

data stored in agency-selected databases, such as lists of stolen vehicles. ALPR systems can read up to 1,800 license plates every minute, creating the possibility of capturing the location of millions of automobiles—and their drivers—every year.

4.

8. Plaintiffs seek an injunction requiring defendants to process the Request immediately and expeditiously. Plaintiffs also seek an order enjoining defendants from assessing fees for the processing of the Request.

Jurisdiction and Venue

9. This Court has both subject matter jurisdiction of the FOIA claim and personal jurisdiction over the parties pursuant to 5 U.S.C. § 552(a)(4)(B). This Court also has jurisdiction over this action pursuant to 28 U.S.C. § 1331.

10. Venue lies in this district under 5 U.S.C. § 552(a)(4)(B).

Parties

11. Plaintiffs are the American Civil Liberties Union and the ACLU of Massachusetts (collectively, “ACLU”). The ACLU is a nationwide, non-profit, nonpartisan organization dedicated to the constitutional principles of liberty and equality. The ACLU is committed to ensuring that the U.S. government acts in compliance with the Constitution and laws of the United States. The ACLU is also committed to principles of transparency and accountability in government, and seeks to ensure that the American public is informed about the conduct of the government in matters that affect civil liberties. Obtaining information about governmental activity, analyzing that information, and widely publishing and disseminating it to the press and the public are critical and substantial components of the ACLU’s work and among its primary activities.

12. Defendant Department of Justice (“DOJ”) is a Department of the Executive Branch of the U.S. government and is an agency within the meaning of 5 U.S.C. § 552(f)(1). The Request targets four specific subdivisions of the DOJ: the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”), the Drug Enforcement Administration (“DEA”), the Federal Bureau of

Investigation (“FBI”), and the United States Marshals Service (“USMS”).¹ The DOJ is headquartered in Washington, D.C.

13. Defendant Department of Homeland Security (“DHS”) is a Department of the Executive Branch of the U.S. government and is an agency within the meaning of 5 U.S.C. § 552(f)(1). The Request targets three specific subdivisions of the DHS: United States Immigration

20. Plaintiffs sought a reduction or waiver of search, review, and reproduction fees

25. By letter dated July 31, 2012, the USMS acknowledged receipt of the Request and assigned it tracking number 2012USMS21256. There has been no further response from the USMS.

26. By two letters dated July 31, 2012, ICE acknowledged receipt of the Request and assigned it tracking number 2012FOIA19286. The two largely identical letters responded to plaintiffs' request for a fee waiver in different ways: the first letter agreed to treat the ACLU as a member of the news media, while the second agreed to conditionally waive fees until a sample of the responsive documents could be reviewed in order to determine the appropriateness of waiving fees under DHS FOIA Regulation 6 CFR §

30. Defendants' failure to grant plaintiffs' request for a waiver of search, review, and duplication fees violates the FOIA, 5 U.S.C. § 552(a)(4)(A)(iii), and defendants' corresponding regulations.

31. Defendants' failure to grant plaintiffs' request for a limitation of fees violates the FOIA, 5 U.S.C. § 552(a)(4)(A)(ii)(II), and defendants' corresponding regulations.

Requested Relief

WHEREFORE, plaintiffs respectfully request that this Court:

- A. Order defendants immediately to process all records responsive to the Request;
- B. Enjoin defendants from charging plaintiffs search, review, or duplication fees for the processing of the Request;
- C. Issue a declaration that the ACLU qualifies as a "representative of the news media" for purposes of fee assessments under the FOIA;
- D. Award plaintiffs their costs and reasonable attorneys' fees incurred in this action; and
- E. Grant such other relief as the Court may deem just and proper.

Dated: September 25, 2012

Respectfully submitted,

 /s/ Catherine Crump
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