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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA

10 RAHINAH IBRAHIM, )  
 )  
11 Plaintiff, )  
 )  
12 v. )  
 )  
13 DEPARTMENT OF HOMELAND )  
SECURITY, et al., )  
 )  
14 Defendants. )  
 )

No. CV 06-00545 WHA

FEDERAL DEFENDANTS' SUPPLEMENTAL  
STATEMENT OF THE CONTENTS OF THE  
SENSITIVE SECURITY INFORMATION THAT  
HAS BEEN FILED UNDER SEAL

15 Pursuant to the Court's Order of May 23, 2006, instructing the federal defendants to  
16 describe with as much detail as practicable the contents of the two Security Directives that were  
17 submitted to the Court for filing under seal, the federal defendants represent as follows:

18 1. As required by statute, 49 U.S.C. § 114(h)(2), the Transportation Security  
19 Administration ("TSA") has established procedures for notifying airline security officers of the  
20 identity of individuals known to pose, or suspected of posing, a risk of air piracy or terrorism, or  
21 a threat to airline or passenger security. If any such individual seeks to board an aircraft, the  
22 statute requires the airlines to notify appropriate law enforcement agencies, prevent the  
23 individual from boarding the aircraft, or take other appropriate action with respect to that  
24 individual. *Id.*

25 2. TSA has implemented these requirements by issuing a series of Security Directives  
26 to regulated aircraft operators and Emergency Amendments to foreign air carriers. *See*

1 Declaration of Joseph Salvator, Deputy Assistant Administrator for Intelligence, TSA, United  
2 States Department of Homeland Security, ¶ 7 (which was filed on May 22, 2006 in support of the  
3 federal defendants' motion to dismiss). The documents that were submitted to the Court for  
4 filing under seal consist of two Security Directives which direct air carriers to implement specific  
5 security procedures and to take specific security measures with respect to individuals who are  
6 identified on one of two TSA watch lists: the "No Fly List" and the "Selectee List." *Id.* The first  
7 of these two Security Directives applies specifically to the No Fly List. Individuals on this list  
8 are prohibited from flying altogether. *Id.* The second Security Directive applies specifically to  
9 the Selectee List. Individuals on the Selectee List must undergo additional security screening  
10 prior to boarding an aircraft. *Id.* Both of these lists are updated continually and the air carriers  
11 are required to monitor them closely. *Id.* From time to time, TSA revises the procedures  
12 prescribed in the Security Directives and issues new Security Directives that supercede those  
13 previously issued. *Id.*

14 3. TSA cannot further describe Security Directives on public record without  
15 undermining the effectiveness of the procedures set forth therein and directly compromising the  
16 security of the traveling public. *Id.*, ¶ 8. As Mr. Salvator explains, "[d]isclosure of the specific  
17 security procedures to be followed by air carriers when they encounter an individual identified on  
18 the No Fly List or the Selectee List could enable terrorists and other violent criminals to identify  
19 potential weaknesses in the current security system, and to circumvent or otherwise defeat the  
20 security measures mandated by TSA." *Id.* Also, "[p]ublic disclosure of the identity of  
21 individuals on the No Fly List or Selectee List would compromise the safety and security of  
22 passengers by providing terrorists with information that may reveal which of their members have  
23 been compromised, and which of their members may board any aircraft without any form of  
24 enhanced security." *Id.* For these reasons, TSA's regulations expressly prohibit the disclosure of  
25 the contents of the Security Directives and Emergency Amendments, 49 C.F.R. §§ 1520.5(b)(1),  
26  
27

1 (b)(2); and of the selection criteria to be used in screening airline passengers, 49 C.F.R. §  
2 1520.5(b)(9)(I).<sup>1</sup>

3 Respectfully submitted,

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14 May 26, 2006

15 Attorneys for Defendants.

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22 <sup>1</sup> The Court in its Order of May 23, 2006 provisionally granted the federal defendants'  
23 motion to file these Security Directives under seal, stating that "[a] final determination on  
24 whether the information is to remain under seal . . . cannot be made until the Court completes  
25 this review." With respect, if the Court were ultimately to determine not to accept these records  
26 for filing under seal, the federal defendants request that the Security Directives not be publicly  
27 released or disseminated in any way. Rather, federal defendants respectfully request that the  
28 Court return these records to the TSA or, alternatively, allow the government opportunity to  
decide whether to appeal the Court's ruling and possibly seek a stay of the Court's decision  
pending appeal.