

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**SUSAN B. LONG, ET AL.,**

Plaintiffs,

v.

**DEPARTMENT OF HOMELAND SECURITY,**

Defendant.

Civil Action No. \_\_\_\_\_

**DECLARATION OF LARRY KATZMAN IN SUPPORT OF  
PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION**

I, Larry Katzman, of full age, hereby declare:

1. I am familiar with the matters set forth herein and make this declaration on personal knowledge.
2. I am an attorney licensed by the bar of Washington State. I am the manager of the Immigration Project at the Transactional Records Access Clearinghouse ("TRAC").
3. I have 16 years experience with immigration law and policy. Prior to my work at TRAC, I worked for the Northwest Immigrant Rights Project (Seattle, WA), the United Nations High Commissioner for Refugees (Washington, DC), and the Just Neighbors Immigrant Ministry (Arlington, VA).
4. TRAC is a nonprofit, nonpartisan research organization associated with Syracuse University. TRAC aims "to provide the American people — and institutions of oversight such as Congress, news organizations, public interest

groups, businesses, scholars and lawyers — with comprehensive information about federal staffing, spending, and the enforcement activities of the federal government.” TRAC does so by obtaining government information, frequently through Freedom of Information Act (“FOIA”) requests, preparing analyses and reports based on that data, and providing the analyses and underlying data to the public and interested groups.

5. The Immigration Project aims to compile a detailed set of information about the federal government’s activities relating to immigration, systematically analyze that data, and make it available to Congress, the news media, interested groups, and the public, primarily through TRAC’s website.

6. Though it is only in its first year, the Immigration Project has published reports on the resources devoted to and effectiveness of border control efforts, the inspection of immigrants when arriving to the United States, and the prosecution and sentencing of immigrants who commit crimes. Additionally, the project has numerous works in progress.

7. TRAC’s information and analyses have been a source for thousands of news articles in dozens or hundreds of local and national publications. TRAC data has also been used or cited in numerous editorials and opinion columns.

8. TRAC data and analyses have likewise been cited or used by several congressional committees, including the Senate Finance and Judiciary Committees and the House Government Operations Committee, by federal agencies, and by

public interest groups such as the National Rifle Association and Human Rights Watch.

9. TRAC's web site, located at <http://trac.syr.edu/>, receives millions of hits every year.

10. On February 2, 2006, on behalf of Susan B. Long, David Burnham, and myself, I submitted by fax a FOIA request to the FOIA/PA office at U.S. Immigration and Customs Enforcement ("ICE"). The request was made in order to obtain greater context for statistics cited in the US government's brief filed in the *Lopez v. Gonzales* case, and was prepared as soon as TRAC became aware of the brief's existence. TRAC placed such a high priority on this fax both because of the lack of published information about the government's treatment of persons with criminal convictions and because of the public interest in such information.

11. Having received no response to the February 2 request after more than a month, on March 8, 2006, I mailed a letter by certified mail to the ICE FOIA/PA office inquiring about the status of my request.

12. On March 16, 2006, I received a voice mail message from Andrea Terwilliger (spelling phonetic) at the ICE FOIA/PA office. Ms. Terwilliger informed me that there was not yet any tracking number or status assigned to the February 2 request. Seeking clarification of this voice mail message, on March 17, 2006, I called Ms. Terwilliger. She informed me that the February 2, 2006 FOIA request had been received, as had an unrelated FOIA request TRAC had sent on February 14, 2006. Ms. Terwilliger informed me that her office processed FOIA requests in

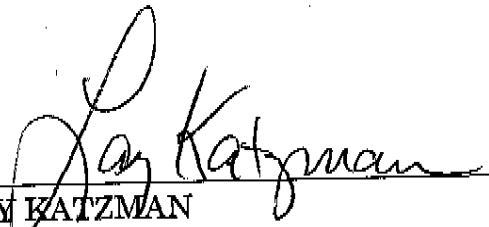
the order received and that they presently had a backlog of several thousand requests. While she could not estimate how long TRAC's requests might take to be filled, noting that she is not responsible for prioritizing requests, she told me that some requests had been sitting for 1 ½ years. When I asked her if TRAC's requests might involve waits of that length, she said that it was possible, but could not predict.

13. TRAC carefully crafted both the February 2 FOIA request, and its later April 24 request, to obtain useful information while still minimizing the burden on the ICE staff involved in responding to the requests. The February 2 FOIA requested a specific recent document or documents. The April 24 FOIA, while broader, was rooted in information that TRAC believed to be recorded in ICE's primary database, the Deportable Alien Control System (DACS). The April request sought information about aliens with arrests and/or convictions for drug possession because this is precisely the type of information and data that the US government has not heretofore furnished to the public in much detail. TRAC is aware that the DACS user manual indicates that ICE records drug arrests and/or convictions both by type of drug and by type of offense. Accordingly, TRAC believed that since the documents we were requesting were generated by ICE, it would not be unduly burdensome for ICE to find any reports or analyses that were based on this data. Accordingly, TRAC would be able to shed light on the affected population.

14. I have been informed by counsel to the petitioner in the Supreme Court case of *Lopez v. Gonzales* that the likely deadline for submission of amicus briefs in that case is June 16, 2006.

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

Executed on: May 9, 2006

  
LARRY KATZMAN