EXHIBIT 3

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IMMIGRANT DEFENSE PROJECT, HISPANIC
INTEREST COLATION OF ALABAMA, and CENTER
FOR CONSTITUTIONAL RIGHTS,

                              Plaintiffs,

         v.

UNITED STATES IMMIGRATION AND CUSTOMS
ENFORCEMENT AGENCY and
UNITED STATES DEPARTMENT OF
HOMELAND SECURITY,

                              Defendants.

14 Civ. 6117 (JPO)

DECLARATION OF REBA MCGINNIS
IN SUPPORT OF THE UNITED STATES IMMIGRATION AND CUSTOMS
ENFORCEMENT AGENCY

I.   INTRODUCTION

1.   I, Reba A. McGinnis, pursuant to 28 U.S.C. § 1746, make the following statement, under penalty of perjury pertinent to the above styled and numbered cause, and being over 18 years of age, I am fully competent to make the statements contained in this declaration.

2.   I am the Unit Chief of the Records and Disclosure Unit (RDU), Policy, Planning and Records Management Division, Mission Support, Homeland Security Investigations (HSI), at U.S. Immigration and Customs Enforcement (ICE) within the U.S. Department of Homeland Security (DHS). I have held the position of Unit Chief since September 2007. My office is located at 500 12th Street, SW, Washington, DC 20536.

3.   As the Unit Chief of RDU, my official duties and responsibilities include the general management, oversight, and supervision of RDU which includes the Freedom of Information Act/Privacy Act (FOIA/PA) Section. The FOIA/PA Section coordinate searches for and conduct reviews of HSI information in response to the FOIA/PA requests from the ICE FOIA Office received by HSI and has oversight of the FOIA/PA functions in the twenty-six (26) Offices of the Special Agent in Charge ("SAC") of HSI, within ICE.

4.   I make this declaration in support of ICE in the above captioned action. The statements contained in this declaration are based upon my personal knowledge, my review of documents kept by ICE in the ordinary course of business, and information provided to me by other ICE employees in the course of my official duties.

5.   In my role as the Unit Chief for RDU, I am familiar with the facts of this case relating to the FOIA request submitted by Plaintiffs to ICE dated October 17, 2013.

6.   The FOIA request seeks documents related to "home enforcement operations" which Plaintiffs defined as "ICE operations in, at, or around homes or residences."

II.   DESCRIPTIONS OF PROGRAM OFFICES TASKED WITH SEARCHING FOR RECORDS IN RESPONSE TO PLAINTIFF'S FOIA REQUEST

7.   HSI investigates domestic and international activities that arise from the illegal movement of people and goods into, within, and out of the United States. These include, for example, immigration fraud, human rights violations, financial crimes, cybercrime, export enforcement issues, and human, narcotics, and weapons smuggling. In addition to criminal investigations, HSI oversees ICE international affairs questions and intelligence functions.

8.   HSI has 26 Special Agent in Charge (SAC) principal field offices throughout the United States. The SAC offices are responsible for the administration and

Declaration of Unit Chief Reba McGinnis

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management of all investigative and enforcement activities within the geographic boundaries of the office.

9.   When HSI receives a FOIA tasking from the ICE FOIA Office, the request is submitted to HSI's Records and Disclosure Unit (RDU), where the FOIA/PA Section Chief reviews the substance of the FOIA request. Based on subject matter expertise and knowledge of the internal practices of offices within HSI, RDU tasks a geographic SAC office, program office and/or specific individual(s) to conduct searches of their file systems, including both paper files and electronic files, based on their knowledge of routine file maintenance where responsive records would most likely be located. Employees tasked with conducting searches, rely upon the language of the request, guidance from the FOIA/PA Section Chief as well as their operational knowledge and subject matter expertise, to identify the specific search term(s) or combinations thereof, most likely to produce responsive records. Once searches are completed, the individuals and component offices provide any potentially responsive records to RDU to analyze for HSI law enforcement equities and recommend disclosures to the ICE FOIA Office. The ICE FOIA Office then reviews the collected records and disclosure recommendations, and applies redactions to withhold statutorily exempt information before making a disclosure to the requester.

10.   Each SAC's official duties and responsibilities include the administration and management of all enforcement activities within their office's area of responsibility. In addition, each SAC supervises all administrative responsibilities assigned to the SAC office which includes the search for HSI records in response to FOIA/PA taskings from RDU for records maintained by that SAC office. Each SAC office has a FOIA Coordinator, who searches records

in response to the FOIA/PA tasking based on subject matter expertise and knowledge of the

internal practices within their respective geographic SAC office. Any records that are located by

the SAC FOIA Coordinator are provided to RDU FOIA/PA Section staff for review to make a

disclosure recommendation to the ICE FOIA Office. Each SAC, in his or her capacity, maintains

custody and control of the official file relative to the requests processed by the SAC FOIA

Coordinators in their respective offices.

III.   HSI'S SEARCHES AND RESPONSE TO FOIA REQUEST

11.   On November 7, 2013, the ICE FOIA Office tasked HSI with responding to the

Plaintiff's FOIA request. HSI RDU FOIA/PA Section Chief reviewed the request relying upon

subject matter expertise and knowledge of the program offices' activities and, determined that

Headquarters level and SAC office searches should be conducted. Accordingly, the following

Headquarters level offices were tasked with conducting searches for potentially responsive

records: HSI Policy, Planning and Records Management, and HSI Law Enforcement Support

Information Management, as those offices were reasonably likely to have responsive records, if

any. Below, please find an explanation of the offices tasked at the Headquarters level.

12.   HSI Policy, Planning and Records Management ("PPRM") develops and

maintains all HSI policies, delegation orders, forms, and Memoranda of Understanding that are

necessary to execute HSI's mission. PPRM oversees HSI resource planning and performance

activities, results, and measurements to ensure that HSI budget requests are aligned to DHS, ICE,

and HSI Strategic Plans. PPRM also oversees HSI information and records management

program activities, including HSI's compliance with FOIA requirements and disclosure activities

that arise in the context of prosecutions, litigation, and inquiries from ICE stakeholders. HSI

Policy Unit within the PPRM directorate was tasked specifically because the request sought in

part, "policies, procedures and objectives of home enforcement operations from January 20,

2003 to [November 2013]". Responsive records to this portion of the request are maintained by

this unit. Upon receipt of the FOIA request from RDU on December 5, 2013, the FOIA POC,

who was also the Section Chief of the HSI Policy Unit, reviewed the substance of the request

and, based on his experience and knowledge of the HSI Policy Unit's practices and activities,

conducted a search for potentially responsive documentation. The Section Chief conducted a

search for three (3) hours on *HSI Net*[1]. He did not use search terms, but instead, relied upon his

knowledge of the policies and where they were stored on *HSI Net*, and reviewed each HSI policy

for responsiveness. The located responsive policies were provided to ICE FOIA on September 2,

2014, and subsequently disclosed to the Plaintiff in rolling productions between December 19,

2014 and March 19, 2015.

13.   HSI Law Enforcement Support Information Management ("LESIM") manages

information technology programs and initiatives, working with ICE's Office of the Chief

Information Officer to ensure the best use of methods and technology throughout ICE and the

DHS. LESIM directly supports HSI's law enforcement and mission support programs and helps

develop major advancements in technology used to combat crime. LESIM ensures that HSI

complies with current information technology standards and security requirements, supports

information sharing and intelligence reporting, and gathers reports based on statistics collected

during investigative casework. LESIM was tasked because the request sought "data and

statistical information" which is maintained by LESIM. Upon receipt of the FOIA request from

RDU on December 5, 2013, the FOIA POC, who is also a Special Agent in LESIM, reviewed the

substance of the request and, based on her experience and knowledge of LESIM's practices and

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[1] HSI Net is the intranet portal that HSI uses to centralize access to information; to collaborate on projects; to organize information by divisions, offices and units; and to collect and be a central repository for all official HSI documents and policies, similar to a shared drive.

activities, conducted a search for potentially responsive documentation. The Special Agent

conducted a search for 16 hours. She searched within the Enterprise Data Warehouse which is a

computer program that interfaces with the TECS[2] to extract information to produce statistical

reports. The Special Agent searched by the SAC office locations and the dates listed in the

FOIA request to produce four responsive reports providing enforcement statistics data for

Calendar Year 2009 through November 2013. HSI provided those reports to ICE FOIA on

September 2, 2014, and the reports were disclosed to the Plaintiff in rolling productions between

December 19, 2014 and March 19, 2015.

14.   HSI RDU also determined that searches at the SAC level for potentially

responsive documents should also be conducted. Accordingly, HSI RDU tasked the following

offices on December 5, 2013 with conducting searches: SAC Buffalo, SAC New York, and SAC

New Orleans. The offices were tasked because they are responsible for investigative and

enforcement activities within the geographic boundaries listed within in the FOIA request,

specifically mentioned in section 2 of the FOIA request which states "Unless otherwise

specified, the requests below seek data or statistics from all geographic areas that fall within the

jurisdictions of the Buffalo, New York; New York, New York; and New Orleans, Louisiana ICE

field offices." In addition, sections 2(b) and 2(c) of the FOIA requests asks for information "in

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[2] TECS is an updated and modified version of the former Treasury Enforcement Communications System, which is principally owned and manged by U.S. Customs and Border Protection and is its principal law enforcement and anti-terrorism data base system. TECS is established as an overarching law enforcement information collection, analysis, and sharing environment that securely links telecommunications devices and personal computers to a central system and database. This environment is comprised of several modules designed to collect, maintain, and screen data as well as conduct analysis, screening, and information sharing. TECS databases contain temporary and permanent enforcement, inspection and intelligence records relevant to the anti-terrorism and law enforcement mission of U.S. Customs and Border Protection and numerous other federal agencies that it supports. Access is granted to those agencies which share a common need for data maintained in the system. TECS also allows direct access to other major law enforcement systems, including the Department of Justice's National Crime Information Center (NCIC), the National Law Enforcement Telecommunications Systems (NLETS), and the Canadian Police Information Centre (CPIC).

each county in New York State and in the Alabama counties of Cherokee, Chilton, DeKalb, Jackson, Jefferson, Shelby, and Tuscaloosa."

15.   Below, please find the following information for each SAC Office: the title of the specific employee(s) who searched (selected based upon consideration of who in a specific office possesses subject matter expertise and may possess responsive records), what systems/locations were searched, the search terms utilized (selected based on the judgment of the employee and their operational knowledge of the particular matter), and whether or not that specific SAC located any responsive documentation.

16.   The SAC Buffalo Office did not locate any responsive documentation. Upon receipt of the FOIA request from RDU on December 5, 2013, a FOIA POC in the SAC Buffalo Office reviewed the substance of the request and, based on experience and knowledge of their office's practices and activities, determined that a Mission Support Specialist should be tasked to search. The Mission Support Specialist, based on their experience and knowledge of the office's practices and activities, determined that all · Group Supervisors and Resident Agents in Charge within the SAC Buffalo area of responsibility would be reasonably likely to have responsive records, if any, and tasked all of them with searching for responsive records. Given their vast knowledge of investigative cases and/or priorities within their area of responsibility, the Group Supervisors and Resident Agents in Charge all reviewed the request and provided negative responses. Upon completion of the search, the SAC Buffalo Office submitted a "No Records" response to RDU on December 7, 2013.

17.   The SAC New York Office did not locate any responsive documentation. Upon receipt of the FOIA request from RDU on December 5, 2013, a FOIA POC in the SAC New

York Office reviewed the substance of the request and, based on experience and knowledge of their office's practices and activities, determined that a Special Agent should be tasked to search, as he would be reasonably likely to have responsive records, if any. The Special Agent searched for two hours in Microsoft Outlook (email) for terms such as "arrest", "residence", "statistical information", and "arrest statistics." Upon completion of the search, the Special Agent submitted a "No Records" response to RDU on August 28, 2014.

18.   The SAC New Orleans Office did not locate any responsive documentation. Upon receipt of the FOIA request from RDU on December 5, 2013, a FOIA POC in the SAC New Orleans Office reviewed the substance of the request and, based on experience and knowledge of their office's practices and activities, determined that the Resident Agent in Charge should be tasked to search, as he would be reasonably likely to have responsive records, if any. The Resident Agent in Charge conducted a two hour search of paper files physically located within the office, Microsoft Outlook (email), and employee work computers (both shared drives and hard drives), using the term "home enforcement operation." Upon completion of the search, the Resident Agent in Charge submitted a "No Records" response to RDU on December 11, 2013.

19.   Please note that differences in the title of the HSI employee who searched, number of employees who searched, locations searched, and the specific terms used to search are a result of various factors such as staffing allocations, subject matter expertise, resource allocation, and geographic priorities.

IV.   PLAINTIFF'S SPECIFIC SEARCH CHALLENGES

20.   By letter dated May 22, 2015, Plaintiff alleged that "even the information from HSI is incomplete, as it is limited to general enforcement statistics in New York and Alabama,

none of which are broken down by type of operation (i.e. whether they are home enforcement

operations.)" And by letter dated July 17, 2015, Plaintiff alleged that "even the information from

ICE's office of Homeland Security Investigations ("HSI") is incomplete, as it is limited to

general enforcement statistics in New York and Alabama, none of which are broken down by

type of operation, such as operations conducted in homes, jails, or workplaces."

21.   This information would fall under the purview of HSI. HSI does not track "home

enforcement operations," nor does HSI track whether an "operation" is conducted in a home, jail,

or workplace, and, thus, do not possess any responsive records to this part of the request. With

respect to LESIM, LESIM is not able to break out the information as requested to determine U.S.

vs. Non-US citizenship of "the number of parents taken into ICE Custody whose minor children

are U.S. citizens". Further, the system does not differentiate between target arrests and non-

target arrests, or gang members or gang associates. In addition, LESIM does not track

information on minor children as it relates to home enforcement operations, nor does LESIM

have the ability to determine indicators of parents of minor children who were removed as it

relates to home enforcement operations. LESIM cannot provide data regarding individuals with

convictions associated to violent crimes or misdemeanors involved in home enforcement

operations.

22.   By letters dated May 22, 2015 and July 17, 2015, Plaintiff alleged that "ICE has

failed to produce any other statistical information requested in Part (C)(2), such as statistics on

children encountered or arrested; contraband found; landlord participation; arrestees broken

down by race, national origin, gender and age; or gang members identified."

23.   This information would fall under the purview of ERO and HSI. HSI does not

track this specific information in the format that the plaintiff has requested as it relates to home

enforcement operations, and, thus, do not possess any responsive records to this part of the request.

24.   By letter dated May 22, 2015, Plaintiff alleged "ICE [has not] produced e-mails or other communications about surveillance activities, planned operations or objectives, identification of targets, or post-operation debriefings, as requested in Part (C)(2)." And, by letter dated July 17, 2015, Plaintiff alleged that "ICE has produced only a limited number of e-mails or other communications about surveillance activities, planned operations or objectives, identification of targets, or post-operation debriefings, as requested in Part (C)(2) of the Request... Those that have been produced related exclusively to a set of raids in 2011 that occurred in Nashville Tennessee..." The existence of these documents suggests strongly that such communications exist for other home enforcement operations that occurred within the jurisdiction of the New Orleans and New York Field Offices. Yet Plaintiffs have received no other such communications in the productions."

25.   This information would fall under the purview of HSI. HSI provided responsive pages to ICE FOIA involving operations that took place in Nashville, TN, that were responsive to the FOIA request. As detailed above, the SAC Buffalo, SAC New York, and SAC New Orleans Offices conducted searches on this topic and did not return any responsive documents. Therefore, HSI has produced all documents found in a search that was reasonably calculated to uncover responsive records to the Request, if any.
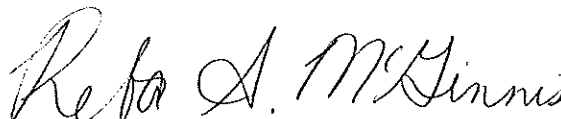
26.   By letter dated May 22, 2015, Plaintiff alleged "the productions have not revealed the criteria ICE uses to identify targets or to designate targets and arrestees as gang members (*see* October 17, 2013 FOIA Request Part (C)(1)(b))." And by letter dated July 17, 2015, Plaintiff

alleged "the productions do not include the criteria ICE uses to identify or designate targets and arrestees as gang members, as requested in Part (C)(1)(b) of the FOIA Request."

27.   This information would not fall under the purview of HSI. HSI does not track this specific information as it relates to home enforcement operations and identifying specific targets as gang members, and thus does not possess any responsive records to this part of the request.

V.   JURAT CLAUSE

I declare under penalty of perjury that the forgoing is true and correct to the best of my knowledge and belief. Signed this 30th day of September 2015.

Reba McGinnis, Unit Chef
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