraud;

14 • Policies, procedures, and guidance regarding immigrant benefit
15 applications other than adjustment of status or naturalization that present national
16 security concerns or which are of interest to law enforcement agencies;

17 • Policies, procedures, and guidance regarding Presidential Management
18 Fellows;

19 • Management of FDNS, including but not limited to management
20 conferences, goals, and priorities;

21 • Policies, procedures, and guidance regarding immigration interviews;

22 • Continuous Immigration Vetting ("CIV") policies, procedures, guidance,
23 and training;

24 • Expanded interviews for Form I-485, *Adjustment of Status*, adjudications;

25 • Improving, expanding, and enhanced interview training, including
26 contracts for such training;

27 • Code 5 identity verification or documents related to biometrics collected at
28 Application Support Centers ("ASCs");

- 1 • Policies, procedures, guidance, and training related to Joint Terrorism
2 Task Forces (“JTTF”), including documents related to policies, procedures,
3 guidance, and training for personnel detailed to JTTFs;
- 4 • Policies, procedures, guidance, and training related to a personnel detailed
5 to other government agencies;
- 6 • Policies, procedures, guidance, and training related to sharing information
7 with, or obtaining information from, law enforcement and intelligence partners,
8 including use and access of those partners’ databases, systems, and information;
- 9 • Information derived from third agencies, including but not limited to CBP,
10 U.S. Immigration and Customs Enforcement (“ICE”), Transportation and Security
11 Administration (“TSA”), DOS, and FBI.
- 12 • USCIS policies, procedures, and guidance related to implementation of
13 Executive Orders 13769 and 13780;
- 14 • Documents related to a proposed executive order regarding enhanced
15 vetting capabilities in the U.S. Refugee Admissions Program (“RAP”);
- 16 • Media vetting policies, procedures, guidance, and training;
- 17 • Documents related to policies, procedures, guidance, and training related
18 to U.S. Department of State systems, such as the Mantis Tech Alert List,
19 including how to access and handle information contained within;
- 20 • Documents related to policies, procedures, guidance, and training related
21 to ICE systems, such as the Enforcement Integrated Database (“EID”) Arrest
22 Graphic User Interface for Law Enforcement (“EAGLE”), including how to
23 access and handle information contained within;
- 24 • Documents related Notice to Appear (“NTA”) policies, procedures,
25 guidance, and training;
- 26 • Documents related to asylum, refugee, and the credible fear and
27 reasonable fear processes;
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- 1 • Documents prepared in response to, or in anticipation of a Congressional
2 inquiry or Congressional hearing;
- 3 • Policies, procedures, and guidance related to Information Services
4 Modernization;
- 5 • Documents related to the management and leadership of USCIS,
6 including, but not limited to initiatives, goals, and priorities the Transformation
7 Leadership Council;
- 8 • Documents related to USCIS funding, fees, costs, and the filing method
9 for various applications;
- 10 • Documents related to Deferred Action for Childhood Arrivals (“DACA”);
- 11 • Documents prepared during the course of and in defense of *Wagafe v.*
12 *Trump*, No. 2:17-cv-00094 (W.D. Wash.).
- 13 • Documents prepared during the course of and in defense of federal
14 litigation unrelated to *Wagafe v. Trump*, No. 2:17-cv-00094 (W.D. Wash.);
- 15 • Documents related to the EB-5 program or the Immigrant Investor
16 Program Office; and
- 17 • Documents related to USCIS’ handling of and response to Requests for
18 Information (“RFI”).

19 6. This supplemental affidavit is based on the documents contained in Production
20 Volume Defendant USCIS 029 and the privilege log associated with it.

21 7. I also assert the law enforcement and deliberative process privileges over the
22 following categories of information and documents, including final documents, predecisional and
23 deliberative documents, and discussions regarding such information:

- 24 • Documents related to public charge guidance, policies, and regulations.

25 I have recently reviewed an exemplar of the information withheld in the category listed above.

26 8. I am aware that in this present litigation the parties have entered into a Stipulated
27 Protective Order, ECF No. 86, and I have reviewed the terms of this Stipulated Protective Order.

28 For the reasons mentioned in the below paragraphs, disclosure of the information withheld would

1 pose a risk to national security or public safety. Because these documents apply to ongoing and
2 future vetting and adjudication of immigration benefit applications, even disclosure under a
3 protective order would not mitigate the risk to national security or public safety because sensitive
4 law enforcement information would be provided to third parties outside of the federal
5 government. In addition, the existence of the protective order does not change my assessment of
6 the importance of shielding the internal pre-decisional agency deliberations from disclosure.
7 Even under a protective order, disclosure of deliberative, pre-decisional information would have
8 a chilling effect on future agency deliberations and result in detrimental consequences to future
9 agency action.

10 9. Regarding the deliberative process privilege, the documents identified as being
11 subject to the deliberative process privilege in the privilege logs associated with Production
12 Volume Defendant USCIS 029 reflect the deliberative, pre-decisional processes of USCIS
13 personnel engaged in efforts to generate, review, revise, discuss, and otherwise formulate policy
14 and procedure for the agency related to the of processing national security and fraud cases, the
15 implementation of executive orders, and other policies and procedures. Those documents
16 include draft memoranda, policy manual content, as well as emails, training, and other
17 documents memorializing the internal process of discussion and deliberation related to policy
18 formulation and/or revision. Disclosure of the withheld portions of these documents would
19 jeopardize USCIS' ability to engage in decision making by discouraging future candid discussion
20 and debate within USCIS. USCIS personnel would be reluctant to share their opinions for or
21 against a particular decision if those predecisional comments were subject to disclosure, and to
22 future use for the purpose of challenging the final decision and/or the process by which it was
23 achieved. Pre-decisional documents also reflect ongoing conversations with other government
24 agencies who provide partnership and assistance. The disclosure of these pre-decisional,
25 deliberative conversations would have a chilling effect on information-sharing and candid
26 conversations with important partners.

27 10. Regarding the law enforcement privilege, the documents identified as being
28 subject to the law enforcement privilege in the privilege logs associated with Production Volume

1 Defendant USCIS 029 are withheld consistent with the descriptions of the information withheld
2 listed in my prior declarations, which I incorporate here by reference. In addition, the
3 information withheld relates to the following:

4 • Sensitive information about screening and vetting practices and related
5 law enforcement checks, including discussion of new policies and procedures or
6 revisions to existing policies and procedures. USCIS has determined the extent to
7 which it can publicly release information about screening and vetting practices
8 and the types of law enforcement checks that it performs, and it has released that
9 information as appropriate. The withheld portions of the documents here contain
10 information USCIS has determined it cannot reveal because it relates to sensitive
11 processes, discloses information about third party law enforcement or intelligence
12 partners, or discloses the types of sensitive information that certain law
13 enforcement checks may contain. Disclosure of this information would reveal
14 sensitive, internal law enforcement case handling procedures and if disclosed will
15 risk circumvention or evasion of the law. Further, deliberative, pre-decisional
16 discussion about such screening and vetting practices and related law enforcement
17 checks may disclose shortcomings or vulnerabilities in USCIS' vetting that
18 require further action to resolve and address, the disclosure of which might reveal
19 sensitive law enforcement investigative information, techniques, and procedures.
20 Disclosure of techniques that may be employed in the future might reveal
21 sensitive law enforcement investigative information, techniques, and procedures
22 that could be used at a future time;

23 • USCIS internal case information and handling procedures related to the
24 adjudication of immigration benefit applications, to include vetting methods used
25 to evaluate an applicant's eligibility for the immigration benefit, and information
26 regarding actual fraud and/or national security cases, which might reveal law
27 enforcement sensitive case information as well as methods and techniques used to
28 uncover or elicit information that relates to eligibility for an immigration benefit;

- 1 • Record identification numbers and similar codes, information identifying
2 law enforcement agencies and narrative text, the disclosure of which might reveal
3 sensitive law enforcement investigative information, techniques, and procedures;
- 4 • Sensitive information about how USCIS analyzes the risk level certain
5 national security indicators may present, how national security cases should be
6 prioritized based on their risk level, specific duties involved in final adjudication,
7 and the specific security-related processes that are involved prior to making a
8 final determination on cases with national security concerns. The disclosure of
9 this information would reveal substantial internal practices, techniques, and
10 procedures used by USCIS in civil and law enforcement investigations related to
11 immigration benefits fraud and national security issues, and such disclosure could
12 reasonably be expected to risk circumvention of the law;
- 13 • Sensitive information about sharing information with, or obtaining
14 information from, law enforcement or intelligence partners. The disclosure of
15 such information could impair USCIS' ability to share and collect necessary
16 information to determine if an individual is eligible for an immigration benefit
17 and could impact other law enforcement or intelligence agencies' missions or
18 operations. USCIS is obligated to protect information that it obtains that is owned
19 by a third-party agency; and
- 20 • Documents, such as meeting minutes from working groups, may disclose
21 shortcomings or vulnerabilities in USCIS' vetting that requires further action to
22 resolve and address, the disclosure of which might reveal sensitive law
23 enforcement investigative information, techniques, and procedures. Documents
24 also discuss consideration of investigatory tools or techniques that have been
25 considered, but not implemented. Disclosure of techniques that may be employed
26 in the future might reveal sensitive law enforcement investigative information,
27 techniques, and procedures that could be used at a future time.

1 11. The disclosure of the withheld information would result in the same type of harms
2 that I described in my prior declarations, which are incorporated here by reference.

3 12. Based on the reasons set forth above and the reasons set forth in my prior
4 declarations, I assert the law enforcement and deliberative process privileges for the
5 aforementioned information which the Government seeks to keep withheld.

6 I declare under penalty of perjury that the foregoing is true and correct.

7 Executed this 19th day of June, 2019 at Washington, D.C.

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10 Matthew D. Emrich
11 Associate Director, FDNS
12 U.S. Citizenship and Immigration Services
13 Washington, D.C.

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EXHIBIT C-7

The Honorable Richard A. Jones

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ABDIQAFAR WAGAFE, *et al.*,
Plaintiffs,
v.
UNITED STATES CITIZENSHIP AND
IMMIGRATION SERVICES, *et al.*,
Defendants.
No. 2:17-cv-00094-RAJ

**EIGHTH SUPPLEMENTAL
AFFIDAVIT OF MATTHEW D.
EMRICH IN SUPPORT OF THE
ASSERTION OF THE LAW
ENFORCEMENT AND
DELIBERATIVE PROCESS
PRIVILEGES REGARDING PROD.
VOL. 30**

I, Matthew D. Emrich, do hereby declare and say:

1. I am the Associate Director of the Fraud Detection and National Security (“FDNS”) Directorate, U.S. Citizenship and Immigration Services (“USCIS”), Department of Homeland Security (“DHS”). I have held this position since November 15, 2015.

2. I have been delegated the authority of the Director of USCIS to assert the law enforcement and deliberative process privileges on behalf of USCIS regarding the documents at issue in this litigation.

3. The matters contained in this declaration are based upon my review of exemplar documents in which certain information has been withheld in *Wagafe v. Trump*, No. 2:17-cv-00094 (W.D. Wash.), my personal knowledge, my knowledge of the documents kept by USCIS in the course of ordinary business, and on information provided to me by other USCIS employees in the course of my official duties as Associate Director of FDNS.

1 4. I submit this supplemental affidavit and incorporate my prior affidavits in support
2 of USCIS' privilege claims made on: February 20, 2018, regarding the law enforcement
3 privilege, Dkt. No. 119-2; April 9, 2018, regarding the law enforcement and deliberative process
4 privileges, Dkt. No. 146-3; April 30, 2018, regarding the deliberative process privilege, Dkt. No.
5 174-3; May 10, 2018, regarding the law enforcement and deliberative process privileges; July 5,
6 2018, regarding the deliberative process privileges, Dkt. No. 198-1; September 26, 2018,
7 regarding the law enforcement and deliberative process privileges; February 13, 2019, regarding
8 the law enforcement and deliberative process privileges; March 25, 2019, regarding the law
9 enforcement and deliberative process privileges; April 23, 2019, regarding the law enforcement
10 and deliberative process privileges; April 24, 2019, regarding the law enforcement and
11 deliberative process privileges; June 6, 2019, regarding the law enforcement and deliberative
12 process privileges, and June 19, 2019, regarding the law enforcement and deliberative process
13 privileges.

14 5. As in the aforementioned affidavits, I continue to assert the law enforcement and
15 deliberative process privileges over the following categories of information and documents,
16 including final documents, predecisional and deliberative documents, and discussions regarding
17 such information:

- 18 • Controlled Application Review and Resolution Program ("CARRP")
19 policies, procedures, and guidance and documents related to the identification,
20 vetting, deconfliction, and adjudication of applications for immigration benefits
21 sought by individuals who could pose national security and public safety
22 concerns;
- 23 • CARRP Working Group ("CARRP WG"), Situational Review Process
24 ("SRP"), and documents related to reviewing, discussing, revising, and
25 developing CARRP policies, procedures, training and guidance;
- 26 • USCIS' background, identity and security check policies, procedures, and
27 guidance;

- 1 • USCIS Handbook National Background Identity and Security Check
- 2 Operating Procedures (“NaBISCOP”) Advisory Panel (“NAP”) and documents
- 3 related reviewing, discussing, revising, and developing agency policies,
- 4 procedures, and guidance for background, identity, and security checks;
- 5 • CARRP-related training, courses, and seminars;
- 6 • Background, identity and security check-related training, courses, and
- 7 seminars;
- 8 • CARRP-related job aids and worksheets;
- 9 • USCIS’ electronic systems, including but not limited to Fraud Detection
- 10 and National Security-Data Systems (“FDNS-DS”), ATLAS, and Electronic
- 11 Immigration System (“USCIS ELIS”), including how to access, record, and
- 12 handle information contained within such systems;
- 13 • Case assessment, prioritization, and tracking;
- 14 • Access, handling, and use of national security and classified information,
- 15 including but not limited to the declassification of such information in
- 16 immigration proceedings;
- 17 • Screening Coordination Working Group (“SCWG”) and documents
- 18 related to reviewing screening, background, identity, and security checks, and hit
- 19 resolution policies, procedures, and guidance; ensuring coordination and
- 20 consistency within USCIS and with DHS regarding screening, and identifying and
- 21 developing new policies, procedures, and guidance for screening and information
- 22 sharing;
- 23 • Senior Leadership Review Board (“SLRB”);
- 24 • Reports, data, and statistics related to CARRP;
- 25 • Alien Files (“A-Files”), which may contain but are not limited to
- 26 information provided by the individual to DHS or Department of State (“DOS”);
- 27 publically available information: information shared by other agencies, including
- 28 federal, state, and local governments, various courts and regulatory agencies,

1 foreign government agencies, and international organizations through information
2 sharing agreements, reports of investigations, and written referrals from other
3 entities;

4 • Information identifying individuals whose applications are or have been
5 processed pursuant to the CARRP policy or who present national security
6 concerns;

7 • Information identifying individuals who are of interest to law enforcement
8 or intelligence agencies, or the subject of a law enforcement or intelligence
9 investigation;

10 • USCIS' internal division of responsibilities, organizational charts, and
11 reorganization;

12 • Reassignment of USCIS personnel;

13 • Policies, procedures, and guidance regarding applications, petitions, and
14 requests that raise fraud concerns or have indications of potential fraud;

15 • Policies, procedures, and guidance regarding immigrant benefit
16 applications other than adjustment of status or naturalization that present national
17 security concerns or which are of interest to law enforcement agencies;

18 • Policies, procedures, and guidance regarding Presidential Management
19 Fellows;

20 • Management of FDNS, including but not limited to management
21 conferences, goals, and priorities;

22 • Policies, procedures, and guidance regarding immigration interviews;

23 • Continuous Immigration Vetting ("CIV") policies, procedures, guidance,
24 and training;

25 • Expanded interviews for Form I-485, *Adjustment of Status*, adjudications;

26 • Improving, expanding, and enhanced interview training, including
27 contracts for such training;

28

- 1 • Code 5 identity verification or documents related to biometrics collected at
2 Application Support Centers (“ASCs”);
- 3 • Policies, procedures, guidance, and training related to Joint Terrorism
4 Task Forces (“JTTF”), including documents related to policies, procedures,
5 guidance, and training for personnel detailed to JTTFs;
- 6 • Policies, procedures, guidance, and training related to a personnel detailed
7 to other government agencies;
- 8 • Policies, procedures, guidance, and training related to sharing information
9 with, or obtaining information from, law enforcement and intelligence partners,
10 including use and access of those partners’ databases, systems, and information;
- 11 • Information derived from third agencies, including but not limited to CBP,
12 U.S. Immigration and Customs Enforcement (“ICE”), Transportation and Security
13 Administration (“TSA”), DOS, and FBI.
- 14 • USCIS policies, procedures, and guidance related to implementation of
15 Executive Orders 13769 and 13780;
- 16 • Documents related to a proposed executive order regarding enhanced
17 vetting capabilities in the U.S. Refugee Admissions Program (“RAP”);
- 18 • Media vetting policies, procedures, guidance, and training;
- 19 • Documents related to policies, procedures, guidance, and training related
20 to U.S. Department of State systems, such as the Mantis Tech Alert List,
21 including how to access and handle information contained within;
- 22 • Documents related to policies, procedures, guidance, and training related
23 to ICE systems, such as the Enforcement Integrated Database (“EID”) Arrest
24 Graphic User Interface for Law Enforcement (“EAGLE”), including how to
25 access and handle information contained within;
- 26 • Documents related Notice to Appear (“NTA”) policies, procedures,
27 guidance, and training;
- 28

- 1 • Documents related to asylum, refugee, and the credible fear and
2 reasonable fear processes;
- 3 • Documents prepared in response to, or in anticipation of a Congressional
4 inquiry or Congressional hearing;
- 5 • Policies, procedures, and guidance related to Information Services
6 Modernization;
- 7 • Documents related to the management and leadership of USCIS,
8 including, but not limited to initiatives, goals, and priorities the Transformation
9 Leadership Council;
- 10 • Documents related to USCIS funding, fees, costs, and the filing method
11 for various applications;
- 12 • Documents related to Deferred Action for Childhood Arrivals (“DACA”);
- 13 • Documents prepared during the course of and in defense of *Wagafe v.*
14 *Trump*, No. 2:17-cv-00094 (W.D. Wash.).
- 15 • Documents prepared during the course of and in defense of federal
16 litigation unrelated to *Wagafe v. Trump*, No. 2:17-cv-00094 (W.D. Wash.);
- 17 • Documents related to the EB-5 program or the Immigrant Investor
18 Program Office;
- 19 • Documents related to USCIS’ handling of and response to Requests for
20 Information (“RFI”); and
- 21 • Documents related to public charge guidance, policies, and regulations.

22 6. This supplemental affidavit is based on the documents contained in Production
23 Volume Defendant USCIS 030 and the privilege log associated with it.

24 7. USCIS continues to assert the law enforcement and deliberative process privileges
25 over the aforementioned categories of information and documents as they pertain to documents
26 produced in Production Volume Defendant USCIS 030.

27 8. I am aware that in this present litigation the parties have entered into a Stipulated
28 Protective Order, ECF No. 86, and I have reviewed the terms of this Stipulated Protective Order.

1 For the reasons mentioned in the below paragraphs, disclosure of the information withheld would
2 pose a risk to national security or public safety. Because these documents apply to ongoing and
3 future vetting and adjudication of immigration benefit applications, even disclosure under a
4 protective order would not mitigate the risk to national security or public safety because sensitive
5 law enforcement information would be provided to third parties outside of the federal
6 government. In addition, the existence of the protective order does not change my assessment of
7 the importance of shielding the internal pre-decisional agency deliberations from disclosure.
8 Even under a protective order, disclosure of deliberative, pre-decisional information would have
9 a chilling effect on future agency deliberations and result in detrimental consequences to future
10 agency action.

11 9. Regarding the deliberative process privilege, the documents identified as being
12 subject to the deliberative process privilege in the privilege logs associated with Production
13 Volume Defendant USCIS 030 reflect the deliberative, pre-decisional processes of USCIS
14 personnel engaged in efforts to generate, review, revise, discuss, and otherwise formulate policy
15 and procedure for the agency related to the of processing national security and fraud cases, the
16 implementation of executive orders, and other policies and procedures. Those documents
17 include draft memoranda, policy manual content, as well as emails, training, and other
18 documents memorializing the internal process of discussion and deliberation related to policy
19 formulation and/or revision. Disclosure of the withheld portions of these documents would
20 jeopardize USCIS' ability to engage in decision making by discouraging future candid discussion
21 and debate within USCIS. USCIS personnel would be reluctant to share their opinions for or
22 against a particular decision if those predecisional comments were subject to disclosure, and to
23 future use for the purpose of challenging the final decision and/or the process by which it was
24 achieved. Pre-decisional documents also reflect ongoing conversations with other government
25 agencies who provide partnership and assistance. The disclosure of these pre-decisional,
26 deliberative conversations would have a chilling effect on information-sharing and candid
27 conversations with important partners.

1 10. Regarding the law enforcement privilege, the documents identified as being
2 subject to the law enforcement privilege in the privilege logs associated with Production Volume
3 Defendant USCIS 030 are withheld consistent with the descriptions of the information withheld
4 listed in my prior declarations, which I incorporate here by reference. In addition, the
5 information withheld relates to the following:

6 • Sensitive information about screening and vetting practices and related
7 law enforcement checks, including discussion of new policies and procedures or
8 revisions to existing policies and procedures. USCIS has determined the extent to
9 which it can publicly release information about screening and vetting practices
10 and the types of law enforcement checks that it performs, and it has released that
11 information as appropriate. The withheld portions of the documents here contain
12 information USCIS has determined it cannot reveal because it relates to sensitive
13 processes, discloses information about third party law enforcement or intelligence
14 partners, or discloses the types of sensitive information that certain law
15 enforcement checks may contain. Disclosure of this information would reveal
16 sensitive, internal law enforcement case handling procedures and if disclosed will
17 risk circumvention or evasion of the law. Further, deliberative, pre-decisional
18 discussion about such screening and vetting practices and related law enforcement
19 checks may disclose shortcomings or vulnerabilities in USCIS' vetting that
20 require further action to resolve and address, the disclosure of which might reveal
21 sensitive law enforcement investigative information, techniques, and procedures.
22 Disclosure of techniques that may be employed in the future might reveal
23 sensitive law enforcement investigative information, techniques, and procedures
24 that could be used at a future time;

25 • USCIS internal case information and handling procedures related to the
26 adjudication of immigration benefit applications, to include vetting methods used
27 to evaluate an applicant's eligibility for the immigration benefit, and information
28 regarding actual fraud and/or national security cases, which might reveal law

1 enforcement sensitive case information as well as methods and techniques used to
2 uncover or elicit information that relates to eligibility for an immigration benefit;

3 • Record identification numbers and similar codes, information identifying
4 law enforcement agencies and narrative text, the disclosure of which might reveal
5 sensitive law enforcement investigative information, techniques, and procedures;

6 • Sensitive information about how USCIS analyzes the risk level certain
7 national security indicators may present, how national security cases should be
8 prioritized based on their risk level, specific duties involved in final adjudication,
9 and the specific security-related processes that are involved prior to making a
10 final determination on cases with national security concerns. The disclosure of
11 this information would reveal substantial internal practices, techniques, and
12 procedures used by USCIS in civil and law enforcement investigations related to
13 immigration benefits fraud and national security issues, and such disclosure could
14 reasonably be expected to risk circumvention of the law;

15 • Sensitive information about sharing information with, or obtaining
16 information from, law enforcement or intelligence partners. The disclosure of
17 such information could impair USCIS' ability to share and collect necessary
18 information to determine if an individual is eligible for an immigration benefit
19 and could impact other law enforcement or intelligence agencies' missions or
20 operations. USCIS is obligated to protect information that it obtains that is owned
21 by a third-party agency; and

22 • Documents, such as meeting minutes from working groups, may disclose
23 shortcomings or vulnerabilities in USCIS' vetting that requires further action to
24 resolve and address, the disclosure of which might reveal sensitive law
25 enforcement investigative information, techniques, and procedures. Documents
26 also discuss consideration of investigatory tools or techniques that have been
27 considered, but not implemented. Disclosure of techniques that may be employed
28

1 in the future might reveal sensitive law enforcement investigative information,
2 techniques, and procedures that could be used at a future time.

3 11. The disclosure of the withheld information would result in the same type of harms
4 that I described in my prior declarations, which are incorporated here by reference.

5 12. Based on the reasons set forth above and the reasons set forth in my prior
6 declarations, I assert the law enforcement and deliberative process privileges for the
7 aforementioned information which the Government seeks to keep withheld.

8 I declare under penalty of perjury that the foregoing is true and correct.

9 Executed this 15th day of July, 2019 at Washington, D.C.

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12 Matthew D. Emrich

13 Associate Director, FDNS

14 U.S. Citizenship and Immigration Services

15 Washington, D.C.
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EXHIBIT C-8

The Honorable Richard A. Jones

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ABDIQAFAR WAGAFE, *et al.*,
Plaintiffs,
v.
UNITED STATES CITIZENSHIP AND
IMMIGRATION SERVICES, *et al.*,
Defendants.
No. 2:17-cv-00094-RAJ

**NINTH SUPPLEMENTAL
AFFIDAVIT OF MATTHEW D.
EMRICH IN SUPPORT OF THE
ASSERTION OF THE LAW
ENFORCEMENT AND
DELIBERATIVE PROCESS
PRIVILEGES REGARDING PROD.
VOL. 33**

I, Matthew D. Emrich, do hereby declare and say:

1. I am the Associate Director of the Fraud Detection and National Security (“FDNS”) Directorate, U.S. Citizenship and Immigration Services (“USCIS”), Department of Homeland Security (“DHS”). I have held this position since November 15, 2015.

2. I have been delegated the authority of the Director of USCIS to assert the law enforcement and deliberative process privileges on behalf of USCIS regarding the documents at issue in this litigation.

3. The matters contained in this declaration are based upon my review of exemplar documents in which certain information has been withheld in *Wagafe v. Trump*, No. 2:17-cv-00094 (W.D. Wash.), my personal knowledge, my knowledge of the documents kept by USCIS in the course of ordinary business, and on information provided to me by other USCIS employees in the course of my official duties as Associate Director of FDNS.

1 4. I submit this supplemental affidavit and incorporate my prior affidavits in support
2 of USCIS' privilege claims made on: February 20, 2018, regarding the law enforcement
3 privilege, Dkt. No. 119-2; April 9, 2018, regarding the law enforcement and deliberative process
4 privileges, Dkt. No. 146-3; April 30, 2018, regarding the deliberative process privilege, Dkt. No.
5 174-3; May 10, 2018, regarding the law enforcement and deliberative process privileges; July 5,
6 2018, regarding the deliberative process privileges, Dkt. No. 198-1; September 26, 2018,
7 regarding the law enforcement and deliberative process privileges; February 13, 2019, regarding
8 the law enforcement and deliberative process privileges; March 25, 2019, regarding the law
9 enforcement and deliberative process privileges; April 23, 2019, regarding the law enforcement
10 and deliberative process privileges; April 24, 2019, regarding the law enforcement and
11 deliberative process privileges; June 6, 2019, regarding the law enforcement and deliberative
12 process privileges, June 19, 2019, regarding the law enforcement and deliberative process
13 privileges, and July 15, 2019, regarding the law enforcement and deliberative process privileges.

14 5. As in the aforementioned affidavits, I continue to assert the law enforcement and
15 deliberative process privileges over the following categories of information and documents,
16 including final documents, predecisional and deliberative documents, and discussions regarding
17 such information:

- 18 • Controlled Application Review and Resolution Program ("CARRP")
19 policies, procedures, and guidance and documents related to the identification,
20 vetting, deconfliction, and adjudication of applications for immigration benefits
21 sought by individuals who could pose national security and public safety
22 concerns;
- 23 • CARRP Working Group ("CARRP WG"), Situational Review Process
24 ("SRP"), and documents related to reviewing, discussing, revising, and
25 developing CARRP policies, procedures, training and guidance;
- 26 • USCIS' background, identity and security check policies, procedures, and
27 guidance;

- 1 • USCIS Handbook National Background Identity and Security Check
- 2 Operating Procedures (“NaBISCOP”) Advisory Panel (“NAP”) and documents
- 3 related reviewing, discussing, revising, and developing agency policies,
- 4 procedures, and guidance for background, identity, and security checks;
- 5 • CARRP-related training, courses, and seminars;
- 6 • Background, identity and security check-related training, courses, and
- 7 seminars;
- 8 • CARRP-related job aids and worksheets;
- 9 • USCIS’ electronic systems, including but not limited to Fraud Detection
- 10 and National Security-Data Systems (“FDNS-DS”), ATLAS, and Electronic
- 11 Immigration System (“USCIS ELIS”), including how to access, record, and
- 12 handle information contained within such systems;
- 13 • Case assessment, prioritization, and tracking;
- 14 • Access, handling, and use of national security and classified information,
- 15 including but not limited to the declassification of such information in
- 16 immigration proceedings;
- 17 • Screening Coordination Working Group (“SCWG”) and documents
- 18 related to reviewing screening, background, identity, and security checks, and hit
- 19 resolution policies, procedures, and guidance; ensuring coordination and
- 20 consistency within USCIS and with DHS regarding screening, and identifying and
- 21 developing new policies, procedures, and guidance for screening and information
- 22 sharing;
- 23 • Senior Leadership Review Board (“SLRB”);
- 24 • Reports, data, and statistics related to CARRP;
- 25 • Alien Files (“A-Files”), which may contain but are not limited to
- 26 information provided by the individual to DHS or Department of State (“DOS”);
- 27 publically available information: information shared by other agencies, including
- 28 federal, state, and local governments, various courts and regulatory agencies,

1 foreign government agencies, and international organizations through information
2 sharing agreements, reports of investigations, and written referrals from other
3 entities;

4 • Information identifying individuals whose applications are or have been
5 processed pursuant to the CARRP policy or who present national security
6 concerns;

7 • Information identifying individuals who are of interest to law enforcement
8 or intelligence agencies, or the subject of a law enforcement or intelligence
9 investigation;

10 • USCIS' internal division of responsibilities, organizational charts, and
11 reorganization;

12 • Reassignment of USCIS personnel;

13 • Policies, procedures, and guidance regarding applications, petitions, and
14 requests that raise fraud concerns or have indications of potential fraud;

15 • Policies, procedures, and guidance regarding immigrant benefit
16 applications other than adjustment of status or naturalization that present national
17 security concerns or which are of interest to law enforcement agencies;

18 • Policies, procedures, and guidance regarding Presidential Management
19 Fellows;

20 • Management of FDNS, including but not limited to management
21 conferences, goals, and priorities;

22 • Policies, procedures, and guidance regarding immigration interviews;

23 • Continuous Immigration Vetting ("CIV") policies, procedures, guidance,
24 and training;

25 • Expanded interviews for Form I-485, *Adjustment of Status*, adjudications;

26 • Improving, expanding, and enhanced interview training, including
27 contracts for such training;

28

- 1 • Code 5 identity verification or documents related to biometrics collected at
2 Application Support Centers (“ASCs”);
- 3 • Policies, procedures, guidance, and training related to Joint Terrorism
4 Task Forces (“JTTF”), including documents related to policies, procedures,
5 guidance, and training for personnel detailed to JTTFs;
- 6 • Policies, procedures, guidance, and training related to a personnel detailed
7 to other government agencies;
- 8 • Policies, procedures, guidance, and training related to sharing information
9 with, or obtaining information from, law enforcement and intelligence partners,
10 including use and access of those partners’ databases, systems, and information;
- 11 • Information derived from third agencies, including but not limited to CBP,
12 U.S. Immigration and Customs Enforcement (“ICE”), Transportation and Security
13 Administration (“TSA”), DOS, and FBI.
- 14 • USCIS policies, procedures, and guidance related to implementation of
15 Executive Orders 13769 and 13780;
- 16 • Documents related to a proposed executive order regarding enhanced
17 vetting capabilities in the U.S. Refugee Admissions Program (“RAP”);
- 18 • Media vetting policies, procedures, guidance, and training;
- 19 • Documents related to policies, procedures, guidance, and training related
20 to U.S. Department of State systems, such as the Mantis Tech Alert List,
21 including how to access and handle information contained within;
- 22 • Documents related to policies, procedures, guidance, and training related
23 to ICE systems, such as the Enforcement Integrated Database (“EID”) Arrest
24 Graphic User Interface for Law Enforcement (“EAGLE”), including how to
25 access and handle information contained within;
- 26 • Documents related Notice to Appear (“NTA”) policies, procedures,
27 guidance, and training;
- 28

- 1 • Documents related to asylum, refugee, and the credible fear and
2 reasonable fear processes;
- 3 • Documents prepared in response to, or in anticipation of a Congressional
4 inquiry or Congressional hearing;
- 5 • Policies, procedures, and guidance related to Information Services
6 Modernization;
- 7 • Documents related to the management and leadership of USCIS,
8 including, but not limited to initiatives, goals, and priorities the Transformation
9 Leadership Council;
- 10 • Documents related to USCIS funding, fees, costs, and the filing method
11 for various applications;
- 12 • Documents related to Deferred Action for Childhood Arrivals (“DACA”);
- 13 • Documents prepared during the course of and in defense of *Wagafe v.*
14 *Trump*, No. 2:17-cv-00094 (W.D. Wash.).
- 15 • Documents prepared during the course of and in defense of federal
16 litigation unrelated to *Wagafe v. Trump*, No. 2:17-cv-00094 (W.D. Wash.);
- 17 • Documents related to the EB-5 program or the Immigrant Investor
18 Program Office;
- 19 • Documents related to USCIS’ handling of and response to Requests for
20 Information (“RFI”); and
- 21 • Documents related to public charge guidance, policies, and regulations.

22 6. This supplemental affidavit is based on the documents contained in Production
23 Volume Defendant USCIS 033 and the privilege log associated with it.

24 7. I also assert the law enforcement and deliberative process privileges over the
25 following categories of information and documents, including final documents, predecisional and
26 deliberative documents, and discussions regarding such information:

- 27 • Documents related to USCIS exercise of parole authority.

28 I have recently reviewed an exemplar of the information withheld in the category listed above.

1 8. I am aware that in this present litigation the parties have entered into a Stipulated
2 Protective Order, ECF No. 86, and I have reviewed the terms of this Stipulated Protective Order.
3 For the reasons mentioned in the below paragraphs, disclosure of the information withheld would
4 pose a risk to national security or public safety. Because these documents apply to ongoing and
5 future vetting and adjudication of immigration benefit applications, even disclosure under a
6 protective order would not mitigate the risk to national security or public safety because sensitive
7 law enforcement information would be provided to third parties outside of the federal
8 government. In addition, the existence of the protective order does not change my assessment of
9 the importance of shielding the internal pre-decisional agency deliberations from disclosure.
10 Even under a protective order, disclosure of deliberative, pre-decisional information would have
11 a chilling effect on future agency deliberations and result in detrimental consequences to future
12 agency action.

13 9. Regarding the deliberative process privilege, the documents identified as being
14 subject to the deliberative process privilege in the privilege logs associated with Production
15 Volume Defendant USCIS 033 reflect the deliberative, pre-decisional processes of USCIS
16 personnel engaged in efforts to generate, review, revise, discuss, and otherwise formulate policy
17 and procedure for the agency related to the of processing national security and fraud cases, the
18 implementation of executive orders, and other policies and procedures. Those documents
19 include draft memoranda, policy manual content, as well as emails, training, and other
20 documents memorializing the internal process of discussion and deliberation related to policy
21 formulation and/or revision. Disclosure of the withheld portions of these documents would
22 jeopardize USCIS' ability to engage in decision making by discouraging future candid discussion
23 and debate within USCIS. USCIS personnel would be reluctant to share their opinions for or
24 against a particular decision if those predecisional comments were subject to disclosure, and to
25 future use for the purpose of challenging the final decision and/or the process by which it was
26 achieved. Pre-decisional documents also reflect ongoing conversations with other government
27 agencies who provide partnership and assistance. The disclosure of these pre-decisional,
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1 deliberative conversations would have a chilling effect on information-sharing and candid
2 conversations with important partners.

3 10. Regarding the law enforcement privilege, the documents identified as being
4 subject to the law enforcement privilege in the privilege logs associated with Production Volume
5 Defendant USCIS 033 are withheld consistent with the descriptions of the information withheld
6 listed in my prior declarations, which I incorporate here by reference. In addition, the
7 information withheld relates to the following:

- 8 • Sensitive information about screening and vetting practices and related
9 law enforcement checks, including discussion of new policies and procedures or
10 revisions to existing policies and procedures. USCIS has determined the extent to
11 which it can publicly release information about screening and vetting practices
12 and the types of law enforcement checks that it performs, and it has released that
13 information as appropriate. The withheld portions of the documents here contain
14 information USCIS has determined it cannot reveal because it relates to sensitive
15 processes, discloses information about third party law enforcement or intelligence
16 partners, or discloses the types of sensitive information that certain law
17 enforcement checks may contain. Disclosure of this information would reveal
18 sensitive, internal law enforcement case handling procedures and if disclosed will
19 risk circumvention or evasion of the law. Further, deliberative, pre-decisional
20 discussion about such screening and vetting practices and related law enforcement
21 checks may disclose shortcomings or vulnerabilities in USCIS' vetting that
22 require further action to resolve and address, the disclosure of which might reveal
23 sensitive law enforcement investigative information, techniques, and procedures.
24 Disclosure of techniques that may be employed in the future might reveal
25 sensitive law enforcement investigative information, techniques, and procedures
26 that could be used at a future time;
- 27 • USCIS internal case information and handling procedures related to the
28 adjudication of immigration benefit applications, to include vetting methods used

1 to evaluate an applicant's eligibility for the immigration benefit, and information
2 regarding actual fraud and/or national security cases, which might reveal law
3 enforcement sensitive case information as well as methods and techniques used to
4 uncover or elicit information that relates to eligibility for an immigration benefit;

5 • Record identification numbers and similar codes, information identifying
6 law enforcement agencies and narrative text, the disclosure of which might reveal
7 sensitive law enforcement investigative information, techniques, and procedures;

8 • Sensitive information about how USCIS analyzes the risk level certain
9 national security indicators may present, how national security cases should be
10 prioritized based on their risk level, specific duties involved in final adjudication,
11 and the specific security-related processes that are involved prior to making a
12 final determination on cases with national security concerns. The disclosure of
13 this information would reveal substantial internal practices, techniques, and
14 procedures used by USCIS in civil and law enforcement investigations related to
15 immigration benefits fraud and national security issues, and such disclosure could
16 reasonably be expected to risk circumvention of the law;

17 • Sensitive information about sharing information with, or obtaining
18 information from, law enforcement or intelligence partners. The disclosure of
19 such information could impair USCIS' ability to share and collect necessary
20 information to determine if an individual is eligible for an immigration benefit
21 and could impact other law enforcement or intelligence agencies' missions or
22 operations. USCIS is obligated to protect information that it obtains that is owned
23 by a third-party agency; and

24 • Documents, such as meeting minutes from working groups, may disclose
25 shortcomings or vulnerabilities in USCIS' vetting that requires further action to
26 resolve and address, the disclosure of which might reveal sensitive law
27 enforcement investigative information, techniques, and procedures. Documents
28 also discuss consideration of investigatory tools or techniques that have been

1 considered, but not implemented. Disclosure of techniques that may be employed
2 in the future might reveal sensitive law enforcement investigative information,
3 techniques, and procedures that could be used at a future time.

4 11. The disclosure of the withheld information would result in the same type of harms
5 that I described in my prior declarations, which are incorporated here by reference.

6 12. Based on the reasons set forth above and the reasons set forth in my prior
7 declarations, I assert the law enforcement and deliberative process privileges for the
8 aforementioned information which the Government seeks to keep withheld.

9 I declare under penalty of perjury that the foregoing is true and correct.

10 Executed this 16th day of August, 2019 at Washington, D.C.

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13 Matthew D. Emrich

14 Associate Director, FDNS

15 U.S. Citizenship and Immigration Services

16 Washington, D.C.
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EXHIBIT C-9

The Honorable Richard A. Jones

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

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v.

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Defendants.

No. 2:17-cv-00094-RAJ

**ELEVENTH SUPPLEMENTAL
AFFIDAVIT OF MATTHEW D.
EMRICH IN SUPPORT OF THE
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ENFORCEMENT AND
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VOLS. 36 & 37**

I, Matthew D. Emrich, do hereby declare and say:

1. I am the Associate Director of the Fraud Detection and National Security (“FDNS”) Directorate, U.S. Citizenship and Immigration Services (“USCIS”), Department of Homeland Security (“DHS”). I have held this position since November 15, 2015.

2. I have been delegated the authority of the Director of USCIS to assert the law enforcement and deliberative process privileges on behalf of USCIS regarding the documents at issue in this litigation.

3. The matters contained in this declaration are based upon my review of exemplar documents in which certain information has been withheld in *Wagafe v. Trump*, No. 2:17-cv-00094 (W.D. Wash.), my personal knowledge, my knowledge of the documents kept by USCIS in the course of ordinary business, and on information provided to me by other USCIS employees in the course of my official duties as Associate Director of FDNS.

1 4. I submit this supplemental affidavit and incorporate my prior affidavits in support
2 of USCIS' privilege claims made on: February 20, 2018, regarding the law enforcement
3 privilege, Dkt. No. 119-2; April 9, 2018, regarding the law enforcement and deliberative process
4 privileges, Dkt. No. 146-3; April 30, 2018, regarding the deliberative process privilege, Dkt. No.
5 174-3; May 10, 2018, regarding the law enforcement and deliberative process privileges; July 5,
6 2018, regarding the deliberative process privileges, Dkt. No. 198-1; September 26, 2018,
7 regarding the law enforcement and deliberative process privileges; February 13, 2019, regarding
8 the law enforcement and deliberative process privileges; March 25, 2019, regarding the law
9 enforcement and deliberative process privileges; April 23, 2019, regarding the law enforcement
10 and deliberative process privileges; April 24, 2019, regarding the law enforcement and
11 deliberative process privileges; June 6, 2019, regarding the law enforcement and deliberative
12 process privileges, June 19, 2019, regarding the law enforcement and deliberative process
13 privileges, July 15, 2019, regarding the law enforcement and deliberative process privileges,
14 August 16, 2019, regarding the law enforcement and deliberative process privileges, and August
15 26, 2019, regarding the law enforcement and deliberative process privileges.

16 5. As in the aforementioned affidavits, I continue to assert the law enforcement and
17 deliberative process privileges over the following categories of information and documents,
18 including final documents, predecisional and deliberative documents, and discussions regarding
19 such information:

- 20 • Controlled Application Review and Resolution Program ("CARRP")
21 policies, procedures, and guidance and documents related to the identification,
22 vetting, deconfliction, and adjudication of applications for immigration benefits
23 sought by individuals who could pose national security and public safety
24 concerns;
 - 25 • CARRP Working Group ("CARRP WG"), Situational Review Process
26 ("SRP"), and documents related to reviewing, discussing, revising, and
27 developing CARRP policies, procedures, training and guidance;
- 28

- 1 • USCIS' background, identity and security check policies, procedures, and
2 guidance;
- 3 • USCIS Handbook National Background Identity and Security Check
4 Operating Procedures ("NaBISCOP") Advisory Panel ("NAP") and documents
5 related reviewing, discussing, revising, and developing agency policies,
6 procedures, and guidance for background, identity, and security checks;
- 7 • CARRP-related training, courses, and seminars;
- 8 • Background, identity and security check-related training, courses, and
9 seminars;
- 10 • CARRP-related job aids and worksheets;
- 11 • USCIS' electronic systems, including but not limited to Fraud Detection
12 and National Security-Data Systems ("FDNS-DS"), ATLAS, and Electronic
13 Immigration System ("USCIS ELIS"), including how to access, record, and
14 handle information contained within such systems;
- 15 • Case assessment, prioritization, and tracking;
- 16 • Access, handling, and use of national security and classified information,
17 including but not limited to the declassification of such information in
18 immigration proceedings;
- 19 • Screening Coordination Working Group ("SCWG") and documents
20 related to reviewing screening, background, identity, and security checks, and hit
21 resolution policies, procedures, and guidance; ensuring coordination and
22 consistency within USCIS and with DHS regarding screening, and identifying and
23 developing new policies, procedures, and guidance for screening and information
24 sharing;
- 25 • Senior Leadership Review Board ("SLRB");
- 26 • Reports, data, and statistics related to CARRP;
- 27 • Alien Files ("A-Files"), which may contain but are not limited to
28 information provided by the individual to DHS or Department of State ("DOS");

1 publically available information: information shared by other agencies, including
2 federal, state, and local governments, various courts and regulatory agencies,
3 foreign government agencies, and international organizations through information
4 sharing agreements, reports of investigations, and written referrals from other
5 entities;

6 • Information identifying individuals whose applications are or have been
7 processed pursuant to the CARRP policy or who present national security
8 concerns;

9 • Information identifying individuals who are of interest to law enforcement
10 or intelligence agencies, or the subject of a law enforcement or intelligence
11 investigation;

12 • USCIS' internal division of responsibilities, organizational charts, and
13 reorganization;

14 • Reassignment of USCIS personnel;

15 • Policies, procedures, and guidance regarding applications, petitions, and
16 requests that raise fraud concerns or have indications of potential fraud;

17 • Policies, procedures, and guidance regarding immigrant benefit
18 applications other than adjustment of status or naturalization that present national
19 security concerns or which are of interest to law enforcement agencies;

20 • Policies, procedures, and guidance regarding Presidential Management
21 Fellows;

22 • Management of FDNS, including but not limited to management
23 conferences, goals, and priorities;

24 • Policies, procedures, and guidance regarding immigration interviews;

25 • Continuous Immigration Vetting ("CIV") policies, procedures, guidance,
26 and training;

27 • Expanded interviews for Form I-485, *Adjustment of Status*, adjudications;
28

- 1 • Improving, expanding, and enhanced interview training, including
2 contracts for such training;
- 3 • Code 5 identity verification or documents related to biometrics collected at
4 Application Support Centers (“ASCs”);
- 5 • Policies, procedures, guidance, and training related to Joint Terrorism
6 Task Forces (“JTTF”), including documents related to policies, procedures,
7 guidance, and training for personnel detailed to JTTFs;
- 8 • Policies, procedures, guidance, and training related to a personnel detailed
9 to other government agencies;
- 10 • Policies, procedures, guidance, and training related to sharing information
11 with, or obtaining information from, law enforcement and intelligence partners,
12 including use and access of those partners’ databases, systems, and information;
- 13 • Information derived from third agencies, including but not limited to CBP,
14 U.S. Immigration and Customs Enforcement (“ICE”), Transportation and Security
15 Administration (“TSA”), DOS, and FBI.
- 16 • USCIS policies, procedures, and guidance related to implementation of
17 Executive Orders 13769 and 13780;
- 18 • Documents related to a proposed executive order regarding enhanced
19 vetting capabilities in the U.S. Refugee Admissions Program (“RAP”);
- 20 • Media vetting policies, procedures, guidance, and training;
- 21 • Documents related to policies, procedures, guidance, and training related
22 to U.S. Department of State systems, such as the Mantis Tech Alert List,
23 including how to access and handle information contained within;
- 24 • Documents related to policies, procedures, guidance, and training related
25 to ICE systems, such as the Enforcement Integrated Database (“EID”) Arrest
26 Graphic User Interface for Law Enforcement (“EAGLE”), including how to
27 access and handle information contained within;
- 28

- 1 • Documents related Notice to Appear (“NTA”) policies, procedures,
2 guidance, and training;
- 3 • Documents related to asylum, refugee, and the credible fear and
4 reasonable fear processes;
- 5 • Documents prepared in response to, or in anticipation of a Congressional
6 inquiry or Congressional hearing;
- 7 • Policies, procedures, and guidance related to Information Services
8 Modernization;
- 9 • Documents related to the management and leadership of USCIS,
10 including, but not limited to initiatives, goals, and priorities the Transformation
11 Leadership Council;
- 12 • Documents related to USCIS funding, fees, costs, and the filing method
13 for various applications;
- 14 • Documents related to Deferred Action for Childhood Arrivals (“DACA”);
- 15 • Documents prepared during the course of and in defense of *Wagafe v.*
16 *Trump*, No. 2:17-cv-00094 (W.D. Wash.);
- 17 • Documents prepared during the course of and in defense of federal
18 litigation unrelated to *Wagafe v. Trump*, No. 2:17-cv-00094 (W.D. Wash.);
- 19 • Documents related to the EB-5 program or the Immigrant Investor
20 Program Office;
- 21 • Documents related to USCIS’ handling of and response to Requests for
22 Information (“RFI”);
- 23 • Documents related to public charge guidance, policies, and regulations;
24 and
- 25 • Documents related to USCIS exercise of parole authority.

26 6. This supplemental affidavit is based on the documents contained in Production
27 Volumes Defendant USCIS 036-037 and the privilege log associated with these two productions.
28

1 7. USCIS continues to assert the law enforcement and deliberative process privileges
2 over the aforementioned categories of information and documents as they pertain to documents
3 produced in Production Volumes Defendant USCIS 036 and 037.

4 8. I am aware that in this present litigation the parties have entered into a Stipulated
5 Protective Order, ECF No. 86, and I have reviewed the terms of this Stipulated Protective Order.
6 For the reasons mentioned in the below paragraphs, disclosure of the information withheld would
7 pose a risk to national security or public safety. Because these documents apply to ongoing and
8 future vetting and adjudication of immigration benefit applications, even disclosure under a
9 protective order would not mitigate the risk to national security or public safety because sensitive
10 law enforcement information would be provided to third parties outside of the federal
11 government. In addition, the existence of the protective order does not change my assessment of
12 the importance of shielding the internal pre-decisional agency deliberations from disclosure.
13 Even under a protective order, disclosure of deliberative, pre-decisional information would have
14 a chilling effect on future agency deliberations and result in detrimental consequences to future
15 agency action.

16 9. Regarding the deliberative process privilege, the documents identified as being
17 subject to the deliberative process privilege in the privilege logs associated with Production
18 Volumes Defendant USCIS 036 and 037 reflect the deliberative, pre-decisional processes of
19 USCIS personnel engaged in efforts to generate, review, revise, discuss, and otherwise formulate
20 policy and procedure for the agency related to the of processing national security and fraud
21 cases, the implementation of executive orders, and other policies and procedures. Those
22 documents include draft memoranda, policy manual content, as well as emails, training, and
23 other documents memorializing the internal process of discussion and deliberation related to
24 policy formulation and/or revision. Disclosure of the withheld portions of these documents
25 would jeopardize USCIS' ability to engage in decision making by discouraging future candid
26 discussion and debate within USCIS. USCIS personnel would be reluctant to share their
27 opinions for or against a particular decision if those predecisional comments were subject to
28 disclosure, and to future use for the purpose of challenging the final decision and/or the process

1 by which it was achieved. Pre-decisional documents also reflect ongoing conversations with
2 other government agencies who provide partnership and assistance. The disclosure of these pre-
3 decisional, deliberative conversations would have a chilling effect on information-sharing and
4 candid conversations with important partners.

5 10. Regarding the law enforcement privilege, the documents identified as being
6 subject to the law enforcement privilege in the privilege logs associated with Production Volume
7 Defendant USCIS 036 and 037 are withheld consistent with the descriptions of the information
8 withheld listed in my prior declarations, which I incorporate here by reference. In addition, the
9 information withheld relates to the following:

- 10 • Sensitive information about screening and vetting practices and related
11 law enforcement checks, including discussion of new policies and procedures or
12 revisions to existing policies and procedures. USCIS has determined the extent to
13 which it can publicly release information about screening and vetting practices
14 and the types of law enforcement checks that it performs, and it has released that
15 information as appropriate. The withheld portions of the documents here contain
16 information USCIS has determined it cannot reveal because it relates to sensitive
17 processes, discloses information about third party law enforcement or intelligence
18 partners, or discloses the types of sensitive information that certain law
19 enforcement checks may contain. Disclosure of this information would reveal
20 sensitive, internal law enforcement case handling procedures and if disclosed will
21 risk circumvention or evasion of the law. Further, deliberative, pre-decisional
22 discussion about such screening and vetting practices and related law enforcement
23 checks may disclose shortcomings or vulnerabilities in USCIS' vetting that
24 require further action to resolve and address, the disclosure of which might reveal
25 sensitive law enforcement investigative information, techniques, and procedures.
26 Disclosure of techniques that may be employed in the future might reveal
27 sensitive law enforcement investigative information, techniques, and procedures
28 that could be used at a future time;

- 1 • USCIS internal case information and handling procedures related to the
2 adjudication of immigration benefit applications, to include vetting methods used
3 to evaluate an applicant's eligibility for the immigration benefit, and information
4 regarding actual fraud and/or national security cases, which might reveal law
5 enforcement sensitive case information as well as methods and techniques used to
6 uncover or elicit information that relates to eligibility for an immigration benefit;
- 7 • Record identification numbers and similar codes, information identifying
8 law enforcement agencies and narrative text, the disclosure of which might reveal
9 sensitive law enforcement investigative information, techniques, and procedures;
- 10 • Sensitive information about how USCIS analyzes the risk level certain
11 national security indicators may present, how national security cases should be
12 prioritized based on their risk level, specific duties involved in final adjudication,
13 and the specific security-related processes that are involved prior to making a
14 final determination on cases with national security concerns. The disclosure of
15 this information would reveal substantial internal practices, techniques, and
16 procedures used by USCIS in civil and law enforcement investigations related to
17 immigration benefits fraud and national security issues, and such disclosure could
18 reasonably be expected to risk circumvention of the law;
- 19 • Sensitive information about sharing information with, or obtaining
20 information from, law enforcement or intelligence partners. The disclosure of
21 such information could impair USCIS' ability to share and collect necessary
22 information to determine if an individual is eligible for an immigration benefit
23 and could impact other law enforcement or intelligence agencies' missions or
24 operations. USCIS is obligated to protect information that it obtains that is owned
25 by a third-party agency; and
- 26 • Documents, such as meeting minutes from working groups, may disclose
27 shortcomings or vulnerabilities in USCIS' vetting that requires further action to
28 resolve and address, the disclosure of which might reveal sensitive law

1 enforcement investigative information, techniques, and procedures. Documents
2 also discuss consideration of investigatory tools or techniques that have been
3 considered, but not implemented. Disclosure of techniques that may be employed
4 in the future might reveal sensitive law enforcement investigative information,
5 techniques, and procedures that could be used at a future time.

6 11. The disclosure of the withheld information would result in the same type of harms
7 that I described in my prior declarations, which are incorporated here by reference.

8 12. Based on the reasons set forth above and the reasons set forth in my prior
9 declarations, I assert the law enforcement and deliberative process privileges for the
10 aforementioned information which the Government seeks to keep withheld.

11 I declare under penalty of perjury that the foregoing is true and correct.

12 Executed this 23rd day of September, 2019 at Washington, D.C.

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14 

15 Matthew D. Emrich

16 Associate Director, FDNS

17 U.S. Citizenship and Immigration Services

18 Washington, D.C.