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**ATTORNEYS FOR FEDERAL DEFENDANTS**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION**

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**AMERICAN CIVIL LIBERTIES  
UNION, AMERICAN CIVIL  
LIBERTIES UNION FOUNDATION,  
and AMERICAN CIVIL LIBERTIES  
UNION OF MONTANA  
FOUNDATION, INC.,**

**Plaintiffs,**

**vs.**

**DEPARTMENT OF DEFENSE,  
DEPARTMENT OF HOMELAND  
SECURITY, DEPARTMENT OF  
THE INTERIOR, and  
DEPARTMENT OF JUSTICE,**

**Defendants.**

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**CV 18-154-M-DWM**

**DECLARATION OF TERI  
MILLER**

I, Teri Miller, make the following declaration pursuant to 28 U.S.C. §1746:

1. I am the Freedom of Information Act (FOIA) Officer for the Transportation Security Administration (TSA), a component of the U.S. Department of Homeland Security (DHS). I am responsible for overseeing the processing of all requests made to TSA under FOIA, 5 U.S.C. § 552, and the Privacy Act, 5 U.S.C. § 552a; for initiating searches for records relevant to such requests; and for supervising the determination of what records or portions thereof should be disclosed and which should be withheld in part or in full.

2. In my capacity as TSA's FOIA Officer, I am familiar with TSA's obligations under FOIA and the Privacy Act, including application of the various exemptions thereunder. The statements made in this Declaration are based on my personal knowledge, information made available to me in the performance of my official duties, and conclusions and determinations reached and made in accordance therewith.

3. I am aware that Plaintiffs filed a Complaint, dated September 4, 2018, which seeks an order compelling the defendants to produce records in response to their FOIA request concerning cooperation between federal, state, and local law enforcement entities and between federal law enforcement entities and private security companies around preparations for anticipated protests against the Keystone XL Pipeline. As TSA's FOIA Officer, I am familiar with the processing of Plaintiffs' FOIA request, including the search for responsive documents in accordance with the FOIA.

4. By letter dated March 8, 2018, Mr. Jacob J. Hutt submitted a Freedom of Information Act (FOIA) request on behalf of the American Civil Liberties Union Foundation ("ACLU") to the TSA. Mr. Hutt requested all records created since January 24, 2017 concerning cooperation

between federal, state, and local law enforcement entities and between federal law enforcement entities and private security companies around preparation for anticipated protests against the Keystone XL pipeline.

5. TSA received the ACLU's FOIA request on March 12, 2018. TSA sent a request acknowledgement on March 12, 2018, and assigned the ACLU's request Case Number 2018-TSFO-00198. Given the terms of the ACLU's request, TSA's FOIA Branch tasked TSA's Law Enforcement/Federal Air Marshal Service (LE/FAMS) with conducting a search on March 12, 2018, with a due date of March 19, 2018. The requested records were described as follows:

The American Civil Liberties Union requests records pertaining to cooperation between federal, state, and local law enforcement entities and between federal law enforcement entities and private security companies around preparations for anticipated protests against the Keystone XL pipeline.

Search terms: cooperation between federal, state, and local law enforcement entities

A Federal Air Marshal (FAM) with the Information Coordination Section (ICS) of LE/FAMS was tasked with searching databases maintained by TSA that are the principal repositories of investigative or other information regarding travelers, including information about additional TSA or DHS scrutiny. The FAM searched the ICS Case Management System, which includes FAMS' activity reports, lookouts and documents from other agencies, advisories, and after-action reports, both electronically and manually. Within the ICS Case Management System, no responsive records were located. LE/FAMS informed TSA's FOIA Branch that it had conducted the search requested and did not discover any records in its possession that were responsive to

the request. On May 24, 2018, TSA sent a letter to the ACLU informing them that their FOIA request was processed, a search for records was conducted and no responsive records were located. Although the ACLU alleges that it filed an appeal of TSA's determination that it has no responsive records, TSA has no record of receiving the ACLU's appeal.

6. Following Plaintiff's filing of the instant action, TSA's FOIA Branch requested, on January 31, 2019, that TSA's LE/FAMS conduct an additional search utilizing the following search string: "'Keystone' and ('pipeline' or 'oil pipeline') and 'protest'" in a Boolean relationship (*e.g.*, within the same paragraph or within 100 words). On February 12, TSA's LE/FAMS confirmed that they conducted the search requested and the search resulted in no records found. Specifically, TSA's LE/FAMS searched the following databases using the search terms requested: Information Coordination Section; Special Mission Coverage; and Special Event Assessment Rating System. These databases were searched because that is where LE/FAMS would store records of this type, if they existed. If LE/FAMS were to have responsibility for coordinating and/or preparing for a protest at a pipeline, the LE/FAMS Director's Office, Field Operations Division and Flight Operations Division would be involved. Searches were conducted up to four times by groups in each division, specifically, by the Division Director of Flight Operations, the Information Coordination Section and Visible Intermodal Prevention and Response Sections in Field Operations, and the LE/FAMS Executive Advisor on behalf of the LE/FAMS Executive Assistant Administrator/Director in the Director's Office.

7. In the aftermath of September 11, 2001, Congress passed, on November 19, 2001, the Aviation and Transportation Security Act (ATSA). Pub. L. 107-71, 115 Stat 597. ATSA created TSA with the goal of preventing further terrorist attacks against the aviation industry, as well as all other modes of transportation. Among the many tasks ATSA gave to TSA were

responsibilities for: protect[ing] passengers and property on an aircraft operating in air transportation or intrastate air transportation against an act of criminal violence or aircraft piracy, 49 U.S.C. § 44903(b) (emphasis added); develop[ing] policies, strategies, and plans for dealing with threats to transportation security, see 49 USC § 114 (f)(3); in consultation with the airport operator and law enforcement authorities, order[ing] the deployment of such personnel at any secure area of the airport as necessary to counter the risk of criminal violence, the risk of aircraft piracy at the airport, the risk to air carrier aircraft operations at the airport, or to meet national security concerns; being responsible for day-to-day Federal security screening operations for passenger air transportation and intrastate air transportation under sections 44901 and 44935, see 49 USC § 114(e)(1); provid[ing] for the screening of all passengers and property,” see 49 CFR §44901(a); and establish[ing] a program for the hiring and training of security screening personnel,” see 49 CFR §44935(e)(1). The mission of LE/FAMS is to promote public confidence in the security of our Nation’s transportation domain. To achieve this mission, LE/FAMS deploys Federal Air Marshals (FAMs) on U.S. aircraft world-wide; conducts protection, response, detection, and assessment activities in airports and other transportation systems; maintains TSA’s state of preparedness and coordinates incident management; trains and manages all armed pilots; and coordinates all TSA canine assets. LE/FAMS is TSA’s primary law enforcement office. Given TSA’s and LE/FAMS’s statutory mandate, which does not extend to protecting the security of oil pipelines, it should be expected and understood that neither TSA nor LE/FAMS possess any documents responsive to Plaintiffs’ FOIA request.

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

Executed this 15 day of March, 2019, in Arlington, Virginia.

A handwritten signature in blue ink, appearing to read "Teri Miller", written in a cursive style.

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Teri Miller  
FOIA Officer  
Transportation Security Administration