

EXHIBIT 2

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 PAULA HARRINGTON
IN SUPPORT OF THE UNITED STATES IMMIGRATION AND CUSTOMS
ENFORCEMENT AGENCY**

I. INTRODUCTION

I, Paula Harrington, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am the Unit Chief of the Information Disclosure Unit (IDU) within Enforcement and Removal Operations (ERO) at U.S. Immigration and Customs Enforcement (ICE). I served as the Acting Chief from June 2014 until July 26, 2015, when I became the Unit Chief. Prior to joining ICE in 2008 as a Management and Program Analyst, I spent 31 years at the Justice Department in various positions with the last being a Budget Analyst in the Executive Office for United States Attorneys. The IDU mailing address is 500 12th Street, S.W., STOP 5202, Washington, D.C. 20536-5202.

2. IDU coordinates and processes ERO responses to FOIA requests, serves as ERO audit liaisons, and coordinates ERO responses for litigation information and documentation with the Department of Homeland Security's (DHS) legal divisions.

3. As the Unit Chief, my official duties and responsibilities include the general management, oversight, and supervision of IDU. I manage and supervise a staff comprised of Management and Program Analysts, Writer Editors, a Mission Support Specialist, a Staff Assistant, and a Detention and Deportation Officer who report to me regarding their areas of responsibilities.

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. This declaration provides a description of how ICE's Office of Enforcement and Removal Operations (ERO) searched for documentation in response to the Plaintiff's FOIA request.

5. In my role as the Unit Chief for IDU, I am familiar with the FOIA request submitted by Plaintiffs to ICE dated October 17, 2013. 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 ERO AND PROGRAM OFFICES TASKED WITH SEARCHING FOR RECORDS IN RESPONSE TO PLAINTIFF'S FOIA REQUEST

6. ERO enforces the nation's immigration laws. ERO identifies and apprehends removable aliens, detains these individuals when necessary, and removes illegal aliens from the United States. ERO prioritizes the apprehension, arrest, and removal of convicted criminals, those who pose a threat to national security, fugitives, and recent border entrants. ERO transports

removable aliens from point to point, manages aliens in custody or in an alternative to detention program, provides access to legal resources and representatives of advocacy groups, and removes individuals from the United States who have been ordered to be deported. ERO's mission is carried out nationwide by 24 ERO Field Offices, each with its own area of responsibility.

7. When ERO receives a FOIA tasking from the ICE FOIA Office, the request is submitted to ERO's Information Disclosure Unit (IDU). Point of contacts (POCs) in IDU review the substance of the request. Based on subject matter expertise and knowledge of the program offices' activities within ERO, IDU forwards the FOIA request to specific individuals and component offices, and directs the to conduct searches of their file systems (including both paper files and electronic files) which in their judgment, based on their knowledge of the manner in which they routinely keep records, would be reasonably likely to have responsive records, if any. The employees exercise discretion, based on their operational knowledge and subject matter expertise, in choosing the specific search terms utilized to ascertain whether or not potentially responsive documentation exists. Once searches are completed, the individuals and component offices provide any potentially responsive records to the IDU POC, who in turn provides the records to the ICE FOIA Office. The ICE FOIA Office then reviews the collected records for responsiveness.

8. On November 7, 2013, the ICE FOIA Office tasked ERO with responding to Plaintiff's FOIA request. A POC in ERO IDU received and reviewed the request. Based upon subject matter expertise and knowledge of the program offices' activities within ERO, IDU determined searches at the headquarters (HQ) level for potentially responsive documentation should be conducted. Accordingly, IDU tasked the below offices, as those offices were reasonably likely to have responsive records, if any. Below, please find an explanation of the offices tasked at the HQ level:

- a. ICE ERO Law Enforcement Systems & Analysis (LESA): LESA is responsible for helping the development of ERO strategies and supporting continuous enhancement of ERO business processes to execute those strategies. Through data collection and analysis and technology and process improvements, LESA delivers tools, studies, and recommendations that assist ICE's decision-making and planning (strategic, business, and operational). LESA studies ICE's operations and resources (personnel, processes, technology, and infrastructure) to find areas for continuous improvement. Additionally, LESA manages the Law Enforcement Support Center (LESC), ICE's communications link between federal, state, and local law enforcement. Upon receipt of the initial FOIA request from IDU on November 12, 2013, a FOIA POC in LESA reviewed the substance of the request and, based on their experience and knowledge of their office's practices and activities, tasked a LESA Manager to search for potentially responsive documentation. On November 14, 2013, the LESA Manager responded to IDU, indicating that LESA does not track information on home enforcement operations, including home operations conducted; arrests, book ins, or removals associated with home enforcement operations; landlord participation in home enforcement operations; contraband found during home enforcement operations; misconduct during home enforcement operations; or home enforcement operation supervision information; and therefore a search would not be reasonably calculated to uncover any relevant documents.
- b. Secure Communities and Enforcement (now identified as Enforcement): Enforcement was tasked because they work with state and local law enforcement to take custody of individuals who pose a danger to public safety before those individuals are released into communities. Upon receipt of the initial FOIA request from IDU on November 12, 2013, a FOIA POC in the Enforcement Division reviewed the substance of the request and, based on their experience and knowledge of their office's practices and activities, tasked the Enforcement SC&E Acting Unit Chief to search for potentially responsive documentation. The Enforcement SC&E Acting Unit Chief conducted a search for 3 hours. He did not use any search terms, but conducted a manual review of local folders on his computer, including shared network drives, as well as the ICE intranet, in an effort to locate the relevant policies and documents. This manual review was based on his knowledge of the relevant policies and documents and their locations on the shared drives and on his computer. The Acting Unit Chief located responsive documentation, which was provided to ICE FOIA on December 3, 2013, and was released to the Plaintiff in rolling productions between December 19, 2014, and March 19, 2015.
- c. ERO Policy: ERO Policy offers guidance and acts at the policy liaison with ERO programs and ICE program offices. ERO Policy assists with formatting drafts, coordinates ERO-wide reviews, and de-conflicts with ICE program offices. Although ERO Policy was tasked with this request, the ERO Information Disclosure Unit Section Chief determined that any relevant policy information was already obtained from SC&E. Upon his review of the information provided by SC&E, he determined that any information provided by ERO Policy would be duplicative. SC&E has the same access to this information as ERO Policy, and, more importantly, the practical,

expert knowledge of which ERO policies concern home enforcement operations. As such, the ERO IDU Unit Section Chief determined that SC&E was the program office within ERO that would be reasonably likely to have responsive records, if any, and therefore, ERO Policy did not conduct a search for this Request.

III. DESCRIPTIONS OF THE OFFICES TASKED WITH SEARCHING FOR RECORDS IN RESPONSE TO PLAINTIFFS FILING OF THE COMPLAINT

9. In response to the filing of the complaint in the present litigation, and upon litigation review, ERO IDU additionally tasked the following offices at the Headquarters level to search for responsive documentation, as it was determined that those offices were reasonably likely to have responsive records, if any:

- a. LESA: After a litigation review, on August 17, 2015, the ERO IDU again tasked LESA, requesting that a Unit Chief conduct an additional search and provide all documentation concerning the Request. The LESA Unit Chief reviewed the Request and reconfirmed that they could not provide the requested data. The LESA Unit Chief advised that when LESA renders a "No Records" determination, it is based on their experience and knowledge of LESAs database and reporting capabilities.

10. Additionally, upon litigation review of the FOIA request, ERO IDU, in collaboration with the ICE FOIA Office, determined that three (3) Field Offices would be tasked with the FOIA request as based on the substance of the request, they were reasonably likely to have responsive records, if any. ERO has 24 Field Offices throughout the United States. The Field Offices are responsible for the administration and management of all enforcement activities within the geographic boundaries of the office. ERO IDU, based upon their knowledge and experience, determined that these three FOD offices were reasonably likely to have responsive records, if any. Therefore, on August 18, 2015, the FOIA request was sent to ERO's Buffalo Field Office, ERO's New Orleans Field Office, and ERO's New York City Field Office.

11. Below, please find a breakdown for each Field Office the following: the title of the specific employee(s) who searched (selected by the FOIA POC in each Field Office, based upon that person's knowledge and experience regarding who in a specific office possesses subject matter

expertise and is reasonably likely to possess responsive records), what systems/locations were searched, a sampling of 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 Field Office located any responsive documentation:

- a. Buffalo: The Buffalo Field Office did not locate any responsive documentation. Upon receipt of the FOIA request from IDU, a FOIA POC with the Buffalo Field Office reviewed the substance of the request and, based on subject matter expertise and knowledge of their office's practices and activities, determined that a Deputy Field Officer Director should be tasked to search, as he would be reasonably likely to have responsive records, if any. The Deputy Field Officer Director searched Microsoft Outlook (email) and personal computers (both shared drives and hard drives), for terms such as "home enforcement operations", "non-targets", "collaterals," "targets," "quotas," "landlord," "contraband," "statistics," and "misconduct." Upon completion of the search, the Deputy Field Officer Director submitted a "No Records" response to IDU on August 19, 2015.
- b. New Orleans: The New Orleans Field Office did not locate any responsive documentation. Upon receipt of the FOIA request from IDU, a FOIA POC with the New Orleans Field Office reviewed the substance of the request and, based on subject matter expertise and knowledge of their office's practices and activities, determined that a Supervisory Detention & Deportation Officer should be tasked to search, as he would be reasonably likely to have responsive records, if any. The Supervisory Detention & Deportation Officer searched Microsoft Outlook (email) and computers (both shared drives and hard drives), for terms such as "home enforcement", "raids", "DeKalb Co.," "Cherokee Co.," "Chilton Co.," "Jackson Co.," "Jefferson Co.," "Shelby Co.," and "Tuscaloosa Co." Upon completion of the search, the Supervisory Detention & Deportation Officer submitted a "No Records" response to IDU on August 24, 2014.
- c. New York: The New York Field Office located responsive documentation. Upon receipt of the FOIA request from IDU, a FOIA POC with the New York Field Office reviewed the substance of the request and, based on subject matter expertise and knowledge of their office's practices and activities, determined that two (2) Assistant Field Officer Directors should be tasked to search, as they would be reasonably likely to have responsive records, if any. The Assistant Field Officer Directors searched Microsoft Outlook (email), and computers (both shared drives and hard drives), for terms such as "fugitive operations," "home enforcement," "home," "raids," "raid," and "DRO/ERO policy." Upon completion of the search, the Assistant Field Office Directors submitted five memoranda to IDU on August 25, 2015. The responsive pages were processed by ICE FOIA and released to the Plaintiff on August 31, 2015.

12. Please note that differences in the title of the ERO 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, geographic priorities, and the existence (or lack thereof) of any established relationship an ERO Field Office may or may not have with a state driver's license authority.

IV. PLANTIFF'S SPECIFIC SEARCH CHALLENGES

13. By letter dated May 22, 2015, Plaintiff alleged that "there is no data whatsoever from ERO home enforcement operations or any other ERO enforcement programs." By letter to the Court, dated July 17, 2015, Plaintiff alleged that "Although ICE represented to the Court in November 2014 that its Office of Enforcement and Removal Operations ("ERO") 'oversees programs and conducts operations to identify and apprehend removable aliens' and 'manages all logistical aspects of the removal process,' ...there is no statistical data whatsoever relating to ERO home operations or to any other ERO enforcement programs."

14. LESA advised that when they render a "No Records" determination, it is based on their experience with and knowledge of LESAs database and reporting capabilities. ERO does conduct operations and their Fugitive Operations teams make arrests which are a part of their daily activities, some of which are made at an individual's residence. However, LESA was unable to statistically ascertain the exact location where the officer made contact with the individuals. This information is primarily maintained within the I-213 narrative and LESA is unable to extract narratives for statistical reporting. As it relates to "Home Enforcement Operations," LESA does not track this information in the format that the plaintiff's request; therefore, LESA is unable to provide the information requested. As an example, LESA does not have a specific operation code for "Home Enforcement Operation." As it relates to home enforcement operations, LESA is unable to provide

data based on county or state and does not track and is unable to provide addresses on non-target vs collateral individuals, and additionally provide arrest addresses to include zip codes. LESA is unable to provide the requested data in the format that the plaintiffs have requested as they do not track the specific data points being requested. Because LESA does not track information on Home Enforcement Operations conducted; arrests, book ins, or removals associated with Home Enforcement Operations; Landlord Participation; Contraband; Misconduct; or raid Supervision associated with Home Enforcement Operations; it was determined that LESA had no responsive documents.

15. By letters dated May 22, 2015, and July 17, 2015, Plaintiff alleged that as it relates to home enforcement operations, "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."

16. This information would fall under the purviews of both ERO and HSI. ERO does not track this specific information, and thus do not possess any responsive records to this part of the request.

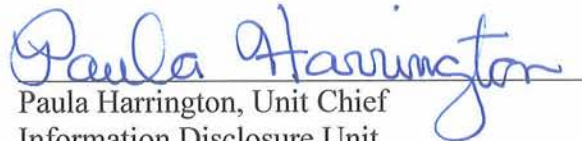
17. By letter dated May 22, 2015, Plaintiff alleged "The most recent document addressing how the National Fugitive Operations Program (NFOP) deals with information gathering and other planning for home operations is dated July 23, 2010, and set for review on July 23, 2014, indicating that a more recent document is available and yet was not produced."

18. This information would fall under the purview of ERO. The document in question, titled the Enforcement and Removal Operations Fugitive Operations Handbook, is the most current

version of the policy, and therefore, ERO does not possess any more current policy that would be responsive 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.



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