

# Exhibit 3

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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ADHAM AMIN HASSOUN,

Petitioner,

Case No. 1:19-cv-370-EAW

v.

JEFFREY SEARLS, in his official capacity  
as Acting Assistant Field Office Director and  
Administrator, Buffalo Federal Detention  
Center,

Respondent.

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**RESPONDENT'S FIRST RESPONSE TO PETITIONER'S FIRST SET OF  
INTERROGATORIES**

In accordance with the Court's scheduling order of December 20, 2019 (ECF No. 58), Respondent Jeffrey Searls provides these responses to Petitioner Adham Amin Hassoun's First Set of Interrogatories. By responding to Petitioner's first set of interrogatories, Respondent does not waive his rights to rely on other facts or documents at the evidentiary hearing ordered by the Court. Additionally, by responding to Petitioner's interrogatories, Respondent does not waive his right to assert any and all objections to the admissibility of such evidence at the evidentiary hearing.

**OBJECTION WHICH APPLIES TO ALL INTERROGATORIES:**

Respondent maintains a standing objection to the convening of an evidentiary hearing, as all relevant factual information necessary for judicial review is contained within the administrative record. By providing responses to these Interrogatories, Respondent does not concede that an evidentiary hearing is appropriate.

**RESPONSES:**

**INTERROGATORY NO. 1:**

Identify all informants (including their past and present histories and locations of incarceration and/or detention) relied upon in preparing the Federal Bureau of Investigation's (FBI) letter dated February 21, 2019, and provided as part of the administrative record in this matter.

**RESPONSE TO INTERROGATORY NO. 1:**

Respondent objects to Interrogatory No. 1 as its use of the term "histories" is vague, undefined, and has the potential to result in unduly burdensome discovery.

Respondent also objects to Interrogatory No. 1 to the extent it requires responses regarding privileged information subject to the confidential informant privilege, which bars the disclosure of such information. The government may "withhold from disclosure the identity of persons who furnish information of violations of law to officers charged with enforcement of that law." *Roviaro v. United States*, 353 U.S. 53, 59 (1957). This "informer's privilege" "recognizes the obligation of citizens to communicate their knowledge of the commission of crimes to law-enforcement officials and, by preserving their anonymity, encourages them to perform that obligation." *Id.*

The Supreme Court "did not 'impose any absolute rule requiring disclosure of an informer's identity.'" *United States v. Skeens*, 449 F.2d 1066, 1070 (D.C. Cir. 1971). Rather, disclosure of an informer's identity must be "relevant and helpful to the" case of the party seeking disclosure, "or is essential to a fair determination of a cause." *Roviaro*, 353 U.S. at 60-61. The propriety of disclosure depends on the particular circumstances of each case, "taking into consideration the crime charged [in the criminal context], the possible defenses, the possible significance of the informer's testimony, and other relevant factors." *Id.* at 62; *see Rugendorf v.*

*United States*, 376 U.S. 528, 534-35 (1964); accord *United States v. Saa*, 859 F.2d 1067, 1073 (2d Cir. 1988).

A party seeking disclosure of informants' identities bears a "heavy burden" to "establish that the identity of an informant is necessary to his defense." *Skeens*, 449 F.2d at 1070 (internal quotation marks and citation omitted). This burden is not met by "mere speculation that the informer might possibly be of some assistance." *Id.*; see *United States v. Mangum*, 100 F.3d 164, 172 (D.C. Cir. 1996).

Here, Interrogatory No. 1 requests that the government divulge the identities of confidential informants who serve a critical role in ongoing counterterrorism investigations and operations in the United States. The United States Government bears a significant interest in withholding the identities of these informants, who play a profound role in the counterterrorism mission of the United States and the confidentiality surrounding their identity and cooperation with the United States Government is key to the success of the Department of Homeland Security's and Federal Bureau of Investigation's respective counterterrorism missions. Against these weighty interests, Petitioner has not carried his "heavy burden" of establishing that disclosure is necessary for him to prove his case at the evidentiary hearing. Therefore, Respondent invokes the confidential informant privilege.

If the Court finds this privilege inapplicable, then Respondent intends to ask the Court to permit responsive information to be introduced *ex parte*, or alternatively under seal and under an attorneys'-eyes-only provision.

**INTERROGATORY NO. 2:**

Identify all persons interviewed or contacted by the government from October 2017 to present regarding Petitioner but on whom the FBI did not rely in its letter dated February 21, 2019, and provided as part of the administrative record in this matter.

**RESPONSE TO INTERROGATORY NO. 2:**

Respondent objects to Interrogatory No. 2 as its use of the term “the government” is vague, undefined, and has the potential to result in unduly burdensome discovery. Such a term arguably covers any level of government and any branch (e.g., the Court) and thereby seeks information that is not relevant to the claims and defenses in this case.

Respondent also objects to Interrogatory No. 2 to the extent the term “regarding Petitioner” requests information regarding non-threat aspects of Petitioner or seeks information that is not relevant to the claims and defenses in this case. As the evidentiary hearing pertains to Petitioner’s dangerousness, it would be unduly burdensome and overbroad for Respondent to collect information regarding any statements ever taken regarding any aspect of Petitioner (e.g., his diet).

Respondent also objects to Interrogatory No. 2 to the extent it requires responses regarding privileged information subject to the confidential informant privilege, which bars the disclosure of such information, for the same reasons given in Respondent’s response to Interrogatory No. 1. If the Court finds this privilege inapplicable, then Respondent intends to ask the Court to permit responsive information to be introduced under seal and under an attorneys’-eyes-only provision.

**INTERROGATORY NO. 3:**

Identify all government officials (including their agency affiliations and job titles) who took witness statements, conducted interviews, and/or gathered evidence in connection with

Department of Homeland Security's determination to certify Petitioner under 8 C.F.R.

§ 241.14(d) or 8 U.S.C. § 1226a, or the development of the FBI's recommendation to certify

Petitioner under these provisions.

**RESPONSE TO INTERROGATORY NO. 3:**

Respondent responds to Interrogatory No. 3 with the following individuals:

	<b>Witness Name</b>	<b>Agency Affiliation</b>	<b>Job Title</b>
1	Cornelius O'Rourke	U.S. Immigration and Customs Enforcement	Task Force Officer
2	Joe Gillet	U.S. Immigration and Customs Enforcement	Special Agent
3	Edward Guzdek	Amherst, New York, Police Department	Task Force Officer
4	Michael Ambrosia	U.S. Immigration and Customs Enforcement	Special Agent

**INTERROGATORY NO. 4:**

Identify all witnesses Respondent intends to call at the evidentiary hearing to be set by the Court in this Matter.

**RESPONSE TO INTERROGATORY NO. 4:**

Respondent intends to call the following witnesses:

	<b>Witness Name</b>	<b>Present or Last Known Address</b>	<b>Present or Last Known Place of Employment</b>
1	Adham Amin Hassoun	Buffalo Federal Detention Facility	N/A
2	Cornelius O'Rourke	c/o Timothy Belsan, Anthony Bianco & Steven Platt U.S. Department of Justice P.O. Box 868 Ben Franklin Station	U.S. Immigration and Customs Enforcement

		Washington, DC 20044	
3	Joe Gillet	c/o Timothy Belsan, Anthony Bianco & Steven Platt U.S. Department of Justice P.O. Box 868 Ben Franklin Station Washington, DC 20044	U.S. Immigration and Customs Enforcement
4	Edward Guzdek	c/o Timothy Belsan, Anthony Bianco & Steven Platt U.S. Department of Justice P.O. Box 868 Ben Franklin Station Washington, DC 20044	Amherst, New York, Police Department
5	Michael Ambrosia	c/o Timothy Belsan, Anthony Bianco & Steven Platt U.S. Department of Justice P.O. Box 868 Ben Franklin Station Washington, DC 20044	U.S. Immigration and Customs Enforcement

Respondent reserves the right to call any witness identified by Petitioner. Respondent reserves the right to amend this list, for instance, depending on the Court's rulings on the parameters of the evidentiary hearing. Respondent objects to Interrogatory No. 4 insofar as it requests rebuttal witnesses, whom Respondent is under no obligation to disclose.

Date: January 6, 2020

Respectfully submitted,

JAMES P. KENNEDY, JR  
United States Attorney  
Western District of New York

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Assistant Attorney General  
Civil Division

/s/ Daniel B. Moar

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STEVEN A. PLATT  
Counsel for National Security

*Attorneys for Respondent*




**VERIFICATION**

I, Cornelius B. O'Rourke, declare, under penalty of perjury:

I am employed by U.S. Immigration and Customs Enforcement ("ICE") as a Special Agent in the Office of the Special Agent in Charge; Buffalo, New York. As such, I am authorized to make this verification on behalf of ICE for Respondent's Response to Petitioner's First Set of Interrogatories.

I have read and know the contents of the specified responses. These responses were prepared after obtaining information reasonably available to ICE through its officers and employees. This response is true and correct to the best of my knowledge, information, and belief.

Executed this 6th day of January, 2020.

  
/s/ Cornelius B. O'Rourke  
Special Agent

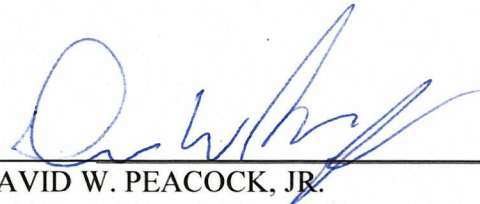
**VERIFICATION**

I, David W. Peacock, Jr., declare, under penalty of perjury:

I am employed by U.S. Federal Bureau of Investigation (“FBI”) as a Special Agent in the Buffalo, N.Y., Field Office. As such, I am authorized to make this verification on behalf of FBI for Respondent’s Response to Petitioner’s First Set of Interrogatories.

I have read and know the contents of the specified responses. These responses were prepared after obtaining information reasonably available to FBI through its officers and employees. This response is true and correct to the best of my knowledge, information, and belief.

Executed this 6th day of January, 2020.

A handwritten signature in blue ink, appearing to read 'D. W. Peacock, Jr.', is written over a horizontal line.

DAVID W. PEACOCK, JR.  
Special Agent  
Federal Bureau of Investigation