

EXHIBIT 7

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION**

THE UNITED STATES OF AMERICA,

Plaintiff,

v.

STATE OF ALABAMA & GOVERNOR
ROBERT J. BENTLEY,

Defendants.

Civil Action No.

DECLARATION OF WILLIAM M. GRIFFEN

Pursuant to 28 U.S.C. § 1746, I, William M. Griffen, declare and state as follows:

1. I am the Acting Unit Chief for the Law Enforcement Support Center (LESC) within U.S. Immigration and Customs Enforcement (ICE), an agency within the Department of Homeland Security (DHS). I have served in this position since October 1, 2010. Prior to my current position, I served as the Program Coordinator for the Southern California Secure Communities Support Center in Laguna Niguel, California. Prior to that, I served as the first Director of the LESC under the original Congressional mandate to legacy Immigration and Naturalization Service to provide database information to state, local, and federal law enforcement agencies from April 1994 to May 1997. I make this declaration based on personal knowledge of the subject matter acquired by me in the course of the performance of my official duties. I am aware that the State of Alabama has enacted new immigration legislation, known as House Bill 56 (H.B. 56), and I am generally familiar with the provisions of that legislation.

2. The purpose of my declaration is to describe the anticipated adverse effects of Alabama H.B. 56 on the LESC's ability to respond to, manage, and monitor requests from law enforcement partners in an effort to provide accurate and timely alien status determinations for subjects arrested or under investigation.

3. As the Acting LESC Unit Chief, I have direct managerial and supervisory authority over all sections that comprise the LESC, including three Operations Sections, the National Crime Information Center (NCIC) Section, the Communications Center Section, the Training Section, and the Administration Section. The Operations Sections respond to requests for alien status determinations sent to the LESC via computer. The NCIC Section enters and validates all ICE lookout records in the NCIC computer system for immigration absconders (those who have been ordered removed and have unlawfully remained in the United States), previously deported aggravated felons, and fugitives sought by ICE for criminal violations of customs and immigration laws. The Communications Center Section responds to phone requests for information and assistance by our state, local, and federal law enforcement partners. The Training Section provides basic and advanced training to LESC employees. The Administration Section provides personnel, budget, and logistical support for the LESC.

Background and Operations of the LESC

4. Congress established the LESC in 1994 to provide alien status determination support to federal, state, and local law enforcement on a 24-hours-a-day, seven-days-a-week basis. The enabling legislation is codified in 8 U.S.C. §§ 1226(d)(1)(A) and 1252 note.

5. The core mission of the LESC is to receive and respond to Immigration Alien Queries (IAQ) from law enforcement partners in an effort to provide accurate and timely alien status determinations for subjects arrested or under investigation, including requests made under

8 U.S.C. § 1373(c). Biographic queries made electronically are routed to the LESC via the International Justice and Public Safety Information Sharing Network (NLETS). Biometric queries are routed to the LESC via state information bureaus and the Federal Bureau of Investigation (FBI) Criminal Justice Information Services Division (CJIS). Biographic and biometric queries can be sent and received via computer systems. Queries contain basic information such as name, date of birth, place of birth, sex, and other identifying information. LESC Law Enforcement Specialists (LES) query as many as ten DHS, FBI, and Interpol databases in order to produce a written alien status determination for the requesting agency.

6. The internal LESC computer system (ACRIME) is dynamically updated as records are added or deleted. ACRIME alien status determination records are retained for 75 years. LES also access approximately six to ten other federal databases, depending on the circumstances regarding the subject, in order to determine alien status. The ACRIME computer system randomly selects approximately 5% of all alien status determination responses for quality assurance. Quality assurance reviews determine if the search protocols were followed and if the correct status determination was made. LESC employees do not typically review the paper-based Alien File (A-File) associated with the inquiry in order to provide alien status determinations. If an A-File review is required, that review will have to be completed by the ICE field office, and depending on the physical location of the A-File, the review may take several days.

7. The LESC has 163 LES assigned to respond to IAQs from all partner agencies. If queries come to the LESC in a consistent and steady manner, a fully trained and experienced LES can process approximately 10,000 IAQs per year. Based on current LES staffing, the LESC theoretically has the capacity to handle approximately 1.6 million IAQs per year. However, the

number of queries that come to the LESC at any given time is not consistent. This makes it difficult to predict and staff in a manner that accounts for temporary spikes in activity. On a weekly basis, the LESC experiences activity spikes that require the use of overtime in order to handle the incoming IAQs from LESC partners. In addition, personnel from other LESC sections are routinely diverted from other critical missions to deal with IAQ activity spikes.

8. The LESC receives IAQs from LESC partners in a number of ways. One such way is that the LESC can receive biographic inquiries from police agencies that complete a pre-formatted computer messaging screen through NLETS. The second method of IAQ generation is based on fingerprint matches at FBI/CJIS. Upon receipt of either type of inquiry, the same search process will take place, whereby LES search ICE databases to determine if information about the individual is available. When vehicles or pedestrians are stopped by law enforcement personnel, the LESC may also be contacted telephonically by state and local officers in order to expedite the encounter between the law enforcement officer and suspect or suspects. However, the LESC will not provide the information to the local officer over the phone but will respond via NLETS. ICE databases can be checked by LESC personnel without having the officer stay on the telephone line so that any inquiry does not prolong the individual's detention by otherwise occupying the officer.

9. The LESC also responds to the FBI requests for alien status determinations; responds to U.S. Secret Service alien status determinations for aliens seeking access to a protected area (*e.g.*, the White House Complex); and responds to alien status determinations related to employment issues at national security related locations that could be vulnerable to sabotage, attack, or exploitation.

10. In addition, the LESC performs a significant role in supporting the ICE Secure Communities Program by producing alien status determinations based on biometric (fingerprint) booking information. Secure Communities was created to improve, modernize, and prioritize ICE's efforts to identify and remove criminal aliens and other aliens who fall within ICE's civil enforcement priorities, from the United States. Secure Communities imposes no new or additional requirements on state and local law enforcement. Through the program, ICE has leveraged biometric information-sharing between the FBI and DHS to ensure accurate and timely identification of criminal aliens in law enforcement custody. When state and local authorities arrest and book someone into jail for a criminal offense, they routinely submit fingerprints to the FBI biometric system for criminal history records. The FBI then automatically shares these fingerprints with DHS to check against its biometric system for immigration and law enforcement records. If the person has been previously encountered and fingerprinted by an immigration official and there is a digitized record, then the immigration database will register a "match." For jurisdictions where Secure Communities is deployed, the LESC is automatically notified of the match. The LESC will then review other databases to determine whether the person is here illegally or is otherwise removable.

11. ICE first deployed the Secure Communities program's biometric information-sharing technology in October of 2008, and as of July 12, 2011, has deployed it to 1,453 jurisdictions. ICE plans to deploy the technology nationwide to more than 3,000 jurisdictions by the end of Fiscal Year (FY) 2013. The LESC has already experienced an increase in processing times since the establishment of the Secure Communities program. This increase in processing times is largely due to the fact that the LESC is receiving many more IAQs, and many of these IAQs involve serious criminal aliens. Due to the fact that they are often more complex, these

IAQs can take longer to process than other IAQs. As our support for Secure Communities continues to grow, we anticipate an increased workload due to the need for more complex queries that will further increase LESC response times. Thus, the expansion of the Secure Communities program alone will likely utilize much of the capacity of the LESC.

12. The LESC began receiving IAQs for Alabama records under the Secure Communities Program on April 26, 2011. The number of IAQ's thus far for FY 11 is 186, and only 37 of the 67 counties have been activated (55% of the state).¹

13. In cases where the subject of the IAQ appears from these checks to be removable, ICE takes appropriate enforcement action—prioritizing the removal of individuals who present the most significant threats to public safety as determined by the severity of their crime, their criminal history, and other factors, and those that have repeatedly and flagrantly violated immigration law. ICE has the discretion to decide whether pursuing removal or another enforcement action furthers ICE's enforcement priorities. ICE does not take an enforcement action against every alien identified through these checks.

14. The LESC also generally provides a response to the IAQ directly to the requesting law enforcement agency. The IAQ responses given by the LESC include the following categories:

- **Legal Permanent Resident:** DHS records indicate that this subject is legally residing in the United States as a permanent resident and may live and work in the United States. If this person has been convicted of a serious criminal offense, this person may be subject to removal proceedings.

¹ The following counties are activated: Autauga, Baldwin, Blount, Calhoun, Cherokee, Chilton, Choctaw, Clay, Colbert, Conecuh, Coosa, Cullman, Dallas, DeKalb, Elmore, Escambia, Etowah, Franklin, Hale, Jackson, Jefferson, Lamar, Lawrence, Lee, Limestone, Marshall, Marengo, Marion, Mobile, Monroe, Morgan, Perry, Shelby, Talladega, Tallapoosa, Tuscaloosa, and Washington.

- **Legal Response:** DHS records indicate that this subject is legally in the United States. If this subject has been convicted of a criminal offense, this subject may be subject to removal proceedings.
- **U.S. Citizen:** DHS records indicate that this subject is a United States citizen. This individual is not subject to removal from the United States. No further action by ICE will be taken.
- **Mexican Border Crossing Card:** DHS records indicate that this subject is in possession of a border crossing card which permits the holder to enter the United States for up to 72 hours at a time and limits travel to within 25 miles of the border unless authorization has been granted.
- **Legal Under Proceedings:** DHS records indicate that the subject is legally in the United States. However, the subject is currently in removal proceedings.
- **Illegal:** DHS records indicate that this subject is not legally in the United States and appears to be subject to removal proceedings.
- **Illegal Under Proceedings:** DHS records indicate that this subject is not legally in the United States and is currently under removal proceedings.
- **Removed:** DHS records indicate that this subject was removed from the United States. No record of a legal re-entry has been found.
- **Warrant:** DHS records indicate that the subject appears to have an outstanding warrant of removal pending with ICE.
- **No Match:** The LESC is unable to find a match based on the information provided.

- **Non-immigrant:** DHS records indicate that the subject was legally admitted to the United States as a non-immigrant until the date noted. If this person has remained longer in the United States without DHS permission, this person may be present in violation of immigration laws.

15. Like other components within DHS, the LESC prioritizes its efforts in order to focus on criminal aliens and those most likely to pose a potential threat to their communities. For example, criminal violations of the Immigration and Nationality Act (INA) are given priority over administrative violations and those that have repeatedly violated immigration law are given priority over those who have no previous violations. The goal is to invest our finite resources on the individuals whom ICE has prioritized for enforcement. In addition, LESC supervisors monitor incoming requests for information and prioritize those that are time-sensitive, such as roadside traffic stops and aliens arrested for serious crimes that are about to be released from police custody.

16. As a general practice, IAQs are processed in the order they are received at the LESC. Older queries are generally completed before work is completed on new queries. However, there are exceptions made in an effort to respond to time-sensitive queries and those queries that involve serious offenders. For example, one time-sensitive query would be in a traffic stop scenario where a highway patrolman has a limited amount of time to detain a suspected illegal alien. Given the time constraints inherent in a roadside stop, the nature of the stop requires an expedited response. Likewise, suspected illegal aliens arrested for serious crimes such as homicide, sexual assault, terrorism, and gang-related crimes are made a priority in the queue if the subject will be released on bail or bond. This prioritization ensures that aliens arrested for particularly serious or violent crimes are not released into the general public if

LESC's verification allows for the further detention of the alien. Additionally, the LESC has several queues that allow for the prioritization of queries based upon originating agency.

Examples of these queues include interoperability queries based upon fingerprints, biographical queries sent via NLETS, and Brady Act queries for firearms purchasers.

17. Many U.S. citizens, if queried through the LESC, result in a "no match" response to the requesting agency, meaning that LES were unable to locate any records or prior encounters in the DHS databases queried. However, to arrive at the "no match" response for U.S. citizens requires the same commitment of staffing resources as is required to conduct a search where the individual has a record in DHS databases. Importantly, a "no match" response does not mean that the subject of the search is an American citizen. Rather, it simply reflects an absence of records in the LESC system, which means the individual also could be an alien not previously encountered by DHS.

18. Currently, the average query sits for approximately 70 minutes before a LES is available to work on the request. On average, it takes an additional 11 minutes per query to research DHS data systems and to provide the written alien status determination.

19. Over the years, the LESC has experienced continuous and dramatic increases in alien status determination queries. The total number of IAQs from FY 2007 through the present are as follows:

FY 2007	727,903
FY 2008	807,106
FY 2009	1,064,261
FY 2010	1,133,130
FY 2011	909,483 (through June 30, 2011)

20. From FY 2008 to FY 2009, the LESC had a 24% increase in the number of IAQs. The LESC had a 6.1% increase in IAQs from FY 2009 to FY 2010 and currently is maintaining the same rate of increase for FY 2011.

Anticipated Effect of H.B. 56

21. I am aware that H.B. 56 contains numerous verification requirements that are likely to be routed through the LESC. Among other verification requirements, it is my understanding that H.B. 56 section 12(a) requires that upon any lawful stop, detention, or arrest that a reasonable attempt shall be made, when practicable, to determine the citizenship and immigration status of the person, except if the determination may hinder or obstruct an investigation. It is also my understanding that H.B. 56 section 12(b) requires that within 24 hours of arrest, any alien who is arrested and booked into custody shall have his or her immigration status determined. Finally, it is my understanding that H.B. 56 section 19(a) requires the verification of unlawful presence within 48 hours for any person charged with a crime requiring bail or confined in a state, county, or municipal jail.

22. In my professional judgment, Alabama H.B. 56 will inevitably result in a significant increase in the number of IAQs received by the LESC. The LESC processed 1,133,130 IAQs in FY 2010. According to CJIS, in FY 2010 criminal justice agencies in Alabama submitted 178,741 arrest records to CJIS, indicating that Alabama officers booked that many individuals into custody post-arrest in FY 10. Thus, Alabama's H.B. 56 requirement that "[u]pon any lawful stop, detention, or arrest," the state must make "a reasonable attempt" to "determine the citizenship and immigration status of the person" could, by itself, dramatically increase the LESC's workload. If even a small percentage of these stops, detentions, and arrests lead to new IAQs, the LESC will be forced to process thousands of additional IAQs annually.

23. In addition, the LESC could receive multiple overlapping LESC queries from Alabama law enforcement officers attempting to comply with the law. For example, an Alabama officer may contact the LESC by telephone during a lawful stop and the LESC would then attempt to process that query. If that same individual is arrested on the Alabama state law violation that predicated the stop, an officer may also contact the LESC for verification by computer messaging screen. If that individual is charged with a crime requiring bail or confined in a state, county, or municipal jail, the individual may be verified a third time. Finally, where Secure Communities is active, as a result of the federal program, this same individual's fingerprints will be run through the CJIS system when he or she is arrested and booked into custody. Those fingerprints will then automatically be run against DHS' biometric system for immigration and law enforcement records and if there is a match, another separate inquiry will be sent to the LESC. Although the LESC does have some limited capacity to identify duplicative inquiries made within a short time-frame, depending on the circumstances related to the inquiries, the LESC potentially may still end up having to verify the same person's immigration status numerous separate times. These requests will create a burden for the LESC and will require significant duplication of efforts.

24. In addition to the general increase in the number of queries made, H.B. 56 will also result in an increase in the number of U.S. citizens and lawful permanent residents being queried through the LESC. This will reduce our ability to provide timely responses to law enforcement on serious criminal aliens as resources will need to be devoted to handling these non-priority queries.

25. The LESC does not currently have the ability to separate queries from individual states, such as Alabama, as they arrive. Furthermore, creating an Alabama queue would not

prioritize queries based upon the risk posed by the violator or the seriousness of the charge. Separating data in that manner is not currently possible using the data fields provided in the current IAQ formatted messages.

26. I expect no increase in LESC resources in terms of personnel. As such, I anticipate an increase in inquiries will slow response times for inquiries without respect to the priority level of the subject in question. Particularly concerning is that the two priority verifications (responding on suspected illegal aliens arrested for particularly serious crimes and responding to time-sensitive inquiries, such as roadside stops) compete with each other, meaning that a surge in time-sensitive inquiries from the enforcement of the Alabama law will adversely affect responses regarding aliens arrested for particularly serious crimes.

27. Based on my professional experience, slower response times result in an increased likelihood that the subject of an inquiry, including subjects who are high-priority, will be released, potentially resulting in the commission of additional violent crimes, greater difficulty in locating the alien to initiate removal proceedings, and further impediments to ICE's ability to efficiently obtain removal orders and remove criminal aliens from the United States.

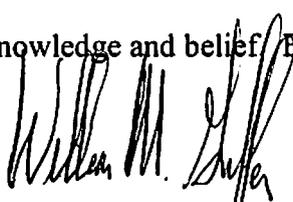
28. This increase in queries from Alabama, along with the possibility of other states adopting similar legislation, could overwhelm the system if the LESC's capacity to respond to requests for assistance is exceeded. The initial impact would be delays in responding to time-sensitive inquiries from state, local, and federal law enforcement, meaning that very serious violators may well escape scrutiny and be released before the LESC can respond to police, which will in turn reduce the LESC's ability to effectively support ICE's civil enforcement priorities. If delays continue to increase at the LESC, ICE might have to divert personnel from other critical missions to serve the needs of our law enforcement partners. The LESC directly supports both

the public safety and national security missions of DHS. These are critical missions which cannot be allowed to fail.

29. It is also important to note that LESC's responses to IAQs do not always provide a definitive answer as to an alien's immigration status, particularly in cases where the alien has not been previously encountered by DHS. Moreover, a U.S. citizen, when queried through the LESC, would likely be returned with a "no match" response. Many—if not most—U.S. citizens have no records contained in the databases available to the LESC. Experience has demonstrated that some police officers are confused when they receive a "no match" response and sometimes want to detain the suspected illegal alien (actually a U.S. citizen) until they can resubmit the request with additional information to the LESC or contact their local ICE field office to confirm the subject's immigration status.

30. If other states were to adopt similar laws resulting in a substantial increase in verification requests to the LESC, the LESC likely would be unable to respond to inquiries in a timeframe which would be useful to both ICE and state and local law enforcement needs.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief. Executed the 1ST day of August, 2011 in Williston, Vermont.



William M. Griffen
Acting Unit Chief for the Law Enforcement Support Center
U.S. Immigration and Customs Enforcement