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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 OAKLAND DIVISION

12 CAITLIN KELLY HENRY and JESSE)
13 STOUT,)
14 Plaintiffs,)
15 v.)
16 UNITED STATES DEPARTMENT OF)
JUSTICE,)
17 Defendant.)

Civil Action No. C13-5924 DMR
SUPPLEMENTAL DECLARATION OF TRICIA FRANCIS IN SUPPORT OF FEDERAL DEFENDANT'S MOTION FOR SUMMARY JUDGMENT
Date: January 22, 2015
Time: 11:00 a.m.
Place: Courtroom 4 - 3rd Floor
Hon. Donna M. Ryu

19 I, Tricia Francis, declare the following to be a true and correct statement of additional facts as
20 supplement to my First Declaration, with the Court in the above-captioned action and in support of the
21 Defendant's Motion for Summary Judgment, which was filed on October 2, 2014. The purpose of this
22 Declaration is to address the assertions that were raised in plaintiff's Opposition and Cross-Motion for
23 Summary Judgment regarding the reasonableness of the search for records that was completed on behalf
24 of the Executive Office for United States Attorneys ("EOUSA") pursuant to plaintiffs' Freedom of
25 Information Act /Privacy Act requests that are the subject of this litigation. The statements I make in
26
27
28

1 this Declaration are based upon my review of the official files and records of EOUSA, my own personal
2 knowledge, and information acquired by me through the performance of my official duties.

3
4 1. The Freedom of Information Act/Privacy Act (“FOIA/PA”) staff at EOUSA does not
5 search for records, pursuant to FOIA requests, that are contained in the case files that are maintained at
6 the 94 United States Attorney’s Offices around the country. Each United States Attorney’s Office
7 (“USAO” or “District”) maintains the files for the cases that are investigated, prosecuted, or otherwise
8 opened in its respective District. Consequently, members of EOUSA’s FOIA/PA staff routinely submit
9 such FOIA/PA requests to the Districts, where cases that involve criminal charges and civil causes of
10 action are litigated before the federal courts by the Assistant United States Attorneys in their respective
11 Districts.
12

13 2. Here, plaintiffs Jesse Stout and Caitlin Henry requested records that are routinely
14 maintained in case files at a District. In their respective FOIA/PA requests, plaintiffs list the specific
15 jurisdictions in which they lived and the specific time periods when they resided in those jurisdictions.
16 Based on the information that Mr. Stout provided, EOUSA submitted his FOIA/PA request to all of the
17 Districts in the states Mr. Stout indicated that he had resided during the period covered by his request.
18 Similarly, based on the information that Ms. Henry provided, EOUSA submitted her FOIA/PA request
19 to all of the Districts in the states Ms. Henry indicated that she had resided during the period covered by
20 her request. The records that Mr. Stout and Ms. Henry requested are records that are kept and
21 maintained by the Districts, and not by EOUSA.
22

23 3. Mr. Stout and Ms. Henry assert that EOUSA should have conducted regional and
24 national-level searches in “EOUSA systems,” and they named the Master Index Application (“MI”) as a
25 potential search tool. However, the MI is a system of record that is only used by staff at the United
26 States Attorney’s Office (“USAO”) for the District of Columbia (“D.C.”), and it contains records
27 relating to cases handled by the USAO for D.C. that were either brought in the U.S. District Court for
28

1 D.C. or in the Superior Court for the District of Columbia. Since neither Mr. Stout's nor Ms. Henry's
2 FOIA request provided information that would suggest that they were involved in cases within the
3 jurisdiction of the USAO for D.C., their requests were not submitted to that office, and a search pursuant
4 to MI was not completed. Rather, as discussed above and in the First Francis Declaration, the FOIA/PA
5 staff at EOUSA submitted Mr. Stout's and Ms. Henry's FOIA requests to the Districts most likely to
6 possess responsive records (if any): the Districts that are located in the states plaintiffs listed in their
7 requests.
8

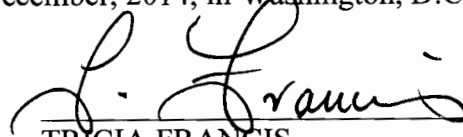
9 4. Additionally, Mr. Stout and Ms. Henry assert that EOUSA should have searched the
10 Federal Records Center, where "regional records are ultimately stored." Pls.' Opp. at 24. There are
11 eighteen (18) locations throughout the United States that have Federal Records Centers ("FRCs"), where
12 the case files for the Districts are stored after they have been closed for a period of time.¹ Each of the
13 Districts tasked with responding to the plaintiffs' FOIA/PA requests uses the Legal Information Office
14 Network System ("LIONS") to track cases/matters in the District, including closed cases. *See* Suppl.
15 Bryant Decl., Suppl. Mascola Decl., Suppl. Venetian Decl., Suppl. Salazar Decl., Suppl. Margen Decl.
16 Each District has a designated FRC to which it sends its case files. Pursuant to the declarations of the
17 FOIA/PA points of contact who conducted searches pursuant to Mr. Stout's and Ms. Henry's FOIA/PA
18 requests, none of their searches located cases, open or closed, involving plaintiffs. If and when a search
19 by the District returns potentially responsive closed cases, it is the Districts, and not EOUSA, who
20 would retrieve the relevant case files from FRC.
21

22
23 5. A search for records, by way of the LIONS system, may be done by entering a person's
24 name, or other search term, into the "participant" field. True and correct copies of excerpts from the
25 LIONS User Manual are attached as Exhibit T. This search method may show if there is an existing file
26 in the District that contains the person's name as a participant in the case (e.g., litigants, subjects of
27

28 ¹ The locations for the FRCs, which are managed by the National Archives, may be found at
<http://www.archives.gov/locations/>.

1 investigation, and other individuals, organization, or business associated with the case or matter.). If
2 there is more than one case or matter that relates to the search term entered, the LIONS system would
3 list all the cases/matters in which that search term was entered as a “participant.” Pursuant to the
4 declarations that were submitted by the FOIA/PA points of contact who conducted searches for records
5 in LIONS, pursuant to Mr. Stout’s and Ms. Henry’s FOIA/PA requests, the searches were conducted by
6 entering their names and all of the “associated key words” that were provided by Mr. Stout and Ms.
7 Henry into LIONS. Despite the use of the “participant” search method pursuant to LIONS, which was
8 expected to produce the broadest result, no records were found at each of the Districts.
9

10
11 I declare under the penalty of perjury that the foregoing is true and correct, to the best of my
12 knowledge and belief. Executed this 8th day of December, 2014, in Washington, D.C.
13

14 

15 TRICIA FRANCIS
16 Attorney-Advisor
17 Executive Office for United States Attorneys
18 FOIA/PA Staff
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Exhibit T

**Legal Information
Office Network System
User's Manual**

Release 5.4.1

LIONS



**Case Management Staff
Executive Office for
United States Attorneys
July 2012**

Find Value in LOV - Search for codes by entering a word or string of words in the Find field of the LOV. For example, in the LOV for Program Categories shown in Figure 2-10, searching on the word "Fraud" returns all Program Categories with Fraud in the description. To search for a code, place the cursor after the % sign in the Find box. Type the word or string of words and press the **FIND** key.

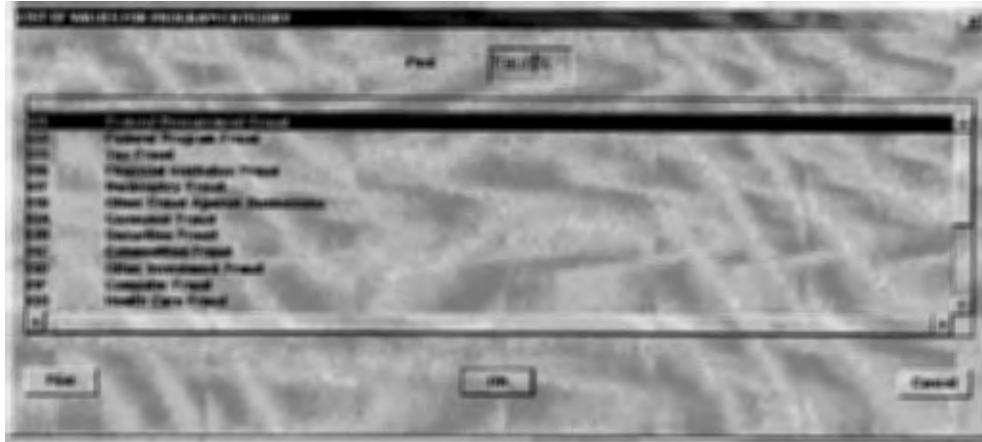


Figure 2-10: LOV Find Box

Check Boxes - An option field indicated by .

On-line Edits - LIONS contains edits that ensure the integrity of the data by preventing the user from entering incorrect data. For example, if you enter a code in an LOV field, LIONS will automatically check the value entered against the LOV table and send an error message if the code is not found in the LOV table. A sample of an error message is shown in Figure 2-11.

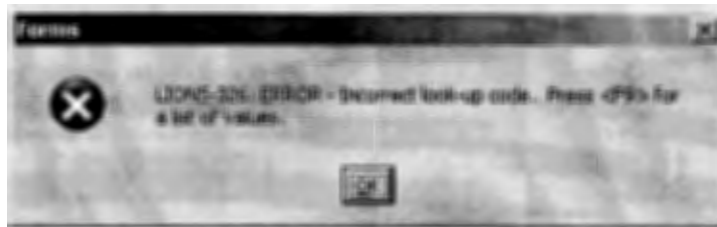


Figure 2-11: On-line Edits Error Message

Preset Data - LIONS will pre-populate certain pieces of information with default values. Most default values can be changed. Those that cannot be changed are so noted.

Name Search - LIONS provides a feature to search the database every time a user enters a participant name. To activate this feature, a flag must be set in the user's LIONS profile. The purpose of this feature is to alert the user that another case involving the participant already exists. To enable the search feature, contact your **System Manager**.

Automatic Creation of Records – Used to relate participants in a case. For example, when the user creates a record relating a defendant to a piece of property, LIONS automatically creates a matching Related Participant record linking the property back to the defendant.

This feature is also used to relate cases. For example, when a criminal case that involves forfeitures is related to a companion civil forfeiture case, the user creates the first Related Case record linking the criminal case to the civil case. LIONS automatically creates the Related Case record linking the civil case back to the criminal case.

2.10. Inquiry Option

The Inquiry module in LIONS gives users the ability to find cases when the system-assigned USAOID is not known. To access the Inquiry module, select Inquiry from the LIONS Main Menu as shown in Figure 2-18.



Figure 2-18: Inquiry

USAO Staff Assignments - Search for matters or cases by staff initials or staff initials and position.

Case Search - Search for matters or cases using one of a variety of numbers in LIONS associated with the matter or case (Agency File Number, Court Number, Grand Jury Number, etc.)

Scheduled Event - Search for matters or cases based on a scheduled event. The search can include all scheduled events, or only those associated with a staff member assigned to a matter or case in LIONS.

Participant Search – Search for files based on all or part of a participant's name or on a number associated with a participant (Social Security Number, EIN, etc.)

Victim/Witness – Search for files with Victim/Witness participant roles.

2.10.4. Participant Search

Selection criteria for a participant search are participant name or a number associated with the participant (SSN, Marshal's Number, etc.).

The broader the search parameters, the more likely it is that the matter/case will be found. For example, entering a last name will return a greater number of matters/cases than entering a last and first name.

Selecting **Spelling Match** in the **Name Matching** block will return only the names with the exact spelling. Selecting **Sounds Like** in the **Name Matching** block will return all names with similar vowel sounds. LIONS does a "soundex" search on the name field for similar vowel sounds. A search for Smith will return Smith, Smithe, Smythe, Schmidt, etc., as partially demonstrated in Figure 2-24.



Figure 2-24: Participant Search – Name

To search on a number field, enter a number associated with the participant, or a partial number followed by the %. For example, searching SSN# using 105% (as shown in Figure 2-25) will return all participant records that begin with 105 in the SSN# field. The percent symbol (%) acts as a wildcard.