

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

AYMAN LATIF, et al., <i>Plaintiffs,</i>	Case 3:10-cv-00750-BR
v. LORETTA E. LYNCH, et al., <i>Defendants.</i>	Declaration of TIMOTHY P. GROH

DECLARATION OF TIMOTHY P. GROH

I, TIMOTHY P. GROH, hereby declare the following:

1. I am the DEPUTY DIRECTOR FOR OPERATIONS of the Terrorist Screening Center (“TSC”) and I have held this position since April 23, 2016.
2. I make this declaration in support of the government's Motion to Dismiss for Lack of Jurisdiction in *Latif v. Lynch*, 10-cv-750 (D. Ore.). The matters stated herein are based on my personal knowledge and my review and consideration of information available to me in my official capacity, including information furnished by TSC personnel, as well as other government agency employees or contract employees acting in the course of their official duties.
3. I incorporate by reference the declaration of G. Clayton Grigg, then-Deputy Director for Operations at the TSC, filed in this case on May 28, 2015 (Dkt. No. 253). The purpose of this declaration is to provide additional information regarding the roles of the TSC, TSA and other relevant agencies in the redress process for individuals who were denied boarding a commercial aircraft due to their placement on the No Fly List. This

declaration supplements the Joint Stipulations Regarding Jurisdiction filed on December 20, 2016 (Joint Stipulations) in *Latif v. Lynch*, 10-cv-750 (D. Or.). In particular, I address below the process of interagency consultations concerning the sharing and disclosure of information in the redress process with both the applicant and with the TSA Administrator before TSA makes a final determination and issues a final order.

4. In determining what information can be disclosed in the redress process, either in DHS TRIP correspondence with an individual who files a redress inquiry or in the TSA Administrator's final order, as described in Joint Stipulations 15, 18, and 21, the agencies that control the information ultimately decide what, if any, unclassified information can be released to the individual through DHS TRIP correspondence, and what information must be withheld from or may be disclosed in a final TSA order. While these determinations are subject, in the ordinary course, to interagency deliberation, discussion, and negotiation, if the agency controlling the information has made a final determination about what can or cannot be disclosed, neither the TSC nor TSA has the authority to override this decision.
5. Similarly, in preparing its recommendation to the TSA Administrator as described in Joint Stipulation 17, the TSC consults relevant agencies to determine what information can be included in the recommendation. The TSC does not necessarily include all information the TSC has access to in its files about the individual, but includes sufficient information to support the recommendation and any material information regarding the individual's inclusion on the No Fly List. In all cases, questions about inclusion or exclusion of information, or the basis for a determination or recommendation, are resolved through interagency consultation, discussion, and negotiation.

6. The TSA Administrator may request additional information or consult with the TSC and/or any affected agencies, including any nominating agency, regarding any concerns that may arise from the recommendation or the record before the TSA Administrator. Such questions and/or concerns are addressed through interagency consultation.
7. Despite the TSC's written recommendation that an individual should remain on the No Fly list, the TSA Administrator has full authority to order the individual removed from the No Fly List, in which case the individual will be removed.
8. In the instant case, as part of the reconsideration of Plaintiffs' DHS TRIP petitions following the Court's order of June 24, 2014, the TSC determined at that time, in consultation with appropriate federal agencies, that certain Plaintiffs were either not on the No Fly List or had been removed. Defendants' counsel thereafter informed those Plaintiffs that, as of October 10, 2014, they were not on the No Fly List.
9. As to the other six Plaintiffs, the TSC recommended each of them remain on the No Fly List and the information included in those recommendations was approved for inclusion by the agency or agencies that controlled the relevant information.
10. All six of the Plaintiffs who were informed they were on the No Fly List responded by seeking additional review. Upon DHS TRIP's receipt of these responses, DHS TRIP forwarded the responses to the TSC.
11. In preparing its recommendations to the Acting TSA Administrator that each remaining named Plaintiff should remain on the No Fly List, the TSC consulted the agency or agencies controlling the relevant information and, pursuant to interagency consultation and discussion, those agencies ultimately determined what unclassified information could be provided to Plaintiffs.

12. The Acting TSA Administrator issued final orders to five of these Plaintiffs on January 21, 2015, and to the remaining one of these Plaintiffs on January 28, 2015. See Joint Stipulation 26.

Pursuant to Title 28, United States Code, Section 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed this 18th day of January, 2017 in Washington, D.C.

A handwritten signature in blue ink, appearing to read "Timothy P. Groh", is written over a horizontal line.

TIMOTHY P. GROH
DEPUTY DIRECTOR FOR OPERATIONS
Terrorist Screening Center