

EXHIBIT G

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON**

<p>ABDIQAFAR WAGAFE, <i>et al.</i>,</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>TRUMP, <i>et al.</i>,</p> <p style="text-align: center;">Defendants.</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>Case No. 17-CV-0094-RAJ</p>
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DECLARATION OF ANTONY A. JUNG

I, Antony A. Jung, hereby state and declare as follows, pursuant to 28 U.S.C. § 1746:

1. I am currently the Section Chief of the National Name Check Program Section with the Federal Bureau of Investigation (FBI). I have held this position since March 2019.

2. In my current capacity as Section Chief, I supervise the National Name Check Units. Due to the nature of my official duties, I am familiar with the procedures followed by the FBI in responding to name check requests received from the United States Citizenship and Immigration Services (USCIS), as well as the types of investigative and national security information contained within the name check responses.

3. The matters stated herein are based on my personal knowledge, my background, training and experience related to national security and law enforcement matters, my review and consideration of documents and information available to me in my official capacity, and information furnished to me by FBI employees and the Department of Justice (DOJ). It is also based on information furnished by DOJ, USCIS, and others regarding the above-captioned litigation, which involves the USCIS' Controlled Application Review and Resolution Program (CARRP).

Background Regarding The FBI's National Name Check Program

4. Through the National Name Check Program, the FBI's federal agency partners submit requests for an FBI search of its records on specific individuals being considered for some sort of privilege – government employment or an appointment, a security clearance, attendance at a White House function, immigration benefits, naturalization, or a visa to visit the United States. Though the National Name Check Program's mission, authority, and purpose is publicly known, the internal procedure, analytical process, all the types of information reviewed and collected, and product reporting results are not.

5. As explained in previously submitted declarations filed by the FBI to the district court in this case, the National Name Check Program disseminates reportable information from the FBI's Central Records System (CRS) in response to name check requests submitted by other federal agencies. The CRS contains the FBI's administrative, personnel, and investigative case files.

6. The National Name Check Program does not adjudicate applications for benefits under the Immigration and Nationality Act. Rather, the National Name Check Program Section disseminates information to USCIS, as appropriate, for use in their adjudication process.

7. The FBI does not administer CARRP, which is solely a USCIS program.

The Wagafe Lawsuit

8. Through the exercise of my official duties, I have been briefed on *Wagafe, et. al. v. Trump, et al.*, No.2:17-cv-00094-RAJ (W.D. Was.), in which the district court certified two classes of individuals seeking lawful permanent resident status or naturalization. I understand this matter is proceeding in discovery and that Plaintiffs have served a motion to compel on Defendants seeking the disclosure of certain redacted information. I have been advised that

Defendants previously responded to Plaintiffs' document requests, to include turning over tens of thousands of pages of documents, and that some of the information within these documents is redacted as privileged.

9. I also understand that, on or about January 24, 2020, Plaintiffs filed a Motion to Compel Documents Withheld Under the Law Enforcement and Deliberative Process Privileges (Motion). It is my understanding that Plaintiffs are seeking the removal of redactions from documents, which contain numerous pages, and are attached to their Motion. The FBI is aware that many of the redactions in these documents assert the law enforcement and deliberative process privileges.

10. Previous declarations submitted by the FBI explain in greater detail that FBI information embedded within the documents drafted by other federal agencies or FBI documents attached to other federal agency files should not be disclosed to individual Plaintiffs or their attorneys because disclosure could allow individuals to infer how the FBI performs its investigative functions, why an individual may be subject to law enforcement or intelligence community scrutiny, or could allow individuals to recognize in current or future criminal or national security related matters techniques used by the FBI to identify criminals or terrorists.

11. This type of information is normally protected by the law enforcement privilege. For example, disclosure of certain law enforcement privileged redactions could suggest to subjects of FBI investigations that USCIS may have received derogatory information about them from the FBI during the name check process or what to look for in their USCIS files to determine whether they are under FBI scrutiny.

12. Disclosure of this type of law enforcement information could also enable subjects to discern the types of information the FBI's National Name Check Program reviews, identifies,

and disseminates. As set forth in other FBI declarations, this could include information suggesting whether an applicant or certain type of applicant is in the FBI's Terrorist Screening Database (TSDB). The FBI must take a consistent approach to protect against the disclosure of this type of information, including any information implicating name check results, to protect sensitive law enforcement information and techniques and prevent individuals from attempting to thwart FBI investigations.

13. In support of this particular declaration, I personally conducted a sample review of the redacted sections in documents implicating FBI equities that are at issue in Plaintiffs' motion. Many of the redactions involving FBI equities or information are marked as Law Enforcement Privileged. As set forth above, this declaration reiterates and supports other declarations submitted by the FBI in support of USCIS' privilege claim assertions made in the documents referenced in Plaintiffs' Motion, as well as supporting past Law Enforcement Assertions made in documents already part of the Certified Administrative Record (CAR). I reaffirm assertion of privilege over these documents.

14. For the reasons set forth below, and as already set forth in prior FBI declarations filed in this case, I have determined the disclosure of this redacted FBI information would be contrary to the public interest because it would reveal information that could harm the FBI's investigative abilities and criminal and national security investigations.

The Redactions Implicate Law Enforcement Sensitive and National Security Information

15. Law enforcement sensitive information is information disclosing techniques and procedures for law enforcement investigations (to include national security investigations) or

prosecutions, and includes guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to circumvent the law.

16. The redactions in the documents at issue implicate the law enforcement privilege and the information under these redactions includes various investigative techniques and procedures utilized by the FBI to pursue its law enforcement and intelligence gathering missions. Some of this redacted information includes describing how certain codes reflect FBI information, how to locate derogatory information on a document containing FBI information, interviewing techniques, information gathering methods, identifiers used for terrorist screening databases, and how the FBI identifies individuals who may, or may not be, terrorists.

17. Releasing this redacted information might provide criminals and terrorists with an in-depth understanding of strategies, databases, and techniques utilized by the FBI and its intelligence and local law enforcement partners when conducting interviews, investigations, and other strategies that assist with investigations. Given this understanding, criminals and terrorists could know when or if they are under surveillance by the intelligence community, be able to structure their immigration applications to avoid scrutiny, be able to structure their answers to avoid follow-up questions, and proceed in a manner that would misdirect law enforcement authorities and impede their ability to disrupt or detect criminal or terrorist activities.

18. As set forth in other FBI declarations filed in this case, the FBI shares its information with other federal agency partners for the purpose of preventing criminal and terrorist activities. The sharing of this information and documents is part of inter-agency information sharing designed to disrupt or prevent criminal and terrorist activities. The release of this information, especially in the aggregate, provides a blueprint for how the FBI collects information, how it shares information, the type of information that is shared, when someone is

identified as a potential terrorist or criminal, and other information that puts FBI investigations at risk.

19. How, and to what extent, USCIS relies upon a particular FBI name check response or other FBI investigative information when making a determination on whether a particular individual is a national security concern, including information containing “detail and specificity,” normally constitutes national security and law enforcement sensitive – possibly even classified - information properly protected from disclosure, including: (i) information that could tend to reveal whether an individual is or has been the subject of an FBI national security investigation or of other intelligence interest, including the basis, status, or results of the investigation or interest, and the content of any relevant investigative or intelligence files; and (ii) information that could tend to reveal whether particular sources and methods were used by the Government in a national security or intelligence activity. As set forth above, disclosure of this information would provide adversaries with valuable insight into the specific ways in which the Government goes about detecting and preventing terrorist attacks, with potentially grave consequences for the national security.

20. Some of the Law Enforcement redactions found within the documents at issue specifically include information regarding the Name Check Section and its operations, including discussions of how the FBI would handle hypothetical situations USCIS depicts for training purposes and intended to mirror real-life scenarios. While the FBI may acknowledge whether a name check was conducted on a particular individual, it does not disclose to individuals the results of their name checks, to include investigative records, the type of information collected for the name check, and from where this information was collected. The FBI follows this approach whether or not the name check revealed derogatory information – *i.e.*, the existence of

investigative records – because if the FBI only refused to disclose information in those instances involving derogatory information, that refusal would itself be interpreted as an admission that the FBI possessed investigative records about the individual. This, in turn, could result in subjects or targets of FBI investigations taking countermeasures or other actions to thwart law enforcement, thus potentially compromising investigations, confidential sources, or investigative techniques.

21. Having reviewed a sample of the redactions related to FBI equities, without specifically identifying which specific document contain FBI redactions for the continued protection of this information, I can attest there is National Name Check Program and other FBI information embedded within these redactions that needs protection from disclosure. The National Name Check Program remains an effective tool in the government’s counterterrorism and counterintelligence efforts in part because its information is not disclosed.

22. Also identified under these redactions is information related to the TSDB and its methods for identifying known or suspected terrorists. As set forth in other FBI declarations, the FBI gathers and disseminates information about terrorism organizations or other national security threats by investigating persons with whom these organizations have dealt or associated. However, revealing how the FBI scrutinizes an individual (or list of individuals) is concerning because it can alert terrorist groups and other national security threats as to how the FBI identifies and labels individuals who are under investigation. This includes the specific means—scrutiny of the name check subject—by which the government may gather information about them. Once so alerted, these groups can terminate or otherwise alter their course of dealings to frustrate the government’s intelligence-gathering efforts, to the detriment of national security.

23. This concern exists regardless of whether a name check result reflects whether an individual is the subject of a formal FBI counterterrorism or counterintelligence investigation, or

the subject of some other type of intelligence reporting. In either event, a subject or the subject's associates could reasonably be expected to take greater care to conceal their activity to the detriment of the national security.

24. Thus, the removal of the redactions at issue in this Motion could result in serious harms to investigative equities and the negative impact on existing law enforcement processes.

Some of the Redactions Include Pre-Decisional, Deliberative Information

25. Some of the redactions contained in the documents at issue protect FBI name check responses and other FBI investigative information. The FBI information provided is pre-decisional because it is conveyed to USCIS prior to USCIS officials making a determination about an individual's eligibility for an immigration benefit.

26. Revealing these confidential communications between the FBI and USCIS could cause harm to government deliberations in at least two ways. First, such a revelation might chill the FBI from providing information for USCIS use because FBI personnel could reasonably anticipate that their communications and information will be disclosed. Because of the correlation between the substance of FBI name check responses and the existence of investigative activity, FBI communications routinely contain information about law enforcement or national security investigations or intelligence collection efforts. These communications are critical to support USCIS' authorized mission because they provide details related to investigative and intelligence information regarding individuals considered for benefits. The chilling effect might thus occur because FBI personnel are appropriately hesitant to divulge investigative information if they expect the recipient will then disclose the information.

27. It is imperative that the FBI be able to communicate openly and freely with USCIS regarding the investigative and intelligence collection actions and techniques it

implements to identify criminals and potential terrorists. If the FBI believes its communications and information provided to USCIS will be disclosed, it may impact the FBI's ability to provide complete information about individuals who may be engaged in terrorism-related or foreign intelligence-related activity.

Conclusion

28. The disclosure of the law enforcement privileged information containing FBI information in both the documents at issue in the Motion, could allow potential terrorists and criminals to discover or circumvent FBI investigative techniques and endanger ongoing FBI criminal, counter-terrorism, and counter-intelligence investigations.

29. Defendants should not be required to disclose the redacted information in these documents to Plaintiffs since the information under these redactions includes FBI investigative techniques, methods, and other FBI investigative information that could allow someone to determine whether certain information provided by a particular plaintiff, class member, or applicant for immigration benefits could subject that person to CARRP and thereby tip them off they may be the subject of an FBI investigation.

30. Given the serious harms to government deliberations that would be caused by disclosure of FBI communications and information, which typically contain information about law enforcement or national security investigations or intelligence collection efforts, and the grave law enforcement and national security interests at stake, Defendants should not be compelled to disclose privileged FBI information, which includes the reasons and methods used to determine whether an individual may pose a law enforcement or national security concern.

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

Executed this 3rd day of February 2020.



Antony A. Jung
Section Chief
National Name Check Program Section
Information Management Division
Federal Bureau of Investigation
Washington, D.C.

EXHIBIT G-1

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**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON**

ABDIQAFAR WAGAFE, <i>et al.</i> ,)	
)	
Plaintiffs,)	Docket No. 17-cv-0094-RAJ
)	
v.)	
)	
TRUMP, <i>et al.</i> ,)	
)	
Defendants.)	

DECLARATION OF TIMOTHY P. GROH

I, Timothy P. Groh, hereby declare as follows, pursuant to 28 U.S.C. § 1746:

1. I am the Deputy Director for Operations of the Terrorist Screening Center (TSC) and have been in this position since May 2016. I have been a Special Agent with the Federal Bureau of Investigation (FBI) since February 1996 and have served in a variety of criminal investigative, counterterrorism, and senior management positions. In my capacity as the Deputy Director for Operations of the TSC, I supervise nine units and approximately three hundred individuals (including both government employees and contractors). I am responsible for the overall operations of the TSC, including maintaining the Terrorist Screening Database (TSDB), managing encounters with individuals who are potential matches to persons in the TSDB, and sharing intelligence with domestic and foreign partners.

2. I submit this declaration in support of the government’s opposition to Plaintiffs’ motion to compel the production of various documents in unredacted form, over which the government is asserting the law enforcement privilege, in *Wagafe v. Trump*, 17-CV-0094-RAJ (W.D.WA). The purpose of this declaration is to assist the Court in evaluating the government’s claim of law enforcement privilege by describing the US government’s consolidated terrorist

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watchlist procedures and explaining why detailed information pertaining to watchlisting (including whether an individual is listed in the TSDB) cannot be disclosed.

3. The matters stated herein are based on my personal knowledge, background, training and experience relating to terrorist watchlisting and counterterrorism investigations, and my review and consideration of information available to me in my official capacity, including information furnished by FBI and TSC personnel in the course of their official duties; my conclusions have been reached in accordance therewith.

4. I have personally reviewed the information contained in a number of the documents sought by Plaintiffs in their motion to compel. In particular, I reviewed the following documents: Policy Memorandum re: CAARP (DEF-0094235), the Operational Guidance for Vetting and Adjudicating Cases with National Security Concerns (DEF-00095077), National Security Indicator Training (DEF-0094630), FDNS Officer Basic Training (DEF-00095871), CARRP Operational Guidance: Attachment A – Guidance for Identifying National Security Concerns (DEF-0094536), and CARRP Overview – Refugee Asylum, and International Operations Directorate (RAIO) Pre-Deployment Training (DEF-0094545). Based on my review, I determined that the type of watchlisting information that appears in these documents is properly withheld as law enforcement privileged information, the release of which could reasonably be expected to risk circumvention of the law and cause harm to law enforcement and counterterrorism investigations. I was not able to review every document sought by Plaintiffs in their motion to compel because the documents amount to nearly 2,000 pages of material. However, based on information conveyed to me by my staff, I understand that the remaining documents contain the same or similar types of watchlisting information, with the exception of DEF-00096101.

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5. I have also submitted an *in camera, ex parte* declaration that includes sensitive law enforcement information subject to the protections of the law enforcement privilege. If that information is disclosed, it could reasonably be expected to risk circumvention of the law and cause harm to law enforcement and counterintelligence investigations.

6. This declaration was prepared and executed in connection with other FBI declarations¹ already submitted in this case and this declaration should be read as being in support of those declarations and the information they present. Many of the assertions in these FBI declarations support an assertion of the Law Enforcement Privilege over the same types of documents and information that are at issue in this declaration.

I. OVERVIEW OF THE CONSOLIDATED US TERRORIST WATCHLIST

7. The TSDB is the federal government's consolidated terrorist watchlist. The TSDB generally contains names and other identifying information of individuals known, or reasonably suspected to be, or to have been engaged in conduct constituting, in preparation for, in aid of, in furtherance of, or related to terrorism and/or terrorist activities (known or suspected terrorist or KST). The TSDB also includes identifying information of certain individuals who are not categorized as KSTs. These limited exceptions are more fully described *infra*. The TSDB does not contain the underlying classified intelligence or other derogatory information that is the basis for the individual's inclusion in the database. Segregating the identifying information in this way facilitates information-sharing among US Government watchlisting and screening agencies.

¹ I am aware that the FBI has already submitted the declarations of Carl Ghattas (Docket No. 146), Michael Eisenreich (Docket No. 126-2), and others. This declaration is submitted in support of those declarations that already explain FBI information that is at risk of disclosure and why this type of information is law enforcement sensitive. For example, Michael Eisenreich's declaration describes the FBI's name check program and why information revealed through that program to agency partners such as USCIS is law enforcement sensitive.

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8. Nonetheless, much of the information in the TSDB is derived from classified or other legally restricted information, to include law enforcement sensitive information. As a result, for any purpose other than authorized watchlisting function, disclosure of TSDB information (including status) must be approved by the originator of the underlying information. Additionally, disclosure of TSDB information, including explanations of watchlisting codes, information about how the watchlisting system functions, and information about TSDB processes and procedures would undermine counterterrorism efforts and jeopardize criminal and national security investigations.

9. The TSDB was created and is maintained by the TSC, a federal multi-agency center administered by the FBI. The FBI is the agency responsible for submitting nominations of individuals suspected of links to domestic terrorism for inclusion in the TSDB. The National Counterterrorism Center (NCTC) is the agency responsible for submitting nominations of individuals suspected of links to international terrorism for inclusion in the TSDB and serves as the central agency for gathering and analyzing all intelligence obtained by the U.S. Government pertaining to international terrorism.

10. To include a known or suspected terrorist nomination in the TSDB, the nomination must include sufficient identifying information to allow encountering agencies to be able to determine whether the individual they are encountering is a match to a record in the TSDB, and enough information to establish a reasonable suspicion that the individual is a known or suspected terrorist. Specifically, to meet the reasonable suspicion standard for inclusion in the TSDB as a known or suspected terrorist, the nominator must rely upon articulable intelligence or information which, based on the totality of the circumstances and, taken together with rational inferences from those facts, creates a reasonable suspicion that the individual is engaged, has

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been engaged, or intends to engage in conduct constituting, in preparation for, in aid or in furtherance of, or related to terrorism and/or terrorist activities.

11. The TSDB also includes identifying information of some individuals who do not meet the reasonable suspicion standard, but only for the limited purpose of supporting specific screening functions of the Department of Homeland Security and the Department of State (such as determining eligibility for immigration to the United States) and which are exported to those agencies only for these purposes. In order to maintain the effectiveness of these special screening functions, details regarding the method by which individuals are identified for watchlisting exceptions must not be disclosed and are properly categorized as law enforcement sensitive.

12. Several federal agencies use information from the TSDB for a variety of national security and law enforcement screening and vetting purposes. For example, US Customs and Border Protection receives information from the TSDB and may rely on that information when inspecting individuals at US ports of entry. The Transportation Security Administration (TSA) also uses information in the TSDB in implementing aviation security procedures. The United States Citizenship and Immigration Services (USCIS) uses information in the TSDB to perform necessary background and security checks to determine whether an individual is eligible for immigration benefits.

13. The TSC and the nominating agencies seek to ensure the continuing accuracy of the information in the TSDB. An intelligence or law enforcement agency that nominated an individual to the TSDB because of suspected ties to international terrorism is expected to promptly notify the NCTC of any information that might require modification or deletion of an individual from the TSDB, and the NCTC must then transmit that information to the TSC. The

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FBI is likewise required to promptly notify the TSC if it receives information suggesting the need to modify or delete a record from the TSDB with respect to an individual suspected of links to domestic terrorism. In addition, records in the TSDB are regularly reviewed to verify that there is adequate support for continued inclusion in the database. Without current, reliable and accurate information in the TSDB, the purpose of sharing information in order to protect the national security of the United States would be defeated. Thus, these regular reviews are rigorous to ensure the integrity of the TSDB.

II. SCOPE OF PRIVILEGE ASSERTED

14. I submit this declaration to assert and support a claim of law enforcement privilege over sensitive information sought by the requests for the documents listed in Plaintiffs' motion to compel or otherwise described in and sought by Plaintiffs' motion to compel. Based upon my review of this matter, and for the reasons explained below, I hereby formally assert the law enforcement privilege on behalf of the FBI and TSC over the documents listed in Plaintiffs' motion to compel, with the exception of DEF-00096101. I will explain below the types of law enforcement sensitive information Plaintiffs seek to compel, as well as the harms that would result from the disclosure of this sensitive information.

15. As discussed more fully below, disclosure of this information could reasonably be expected to risk circumvention of the law and to cause harm to law enforcement and counterterrorism investigations, as disclosure of these documents would reveal sensitive, closely-guarded information about the internal workings of the watchlisting process. Such information would enable those seeking to do harm to compromise law enforcement and intelligence efforts, take evasive measures in order to avoid detection at various points in the watchlisting process, or potentially even enhance their efforts to test the strengths and weaknesses in the process at these various points.

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A. TSDB Status Information

16. Plaintiffs seek production of information regarding TSDB status. This type of information is properly protected by the law enforcement privilege.

17. With limited exceptions (such as disclosures in connection with DHS TRIP petitions), it is the policy of the US government not to disclose any individual's status in the TSDB or a subset thereof. Such knowledge could compromise ongoing counterterrorism investigations by giving members of terrorist groups the opportunity to gauge whether a particular individual is the subject of an FBI counterterrorism investigation, causing the person to alter his or her behavior, destroy evidence, take precautions against surveillance, or change the level of any terrorism-related activity in which he or she is engaged. Terrorists would then be able to exploit the information to piece together how their activities might go undetected.

18. TSDB information comes from sensitive law enforcement and counterterrorism investigations and classified sources and methods.

19. Some examples of documents pertaining to TSDB status are: Policy Memorandum re: CAARP (DEF-0094235), the Operational Guidance for Vetting and Adjudicating Cases with National Security Concerns (DEF-000095009, DEF-00095077), National Security Indicator Training (DEF-0094630; DEF-00094351; DEF-00095125; DEF-00094804; DEF-00095597), FDNS Officer Basic Training (DEF-00095871), CARRP Operational Guidance: Attachment A – Guidance for Identifying National Security Concerns (DEF-0094536), and CARRP Overview – Refugee Asylum, and International Operations Directorate (RAIO) Pre-Deployment Training (DEF-0094545). Other documents sought by Plaintiffs include similar information and are equally subject to the law enforcement privilege.

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20. The government's counterterrorism measures remain effective because individuals are not informed of their TSDB status and do not have access to the inner workings of the TSC, the TSDB, FBI codes, and the underlying reasons for certain investigations of individuals. As a result, disclosure of TSDB status or methods by which an individual may deduce TSDB status could reasonably be expected to risk circumvention of the law and cause harm to law enforcement and counterterrorism investigations.

B. (U) TSDB Nominations, Placement, and Information Sharing

21. Throughout the documents at issue in the motion to compel, Plaintiffs seek production of information regarding policies, procedural and substantive rules, and process information related to nomination and placement in the TSDB and information sharing among US government watchlisting partners. For the following reasons, the responsive information withheld from Plaintiffs is properly protected by the law enforcement privilege.

22. While the TSC has publicly disclosed certain aspects of the watchlisting enterprise, the specific policies and procedures concerning placement of individuals in the TSDB or its subsets, including detailed guidance as to how an analyst should treat specific situations and specific pieces of intelligence in evaluating whether a nominated subject satisfies a criteria for inclusion in the TSDB or its subsets, have not been publicly revealed. Disclosure of this information would provide terrorists and their associates with a roadmap of the specific techniques and procedures by which the United States gathers, evaluates, analyzes, and shares information concerning known or suspected terrorists, and by which Defendants utilize the TSDB and its subsets to protect national security. Release of this information thus could reasonably be expected to risk circumvention of the law and cause harm to national security.

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23. Disclosing the comprehensive policies and procedures concerning how placement in the TSDB occurs would reveal what type of conduct and other criteria would lead to an individual being placed in the TSDB. Similarly, disclosing details regarding how information is shared among US government screening partners would enable terrorists to alter their tactics and behaviors to avoid detection by means of the specific information individual agencies use in terrorist screening. Such law enforcement sensitive information appears throughout the documents Plaintiffs seek to compel.

24. For example, documents such as the CARRP Overview – Refugee Asylum, and International Operations Directorate (RAIO) Pre-Deployment Training (DEF-0094545), and National Security Indicator Training (DEF-0094630; DEF-00094351; DEF-00095125; DEF-00094804; DEF-00095597), and CARRP Operational Guidance: Attachment A – Guidance for Identifying National Security Concerns (DEF-0094536) provide significant insight into the internal workings of the US terrorism watchlisting process, including the type, quality, and amount of information needed to watchlist an individual, as well as how the information is vetted and disseminated throughout the intelligence community. Other documents sought by Plaintiffs include similar information and are equally subject to the law enforcement privilege.

25. It is imperative that documents explaining watchlisting operations and procedures, including how individuals are nominated and placed in the TSDB and how information is shared among watchlisting partners, remain protected from disclosure since release of this information would reveal procedures and techniques for law enforcement investigations and intelligence gathering operations which could reasonably be expected to risk circumvention of the law and harm to national security.

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III. ADDITIONAL HARM OF CUMULATIVE DISCLOSURES

26. Protecting the scope and extent of the watchlisting enterprise is crucial to sustaining the enterprise. Knowledge of the platforms, entities, and processes associated with terrorist screening, identification, and information collection could facilitate similar behavior designed to negate screening and identification. Ensuring ignorance of the extent of the enterprise, including unclassified details, is the first step in protecting it from exploitation by terrorists. Some information may prove dangerous when combined with other information by a knowledgeable actor (especially a hostile intelligence agency). Even details that may not seem critical in isolation could, when considered in connection with other documents, provide a comprehensive and detailed mosaic of the US government consolidated watchlisting strategy. Such exposure would render the US government watchlisting strategy – the first step in the US government’s counterterrorism and national security strategy – far less effective, thus causing significant harm to law enforcement interests in counterterrorism investigations.

IV. PROTECTIVE ORDER

27. Given the sensitivities of the information and the national security and law enforcement harms at stake, release of information in these documents in any form, even under a protective order, poses far too great a risk to ongoing investigations, to include national security investigations.

CONCLUSION

28. Accordingly, based upon my personal consideration of the matter, I have concluded that disclosure of the information described in this declaration could be expected to risk circumvention of the law and cause harm to national security. Thus, this information is properly protected from disclosure by the law enforcement privilege.

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

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Executed this 26th day of April 2019.

A handwritten signature in blue ink, appearing to read "Timothy P. Groh", is written over a horizontal line.

Timothy P. Groh
Deputy Director for Operations
Terrorist Screening Center