

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ELECTRONIC PRIVACY INFORMATION CENTER,)	
)	
Plaintiff,)	Civil Action No. 1:15-cv-667 (CRC)
)	
v.)	
)	
UNITED STATES DRUG ENFORCEMENT ADMINISTRATION,)	
)	
Defendant.)	

THIRD DECLARATION OF KATHERINE L. MYRICK

I, Katherine L. Myrick, pursuant to the provisions of 28 U.S.C. § 1746, declare as follows:

1. I submit this Third Declaration pursuant to the Court’s Memorandum Opinion and Order dated September 13, 2016, in further support of Defendant Drug Enforcement Administration’s (“DEA”) motion for summary judgment, and in opposition to Plaintiff’s cross-motion for summary judgment. I am currently assigned as the Chief of the Freedom of Information/Privacy Act Unit (the “FOIA Unit”) of the United States Department of Justice (“DOJ”), Drug Enforcement Administration, located at DEA’s Headquarters in Arlington, Virginia. I have over thirty-five years of experience at DEA responding to requests for records and, due to the nature of my official duties, I am familiar with the policies and practices of DEA and the DOJ related to searching for, processing, and releasing DEA records responsive to FOIA and Privacy Act requests.
2. I am familiar with the correspondence of Plaintiff, Electronic Privacy Information Center

(“EPIC”) to DEA that is the basis of this action.

3. The statements I make in this Declaration are made on the basis of my review and analysis of the file in this case, my own personal knowledge, and/or information acquired by me through the performance of my official duties.

4. In its September 13, 2016, Memorandum Opinion and Order, the Court directed DEA to conduct a supplemental search in order to run down a lead concerning four DEA applications referenced in determination letters issued by the Department of Justice’s Office of Privacy and Civil Liberties (OPCL). In accord with the Court’s direction, DEA conducted supplemental searches consistent with the Court’s opinion, as follows.

5. Page 10 of the Memorandum Opinion states that the Chief Information Officer Support Unit (CIOSU) “apparently did not run any independent searches using the program names” of the four DEA applications – Laboratory Information Management System (LIMS), DrugSTAR, the Nationwide Video Network System (NVNS), and the Web OPR Case Tracking System (WebOCTS) – “as search terms.”

6. As clarification, the application names were not used for the searches because CIOSU did not consider it likely that searches using the application names identified in the determination letters would locate final DEA PIAs for those applications. The CIOSU expected any final DEA PIA to have been found through the search already conducted of its Share Drive using the terms “final,” “PIA,” and “Privacy Impact Assessment.” That search located all PIAs posted on DEA’s internet site, as well as the additional PIA that was found.

7. In addition, the fact that the CIOSU had located determination letters for the four applications in the course of its search indicated the adequacy of the search it previously conducted, including as to those applications. (In contrast, the CIOSU did not locate

determination letters for the two other alleged DEA applications that Plaintiff identified in its request for a supplemental search; it therefore used the names of those applications as search terms. However, none of the searches that the CIOSU previously conducted using application names as search terms located additional DEA PIAs responsive to Plaintiff's request.)

8. In order to address the Court's Memorandum Opinion, the CIOSU conducted a supplemental search using the four application program names as search terms. First, the CIOSU manually searched its paper files again, specifically focusing on files that referenced the four applications: LIMS, DrugSTAR, NVNS, and WebOCTS. This manual search located no final PIA that had not already been identified through prior searches. Specifically, the manual search did not locate final PIAs for LIMS, DrugSTAR, NVNS, or WebOCTS. Nor did this search identify any additional location where final DEA PIAs that had not yet been located would likely be found.

9. Second, the CIOSU conducted electronic searches of the same electronic systems described in my First Declaration – the CIOSU's "Share Drive," SharePoint site, and the electronic mail of the CIOSU Chief and staff whose official duties include working on privacy documentation – using the four application names as search terms. In conducting these searches, the CIOSU first employed the search terms "Privacy Impact Assessment" and "PIA."

10. To narrow the results obtained at this first search level, the CIOSU then searched the results using the search terms "Laboratory Information Management System," "LIMS," "DrugSTAR," "Nationwide Video Network System," "NVNS," "Web OPR Case Tracking System," and "WebOCTS." Its searches located no final PIA that had not already been identified through prior searches. Specifically, these electronic searches did not locate final PIAs for LIMS, DrugSTAR, NVNS, or WebOCTS. Nor did these searches identify any additional

location where final DEA PIAs that had not yet been located would likely be found.

11. Page 10 of the Memorandum Opinion also states that “no efforts were made to search the SCOP’s [Senior Component Official for Privacy’s] records.”

12. The roles of DEA’s SCOP and the CIOSU are set out in paragraphs 14, 17, and 18 of my first declaration (dated Dec. 22, 2015) and in paragraph 6 of my second declaration (dated March 9, 2016). The CIOSU manages the PIA process tightly. For example, when OPCL has provided final approval of a DEA PIA, it has transmitted this approval directly to CIOSU.

13. When the CIOSU sends a PIA to the SCOP for review, approval, and signature as final, the CIOSU tracks the document. As a matter of routine and procedure, the CIOSU tracks down the PIA if it does not receive the PIA back from the SCOP within a reasonable period of time given the SCOP’s schedule. There is no plausible way for the SCOP to hold on to a PIA circulated to him for review, approval, and signature because the CIOSU would track it down.

14. In order to provide further elaboration and to identify any further searches that could be conducted, I made direct inquiries of the SCOP. The current SCOP has been the SCOP since the time of the earliest determination letter that the Court indicated provided a lead.

15. In response to inquiries, the SCOP indicated that he has the CIOSU keep all PIA-related files. The SCOP does not keep his own file of final PIAs. The SCOP does not recall ever receiving a final DEA PIA directly from OPCL, nor is the SCOP aware of being in possession of any final DEA PIA. The SCOP receives e-mail communications from OPCL; he does not recall ever receiving a written communication from OPCL other than through e-mail. The SCOP advised that he did not consider it likely that his e-mail would contain any final DEA PIA; however, if he had possession of a final DEA PIA, the only possible location of that final DEA PIA would be his e-mail.

16. The SCOP searched his e-mail for a final DEA PIA. He searched his e-mail for “Privacy Impact Assessment,” and “PIA.” The SCOP concluded that any e-mail containing a final PIA would include one of those terms either in the subject line or the text of the e-mail; he therefore used those terms in order to narrow the results of his search to e-mails that could include a PIA. He obtained no result for “Privacy Impact Assessment.”

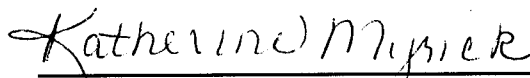
17. He visually reviewed the results he received for “PIA,” specifically looking for any results relating to the four applications identified in the determination letters, as well as any results that included attachments that might be PIAs. The results did not concern the Laboratory Information Management System, DrugSTAR, the Nationwide Video Network System, or the Web OPR Case Tracking System.

18. The SCOP also searched his e-mail using the names of the four applications as search terms: “Laboratory Information Management System,” “LIMS,” “DrugSTAR,” “National Video Network System,” “NVNS,” “Web OPR Case Tracking System,” and “WebOCTS.” There were no relevant results relating to any of the four applications. The SCOP’s search of his e-mail, therefore, did not identify any final DEA PIA. Nor did it identify any additional location where final DEA PIAs that had not yet been located would likely be found.

19. There is no other location that could be searched, or search method that could be used, that is likely to yield additional responsive records.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 27, 2016.



Katherine L. Myrick, Chief
Freedom of Information/Privacy Act Unit
Drug Enforcement Administration
Arlington, Virginia 22202