

2. Of the (approximately) 352 present *Nio* class members identified in Exhibit A who have completed the DoD enhanced background check process, approximately 237 have received a favorable military suitability determination. *Id.*²
3. Approximately 46³ individuals who were once in the *Nio* class have been naturalized⁴ by USCIS since July 7, 2017. *See* Ex. B.
4. Currently Defendants have identified approximately 1,120⁵ members of the *Nio* class.⁶ All of the members of the *Nio* class have submitted naturalization applications, because the class is defined to include only those MAVNI soldiers who have submitted naturalization applications. (ECF No. 72). The spreadsheet indicates the dates those N-400 applications were submitted.
5. Approximately 21⁷ members of the *Nio* class (exclusive of the 46 who have naturalized and are no longer class members) have completed their USCIS naturalization interview.

² DoD informs DOJ that Soldiers who have received an unfavorable military suitability determination are no longer considered by the Army to have “completed the DoD enhanced background check process” because a further determination must be made about them.

³ Of these 46 individuals, approximately 11 individuals became U.S. citizens since the January 22, 2018 report, and approximately 22 became U.S. citizens since the February 28, 2018 report.

⁴ Naturalized individuals have had their Form N-400 approved, and have taken the Oath of Allegiance, making them U.S. citizens. Any individual whose N-400 has been approved, but who has not taken the Oath of Allegiance, would be included within the list of class members, rather than included as a naturalized individual.

⁵ Given the time allotted to compile this report, Defendants were not able to account for new filings that were not accounted for in the February 28 report. The class list is smaller than it was on February 28, because certain individuals have naturalized since that time. Defendants also removed a small number of individuals who had been incorrectly identified as *Nio* class members.

⁶ USCIS was able to remove from its Exhibit to the Court soldiers in the DTP who have naturalized and individuals who been incorrectly identified as a *Nio* class member. Thus, USCIS’s exhibit only contains 1,121 class members.

⁷ On the February 28, 2018 report, USCIS reported that 12 individuals had been interviewed. Since that time, 4 of those individuals have naturalized, and are no longer included in this data point.

6. It appears that approximately 900 members of the *Nio* class are still undergoing DoD's enhanced background check process or awaiting a final suitability determination. The *Nio* class becomes larger as additional naturalization applications are received, including from former *Kirwa* class members who have recently received Form N-426, and then filed an application for naturalization. The *Nio* class becomes smaller as former class members naturalize after DoD completes background checks and their naturalization applications move forward for interview and adjudication.
7. Exhibit A details how much time each MAVNI enlistee in the DTP has been in the DoD enhanced background check process. For most soldiers, the DoD enhanced background process takes over two years from the date of enlistment. *See id.*

8.

Additionally, on February 26, 2018, the Court ordered Defendants to answer two additional inquiries:

- A. Identify the date DOD completed a military service suitability determination (“MSSD”) for each class member, and;
- B. Identify the date DOD notified USCIS of that class member's completed MSSD.

In response to the Court's first question, the chart in Exhibit A, reflects the date DoD completed the MSSD for each class member, in the final column titled “Army G1 Final Suitability (Date)”.

With regard to the Court's second question, as explained in the supplemental declarations from USCIS (Michael D. Howfer) and DoD (Christopher P. Arendt) submitted to the Court on March 16, 2018 (ECF Nos. 118-1, 118-2), DoD does not refer cases to USCIS, but does uploads information pertaining to the MSSD to a shared online portal once that decision has been made. *See* ECF No. 118-1, ¶ 5; ECF No. 118-2, ¶ 4. Thus, because DoD does not refer cases to USCIS, that

information is not contained with USCIS's electronic systems, and therefore the USCIS Office of Performance and Quality ("OPQ") is not capable of reporting on it. *See* ECF No. 118-1, ¶ 5.

Accordingly, "[t]he date of the MSSD thus serves as an approximation for the date on which DoD notifies USCIS that a final MSSD has been made." ECF No. 118-2, ¶ 4.

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Respectfully submitted,

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CERTIFICATE OF SERVICE
Civil Action No. 1:17-00998-ESH-RMM

I HEREBY CERTIFY that on this **4rd day of April, 2018**, a true copy of the foregoing was filed with the Clerk of the Court using the CM/ECF system which sent notification of such filing via e-mail to the following:

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