

DECLARATION OF MARIA RICH

I, Maria Rich, hereby declare and state as follows:

1. I am the Deputy Executive Director, Passenger Systems Program Office, Office of Information and Technology, U.S. Customs and Border Protection ("CBP"), within the U.S. Department of Homeland Security ("DHS") and I have held this position since February 2009. I initially worked for CBP (formerly the U.S. Customs Service) as a contractor for twenty years working on TECS related projects starting in 1984. I have been working with CBP as a federal employee since January 2007. I was hired and assigned to Passenger Systems Program Office, where I remain to this day. During the course of these assignments, I became recognized as an expert on TECS, a law enforcement information system, and attained a working knowledge of the Advance Passenger Information System (APIS) and the Border Crossing Information (BCI) applications. I make this declaration based on my personal knowledge and information I have received in the performance of my official duties. This declaration is intended to supplement information already provided concerning audit functions of TECS and BCI and the "accounting of disclosure" to third parties as it pertains to TECS.
2. The Passenger Systems Program Office, OIT, is responsible for TECS, APIS and BCI systems. Border Crossing Information is stored within TECS, and was called out specifically and separately as a system of record, leading to the acronym BCIS being used in the System of Record Notice (SORN). Detailed information regarding TECS was published in the Notice of Privacy Act System of Records Notice ("SORN") at 73 FR 77778 (Dec. 19, 2008) ; the regulations at 6 C.F.R. Pt. 5, App. C, par. 22; and the initial SORN for TECS located at 66 FR 52984.

3. TECS is principally owned and managed by CBP and is its principal law enforcement and anti-terrorism database system. TECS is established as an overarching law enforcement information collecting, analysis, and secure sharing environment. This environment is comprised of several modules designed to collect, maintain, and screen data as well as conduct analysis, screening, and information sharing. The TECS database contains temporary and permanent enforcement, inspection, and intelligence records relevant to the anti-terrorism and law enforcement mission of CBP and numerous other federal agencies that it supports. The purpose of the system is to track individuals who have violated or are suspected of violating a law or regulation that is enforced or administered by CBP, to provide a record of any inspections conducted at the border by CBP, to determine inadmissibility into the United States and to record information regarding individuals, firms, and organizations to whom DHS/CBP has issued detentions and warnings. The Secretary of DHS has exempted this system from the notification, access, and amendment procedures of the Privacy Act because it is a law enforcement system. 74 FR 45072 (Aug. 31, 2009). However, CBP will consider individual requests to determine whether or not information may be released. Id.

4. In general an “audit log” is a database table or application file that contains a journal of the application user’s data requests or queries into the related application data. Application audit logs allow System Administrators to respond to “user activity” requests from the CBP Internal Affairs Program Office. Audit logs can also be used to profile generic user behavior which can be used as a feedback loop for improving software development efforts. For TECS audit logs the application logs the users queries into a table that contains the user ID, date and time, sometimes location and activity performed such as the data values that were being used for the query. There are audit logs generated

in TECS that show when a record is created, updated and deleted. This information is stored using the record id; there are no audit logs stored by Subject Name.

5. A TECS Subject Record is a method of communicating known or potential risk(s) to TECS users. Subject Records could be created against persons, conveyances, documents, or other entities which a TECS user may query. Creating a subject informs the TECS user the nature of the interest, should the subject be encountered. This provides guidance as to how to manage/conduct the encounter. Note the encounter may be in person or when vetting or research is conducted. The nature of the interest is reflected in the Status Code chosen, as well as within the remarks displayed.

To the best of my ability, I can find no TECS Subject Record for Mr. Hasbrouck. Since there is no Subject Record, there would be no audit log of Subject Record activity in TECS.

6. Border Crossing Information (BCI) system receives and maintains border crossing information on travelers who are admitted or paroled into the United States, including certain biographical information; a photograph; certain itinerary information provided by air and sea carriers and any other forms of passenger transportation, including rail, which is or may subsequently be mandated, or is or may be provided on a voluntary basis; and the time and location of the border crossing. Detailed information regarding the BCI system can be found in the Privacy Act System of Records Notice at 73 FR 43457 (Jul. 25, 2008), the Notice of Proposed Rulemaking for Privacy Act Exemption 73 FR 43374 (Jun. 25, 2008), the Final Rule for Privacy Act Exemptions 75 FR 5491 (Feb. 3, 2010), and 6 C.F.R. Pt.5, App. C, par. 46. The Secretary of DHS has exempted this system from the notification, access, and amendment procedures of the

Privacy Act because it is a law enforcement system. 75 FR 5491 (Feb. 3, 2010) and 6 C.F.R. Pt.5, App, C, par. 46.

Crossing history, which makes up BCI, is available but there is no audit log of the crossing history information at this time. There is crossing history/BCI for Plaintiff, corresponding to his crossings into the United States for which his name was queried. I also have reviewed the government's filings in this litigation and I am aware that the agency has released this crossing history to Plaintiff.

7. TECS has a requirement for completion of a DHS-191 form for disclosure of information to a third party. The predecessor to the DHS-191 form was the CF-191 (Customs Form 191). TECS Person Subject Records have an automated capture of the "stub" information necessary to generate a DHS-191. This information is recorded whenever anyone views a TECS Subject Records. There is no automated DHS-191 process for any other information stored in TECS, of which I am aware. Since there is no TECS Subject Record pertaining to Plaintiff, there would have been no viewing of a Subject Record, so there would be no automatically generated "stub" DHS-191 record generated.

JURAT CLAUSE

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Signed this 25th day of June, 2012


Maria Rich