

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

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ABDIQAFAR WAGAFE, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	No. 2:17-cv-00094-RAJ
)	
DONALD TRUMP, President of the United)	
States, <i>et al.</i> ,)	
)	
Defendants.)	
_____)	

DECLARATION OF TATUM KING

I, Tatum King, hereby state as follows:

1. I am the Assistant Director, Domestic Operations, Homeland Security Investigations (HSI), U.S. Immigration and Customs Enforcement (ICE), an agency in the Department of Homeland Security (DHS). Following the enactment of the Homeland Security Act of 2002, ICE was created from elements of several legacy agencies, including the criminal investigations staffs of the former U.S. Customs Service (USCS) and the former Immigration and Naturalization Service (INS). As a result, all Special Agents who formerly worked for the USCS and the INS became a part of ICE. ICE is the second largest investigative agency in the Federal Government. Within ICE, HSI has approximately 8,260 employees, including over 6,100 Special Agents assigned to twenty-six (26) Special Agent-in-Charge (SAC) offices in cities throughout the United States and in countries around the world. Special Agents have a wide array of responsibilities relating to the investigation of criminal activity relating to illicit trade, travel, and finance, which in addition to investigating violations of the country's immigration

laws, includes the investigation of contraband and merchandise smuggling, money laundering, fraud in both import and export transactions, and other criminal activity.

2. As the Assistant Director of HSI's Domestic Operations, I provide oversight and support to all HSI domestic field personnel, including 26 SACs with responsibility for more than 200 offices. In this capacity, I am responsible for strategic planning, national policy implementation and the development and execution of operational initiatives. The offices under my direction are responsible for leading HSI's effort to identify, disrupt, and dismantle terrorist and other transnational criminal organizations that threaten the security of the United States.
3. As ICE is the largest investigative arm of DHS, HSI may share sensitive law enforcement information with other agencies in furtherance of homeland security. The information can include investigations into active criminal enterprises and national security threats, including counterterrorism, counter-proliferation, and visa violations with national security or public safety concerns. ICE's mission strongly depends on the use of sensitive law enforcement and investigative techniques and methods which are not widely known to the public. The disclosure of these techniques and methods would seriously compromise ICE's ability to perform its mission to enforce the law.
4. This declaration is based on my personal knowledge, my personal review and appraisal of the claims of law enforcement privilege hereby asserted and the factual background of the case, as well as information conveyed to me by my staff and other knowledgeable ICE personnel in the course of my official duties and responsibilities.
5. I have personally reviewed the ICE records and information that were included in the A-files produced in this case. I am making this Declaration for the purpose of asserting the law enforcement privilege with respect to that information. For the reasons set forth below, I

have determined that the disclosure of this information would be contrary to the public interest, because it would reveal ICE's confidential law enforcement techniques, methods and procedures, as further discussed below.

The documents at issue fall into the following categories:

- a. Database printouts including printouts from the Treasury Enforcement Communications Systems (TECS), the Advance Visual Abstracted Links and Name Collection Handler Engine (AVALANCHE), and the Student and Exchange Visitor Information System (SEVIS) databases; and
 - b. Emails between USCIS employees and HSI agents.
6. Based upon my personal review of the documents described above, I am formally asserting the law enforcement and deliberative process privileges over the above-referenced information. In support of this assertion I make the following statements.

7. The release of these unredacted and withheld documents described above would effectively reveal sensitive and privileged law enforcement information, in addition to revealing the general nature of ICE law enforcement techniques, procedures, and guidelines. Revealing such sensitive and privileged information could undermine the efforts of ICE to carry out its mission of identifying criminal activities and eliminating vulnerabilities that pose a threat to our nation's borders, as well as ensuring economic, transportation and infrastructure security. The release of this information could also reveal the pre-decisional decision-making process potentially resulting in a hinderance of candid discussions between federal agencies.

Database Printouts

8. Disclosure of the details in ICE databases could further enable any subject of investigation to evade investigations by disclosing the types of information ICE is interested in when the agency undertakes specific types of investigations. Disclosure of such information increases the likelihood that subjects and potential subjects of such investigations will develop methods

to obscure or alter such information and thereby circumvent the agency's efforts to collect information and evidence to thwart serious violations that may affect the national security.

9. The documents at issue are from the following databases: TECS, AVALANCHE, and SEVIS. TECS is an inter-agency database that ICE used in the course of conducting its investigations. The capabilities and functions of TECS among law enforcement officials are not generally known to members of the public. They are routinely withheld from public disclosure to protect the integrity of the data and the privileged law enforcement information that TECS contain. In addition to ICE, TECS is used by more than 40 federal law enforcement agencies, including the FBI and the Secret Service. In turn, TECS interfaces with many of the databases belonging to these federal law enforcement agencies. Information from other federal law enforcement databases were communicated to ICE law enforcement officials through TECS. AVALANCHE, an ICE system no longer in operation, provided users the capability to rapidly search across multiple databases. AVALANCHE previously searched 15 databases consisting of approximately 50 million indexed names, vehicles and addresses. AVALANCHE allowed searching by multiple fields including name, social security number, Fingerprint Identification Numbering System (FINS), Alien File Number, and date of birth. SEVIS is a critical tool in the Student and Exchange Visitor Program's mission to protect national security while supporting the legal entry of more than one million international students (F and M visa holders) and exchange visitors (J visa holders) into the United States.
10. The following types of codes appear in TECS, AVALANCHE, and SEVIS records: case/file numbers, report numbers, class numbers, source symbol numbers, case program codes, access codes, classification codes, identification numbers, investigative distribution codes,

computer function commands and other administrative codes. Some of the codes serve a dual purpose. Aside from the purposes of indexing, storing, locating, retrieving and distributing information, these codes also indicate various aspects of the investigative case, such as: the type and location of the case; whether or not the subject should undergo close inspection; and the distribution of information relating to the case, which would indicate the scope and relative size of the investigation in terms of agency resources, types of activity being investigated and location of investigative efforts. Release of these codes, along with computer function commands, could assist third parties in deciphering the meanings of the codes, which could potentially impede ongoing investigations as well as pose a danger to ICE personnel. This information was also redacted to reduce the possibility that someone would improperly gain access to any of these databases (i.e., a “hacker”) and would be able to navigate the systems that housed ICE investigative records.

11. These records also contain remarks and information which would reveal law enforcement strategies and investigation techniques. As noted above, release of this information increases the likelihood that subjects and potential subjects of such investigations will develop methods to obscure or alter such information and thereby circumvent the agency’s efforts to collect information and evidence to thwart serious violations that may affect the national security.

E-Mails

12. E-mail communications by and between USCIS employees and ICE agents include details of the agents’ investigative efforts. Disclosure of this information could reveal investigative techniques and procedures, as well as reveal names of individuals who were, and possibly still are, subjects of investigations. Furthermore, disclosure may inhibit the candid discussion of pre-decisional matters between agencies and/or components. Protections over

these communications is needed to promote the free flow of information, needed to make well-informed determinations.

13. Special Agents handle a myriad of tasks relating to official investigations into the criminal activities of third-parties. The agents were, and are, in positions of access to information regarding official law enforcement investigations and immigration proceedings. If their identities are released, including individual telephone numbers and addresses, they could become targets of harassing or coercive inquiries for unauthorized access to information pertaining to ongoing and closed investigations, thereby compromising ICE's law enforcement operations. Additionally, such disclosure could compromise the safety of these officials.

Insufficiency of a protective order

14. A protective order allowing ICE to reveal this information in this litigation is not acceptable. The safety of ICE agents involved in ICE's investigations and the national security could be placed in jeopardy as a result of disruptions to the agency's law enforcement efforts. Moreover, even the inadvertent disclosure of information by the plaintiff creates the risk of compromising investigative techniques, methods, and thus investigations. The plaintiff and his attorneys may not have the knowledge of law enforcement and investigative processes, techniques, and methods, to enable them to understand and identify the sensitive nature of the information claimed herein as protected by the law enforcement privilege. Without directing any aspersions toward the integrity of plaintiffs' attorneys, this agency simply cannot afford even a slight risk that the attorneys most closely involved with this case could lose possession or control of the documents or otherwise compromise their security, leading to improper and unauthorized use of the information. This risk of disruption and serious injury

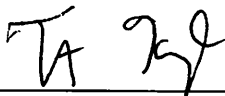
to ongoing and future investigations and serious injury to the results of prior investigations that would be caused by even inadvertent release of ICE's use of these investigative techniques and methods is unacceptable to ICE for the reasons stated above.

Conclusion

15. The disclosure of the information discussed herein would allow potential violators to discover or circumvent ICE investigative techniques, and endanger HSI operations and employees. Specifically, the disclosure of these techniques would enable potential violators to evade HSI investigations and law enforcement activities, thus compromising the safety of HSI agents and the public. The disclosure of this information would also jeopardize the overall effectiveness of ICE and third-party investigations.
16. Therefore, I respectfully assert the law enforcement privilege with respect to this information, for the reasons set forth above.

Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed in Washington, D.C. this 9th day of April, 2018.



Tatum King
Assistant Director, Domestic Operations
Office of Homeland Security Investigations
U.S. Immigration and Customs Enforcement