

1 MORGAN, LEWIS & BOCKIUS LLP
Stephen Scotch-Marmo (admitted *pro hac vice*)
2 stephen.scotch-marmo@morganlewis.com
Michael James Ableson (admitted *pro hac vice*)
3 michael.ableson@morganlewis.com
101 Park Avenue
4 New York, NY 10178
Telephone: (212) 309-6000; Facsimile: (212) 309-6001

5 AMERICAN CIVIL LIBERTIES UNION
6 FOUNDATION OF NORTHERN CALIFORNIA
Linda Lye (SBN 215584), llye@aclunc.org
7 Julia Harumi Mass (SBN 189649), jmass@aclunc.org
39 Drumm Street
8 San Francisco, CA 94111
Telephone: (415) 621-2493; Facsimile: (415) 255-8437

9 ASIAN AMERICANS ADVANCING
10 JUSTICE - ASIAN LAW CAUCUS
Nasrina Bargzie (SBN 238917), nasrinab@advancingjustice-alc.org
11 Yaman Salahi (SBN 288752), yamans@advancingjustice-alc.org
55 Columbus Avenue
12 San Francisco, CA 94111
Telephone: (415) 848-7711; Facsimile: (415) 896-1702

13 *Attorneys for Plaintiffs*

14 Additional counsel listed on signature page of Plaintiffs’ special motion

15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17 SAN FRANCISCO DIVISION

18 WILEY GILL; JAMES PRIGOFF; TARIQ
RAZAK; KHALID IBRAHIM; and AARON
19 CONKLIN,

20 Plaintiffs,

21 v.

22 DEPARTMENT OF JUSTICE; LORETTA
LYNCH, in her official capacity as the
Attorney General of the United States;
23 PROGRAM MANAGER – INFORMATION
SHARING ENVIRONMENT;
24 KSTEMENDRA PAUL, in his official
capacity as the Program Manager of the
25 Information Sharing Environment,

26 Defendants.

Case No. 3:14-cv-03120 (RS)

**DECLARATION OF HUGH
HANDEYSIDE IN SUPPORT OF
PLAINTIFFS’ SPECIAL MOTION TO
ESTABLISH RIGHT TO DISCOVERY
ON THE DEPARTMENT OF
JUSTICE’S STANDARD FOR
SUSPICIOUS ACTIVITY REPORTING**

Hearing Date: August 20, 2015
Time: 1:30 p.m.
Judge: Hon. Richard Seeborg
Courtroom: 3, 17th Floor
Date of Filing: July 10, 2014
Trial Date: None Set

HANDEYSIDE DECLARATION
IN SUPPORT OF PLAINTIFFS’
SPECIAL MOTION TO ESTABLISH
RIGHT TO DISCOVERY
3:14-CV-03120 (RS)

DECLARATION OF HUGH HANDEYSIDE

I, Hugh Handeyside, declare as follows:

1. I am a staff attorney with the National Security Project at the American Civil Liberties Union (“ACLU”) and counsel for Plaintiffs in this action. I have personal knowledge of the facts set forth herein, and could and would testify competently thereto.

2. Attached hereto as Exhibit A is a copy of the Privacy Impact Assessment for the eGuardian System dated January 4, 2013, which is available on the website of the Federal Bureau of Investigation at <http://www.fbi.gov/foia/privacy-impact-assessments/eguardian-threat>.

3. Attached hereto as Exhibit B is a copy of Information Sharing Environment, Functional Standard, Suspicious Activity Reporting Version 1.0, which is available online at epic.org/privacy/fusion/ise-fs-200.pdf.

4. Attached hereto as Exhibit C is a copy of Information Sharing Environment, Functional Standard, Suspicious Activity Reporting Version 1.5.5, which is available online at http://nsi.ncirc.gov/documents/SAR_FS_1.5.5_PMISE.pdf.

5. Attached hereto as Exhibit D is a copy of a U.S. Government Accountability Office report titled, “Information Sharing: Additional Actions Could Help Ensure That Efforts to Share Terrorism-Related Suspicious Activity Reports Are Effective,” dated March 2013, which is available online at <http://www.gao.gov/assets/660/652995.pdf>. This report is referenced repeatedly in Plaintiffs’ Complaint. *See* Compl. ¶¶ 26-28, 54, 55, 59, 63, 64.

6. Attached hereto as Exhibit E is a copy of the cover page and § 5.1 of the Federal Bureau of Investigation’s Domestic Investigations and Operations Guide, dated October 15, 2011. The full document is available online at <http://goo.gl/vO4A8j>.

7. Attached hereto as Exhibit F is a copy of a “roll call release” dated July 26, 2010 and bearing the seals of the Department of Homeland Security (“DHS”) and the Federal Bureau of Investigation (“FBI”). This document is also attached as Exhibit F to Plaintiffs’ Complaint.

8. Attached hereto as Exhibit G is a copy of a document titled “The FBI’s Terrorism

HANDEYSIDE DECLARATION
IN SUPPORT OF PLAINTIFFS’
SPECIAL MOTION TO ESTABLISH
RIGHT TO DISCOVERY
3:14-CV-03120 (RS)

1 Quick Reference Card.” This document is also attached as Exhibit G to Plaintiffs’ Complaint.

2 9. Attached hereto as Exhibit H is a copy of a document titled “Communities Against
3 Terrorism” and bearing the seal of the Bureau of Justice Assistance. This document is also
4 attached as Exhibit H to Plaintiffs’ Complaint.

5 10. Attached hereto as Exhibit I is a copy of the FBI’s September 2008 announcement
6 of the eGuardian program, which is available online at
7 http://www.fbi.gov/news/stories/2008/september/eguardian_091908.

8 11. Attached hereto as Exhibit J are copies of a brochure and a “Frequently Asked
9 Questions” sheet for eGuardian that a former ACLU staff member obtained at a fusion center
10 conference in or around 2009.

11 12. In 2010, the ACLU submitted a Freedom of Information Act request to the FBI for
12 records related to its eGuardian program (“eGuardian FOIA”). The ACLU subsequently filed a
13 lawsuit arising out of the FOIA request and received over 1,900 pages of records related to both
14 eGuardian and the Nationwide Suspicious Activity Reporting Initiative.

15 13. Attached hereto as Exhibit K are copies of two documents the ACLU received in
16 response to its eGuardian FOIA request: (i) an outline for a “SAR Panel for the Northeast
17 Regional Fusion Center Meeting”; and (ii) an email message dated August 23, 2009 that appears
18 to be a cover email for the outline and references an expected question “clarifying the shared
19 space vs. eGuardian.”

20 14. Attached hereto as Exhibit L is a PowerPoint presentation on eGuardian that the
21 ACLU received in response to its eGuardian FOIA request.

22 15. Attached hereto as Exhibit M is a copy of an email message dated October 1, 2009
23 that the ACLU received in response to its eGuardian FOIA request.

24 16. Attached hereto as Exhibit N is an email message dated August 15, 2011 that the
25 ACLU received in response to its eGuardian FOIA request.

26 17. Attached hereto as Exhibit O is an email message dated November 3, 2011 that the
27

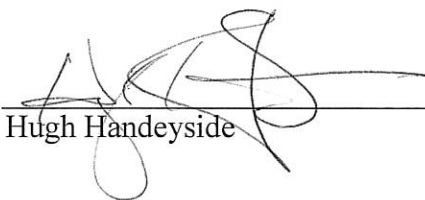
HANDEYSIDE DECLARATION
IN SUPPORT OF PLAINTIFFS’
SPECIAL MOTION TO ESTABLISH
RIGHT TO DISCOVERY
3:14-CV-03120 (RS)

1 ACLU received in response to its eGuardian FOIA request.

2 18. Attached hereto as Exhibit P is an email thread with messages dated from January
3 5 to January 7, 2012 that the ACLU received in response to its eGuardian FOIA request.

4 19. Attached hereto as Exhibit Q are the cover page and an excerpt from the
5 “Nationwide Suspicious Activity Reporting Initiative Concept of Operations,” issued by the
6 Program Manager for the Information Sharing Environment and dated December 2008. A full
7 copy of the document is available online at [http://www.ise.gov/sites/default/files/NSI_CONOP_](http://www.ise.gov/sites/default/files/NSI_CONOP_Version_1_FINAL_2008-12-11_r1.0.pdf)
8 [Version_1_FINAL_2008-12-11_r1.0.pdf](http://www.ise.gov/sites/default/files/NSI_CONOP_Version_1_FINAL_2008-12-11_r1.0.pdf).

9 I declare under penalty of perjury that the foregoing is true and correct. Executed this 3rd
10 day of June, 2015 in New York, NY.

11 
12 Hugh Handeyside

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

