

EXHIBIT 1

~~FILED UNDER SEAL~~

ATTORNEYS' EYES ONLY

Renaud, Daniel

January 10, 2020

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ABDIQAFAR WAGAFE, et al., on	:	
behalf of themselves and others	:	Case No.:
Similarly situated,	:	17-CV-00094 RAJ
Plaintiffs,	:	
VS.	:	
DONALD TRUMP, President of the	:	
United States, et al.,	:	
Defendants.	:	ATTORNEYS' EYES ONLY

Washington, DC

Friday, January 10, 2020

Videotaped Deposition of DANIEL RENAUD
held at Perkins Coie, 700 13th Street, NW, Suite 600,
Washington, DC 20005, commencing at 9:36 a.m., before
Sherry L. Brooks, Certified LiveNote Reporter and
Notary Public, in and for the District of Columbia.

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1 policy.

2 Q. And in what way, though, do you believe it 10:24
3 is policy with a capital P, as you described it?

4 A. I think it -- from a policy standpoint, it 10:24
5 -- it sets forth certain limitations on an
6 adjudicator of when they can do certain things and
7 when they can't do certain things.

8 And I think at that point in my mind -- 10:24
9 I'm probably splitting hairs here and I'm probably
10 going to go back on this. But I think that in that
11 sense it's policy. It's not so much the how but the
12 what someone can and can't do at a certain point.

13 For example -- well, we'll get into 10:25
14 examples, I'm sure, later. But where CARRP defines
15 what can be done at a certain time, where it defines
16 the what, in my view, that is a policy call. When it
17 defines how, that is a procedure call.

18 So the purpose of CARRP is to get a case 10:25
19 where there are national security concerns as quickly
20 as possible to a final adjudication. And that is
21 primarily process, what steps do we need to go
22 through in order to get that case to final

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1 adjudication.

2 The starts, you know, the stops, and the 10:25
3 whatever along the way might have more policy
4 implication -- might be more policy heavy than
5 procedure heavy.

6 Q. Before I move on, I asked you about other 10:26
7 cases in which you've filed declarations. Do you
8 recall preparing at least one declaration for this
9 Wagafe lawsuit?

10 A. I do not recall preparing a declaration 10:26
11 for this lawsuit.

12 Q. Do you recall signing a declaration for 10:26
13 this lawsuit?

14 A. I do not recall signing a declaration for 10:26
15 this lawsuit.

16 Q. Do you consider CARRP necessary? 10:26

17 A. I consider a process that -- that gives -- 10:26
18 where the end result is to move a case to final
19 adjudication necessary.

20 Whether we call it CARRP or whether we 10:26
21 call it something else, we need a process where we
22 can provide an adjudicator confidence that a case

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1 that has some potentially -- national security
2 information somehow attached to it. We need to be
3 able to give them the confidence to make a final
4 decision on that case.

5 And in my mind, that is what CARRP does. 10:27

6 So yes. I think that a process to take a
7 particularly challenging case, one that at the time
8 no adjudicator wants to put their approval stamp on,
9 without a process that defines how and why, I think
10 that needs a process that we can go through so the
11 adjudicator can have the confidence to make the right
12 decision on the case.

13 Q. Were you involved in -- I'm not sure where 10:28
14 in your career this would have happened.

15 But were you involved in either 10:28
16 adjudicating or supervising the adjudication of
17 applications where there was identified a potential
18 national security concern prior to 2008?

19 A. I don't recall that. I do not recall, no. 10:28

20 Q. Have you done that since 2008? 10:28

21 A. Certainly. 10:28

22 Q. And in that -- since CARRP came into play 10:29

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1 Q. If you could pull up Exhibit 55 -- 11:35

2 A. Sure. 11:35

3 Q. -- and turn to the slide numbered 9, which 11:35
4 is at Bates number CAR000606.

5 A. I am there. 11:35

6 Q. And this slide lists a number of terms, 11:35
7 and I wanted to go over them with you. The first
8 term is the Controlled Application Review and
9 Resolution Program (CARRP).

10 What's your understanding of what that 11:36
11 term means?

12 A. That term defines the process that we use 11:36
13 at USCIS where we have a benefit application that we
14 have identified national security interest or
15 national security concerns. It's the process we --
16 we go through in order to bring that case to a final
17 decision.

18 Q. If you turn to the next slide, slide 10 -- 11:36

19 A. I'm sorry. Slide 10? 11:36

20 Q. -- slide 10 at Bates No. 608 -- 11:36

21 A. Okay. I'm with you. 11:36

22 Q. -- it provides a definition, doesn't it? 11:37

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1 term on page 9 is known or suspected terrorist (KST).

2 What does that term mean? 11:38

3 **A. What does it mean to me without looking at** 11:38

4 **slide 14 or whatever it's on? You know, someone --**

5 **it's my understanding that someone is identified as a**

6 **KST or known or suspected terrorist if they had been**

7 **nominated to the terrorist screen database.**

8 Q. The terrorist watchlist? 11:39

9 **A. Yes -- I'm sorry -- terrorist watchlist.** 11:39

10 Q. And how does someone get nominated to the 11:39

11 terrorist watchlist?

12 MR. MOORE: Objection to foundation. 11:39

13 BY MR. GELLERT: 11:39

14 Q. Do you know? 11:39

15 **A. I do not have that information.** 11:39

16 Q. Is it only if someone is nominated or if 11:39

17 they end up on the watchlist, as far as you know?

18 MR. MOORE: Objection to form. 11:39

19 You can answer. 11:39

20 **A. My understanding is that it's nominated** 11:39

21 **and included on. I'm sorry for my not being clear.**

22 **It would be someone who was on the watchlist.**

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1 determining whether someone is a non-KST?

2 MR. MOORE: By people, you mean people -- 11:41

3 MR. GELLERT: Who are trained. 11:41

4 MR. MOORE: But I mean, you're talking 11:41

5 about USCIS people?

6 MR. GELLERT: Whoever is trained. 11:41

7 **A. So my understanding is that the 11:41**

8 **information we receive through our background checks**

9 **will indicate whether someone has been watchlisted or**

10 **not.**

11 BY MR. GELLERT: 11:41

12 Q. Okay. And if they're watchlisted, they 11:41

13 are a KST, right?

14 **A. That's my understanding, yes. 11:41**

15 Q. If they're not watchlisted, what training 11:41

16 do people receive to determine whether they should be

17 a non-KST?

18 **A. My understanding is that if they're not 11:41**

19 **watchlisted, then they are not a KST.**

20 Q. Are you familiar with -- if you look at 11:42

21 page 9, the fourth bullet, the term non-KST, what's

22 your understanding of what that term is?

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1 more consistent and adjudicate those more -- more
2 efficiently.

3 Q. What was the inconsistency that was 11:50
4 identified with respect to those cases?

5 A. The -- there was probably more than one. 11:50
6 But the one that I recall is that when a case fell
7 out of CARRP some offices were assigning that
8 workload to non-CARRP-trained officers, which often
9 did not result in speedy adjudication.

10 Because what that did was it put us back 11:51
11 -- sort of -- it -- it repeated the problems that we
12 had before we had CARRP, that you gave a case that
13 had a glaring national security thing that may or may
14 not relate to the individual in front of an officer
15 who sees this glaring thing and has no way to draw
16 the line as to say, no, I have the confidence to
17 approve this case or to adjudicate this case without
18 concern -- you know, without concern to that -- to
19 that particular issue.

20 What CARRP has done is it's allowed us to 11:51
21 -- to identify the issue and give people confidence
22 to adjudicate and know that that issue in certain

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1 instances -- in many instances does not relate to the
2 case or should not be part of the -- part of the
3 decision.

4 So when we gave cases that in the file had 11:52
5 this national security link to it to an untrained
6 officer, there was some hesitation to put an approval
7 stamp on that or to -- to deny the case or to
8 schedule the case for an interview because of this --
9 this thing that they didn't know what it was. And so
10 more --

11 Q. So let me follow up on that. So they 11:52
12 would -- that newly assigned officer,
13 non-CARRP-trained officer, wouldn't have been told
14 that a CARRP officer already cleared it and there
15 wasn't an NS concern? Is that what you're getting
16 at?

17 A. They -- I mean, I don't know what that 11:52
18 conversation would be. But what I'm getting at is
19 that they -- without the training, they might not
20 understand the process enough to be confident to make
21 a decision, let's say, to approve that case with that
22 information in there.

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1 They may not have understood why and had 11:53
2 the confidence to say, all right, I get that there's
3 this bad information, but I understand why it's not
4 being used, and I know that I can move forward and
5 complete this case.

6 I think they saw the bad information in 11:53
7 many cases and said, I'm doing that one tomorrow or I
8 need to ask my supervisor about this because I am
9 hesitant to move forward on this case without fully
10 understanding -- no one in the field wants to make a
11 bad decision.

12 And this presented an opportunity where we 11:53
13 were not providing -- we were not assigning that case
14 to someone who had all the knowledge we needed in
15 order to efficiently adjudicate the case.

16 Q. And when you mean no one wants to make a 11:53
17 bad decision, in particular, no one wants to make a
18 decision that grants benefits where they think a
19 national security concern could be implicated?

20 A. Nobody wants to deny a case that -- that 11:53
21 should be approved. Nobody wants to approve a case
22 that should be denied. Nobody wants to make an

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1 incorrect decision. That's what they do for a
2 living. That's what they do.

3 Q. Do you recall that part of your testimony 11:54
4 to the oversight and reform subcommittee on Civil
5 Rights and Civil Liberties in September you made the
6 following statement, quote, Some of the hardest times
7 in my career and those of the people that work with
8 me is where we are required to grant a benefit to
9 someone we think is a threat, end quote?

10 A. Yes, I do. 11:54

11 Q. And you agree with that statement, don't 11:54
12 you?

13 A. I do. I think that's a hard thing to do. 11:54

14 Q. And so what you're describing is that 11:54
15 these new officers if they see what they perceive
16 might be a threat even though it's been cleared might
17 be hesitant?

18 A. That was the -- that was the -- that was 11:54
19 one of the problems that we were seeing that we
20 sought to rectify by providing that case to a trained
21 officer or by assigning that case to a trained
22 officer.

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1 Q. How would you describe CARRP? 12:12

2 A. I -- I would describe CARRP as a process 12:12

3 to deconflict and vet and determine eligibility and

4 ultimately decide -- bring a case to final decision

5 where there are national security issues at play.

6 It's a process to get cases completed. 12:12

7 Q. Do you think the goal of doing that 12:12

8 vetting and deconflicting should be to slow down the

9 process so that officers get the decision right?

10 A. The goal is never to slow down the 12:12

11 process.

12 Q. Is the goal to speed up the process for 12:12

13 cases that have NS concern?

14 A. The goal is to get the right information 12:12

15 and make the right decision and to take the

16 appropriate amount of time.

17 Q. Do you believe that there's a national 12:13

18 security concern if an applicant where there's been

19 an identified national security concern identified --

20 if their application is slowed down?

21 MR. MOORE: Objection to the form. 12:13

22 BY MR. GELLERT: 12:13

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1 those checks are done, that the alias checks are
2 done, and then they send that information to the
3 field office for the adjudicator to use to be aware
4 of during the interview such that they can make the
5 proper decision on the case. The NBC does not decide
6 any N-400s.

7 Q. But it makes some screening decisions, 13:38
8 doesn't it?

9 A. I don't know what you mean by, "screening 13:38
10 decisions."

11 Q. Well, does the NBC, for instance, decide 13:39
12 whether someone is a KST?

13 A. The NBC does not promote anybody to a KST. 13:39
14 They don't decide if someone is a KST, no.

15 Q. Is the decision whether someone is a KST 13:39
16 decided before the file is sent to the field?

17 A. USCIS doesn't decide whether someone is a 13:39
18 KST or not.

19 Q. Well, they make a determination whether 13:39
20 someone is, don't they?

21 A. No. 13:39

22 MR. GELLERT: All right. Let's break for 13:39

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1 Quote, Whether CARRP operates with an 15:53
2 anti-Muslim animus or effect or discriminates against
3 applicants from Muslim majority countries or
4 countries listed in the presidential executive orders
5 issued in 2017, in identifying national security
6 concerns, referring cases to CARRP, processing and
7 adjudicating cases, or any other way, end quote.

8 Do you believe you have discoverable 15:54
9 information on that topic?

10 MR. MOORE: Objection to the extent it 15:54
11 calls for a legal conclusion. Foundation.

12 You can answer. 15:54

13 **A. I'm not sure I know exactly what 15:54**
14 **discoverable information is, but I certainly have --**
15 **I certainly have a point of view on that, and I can**
16 **tell you what my belief is with respect to -- with**
17 **respect to that.**

18 BY MR. GELLERT: 15:54

19 Q. All right. What's your belief with 15:54
20 respect to that?

21 **A. My belief is that the determining factor 15:54**
22 **of whether a case goes into CARRP or not, every**

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1 single case that gets filed has the opportunity to go
2 into CARRP processing.

3 That determination is made based on 15:54
4 information that we receive typically through our
5 background check processes.

6 The vast, vast majority of cases are 15:54
7 enrolled in CARRP because of -- [REDACTED]
8 [REDACTED],
9 [REDACTED]
10 [REDACTED].

11 If we get -- if we get national security 15:55
12 information, we do not make a determination of
13 whether to put that case in CARRP or not put that
14 case in CARRP based on the country of nationality.

15 Once it's in CARRP, we do not process -- 15:55
16 we do not process cases differently based on the
17 country of nationality or citizenship or birth.

18 So to the extent that this suggests that 15:55
19 there is a different workflow or a different path for
20 cases from certain countries to follow because they
21 are in -- because the applicants or petitioners are
22 from those countries, that is without basis and

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1 **completely false.**

2 Q. What about whether CARRP in effect, 15:56
3 regardless of whether separate workflows exist or
4 don't exist -- do you know whether the effect of
5 CARRP is that more people from Muslim countries --
6 Muslim-dominated countries or people who are Islamic
7 get put into the CARRP system?

8 **A. I do not know that for -- for a fact. I 15:56**
9 **simply don't know those data.**

10 Q. You haven't evaluated that? 15:56

11 **A. I have not evaluated it. 15:56**

12 Q. Have you asked for anyone else to evaluate 15:56
13 --

14 **A. I would have no reason to -- I don't 15:56**
15 **manage by country. I manage by workload and by**
16 **location.**

17 Q. But you do seek to enforce policies in a 15:57
18 nondiscriminatory way, don't you?

19 **A. I not only seek to do it, but I'm 15:57**
20 **successful at doing it, yes.**

21 Q. How do you know you're successful at doing 15:57
22 it?

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1 A. Because we have -- because that's the way 15:57
2 we manage. That's the way we -- we -- we build our
3 culture within field operations. I have subordinate
4 managers who -- who believe in what we're doing, who
5 believe in fairness, who have combined thousands of
6 years of experience, who -- who believe that, you
7 know, benefits are to be given to people who -- to
8 whom -- to who are eligible for them and that we
9 should deny benefits to people who are not eligible.
10 It's as simple as that.

11 We don't have conversations about 15:57
12 countries. And we don't have it at my level, the
13 next level down, and we don't have it at any level
14 below that.

15 Q. So you just don't talk about whether or 15:57
16 not you might -- the policies that are in effect or
17 how you're implementing them might have a
18 disproportionate effect, not purpose, but effect on
19 any particular population?

20 A. We implement the policies and procedures 15:58
21 in a -- in an equitable manner across our workloads
22 and across our offices.

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1 If those policies have a disproportionate 15:58
2 effect among people from one country or another, then
3 -- then you have an issue with the policy perhaps,
4 and I can't -- I can't speak to the policy.

5 What I can say is that if someone falls 15:58
6 into CARRP or not falls into CARRP has no re -- what
7 country they're from has no -- has no -- no impact on
8 whether they fall into CARRP or not.

9 If there's national security information, 15:58
10 then they're likely to fall into CARRP. If there's
11 not national security information, no matter what
12 country they're from, then they won't fall into
13 CARRP. 15 out of 10,000 cases fall into CARRP.

14 Q. I'd like to explore that a little bit. 15:59
15 Let me start with that last statistic that you threw
16 out. When you said 15 out of 10,000 cases, what's
17 the 10,000 cases you're referring to?

18 A. On average, .1 -- about .15 percent of our 15:59
19 workload of N-400s and 485s are processed through
20 CARRP.

21 Q. And when is that -- when did you draw that 15:59
22 statistic?

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1 We are simply users of this information. 16:02

2 We don't create it. We don't make it. We simply ask
3 if there's information. And if there's information,
4 we act one way. And if there isn't, then we act
5 another way.

6 We as USCIS are not saying, Oh, this 16:02
7 person is from that country, so let's do this. We
8 run the same checks on every single case, every
9 single case.

10 BY MR. GELLERT: 16:02

11 Q. In every single I-400 (sic) case, you 16:02
12 evaluate whether someone is associated with someone
13 who is associated with some entity that is associated
14 with someone who might have been a terrorist?

15 MR. MOORE: Counsel, do you mean N-400, 16:03
16 just for clarification?

17 MR. GELLERT: Sure. 16:03

18 A. On every single N-400, we run the same 16:03
19 suite of background checks. If in any one of those
20 N-400s we get a positive hit on one of those cases,
21 then we would treat that the same way.

22 If those -- we don't have one set of 16:03

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1 initial checks that we run on one set of cases and on
2 different set -- or additional checks that we run on
3 other cases.

4 MR. GELLERT: Exhibit No. 62. 16:04

5 (Exhibit Number 62 was marked for 16:04
6 identification and was attached to the deposition.)

7 BY MR. GELLERT: 16:04

8 Q. I've handed you a declaration that I 16:04
9 received this -- since you testified about it earlier
10 this morning with respect to a declaration that you
11 submitted or was submitted after you signed it in the
12 NIO case here in the District of -- the District of
13 Columbia.

14 Do you recall this declaration? 16:05

15 A. Yeah. I've done several declarations for 16:05
16 this, but that is my signature and -- I believe, yes.

17 Q. Okay. So first of all, another thing I 16:05
18 asked you about -- and I guess I was corrected over
19 the lunch hour -- I asked you if you had submitted a
20 declaration in our case. And I think it was Tracy
21 Renaud who submitted it, so I apologize if I --

22 A. Yeah. I'm not Tracy Renaud. 16:05

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1 Q. Do you know what the gross other 16:37
2 naturalization time is?

3 A. I believe the other naturalization time is 16:37
4 right about 9.2 months.

5 Q. Are you no longer expediting military 16:37
6 naturalizations?

7 A. We are still expediting military 16:37
8 naturalizations.

9 Q. What types of applications that come 16:37
10 through your directorate are subjected to CARRP or
11 potentially subjected to CARRP?

12 A. So every case certainly with respect to 16:37
13 all I-485s and all N-400s -- well, all cases -- for
14 every case type, we have set background checks that
15 we run. They differ by case type. But certainly
16 with N-400s and I-485s, we run a set of checks. And
17 so every case is subjected to those initial checks.

18 Q. Are there any types of applications that 16:38
19 come through that don't get any checks?

20 A. No. 16:38

21 Q. If a child under the age of 18 files an 16:38
22 I-485, does it go through the same types of checks?

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1 effect or impact if CARRP were enjoined, as
2 plaintiffs seek, or operated subject to constraints
3 plaintiffs seek -- plaintiffs -- constraints
4 plaintiffs might seek to impose, end quote.

5 Do you see that? 16:44

6 **A. I do.** 16:44

7 **Q.** Do you have information about the 16:44
8 potential impact of an injunction against the CARRP
9 program?

10 **A. I could -- I could certainly speak** 16:45
11 **operationally to what I would anticipate the impacts**
12 **would be, yes.**

13 **Q.** Okay. And what do you believe the impacts 16:45
14 would be if CARRP were enjoined?

15 **A. I think if CARRP were enjoined, we would** 16:45
16 **go to a -- my best guess would be that despite our**
17 **best efforts, we would go to a place where we were**
18 **before CARRP where implemented, which makes sense, in**
19 **that we would not have a process for deconflicting**
20 **and vetting national security information.**

21 **And there would be reluctance to move** 16:45
22 **cases or there would not be a defined process to move**

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1 cases to the point of adjudication ready in such a
2 way that gave adjudicators the confidence to make a
3 decision on the case knowing that the proper process
4 and protocols had been followed.

5 It's those processes and protocols that 16:46
6 get the case adjudicated. Without those, we leave
7 every officer to wonder whether the right -- whether
8 enough has been done or whether the right steps have
9 been taken.

10 What CARRP did was provide a process by 16:46
11 which we could get a case that has national security
12 information to final adjudication, and if it followed
13 all the right steps and all the right work were (sic)
14 done, it would give the adjudicator the confidence to
15 make that decision where prior to CARRP those
16 decisions simply were not being made.

17 Q. You keep talking about the confidence of 16:46
18 the adjudicator. What about the confidence of the
19 applicant? Isn't that important to you?

20 MR. MOORE: Objection to form. 16:46

21 But you can answer. 16:46

22 A. I don't know what you mean by, "the 16:46

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1 doing their job, right?

2 A. Sure. The steps in the process need to be 19:26
3 done and they need to be done in a timely manner.

4 Q. Have you evaluated whether the CARRP 19:26
5 policy creates incentives for your officers to delay
6 making decisions on applications?

7 A. I think the CARRP process, as I think I 19:26
8 mentioned earlier, does just the opposite. The CARRP
9 process defines those steps. It defines how you go
10 from one step to another, and it gets a case to a
11 final decision faster than we were doing before --
12 than was happening before the CARRP process.

13 Q. That's your belief. Have you evaluated, 19:27
14 in fact, whether your belief is justified?

15 A. I think the data proves it out. I think 19:27
16 that if you look at the CARRP process that has been
17 used over the last two years, we've completed about
18 -- I think it's about 6,000 cases in the last two
19 years, which is more cases than in the history of
20 CARRP through that process, certainly more than
21 before CARRP.

22 Those cases were simply not moving. That 19:27

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1 was the state of our processing of national security
2 cases prior to CARRP.

3 We had some fits and starts. We had some 19:27
4 delays. I will admit that because of -- anytime you
5 have a new process, there is -- there's hesitation.
6 There's course correction. There is the
7 straightening out of -- of guidance and providing
8 clarity.

9 But if you -- you asked me the question of 19:28
10 if CARRP were discontinued today, or whatever the
11 question was, would there be harm.

12 We have a process in place now where over 19:28
13 the last two years because of CARRP, because of the
14 way that we're managing the CARRP process, we
15 completed more cases that had been identified as
16 national security concerns in a two-year period than
17 we have in the history of this agency.

18 To take that away at this point would, in 19:28
19 my estimation, certainly cause displace (sic) -- the
20 process works to get cases to final decision.

21 Q. Let me ask you one last subject. The 19:28
22 6,000 or so cases that you say have been processed