UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KNIGHT FIRST AMENDMENT INSTITUTE AT COLUMBIA UNIVERSITY, Plaintiff, -v- UNITED STATES DEPARTMENT OF HOMELAND SECURITY, et al. Defendants.	17 Civ. 7572 (ALC)

DECLARATION OF JILL A. EGGLESTON
IN SUPPORT OF UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES
MOTION FOR SUMMARY JUDGMENT

I, JILL A. EGGLESTON, pursuant to 28 U.S.C. § 1746, declare under penalty of perjury:

1. I am the Assistant Center Director in the Freedom of Information and Privacy Act ("FOIA/PA") Unit, National Records Center ("NRC"), United States Citizenship and Immigration Services ("USCIS"), within the United States Department of Homeland Security ("DHS"), in Lee's Summit, Missouri. I have held the position of Assistant Center Director since February 4, 2008. I am also an attorney, licensed to practice law by the State of Kansas in 1983. Prior to joining DHS, I served for 19 ½ years as Associate General Counsel for the Defense Finance and Accounting Service ("DFAS") of the U.S. Department of Defense ("DoD"). As part of my duties with the DFAS, among other things, I provided legal advice to the agency on the release of information sought under the FOIA and PA.

2. As the Chief FOIA Officer for USCIS, I supervise over 200 information access professionals at the NRC who are responsible for the orderly processing of all public, congressional, judicial, and inter-/intra-agency requests or demands for access to USCIS records and information pursuant to the FOIA, Privacy Act, Executive Orders, departmental directives, regulations and compulsory legal process.

3. This declaration is submitted in support of USCIS's litigation in this matter. This declaration describes, generally, agency procedures for processing FOIA requests for access to agency records and, more specifically, agency action taken in response to the Plaintiff's FOIA request. The statements contained in this declaration are based on my personal knowledge, my review of relevant documents kept by USCIS in the course of ordinary business, and upon information provided to me by other USCIS employees in the course of my official duties.

USCIS'S STANDARD FOIA OPERATING PROCEDURES

4. USCIS routinely and consistently processes FOIA requests in compliance with DHS implementing regulations found at 6 C.F.R. Part 5 and Management Directive No. 0460.1:

a) after determining the nature, scope, and contours of a valid FOIA request, a preliminary search is conducted to locate potentially responsive records;

b) because FOIA requests are generally processed by the NRC on a first-in/first-out basis, the request is logged in the approximate order of its receipt into a computerized case tracking and retrieval system which automatically assigns a control number and tracks the file created;

c) an acknowledgement letter is contemporaneously mailed to the requester, advising of the control number, processing fee arrangement, processing options, and contact information, and addressing any collateral requests made by requester;

d) during any abeyance in processing, periodic system inquiries are conducted to maintain updated information concerning the disposition of agency records that are subject to the pending FOIA request;

e) if relevant records are in the possession of an office or agency other than the responding office, a request for the production of the records is sent to the records' custodian(s) at that time;

f) during the course of processing, the FOIA request and any responsive records are subjected to rigorous analyses to arrive at the proper final agency determination; and finally;

g) the NRC sends its response to the requester, granting or denying, in whole or in part, access to requested records, and advising of any additional rights that may have vested in the requester by virtue of the final agency determination.

5. In an effort to process FOIA requests in a manner designed to be fair and expeditious, USCIS has adopted a policy of processing such requests on a first-in/first-out basis. This process is further enhanced by the implementation of a regulation providing for expedited processing of requests under given circumstances, and the adoption of a multi-track system of processing which not only allows the agency to process requests on a first-in/first-out basis within each track, but also permits the USCIS to respond to relatively simple requests more quickly than requests involving complex and/or voluminous records. The NRC's first-in/first-out and multi-track processing protocol is consistent with the requirements set forth in *Open America v. Watergate Special Prosecution Force*, 547 F.2d 605 (D.C. Cir. 1976).

PROCESSING OF PLAINTIFF KNIGHT FIRST AMENDMENT INSTITUTE'S FOIA REQUEST

6. On August 7. 2017, the NRC received a FOIA request submitted by Plaintiff, Knight First Amendment Institute at Columbia University ("Plaintiff"). Plaintiff's request sought the following records:

    1. All directives, memoranda, guidance, emails, or other communications sent by the White House to any federal agency since January 19, 2017, regarding consideration of individuals' speech, beliefs, or associations in connection with immigration determinations, including decisions to exclude or remove individuals from the United States.

    2. All memoranda concerning the legal implications of excluding or removing individuals from the United States based on their speech, beliefs, or associations.

    3. All legal or policy memoranda concerning the endorse or espouse provisions, or the foreign policy provision as it relates to "beliefs, statements or associations."

    4. All records containing policies, procedures, or guidance regarding the application or waiver of the endorse or espouse provisions or the foreign policy provision. Such records would include policies, procedures, or guidance concerning the entry or retrieval of data relevant to the endorse or espouse provisions or the foreign policy provision into or from an electronic or computer database.

    5. All Foreign Affairs Manual sections (current and former) relating to the endorse or espouse provisions or the foreign policy provision, as well as records discussing, interpreting, or providing guidance regarding such sections.

    6. All records concerning the application, waiver, or contemplated application or waiver of the endorse or espouse provisions to exclude or remove individuals from the United States, or the application, waiver, or contemplated application or waiver of the foreign policy provision to exclude or remove individuals from the United States based on "beliefs, statements or associations," including:

        a. Statistical data or statistical reports regarding such application, waiver, or contemplated application or waiver;
        b. Records reflecting the application, waiver, or contemplated application or waiver of the endorse or espouse provisions or foreign affairs provision by an immigration officer, a border officer, a Department of Homeland Security official or a Department of justice official;

c. Records concerning any determination made by the Attorney General pursuant to 8 U.S.C. § 1225(c) regarding the admissibility of arriving aliens under the endorse or espouse provisions or the foreign policy provision;

d. Department of Homeland Security and Department of Justice records concerning consultation between the Secretary of State, the Secretary of Homeland Security, and/or the Attorney General (or their designees) relating to any waiver or contemplated waiver of the endorse or espouse provision pursuant to 8 U.S.C. §§ 1158(b)(2)(v), 1182(d)(3)(A), or 1182(d)(3)(B)(i); and

e. Notifications or reports from the Secretary of Homeland Security or the Secretary of State concerning waivers of the endorse or espouse provision pursuant to 8 U.S.C. § 1 182(d)(3)(B)(ii).

USCIS assigned control number COW2017000956 to Plaintiff's FOIA request.

7. Plaintiff filed this FOIA suit against USCIS seeking injunctive relief in an action styled *Knight First Amendment Institute v. DHS*, 17-cv-7572 *(ALC)* on October 4, 2017 (Dkt. 1). Plaintiff's lawsuit alleged USCIS violated FOIA by failing to timely respond to its FOIA request. FOIA only allows twenty business days for an agency response to a FOIA request. 5 U.S.C. § 552(a)(6)(A). Due to the complexity of Plaintiff's FOIA request, USCIS could not complete a FOIA search and response within the limited time period permitted by FOIA.

8. Through an agreement reached between the parties on February 14, 2018, Plaintiff's request was modified to exclude draft documents and emails and limited to the following USCIS records:

1. All final policy or legal memorandums concerning the legal implications of excluding or removing individuals from the United States based on their speech, beliefs, or associations.
   -Final records only since May 11, 2005.

2. All final policy or legal memorandums concerning the endorse or espouse provisions, or the foreign policy provision as it relates to "beliefs, statements or associations."
   -Final records only since May 11, 2005.

3. All final policy, procedures or guidance regarding the application or waiver of the endorse or espouse provisions or the foreign policy provision.
   -Final records only since May 11, 2005.

4. Statistical data or statistical reports regarding such application, waiver, or contemplated application or waiver.

The statistical data/reports were limited to final reports or final documents containing data that were already compiled as part of USCIS's normal business since January 12, 2012.

9. After carefully reviewing the categories of records in Plaintiff's revised FOIA request, USCIS determined certain records related to its enforcement of the Immigration and Nationality Act ("INA"), particularly its provisions on terrorism-related inadmissibility grounds ("TRIG"), found in INA § 212, codified in 8 U.S.C. § 1182, were responsive to Plaintiff's request, which, generally, sought a variety of records related to excluding or removing individuals from the United States based on their activities and associations, as more specifically described in paragraph 8, *supra*. An alien's activities and associations could result in him or her being deemed inadmissible to the United States pursuant to the TRIG grounds enumerated in INA § 212. The TRIG grounds for inadmissibility include, but are not limited to, individuals who:

    - Engaged in terrorist activity;
    - Are engaged or are likely to engage in terrorist activity after entry;
    - Incited terrorist activity with intent to cause serious bodily harm or death;
    - Are representatives or current members of a terrorist organization;
    - Endorsed or espoused terrorist activity;
    - Received military-type training from or on behalf of a terrorist organization; or
    - Are spouses or children of anyone who has engaged in terrorist activity within the last five years (with certain exceptions).

10. Since no one central file or database contained all responsive records related to Plaintiff's complex FOIA request, USCIS FOIA staff at the NRC had to staff the records search to numerous USCIS agency program offices and enlist their assistance in searching for responsive records. USCIS program offices that assisted in conducting a comprehensive FOIA search included the Office of Chief Counsel; Office of Policy and Strategy; Field Operations Directorate; Office of Fraud Detection and National Security; Office of Refugee, Asylum and International Operations; and the Office of Human Capital and Training. These offices searched various USCIS computer databases as well as personal and hardcopy files seeking potentially responsive records which they forwarded to NRC FOIA staff for review and processing.

11. The NRC compiled over 2,200 pages of potentially responsive records from the USCIS program offices described, *supra*. NRC FOIA staff determined 1,278 pages of records were responsive to Plaintiff's FOIA request. The NRC provided Plaintiff a continuing (rolling) production of responsive records, which commenced on May 30, 2018, with a final records production made to Plaintiff on June 29, 2018. USCIS released 551 pages of records to Plaintiff on May 30, 2018, and released an additional 727 pages of records on June 29, 2018. In response to Plaintiff's FOIA request, USCIS released a total of 957 pages of

records in their entirety to Plaintiff. 357 pages were withheld in part subject to various FOIA exemptions.

12. Subsequent to filing this lawsuit, Plaintiff and USCIS engaged in further negotiations to narrow the scope of any disputes. Plaintiff agreed to not challenge USCIS's FOIA records search nor its application of FOIA Exemption 6 (5 U.S.C. § 552 (b)(6)) to any of the withheld records. Plaintiff informed USCIS that it intends to challenge USCIS's application of FOIA Exemptions 5 and 7(E) to the withheld records (5 U.S.C. § 552 (b)(5) and (7)(E)). USCIS only applied FOIA Exemptions 5, 6 and 7(E) to certain records released to Plaintiff in response to its FOIA request.

VAUGHN INDEX

13. USCIS is providing as part of the text of this declaration a *Vaughn* index[1] justifying the FOIA exemptions it applied only on those pages of records that expressly remain in dispute in this litigation. USCIS specifically denotes those pages in the *Vaughn* index, *infra*, by reference to the page numbers of each disputed record, as provided to Plaintiff by USCIS on a compact disc containing .pdf files of the documents. Plaintiff received two such discs from USCIS, one on or about May 30, 2018, and the other on or about June 29, 2018. *See* ¶ 11, *supra*. The *Vaughn* index, which I have reviewed in conjunction with the records and that I incorporate into my Declaration, justifies USCIS's application of Exemptions 5 and 7(E) to the records that remain in dispute in this action. The *Vaughn* index describes the records and withholdings in the order in which they were provided to Plaintiff.

DESCRIPTION OF FREEDOM OF INFORMATION ACT WITHHOLDINGS

FOIA Exemption 5

(codified at 5 U.S.C. § 552(b)(5))

14. FOIA Exemption 5 protects "inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency." *Id.*

15. To qualify for Exemption 5 protections, a document must satisfy two conditions. The document's source must be a government agency and it must fall within the ambit of a privilege against discovery recognized under Exemption 5.

16. The three primary and most frequently invoked privileges that have been held to be incorporated into Exemption 5 are the deliberative process privilege, the attorney work-product privilege, and the attorney-client privilege.

[1] *See Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973) (a *Vaughn* index is a document that agencies prepare in FOIA litigation to describe the withheld records and justify each withholding of information under a FOIA exemption; no specific format is required, it can be, as here, submitted as a Declaration).

17. The most commonly invoked privilege within Exemption 5 is the deliberative process privilege, which is designed to protect the decision making processes of government agencies. The privilege protects not merely documents, but also the integrity of the deliberative process itself where the exposure of that process would result in harm and would have a chilling effect on the ability of the government to engage in internal debate and deliberations when developing agency policy. Agency records produced to Plaintiff that were predecisional and deliberative, as further described herein, were withheld pursuant to Exemption 5's deliberative process privilege.

FOIA Exemption 7(E)

(codified at 5 U.S.C. § 552(b)(7)(E))

18. FOIA Exemption 7(E) protects from disclosure records or information compiled for law enforcement purposes and would disclose techniques, procedures or guidelines for law enforcement investigations or prosecutions.

19. Exemption 7(E) applies to categorical protections of law enforcement techniques and procedures, and it does not require that the disclosure will cause harm.

20. USCIS has responsibility to enforce federal immigration law pursuant to the INA through its adjudications of applications and petitions submitted to USCIS by individuals seeking immigration benefits from the United States government. Primarily, the records described herein are used to train USCIS immigration officers how to screen for possible terrorism ties and terrorism-related inadmissibility grounds pursuant to the INA when interviewing applicants and adjudicating petitions and applications from individuals seeking immigration benefits from USCIS. Thus, these records were compiled for law enforcement purposes.

21. Exemption 7(E) applies even if the law enforcement procedures or techniques are generally known, as disclosure of the specific procedures or techniques may reduce or nullify their effectiveness.

A. <u>May 30, 2018, Records Production</u>

<u>DESCRIPTION OF RECORDS EXEMPT FROM DISCLOSURE</u>

22. **Pages 5-7, 16-17, 22- 26, 34-36, 43-46; from November 2015 edition of the USCIS Academy Terrorist-Related Inadmissibility Grounds (TRIG) Instructor Guide.**

These 16 pages of records, which are part of an instructor manual used to train newly hired USCIS immigration officers, were partially withheld pursuant to Exemption 7(E) because these pages describe guidelines as well as techniques and procedures for law enforcement

investigations, *e.g.*, used by USCIS immigration officers to identify terrorist organizations, determine if an individual applicant provided material support to a terrorist organization, carried out a TRIG activity, whether he or she is exempt from TRIG inadmissibility, and describes procedures used to document TRIG exemptions in an individual's alien file. The redacted pages also depict various applicant scenarios encountered by officers in which law enforcement techniques, procedures, and guidelines may be applied to determine if an individual is inadmissible or meets an exemption under TRIG. The release of this information could reasonably be expected to risk the circumvention of law by enabling applicants to tailor their testimony, conceal terrorism ties, and avoid government detection, thus rendering the relevant procedures and guidelines useless. Such records are, therefore, appropriately exempt pursuant to Exemption 7(E).

23. **Pages 52-56; copy of a memorandum, dated February 8, 2017, and entitled "Briefing Memo for the Acting Director: Recommendation to Eliminate the USCIS Terrorism-Related Inadmissibility Grounds (TRIG)," which included a draft copy of a proposed new USCIS policy, entitled "Policy Memorandum: Revised Guidance for Processing Cases Involving Terrorism-Related Inadmissibility Grounds and Elimination of the Hold Policy for Such Cases."**

These five pages of records were partially withheld pursuant to Exemption 5's deliberative process privilege. Exemption 5 protects from disclosure records reflecting internal agency memoranda that are pre-decisional and deliberative in nature. These pages contain discussions and recommendations from USCIS staff to senior agency management regarding the current and future posture of the USCIS TRIG Hold Policy and contain recommendations for senior agency staff regarding a proposed revision to the USCIS TRIG implementation policy. Released portions of this memo describe its purpose as follows: "[t]his paper provides information regarding cases currently being held by USCIS pursuant to the existing USCIS TRIG hold policy and a review of relevant considerations for determining whether these cases should continue to be held or released for adjudication." Included with this internal agency memorandum is a draft copy of a proposed agency policy for revising the way USCIS processes cases involving possible terrorist ties pursuant to TRIG, as set forth in the INA and its implementing regulations. Release of this record would disclose sensitive deliberative and predecisional internal agency discussions related to the TRIG Hold Policy. Disclosure of these sensitive, predecisional and deliberative records could have a chilling effect on the ability of agency personnel to formulate new government policy. Such records are appropriately exempt pursuant to Exemption 5's deliberative process privilege.

24. **Pages 59-63, Senior Policy Council-Briefing Paper: TRIG Exemptions & INA § 318**

These 5 pages of records were partially withheld pursuant to the deliberative process privilege of Exemption 5. This internal agency briefing paper was prepared by agency personnel for senior agency management and discussed specific TRIG exemptions and how they could be interpreted and applied to specific types of applicants who seek immigration

benefits from USCIS. The memo included various scenarios and presented options for action by senior management when making the final agency policy determination. This briefing paper concludes with a specific course of action recommended by the drafters for senior agency management's consideration and final determination on formulation of new agency policy regarding application of TRIG exemptions to cases presented to USCIS immigration officers for adjudication. Disclosure of these sensitive, predecisional and deliberative records could have a chilling effect on the ability of agency personnel to formulate new government policy. Such records are appropriately exempt pursuant to Exemption 5's deliberative process privilege.

25. **Pages 64-70, Options Paper: Exercise of Authority Relating to the Terrorism-Related Inadmissibility Grounds.**

These seven pages of records were partially withheld pursuant to the deliberative process privilege of Exemption 5. This internal agency memorandum was prepared by agency personnel for senior agency management and discussed options for implementing an Executive Order that directed the Secretaries of State and DHS to consider rescinding the TRIG exemptions permitted by Section 212 of the INA (EO 13780 – Protecting the Nation from Foreign Terrorist Entry into the United States, March 9, 2017). Specifically, the paper presented three options for an agency response to the Executive Order. The memorandum presented senior USCIS management with three options for a final agency decision for issuing a new agency policy that implemented the Executive Order. This is a predecisional and deliberative internal agency memorandum that is properly exempt from disclosure pursuant to Exemption 5. Disclosure of these sensitive, predecisional and deliberative records could have a chilling effect on the ability of agency personnel to formulate new government policy.

26. **Pages 78-95, 97-109, Terrorism-Related Inadmissibility Grounds Exemptions – Group-Based Exemptions officer training manual provisions.**

These 31 pages of material from a USCIS immigration officer training manual were partially withheld pursuant to Exemptions 5 and 6.[2] USCIS withdraws Exemption 5 as originally applied to these pages but continues to hold the material as exempt, asserting they are exempt pursuant to Exemption 7(E). The withheld material discusses specific TRIG exemptions for 21 different militant groups that either Congress, the DHS Secretary or the Secretary of State determined should be exempt from application of the TRIG bases for inadmissibility under the INA. In addition, certain situational exemptions were discussed as well, *e.g.* the various support under duress TRIG exemptions and the voluntary medical support exemption. The withheld sections on these pages discuss why these particular groups and situations warrant an exemption from the TRIG bases for inadmissibility. This information is used to train USCIS immigration officers how to correctly grant an applicant

[2] Plaintiff has agreed to not challenge USCIS's application of Exemption 6 to the records in this case, see ¶ 12, *supra*. The "Case Examples" sections on these pages were withheld pursuant to both Exemptions 5 and 6. USCIS withdraws Exemption 5 as applied to the Case Examples sections on these pages but continues to hold these personal records as exempt material pursuant to Exemption 6.

an exemption to the TRIG bases. Such information, if disclosed, could be used by applicants to illegally represent themselves to USCIS immigration officers as being eligible for a TRIG exemption and enable them to obtain immigration benefits, including admission to the United States, to which they are not entitled. The withheld information serves as guidelines as well as techniques and procedures for law enforcement that are utilized by USCIS immigration officers to enforce the INA, and, accordingly, should be exempt from disclosure pursuant to Exemption 7(E).

27. **Pages 125-133, 135-136, 146-153, 157-162, 165-178, 186-196, 206-207, 209, 211, from the USCIS Refugee, Asylum and International Operations Directorate (RAIO) Officer Training - Combined Training course manual on National Security, dated January 24, 2013.**

These 53 pages were withheld in part pursuant to Exemption 7(E). The redacted pages are from a 100 page USCIS training manual on national security. The training manual is used to train newly hired USCIS asylum and refugee officers. The training manual's objectives are to prepare officers to identify national security issues such as when an applicant's activities and associations render him or her a national security concern, including when such concerns may establish a link to a TRIG or other security-related inadmissibility ground or bar.

The partially redacted pages contained information such as sensitive law enforcement database codes used to flag possible terrorist suspects, discussed various indicators used to identify possible national security and terrorism links when screening applicants, issues to probe during applicant interviews and when analyzing their applications and petitions for immigration benefits, discussed when to deny or hold applications due to possible national security concerns, discussed the TRIG standards and when a bar might be assessed to an applicant, and revealed model applicant scenarios that officers might face during applicant encounters and recommended techniques and procedures for processing applicants who pose possible national security/terrorism ties.

The withheld information, if disclosed, could be used by future applicants to tailor their testimony and applications when seeking immigration benefits so they could hide possible terrorism ties, avoid government detection, and gain admission to the U.S., illegally obtain immigration benefits, and illegally remain in the U.S., thus posing a risk to national security. The withheld material includes guidelines and techniques and procedures for law enforcement investigations utilized by USCIS immigration officers to screen immigration applicants and thus was appropriately withheld pursuant to FOIA Exemption 7(E).

28. **Pages 234, 242-244, 246-247, 254, 257, 260-264, 270-275, from the USCIS Terrorism Related Inadmissibility Grounds (TRIG) Instructor Guide, created in March 2017. The Guide was prepared by the USCIS Academy Training Center, Federal Law Enforcement Training Center, North Charleston, SC.**

These 18 pages records were partially withheld pursuant to Exemption 7(E) because they are manual sections that describe techniques, procedures, and guidelines used to train USCIS employees to identify terrorist organizations, recognize terrorism-related inadmissibility grounds, recognize whether an individual provides material support to a terrorist group, and recognize applicable TRIG exemptions when processing an individual's application or petition for admissibility or other immigration benefits. The release of this information could reasonably be expected to risk the circumvention of law and render the relevant techniques, procedures, and guidelines useless. The release of this information could be used to tailor an applicant's testimony or conceal his or her record in order to avoid government detection and illegally meet admissibility requirements. Such records are, therefore, appropriately exempt pursuant to Exemption 7(E).

29. **Pages 295-296, 300-304, 309, 311, 313-315, 319-322, from the USCIS Terrorism Related Inadmissibility Grounds (TRIG) Participant Guide, created in March 2017. The Guide was prepared by the USCIS Academy Training Center, Federal Law Enforcement Training Center, North Charleston, SC.**

These 16 pages were partially redacted from the March 2017 version of the TRIG participant guide pursuant to Exemption 7(E). Withheld material consisted of model questions and key words that help USCIS immigration officers screen applicants for possible terrorism ties. Other withheld information consisted of training scenarios that were depicted in the guide's appendix that described potential applicant testimonies and questions officers should ask that were designed to uncover possible terrorism ties. All such information was withheld pursuant to Exemption 7(E), as they are guidelines, techniques and procedures for law enforcement investigations, *e.g.*, enforcement of the INA by USCIS immigration officers.

The withheld information, if disclosed, could be used by future applicants to tailor their testimony and applications when seeking immigration benefits so they could hide possible terrorism ties, avoid government detection, and gain admission to the U.S., illegally obtain immigration benefits, and illegally remain in the U.S., thus posing a risk to national security. The withheld material includes guidelines, techniques and procedures for law enforcement investigations utilized by USCIS immigration officers to screen immigration applicants and thus was appropriately withheld pursuant to FOIA Exemption 7(E).

30. **Pages 323-435 consist of slides from a USCIS training PowerPoint presentation entitled Terrorism Related Inadmissibility Grounds (TRIG), Course 234, dated March 21, 2017, prepared by the USCIS Academy, and used to train USCIS immigration officers.**[3]

This PowerPoint presentation, which USCIS produced to Plaintiff in May 2018, was erroneously included in the June 29, 2018, production to Plaintiff as well. Accordingly, USCIS refers the Court to the description of this PowerPoint and its eight withholdings, *infra*, subsection B, ¶ 38, pages 361 – 439, which I adopt and incorporate here by reference.

31. **Pages 469-470, 487-488, 494, 525, 527, 529, consist of slides from an earlier edition (November 2015) of the USCIS training PowerPoint presentation entitled Terrorism Related Inadmissibility Grounds (TRIG), Course 234, which is described at pages 323-435, *supra*, and *infra*, subsection B, ¶ 38, pages 361-439. The PowerPoint presentation was prepared by the USCIS Academy and used to train USCIS immigration officers.**[4]

These eight slides were partially withheld pursuant to Exemption 7(E). This PowerPoint training presentation on TRIG is similar to the other TRIG training PowerPoint presentations described in this index. Its purpose is stated in the PowerPoint presentation, *e.g.*, "Upon completion of this module, you will be able to identify TRIG grounds of inadmissibility and determine whether these grounds apply when adjudicating an application for an immigration benefit." The partially redacted slides identified, *supra*, are replete with specific questions that USCIS immigration officers are trained to ask applicants when screening them for possible ties to terrorism and when assessing TRIG bars. In addition, key words that officers are trained to look for during applicant interviews, which, if noted, could indicate the applicant might be have ties to terrorism, are also redacted. These slides contain details on guidelines, techniques and procedures for law enforcement investigations – in this case, enforcement of the INA by USCIS immigration officers. As such, they are properly withheld pursuant to Exemption 7(E).

The withheld information, if disclosed, could be used by future applicants to tailor their testimony and applications when seeking immigration benefits so they could hide possible terrorism ties, avoid government detection, and gain admission to the U.S., illegally obtain immigration benefits, and illegally remain in the U.S., thus posing a risk to national security. The withheld material includes guidelines, technique and procedures for law enforcement investigations utilized by USCIS immigration officers to screen immigration applicants and thus was appropriately withheld pursuant to FOIA Exemption 7(E).

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[3] Portions of one PowerPoint slide in this presentation, which appears at page 421 of the May 2018 production, were partially withheld pursuant to Exemption 7E, but a copy of the same slide was later released to Plaintiffs in full at page 434 of the June 2018 production, which is described in subsection B, *infra.*

[4] Portions of one PowerPoint slide in this presentation, which appears at page 524 of the May 2018 production, were partially withheld pursuant to Exemption 7E, but a copy of the same slide was later released to Plaintiffs in full at page 434 of the June 2018 production, which is described in subsection B, *infra.* This is another copy of the same PowerPoint slide referenced in n. 3.

All documents provided by USCIS to Plaintiff in the May 2018 records production were carefully reviewed by first-line, then supervisory staff, prior to production. USCIS FOIA staff ensured that all non-exempt, reasonably segregable information was disclosed as required by FOIA. USCIS FOIA staff determined that no further responsive, reasonably segregable information could be disclosed from these records other than the information that was disclosed. Disclosure of any additional information from the records provided would reveal information that is properly exempt from disclosure pursuant to Exemptions 5 and 7(E), as described, *supra*.

B. June 29, 2018, Records Production

DESCRIPTION OF RECORDS EXEMPT FROM DISCLOSURE

32. **Pages 14-17, 19, 26-27 from 2010 edition of the USCIS BASIC Instructor Guide manual on Terrorism-Related Grounds of Inadmissibility (BASIC is the USCIS basic immigration law and agency adjudication procedures course for newly hired USCIS Immigration Service Officers).**

These seven pages from the 2010 BASIC course instructor guide were partially withheld pursuant to Exemption 7(E). The withheld portions of the guide, which was used by instructors to train newly hired USCIS immigration officers, instructs the officers on how to determine whether an applicant might be inadmissible due to suspected ties to terrorist groups or terrorist activities, *e.g.* triggering application of the Terrorism-Related Grounds of Inadmissibility (TRIG) found in section 212 of the Immigration and Nationality Act (INA), which is enforced by USCIS and its officials. The redacted sections contain specific examples for issue spotting during applicant interviews that could trigger assessment of a TRIG bar to admission, *e.g.* material support for terrorism questions that should be asked and topics to cover during questioning; suggestions on how to spot possible terrorist activities by looking for certain key words used by applicants in their immigration interviews and applications; and TRIG specific model questions that USCIS immigration officers should ask when interviewing applicants.

The withheld information, if disclosed, could be used by future applicants to tailor their testimony and applications when seeking immigration benefits so they could hide possible terrorism ties, avoid government detection, and gain admission to the U.S., illegally obtain immigration benefits, and illegally remain in the U.S., thus posing a risk to national security. The withheld material is guidelines as well as a technique and procedure for law enforcement investigations utilized by USCIS immigration officers to screen immigration applicants and thus was appropriately withheld pursuant to FOIA Exemption 7(E).

33. **Pages 47, 49-51, 58-59 from 2010 edition of the USCIS BASIC Participant (student) Guide manual on Terrorism-Related Grounds of Inadmissibility.**

These six pages from the 2010 BASIC course participant guide were partially withheld pursuant to Exemption 7(E). The withheld portions of the guide, which was used by students taking the newly hired USCIS immigration officers' BASIC course, instructs the student officers on how to determine whether an applicant might be inadmissible due to suspected ties to terrorist groups or terrorist activities, *e.g.* triggering application of the Terrorism-Related Grounds of Inadmissibility (TRIG) found in section 212 of the Immigration and Nationality Act (INA), which is enforced by USCIS and its officials. The redacted sections contain specific examples for issue spotting during applicant interviews that could trigger assessment of a TRIG bar to admission, *e.g.* material support for terrorism questions that should be asked and topics to cover during questioning; suggestions on how to spot possible terrorist activities by looking for certain key words used by applicants in their immigration interviews and applications; and TRIG specific model questions that USCIS immigration officers should ask when interviewing applicants. Other withheld sections inform officers on how to assess whether an applicant might be eligible for an exemption to a TRIG bar and how to complete agency records documenting the requirements for determining a whether a TRIG exemption applies.

The withheld information, if disclosed, could be used by future applicants to tailor their testimony and applications when seeking immigration benefits so they could hide possible terrorism ties, avoid government detection, and gain admission to the U.S., illegally obtain immigration benefits, and illegally remain in the U.S., thus posing a risk to national security. The withheld material is a technique and procedure for law enforcement investigations utilized by USCIS immigration officers to screen immigration applicants and thus appropriately withheld pursuant to FOIA Exemption 7(E).

34. **Pages 107-108, 114-115, 124, 146 – 147, 150-152, 154 from a 104 slide USCIS training PowerPoint presentation prepared in May 2010 that was used by USCIS instructors during training of USCIS immigration officers on how and when to determine whether to apply a INA § 212 TRIG bar to a particular applicant seeking immigration benefits.**

The 11 PowerPoint slides on these pages were partially withheld pursuant to Exemption 7(E). As stated in the PowerPoint presentation, its training objective was to assist USCIS immigration officers, when making immigration adjudications, and on how to "identify the terrorist-related grounds of inadmissibility, determine the applications barred, and identify the exceptions to the bars." These training slides were used to train USCIS immigration officers on how to enforce the INA, namely determine whether INA § 212 TRIG bars applied that would bar an applicant from receiving immigration benefits from the U.S. government and that could lead to a determination that the individual was inadmissible and lead to his or her removal from the U.S. They are guidelines, techniques, and procedures for

law enforcement investigations, *e.g.* immigration adjudications by USCIS immigration officers, and were properly withheld pursuant to Exemption 7(E). Withheld information discussed testimony or evidence that an applicant could provide that indicates material support for a terrorist group, follow-up questions that immigration officers should ask when they spot issues in testimony that could trigger a TRIG bar, factors to be used to identify possible participation by an applicant with a terrorist group, and how to identify information supplied by an applicant that could make him or her eligible for an exemption to a TRIG bar. All withheld information is critical to government screening for potential terrorism ties and as such, is an essential part of our national security vetting process and should be protected from disclosure to the public.

The withheld information, if disclosed, could be used by future applicants to tailor their testimony and applications when seeking immigration benefits from USCIS so they could hide possible terrorism ties, avoid government detection, and gain admission to the U.S., illegally obtain immigration benefits, and illegally remain in the U.S., thus posing a risk to national security. The withheld material is guidelines, techniques, and procedure for law enforcement investigations utilized by USCIS immigration officers to screen immigration applicants and thus appropriately withheld pursuant to FOIA Exemption 7(E).

35. **Pages 200, 228, 232, 236, 239, 242 from a 72 slide USCIS training PowerPoint presentation entitled Terrorism Related Inadmissibility Grounds (TRIG) Training, and was presented at the USCIS Academy on May 9, 2012, to USCIS immigration service officers.**

The six partially redacted slides identified, *supra*, were part of a TRIG training delivered to USCIS immigration officers. The training was meant to help new USCIS officers identify basic principles of TRIG and learn to identify situations during applicant encounters when TRIG bars could apply, based on the information provided by applicants seeking immigration benefits from USCIS. Sections of the slides withheld included key words used by applicants that could identify their associations with terrorist groups; key words used by applicants that could identify possible material support to a terrorist group that could trigger a TRIG bar; factors to consider when evaluating an applicant that could warrant granting an exemption from a TRIG bar; factors to consider when determining whether to grant an exemption for material support to a terrorist group; factors to consider when determining whether one's military training might not be sufficient to warrant a TRIG bar; as well as other key words and situations that could warrant additional exemptions from TRIG bars. All of the withheld factors and key words on the redacted PowerPoint slides are guidelines as well as techniques and procedures that USCIS immigration officers utilize to enforce the INA. These records are compiled for law enforcement purposes and are appropriately exempt from disclosure pursuant to Exemption 7(E).

The withheld information, if disclosed, could be used by future applicants to tailor their testimony and applications when seeking immigration benefits from USCIS so they could

hide possible terrorism ties, avoid government detection, and gain admission to the U.S., illegally obtain immigration benefits, and illegally remain in the U.S., thus posing a risk to national security. The withheld material serves as guidelines as well as techniques and procedures for law enforcement investigations utilized by USCIS immigration officers to screen immigration applicants and thus was appropriately withheld pursuant to FOIA Exemption 7(E).

36. **Pages 259-260, 262-263, 264-267, and 272 from the 2012 edition of the USCIS BASIC Instructor Guide manual on Terrorism-Related Grounds of Inadmissibility.**

This USCIS instructor guide is similar to the 2010 USCIS instructor guide described, *supra*, paragraph 30, pages 14-17, 19, 26-27 of the records provided to Plaintiff. These nine pages from the 2012 BASIC course instructor guide were partially withheld pursuant to Exemption 7(E). The withheld portions of the guide, which was used by instructors to train newly hired USCIS immigration officers, instructs the officers on how to determine whether an applicant might be inadmissible due to suspected ties to terrorist groups or terrorist activities, *e.g.* triggering application of the Terrorism-Related Grounds of Inadmissibility (TRIG) found in section 212 of the Immigration and Nationality Act (INA), which is enforced by USCIS and its officials. The redacted sections contain specific examples for issue spotting during applicant interviews that could trigger assessment of a TRIG bar to admission, *e.g.* material support for terrorism questions that should be asked and topics to cover during questioning; suggestions on how to spot possible terrorist activities by looking for certain key words used by applicants in their immigration interviews and applications; and TRIG specific model questions that USCIS immigration officers should ask when interviewing applicants.

The withheld information, if disclosed, could be used by future applicants to tailor their testimony and applications when seeking immigration benefits so they could hide possible terrorism ties, avoid government detection, and gain admission to the U.S., illegally obtain immigration benefits, and illegally remain in the U.S., thus posing a risk to national security. The withheld material serves as guidelines as well as techniques and procedures for law enforcement investigations utilized by USCIS immigration officers to screen immigration applicants and thus was appropriately withheld pursuant to FOIA Exemption 7(E).

37. **Pages 297-298, 300-305, 310 from the 2012 edition of the USCIS BASIC Participant (student) Guide manual on Terrorism-Related Grounds of Inadmissibility (BASIC is the USCIS basic immigration law and agency adjudication procedures course for newly hired USCIS Immigration Service Officers).**

This USCIS BASIC course participant guide is a subsequent edition of the same guide described, *supra*, paragraph 31, pages 47, 49-51, 58-59. These nine pages from the 2012 BASIC course participant guide were partially withheld pursuant to Exemption 7(E). The

withheld portions of the guide, which was used by students taking the newly hired USCIS immigration officers' BASIC course, instructs the student officers on how to determine whether an applicant might be inadmissible due to suspected ties to terrorist groups or terrorist activities, *e.g.* triggering application of the Terrorism-Related Grounds of Inadmissibility (TRIG) found in section 212 of the Immigration and Nationality Act (INA), which is enforced by USCIS and its officials. The redacted sections contain specific examples for issue spotting during applicant interviews that could trigger assessment of a TRIG bar to admission, *e.g.* material support for terrorism questions that should be asked and topics to cover during questioning; suggestions on how to spot possible terrorist activities by looking for certain key words used by applicants in their immigration interviews and applications; and TRIG specific model questions that USCIS immigration officers should ask when interviewing applicants. Other withheld sections inform officers on how to assess whether an applicant might be eligible for an exemption to a TRIG bar and how to complete agency records documenting the requirements for determining a whether a TRIG exemption applies.

The withheld information, if disclosed, could be used by future applicants to tailor their testimony and applications when seeking immigration benefits so they could hide possible terrorism ties, avoid government detection, and gain admission to the U.S., illegally obtain immigration benefits, and illegally remain in the U.S., thus posing a risk to national security. The withheld material serves as guidelines as well as techniques and procedures for law enforcement investigations utilized by USCIS immigration officers to screen immigration applicants and thus was appropriately withheld pursuant to FOIA Exemption 7(E).

38. **Pages 361-362, 387-388, 396, 435, 437, 439 from a 131 slide USCIS training PowerPoint presentation entitled Terrorism Related Inadmissibility Grounds (TRIG), Course 234, dated March 21, 2017, prepared by the USCIS Academy, and used to train USCIS immigration officers.**

These eight slides were partially withheld pursuant to Exemption 7(E). This PowerPoint training presentation on TRIG is similar to the other TRIG training PowerPoint presentations described, *supra*. Its purpose is stated in the PowerPoint presentation, "Upon completion of this module, you will be able to identify TRIG grounds of inadmissibility and determine whether these grounds apply when adjudicating an application for an immigration benefit." The partially redacted slides are replete with specific questions that USCIS immigration officers are trained to ask applicants when screening them for possible TRIG bars. In addition, key words that officers are trained to look for during applicant interviews, which, if noted, could indicate the applicant might be denied due to TRIG issues, are also redacted. These slides contain details on guidelines and techniques and procedures for law enforcement investigations – in this case, enforcement of the INA by USCIS immigration officers. As such, they are properly withheld pursuant to Exemption 7(E).

The withheld information, if disclosed, could be used by future applicants to tailor their testimony and applications when seeking immigration benefits so they could hide possible terrorism ties, avoid government detection, and gain admission to the U.S., illegally obtain immigration benefits, and illegally remain in the U.S., thus posing a risk to national security. The withheld material serves as guidelines as well as techniques and procedures for law enforcement investigations utilized by USCIS immigration officers to screen immigration applicants and thus was appropriately withheld pursuant to FOIA Exemption 7(E).

39. **Pages 475-476, 483-485, 488-489, 495-497, 501-504, 510-515 from the 2017 edition of the Terrorism Related Inadmissibility Grounds (TRIG) Instructor Guide, revision date May 2017. Guide prepared by the USCIS Academy Training Center, Federal Law Enforcement Training Center, North Charleston, SC.**

These 20 pages were partially redacted from the 2017 version of the TRIG instructor guide pursuant to Exemption 7(E). The 2017 version of the TRIG instructor guide is similar to the earlier editions of the same guide described in this index. Besides model questions and key words that were withheld because they are guidelines and techniques and procedures used by USCIS immigration officers to screen applicants for possible terrorism ties, training scenarios depicted in the guide's appendix, that described potential applicant testimonies and questions officers should ask, that were designed to uncover possible terrorism ties, were also withheld pursuant to Exemption 7(E), as they too are guidelines and techniques and procedures for law enforcement investigations.

The withheld information, if disclosed, could be used by future applicants to tailor their testimony and applications when seeking immigration benefits so they could hide possible terrorism ties, avoid government detection, and gain admission to the U.S., illegally obtain immigration benefits, and illegally remain in the U.S., thus posing a risk to national security. The withheld material includes guidelines and technique and procedures for law enforcement investigations utilized by USCIS immigration officers to screen immigration applicants and thus was appropriately withheld pursuant to FOIA Exemption 7(E).

40. **Pages 529-530, 534-537, 541-542, 544-546, 550-553 from the 2017 edition of the Terrorism Related Inadmissibility Grounds (TRIG) Participant Guide, revision date May 2017. Guide prepared by the USCIS Academy Training Center, Federal Law Enforcement Training Center, North Charleston, SC.**

These 15 pages were partially redacted from the 2017 version of the TRIG participant guide pursuant to Exemption 7(E). The 2017 version of the TRIG participant guide is similar to the earlier editions of the same guide described in this index. Besides model questions and key words that were withheld because they are guidelines and techniques and procedures used by USCIS immigration officers to screen applicants for possible terrorism

ties, training scenarios depicted in the guide's appendix, that described potential applicant testimonies and questions officers should ask, that were designed to uncover possible terrorism ties, were also withheld pursuant to Exemption 7(E), as they too are guidelines and techniques and procedures for law enforcement investigations.

The withheld information, if disclosed, could be used by future applicants to tailor their testimony and applications when seeking immigration benefits so they could hide possible terrorism ties, avoid government detection, and gain admission to the U.S., illegally obtain immigration benefits, and illegally remain in the U.S., thus posing a risk to national security. The withheld material includes guidelines and technique and procedures for law enforcement investigations utilized by USCIS immigration officers to screen immigration applicants and thus was appropriately withheld pursuant to FOIA Exemption 7(E).

41. **Pages 568-577, 580-581, 585, 593, 596-601, 605-606, 608, 610-612, 614-617, 621-635, 641-644, 646-653 from the USCIS Refugee, Asylum and International Operations Directorate (RAIO) Officer Training - Combined Training course manual on National Security, revised Oct. 26, 2015.**

These 56 pages were withheld in part pursuant to Exemption 7(E). The partially redacted pages are from a 102 page USCIS training manual on national security. The training manual is used during training for newly hired USCIS asylum and refugee officers. The training manual states the training objectives during the national security course are to prepare officers to identify national security issues such as when an applicant's activities and associations render him or her a national security concern, including when such concerns may establish a link to a TRIG or other security-related inadmissibility ground or bar.

The partially redacted pages contained information such as law enforcement database codes used to flag possible terrorist suspects, discussed various indicators used to identify possible national security and terrorism links when screening applicants, issues to cover during applicant interviews and when analyzing their applications and petitions for immigration benefits, discussed when to deny or hold applications due to possible national security concerns, , discussed the TRIG standards and when a bar might be assessed to an applicant, and revealed model applicant scenarios that officers might face during applicant encounters and recommended techniques and procedures for processing applicants who pose possible national security/terrorism ties.

The withheld information, if disclosed, could be used by future applicants to tailor their testimony and applications when seeking immigration benefits so they could hide possible terrorism ties, avoid government detection, and gain admission to the U.S., illegally obtain immigration benefits, and illegally remain in the U.S., thus posing a risk to national security. The withheld material includes guidelines and techniques and procedures for law enforcement investigations utilized by USCIS immigration officers to screen immigration

applicants and thus was appropriately withheld pursuant to FOIA Exemption 7(E).

All documents provided by USCIS to Plaintiff in the June 2018 records production were carefully reviewed by first-line, then supervisory staff, prior to production. USCIS FOIA staff ensured that all non-exempt, reasonably segregable information was disclosed as required by FOIA. USCIS FOIA staff determined that no further responsive, reasonably segregable information could be disclosed from these records other than the information that was disclosed. Disclosure of any additional information from the records provided would reveal information that is properly exempt from disclosure pursuant to Exemption 7(E), as described, *supra*.

CONCLUSION

42. As described in my Declaration, USCIS properly processed Plaintiff's FOIA request and provided all responsive, reasonably segregable, non-exempt information. For these reasons, USCIS's actions in response to Plaintiff's FOIA request were in full compliance with FOIA. Therefore, Plaintiff's Complaint should be dismissed.

I declare under the penalty of perjury that the foregoing is true and accurate to the best of my knowledge and belief.

Executed in Lee's Summit, Missouri on this 14th day of March 2019.

JILL A. EGGLESTON
Associate Center Director
Freedom of Information Act and Privacy Act Unit
USCIS National Records Center