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PLANE CLOTHES: LACK OF ANONYMITY AT THE FEDERAL AIR MARSHAL SERVICE COMPROMISES AVIATION AND NATIONAL SECURITY

INVESTIGATIVE REPORT BY THE COMMITTEE ON THE JUDICIARY

MAY 25, 2006.

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EXECUTIVE SUMMARY

The Federal Air Marshal Service (FAMS) traces its history to the anti-hijacking initiatives of the 1960s, and was drastically built up after the attacks of September 11, 2001. While undergoing this rapid build-up and deployment of air marshals, the Service has encountered numerous problems that severely impact morale and, potentially, national security. The Committee on the Judiciary initiated an inquiry into the FAMS and has discovered that while many of the problems facing the management of the FAMS could be easily remedied, they remain unaddressed. This report outlines key problems and provides recommendations.

HISTORY OF THE FEDERAL AIR MARSHAL SERVICE

Created in 1961, the U.S. Sky Marshal Program (the legacy name of the FAMS) was a reaction to the increased number of hijackings, which occurred when the Castro regime took control of Cuba in 1958, and were further exacerbated after the failed Bay of Pigs invasion in 1961. In the beginning stages of the program, marshals were placed upon aircraft at the request of either a commercial air carrier or the Federal Bureau of Investigation (FBI). The program was an initial success as the number of hijackings dramatically decreased between 1962 and 1967.[1]

In 1968, however, the trend reversed and the U.S. suffered 19 domestic hijack attempts on U.S. flights to Cuba. The trend continued into 1969 and after eight hijackings to Cuba in January alone, the Federal Aviation Administration (FAA) created the Task Force on the Deterrence of Air Piracy (Task Force). One of the hallmarks of the Task Force was the creation of the "hijacker profile." By 1970, five air carriers were utilizing the "hijacker profile" system in conjunction with metal detectors to deter and prevent hijackings.[2]

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[1] *See* http://www.ice.gov/graphics/fams/history.htm.

[2] Id.

In the period between 1968 and 1972, extortion became the primary motive for airplane hijackings, whether it was by terrorist organizations that demanded the release of prisoners and other political concessions, or individuals who demanded a monetary ransom in exchange for hostages. In response to numerous extortion hijackings, the Federal Government developed an anti-hijack initiative in 1970 that included an expanded sky marshal program. As a result of this initiative, hijackings declined by 1972. By 1974, the FAA was designated as the agency to implement all law enforcement efforts aboard in-flight aircraft. While the initial focus of the program was on increasing the number of sky marshals, because of improved passenger screening requirements designed to detect weapons that could be used to hijack a plane and other deterrents to hijacking, staffing levels at the sky marshal program declined until 1985.[3]

Due to an increase in terrorist activity in the Middle East in 1985 that included airplane hijacking attempts, President Ronald Reagan signed the "International Security and Development Cooperation Act."[4] This was the first explicit statutory authority for the air marshal program. As a result of this measure, air marshal staffing levels rose to close to 400 in 1987 before declining to 33 just prior to September 11, 2001.[5]

The tragic events of September 11, 2001, forced the Nation to reassess aviation security in order to prevent enemy attacks on the seemingly vulnerable commercial aviation industry. Shortly after September 11, 2001, the FAA authorized an increase in the number of Federal Air Marshals. As a result, over 200,000 prospective Federal Air Marshals submitted applications to the FAA. A classified number of these applicants have been hired, trained, and deployed over

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[3] Id.

[4] Public Law 99-83.

[5] Id.

the past four and a half years.

In another effort to augment the security of commercial aviation, Congress enacted the "Aviation and Transportation Security Act" (ATSA)[6] on November 19, 2001. Under ATSA, the Federal Government assumed responsibility for aviation security. ATSA also transferred management of aviation security, including the FAMS, from the FAA to the newly created Transportation Security Administration (TSA) which, at that time, was part of the Department of Transportation (DoT). TSA was subsequently transferred from DoT to the newly created Department of Homeland Security (DHS) as a result of the "Homeland Security Act of 2002."[7] FAMS continued to operate under the TSA until it was transferred in September 2003, by DHS to the U.S. Immigration and Customs Enforcement (ICE) Agency, also part of DHS. In July of 2005, it was announced that FAMS would return to TSA.[8] The move became effective October 16, 2005.

COMMITTEE INVESTIGATION

FAMS is essential to securing commercial aviation and, therefore, homeland security. Beginning in 2002, numerous press reports[9] claimed that there were severe problems facing the FAMS, including a poor retention rate for and lowered hiring standards by the Service, as well as

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[6] See Public Law 107-71

[7] See Public Law 107-296

[8] DHS Press Release, "Homeland Security Secretary Michael Chertoff Announces Six-Point Agenda for Department of Homeland Security," July 13, 2005.

[9] See Blake Morrison, *Air Marshal Program in Disarray, Insiders Say*, USA Today, Aug. 16, 2002; Brock N. Meeks, *Air Marshals Program Hits Turbulence*, MSNBC.Com, Oct. 24, 2003; Brock N. Meeks, *Senior Federal Marshals Demoted*, MSNBC.Com, Oct. 24, 2003; Martin Edwin Andersen, *Law Officer Association Attacks FAM Service*, Congressional Quarterly, Apr. 16, 2004; Larry Sandler, *Security Putting Air Marshals at Risk*, Milwaukee Journal Sentinel, May 2, 2004; Larry Sandler, *Air Marshals Warned Superiors – Then Complained to Congress*, Milwaukee Journal Sentinel, May 5, 2004.

Federal Air Marshals falling asleep on the job, mishandling weapons, and having extremely low morale. As a result of these reports, the Committee on the Judiciary (Committee), exercising its oversight responsibility pursuant to Rule X(l)(7) of the Rules of the House of Representatives of the 109th Congress, initiated an inquiry into the operation of the FAMS.

May 13, 2004 FAMS Briefing to Committee Staff

As a first step in this inquiry, the Committee arranged a briefing between Committee staff and FAMS Director Thomas D. Quinn on May 13, 2004. At the briefing, Director Quinn outlined the stand-up of the FAMS, the initial and ongoing training Federal Air Marshals receive, the FAMS' Surveillance Detection System (SDS), the dress and grooming standards, boarding procedures, the attrition rate, and he also addressed the question of low morale. Director Quinn assured Committee staff that the problems at the FAMS were entirely exaggerated by the media and that an overwhelming majority of the rank-and-file Federal Air Marshals are more than satisfied with their working conditions and FAMS policies. Director Quinn went on to state that it is only a vocal "two percent" of Federal Air Marshals who are complaining about policies and procedures of the FAMS. Director Quinn described these Federal Air Marshals as "disgruntled amateurs" who bring down the organization. He stated that aside from the small minority, operations at the FAMS are a huge success and a majority of the Federal Air Marshals supported polices such as the dress code, boarding procedures, and training schedule.

Committee Staff Interviews of Rank-and-File Air Marshals

Following this briefing from Director Quinn, Committee staff began to independently

interview rank-and-file Federal Air Marshals from various FAMS field offices across the country. Over 30 Federal Air Marshals from the Washington, Boston, Chicago, Atlanta, Los Angeles, Las Vegas, Houston, and Dallas field offices were interviewed in person, via telephone, or by email correspondence. Every Federal Air Marshal interviewed indicated that there are ways in which the service needs improving. An overwhelming majority of the interviewed Air Marshals stated that most concerns centered around threats created by the Service's own policies to preserving anonymity and safety. Most also indicated a reluctance to approach supervisors with these concerns for fear of retaliation that included being given difficult scheduling assignments and being required to wash FAMS vehicles and paint office walls. Many of those interviewed said that they initially tried to voice their concerns to FAMS supervisors but were told that there would be no changes. An overwhelming majority contended that their FAMS-issued Personal Digital Assistants (PDA) were unable to perform a majority of their administrative functions and at times could not communicate while in flight. Some Federal Air Marshals complained that difficult scheduling assignments left little time to train physically and felt this scenario left them at a disadvantage should they encounter a hostile situation.

Resulting September 28, 2004 Oversight Letter

As a result of these interviews, more press reports,[10] a November 2003 Government

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[10]Ricardo Alonso-Zaldivar, *Easy to Spot Air Marshals Might Be Easy Targets*, Los Angeles Times Headlines, May 31, 2004; Staff Writer, *Ridge Promises Kohl Changes to Air Marshal Procedure*, Associated Press, Jun. 9, 2004; Larry Sandler, *Concerns at Mitchell Prompt Federal Probe of Air Marshal Secrecy*, Milwaukee Journal Sentinel, Jun. 9, 2004; Staff Writer, *Too Many Sore Thumbs*, Winston-Salem Journal, June 11, 2004; Staff Writer, *Report: Security Procedures Continue to Expose Air Marshals*, Associated Press, Jun. 22, 2004; D.R. Stewart, *American Airlines Pilots Say Air Marshals Stand Out*, Knight Ridder/Tribune Business News, Jun. 24, 2004; Staff Writer, Flight *Attendants Say Marshals' Dress Code Compromises Them*, The Duluth News Tribune, Jul. 1, 2004; Joe Sharkey, *What Really Happened on Northwest Flight 327*, The New York Times, July 20, 2004; Audrey Hudson, *Terrorists Are Testing Jets*, Crews Say, The Washington Times, July 21, 2004; Brock N. Meeks, *Report Finds Air Marshal Standards Lacking*, MSNBC.Com, Aug. 31, 2004.

Accounting Office (GAO) report,[11] and an August 2004 Department of Homeland Security Inspector General's Report (the IG report) entitled *Evaluation of the Federal Air Marshal Service*, the Committee sent a detailed oversight letter to Director Quinn on September 28, 2004 (see Appendix 1).

The letter, with a response deadline of October 15, 2004, posed questions relating to the FAMS dress code, boarding procedures, Federal Air Marshal flight numbers and missions, and alleged probing activities by potential terrorists, among others. The Committee was concerned that FAMS policies were placing Federal Air Marshals in situations that could potentially compromise the Federal Air Marshals' identities and/or mission. The letter was also an attempt to gain a general understanding about the state of the FAMS and to gain insight into the Service's mission and procedures, should any legislative remedies be necessary by this Committee.

FAMS October 20, 2004 Response Letter

Director Quinn responded to the Committee's letter on October 20, 2004 (see Appendix 2). In the process of reviewing the FAMS responses to the Committee letter, questions were raised concerning the accuracy of some of the statements made by the FAMS. Further investigation confirmed that statements made in the response letter from Director Quinn were indeed inaccurate.

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[11]Government Accounting Office, Aviation Security: Federal Air Marshal Service is Addressing Challenges of Its Expanded Mission and Workforce, but Additional Actions Needed, November 2003.

Discrepancies Between FAMS Response Letter and Subsequent Evidence Discovered by the Committee

In the letter from this Committee, Director Quinn was required to "provide a summary of all complaints and requests for policy modification"[12] relating to the FAMS dress code. In his response, Director Quinn stated, "[i]f a modification to an existing policy were suggested, the Special Agent in Charge would send the requested modification to headquarters for review. To date, no such modification requests have been received from field offices."[13]

The Committee subsequently discovered an email from FAMS Atlanta Special Agent in Charge (SAC) Ernest "Don" Strange, Jr. to Deputy Assistant Director John Novak sent on July 17, 2003 (see Appendix 3), well over a year before the Committee inquiry.

The e-mail from Mr. Strange outlined the need for a more flexible and common sense approach to the FAMS dress code. At a briefing on November 17, 2004 at which Deputy Assistant Director Novak was present, Committee staff presented this document and asked why it was omitted in the response to the original September 28, 2004 letter. Deputy Assistant Director Novak claimed to never have seen the document in question. Five days later, on November 22, 2004, FAMS Congressional Affairs indicated, via e-mail, that the "e-mail to Novak on July 17, 2003.... was 'food for thought.' It was a general philosophical type message covering several issues to include his thoughts on the policy directive covering the dress code. It was never intended to be a formal request to consider modifying the dress code according to the

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[12]Question 1.E. in letter from Chairman Sensenbrenner and Ranking Minority Member Conyers to Federal Air Marshal Director Thomas Quinn. September 28, 2004, page 2.

[13]Response to question 1.E. in letter from Director Quinn to Chairman Sensenbrenner and Ranking Minority Member Conyers, October 20, 2004, page 3.

SAC."[14] Even if this characterization by FAMS Congressional Affairs is true, it is nonetheless the type of information the Committee requested and, as such, should have been included in the response by the FAMS.

If the e-mail from Mr. Strange was the only request for a policy modification relating to the dress code, the Committee plausibly could accept the FAMS response as a mere oversight in diligently attempting to answer the Committee's questions to the fullest extent possible. Subsequent investigation, however, uncovered numerous other requests or recommendations for dress code policy modification. On September 3, 2002, Federal Air Marshal Richard Meares IV from the Los Angeles field office wrote a letter to Director Quinn outlining his concerns about the dress code (see Appendix 5). Additionally, Meares filed mission reports on or about August 9th, 14th, and 29th of 2002 that specifically recommended dress code changes (see Appendix 6). On October 28, 2003, Federal Air Marshal Frank Terreri sent a letter to Director Quinn outlining various concerns including the dress code (see Appendix 7). Terreri wrote to Director Quinn on January 6, 2004, indicating that Terreri's team leader had briefed him on Director Quinn's failure to address Terreri's letter. Terreri's team leader told him that Director Quinn would not be responding to Terreri's concerns (see Appendix 8). In addition to these documents the Committee discovered numerous e-mails and reports from various Federal Air Marshals regarding requests for policy modification or complaints about FAMS operating procedures (see Appendix 9). The FAMS response to the Committee's September 28, 2004 oversight letter failed to reference any of these communications.

In the same September 28, 2004 letter from the Committee, Director Quinn was asked to

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[14]Email from Tim Cahill to Jason Cervenak, Subj: Follow Up, November 22, 2004. (see Appendix 4).

"confirm or deny whether FAMS have garnered credible evidence on probing" (see Appendix 1). Director Quinn responded that, "[t]he FAMS cannot substantiate that probing activities are occurring. However, the lack of credible evidence to date is insufficient to definitively conclude that no probing activity has occurred or will not occur in the future" (see Appendix 2). Subsequently, however, the Committee discovered that on June 27, 2002, and again on August 29, 2002, the *Federal Air Marshal Daily,* produced by FAMS headquarters, [redacted] (see Appendix 10). The publication is distributed to all Federal Air Marshals to ensure that all Federal Air Marshals have the information they need to effectively secure air transportation. The June 27, 2002 and August 29, 2002 *Federal Air Marshal Daily* publications were omitted from the FAMS response to the Committee's question on the topic about which these editions contain information. FAMS knew, or should have known, that these publications and the information upon which they are based are the type of information the Committee was seeking when asking this question, and by omitting the June 27, 2002 and August 29, 2002 editions of the *Federal Air Marshal Daily,* FAMS violated the spirit of cooperative Congressional oversight.

Committee Findings

The Committee is unclear why the response letter did not take these communications into account, but the Committee is concerned that the FAMS either should have an internal procedure to ensure that these types of matters are referred to headquarters for review or should have a better mechanism of tracking these items. Moreover, FAMS, in their effort to answer the Committee's letter, had a responsibility to identify receipt by the Service of this type of

information. Without procedures to bring these recommendations to headquarters, management is in no position to fully understand the problems that may be facing their organization. It is unacceptable for FAMS management to be oblivious to the problems facing their organization, either because there is no established system for managing requests for policy modifications or because there is a deliberate effort to ignore such requests.

FAMS POLICIES AND PROCEDURES

Federal Air Marshals are the last line of defense against those who wish to do harm to our nation's commercial aviation industry. The FAMS' strategy to operate anonymously is key to this defense. As such, Federal Air Marshals must be given all opportunities available to remain anonymous. Any policy or procedure that potentially compromises the identity of a Federal Air Marshal is a policy or procedure that compromises commercial aviation and national security. The Committee is concerned that FAMS management may not have taken the opportunity to review all policies and procedures that potentially compromise Federal Air Marshals' anonymity and has remained opposed to considering input from rank-and-file Federal Air Marshals regarding these issues.

According to the Department of Homeland Security's August 2004 Office of Inspector General Report, "[a]rmed air marshals blend in with ordinary passengers to cover high-risk domestic and international flights on U.S. air carriers."[15] Section 4016 of Public Law 108-458, the "Intelligence Reform and Terrorism Prevention Act of 2004," specifically directs the FAMS Director to, "continue operational initiatives to protect the anonymity of Federal air marshals."

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[15] OIG-04-32

The language in this section is clear and unambiguous and it is incumbent upon the FAMS Director to implement policies and procedures consistent with the language without delay.

As a relatively new agency, and one that has expanded quite rapidly over the past four years, most upper level policy makers at FAMS have little to no direct aviation security experience. In fact, many in FAMS headquarters have never actually served as a Federal Air Marshal, which is understandable given the rapid build up of the FAMS. FAMS management, however, should be receptive to input from rank-and-file Federal Air Marshals who fly on a daily basis and can make recommendations based upon their actual experience and practical knowledge.

Security Checkpoint and Boarding

Check-in, security checkpoint, boarding, and pre-flight procedures for Federal Air Marshals are articulated in the FAMS internal operating procedure FLT 6002, *Check-In, Boarding, and Pre-Flight Briefing Policy and Procedure - Domestic Mission Deployments*. Because this document is considered Sensitive Security Information (SSI), the Committee will not fully disclose its contents. However, after examining this document and speaking with Federal Air Marshals, the Committee feels that any procedure that could potentially compromise the anonymity of a Federal Air Marshal is a risk to national security.

In fact, a May 2, 2004 article in the *Milwaukee Journal Sentinel* pointed out the glaring shortcomings of the FAMS boarding procedures.[16] The author of the article was able to outline the FAMS boarding procedures by simply watching the entrance gate for a brief amount of time. According to the article, a "reporter was able to see the apparent security shortcomings in less

[16] Larry Sandler, *Security Putting Air Marshals at Risk*, Milwaukee Journal Sentinel, May 2, 2004.

than two hours at the airport."[17] The article also drew the conclusion shared by the Committee that, "[a] terrorist, presumably, could have done the same."[18] In Director Quinn's response letter to this Committee, he pointed out that the FAMS was able to successfully eliminate the TSA requirement that Federal Air Marshals entering the sterile area of an airport be required to sign a law enforcement log book and be approved entry by an airport law enforcement officer. The letter also stated that the FAMS were in the process of working with TSA to "to create airport-specific solutions for discreet movement of FAMs through sterile areas."[19] The Committee applauds Director Quinn for initiating these important common sense steps, but believes that too little progress has been made in implementing discreet entry points for Federal Air Marshals. Recent interviews with Federal Air Marshals indicate [redacted]. It has been more than a year since Director Quinn assured this Committee that the FAMS were in the process of enabling Federal Air Marshals to traverse all airports discreetly. More needs to be done, and it needs to be done immediately.

It is the Committee's understanding that procedures for entering the sterile areas of an airport fall under the jurisdiction of a local Federal Security Director (FSD) and airport police, and are enforced by TSA. FAMS management should immediately enter into a dialogue with all FSDs at airports in which Federal Air Marshals operate to ensure that there are uniform and discrete procedures. These discussions should establish procedures in which Federal Air

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[17] Id.

[18] Id.

[19] Response to question 2.A. in letter from Director Quinn to Chairman Sensenbrenner and Ranking Minority Member Conyers, October 20, 2004, page 4.

Marshals are not in the visible vicinity of the flying public at every airport in which Federal Air Marshals traverse. Now that the FAMS have returned to the TSA, the Assistant Secretary for Transportation Security can work cooperatively with the FAMS Director to move this process along quickly.

Grooming and Dress Standards.

FAMS dress standards were first issued in May of 2002 (FLT 6002, *Standards of Dress)* and subsequently designated SSI in December of 2002 and renamed ADM 3702, *Standards of Dress*. FAMS grooming standards were first issued in August of 2002 as ADM 3701, *Grooming and Appearance Standards*, and subsequently designated SSI in December of 2002. The only discernable difference between the two sets of policies is the SSI designation.

According to Director Quinn, the policy "enables FAMs to perform their duties without drawing undue attention to themselves." [20] In practice, however, many Federal Air Marshals indicate that the dress code actually draws more attention to the identity of Federal Air Marshals because of its rigid requirements that prevent Federal Air Marshals from actually blending in with their surroundings. Director Quinn claims that the "policy also gives field management the latitude to make exceptions to the policy in certain circumstances." One such scenario often pointed to is "[redacted]." Numerous Federal Air Marshals, however, state that [redacted] must be the only exception, because at all other [redacted] the dress code is in effect.

The Washington Times reported in December of 2004 that Director Quinn was personally agitated when he visited Ronald Reagan Washington National Airport on Thanksgiving Day,

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[20] Response to question 1.A. in letter from Director Quinn to Chairman Sensenbrenner and Ranking Minority Member Conyers, October 20, 2004, page 1.

2004 because only one Federal Air Marshal was wearing the required jacket.[21] The Committee questions the importance of wearing a suit jacket on Thanksgiving Day as an effective strategy for ensuring Federal Air Marshals blend in with fellow passengers. A suit jacket on a day when few, if any, business travelers are flying would more than likely cause the Federal Air Marshals to stand out. Director Quinn acted to follow up this incident by assigning supervisors to airports to perform dress inspections of Federal Air Marshals as they enter or leave an airplane. The Committee is concerned that this effort may not use the finite FAMS' resources in the most efficient manner possible.

The requirement that Federal Air Marshals wear a jacket or suit on every flight simply does not advance a goal of having Federal Air Marshals blend in with the traveling public in all circumstances. For example, Federal Air Marshals dressed in suit jackets are not likely to blend in with travelers flying to a vacation or tourist destination on a low cost air carrier on a weekend. A suit or jacket, however, does make sense on a weekday flight between two commercial hubs where many business travelers are likely to make up the majority of travelers on these flights. A dress code, if any, should represent and mirror the fluidity of air travel. Federal Air Marshals fly these routes on a daily basis and must certainly be aware of what is and is not appropriate attire for any given flight.

On August 12, 2005, *The Washington Post* reported that the FAMS dress code "has been modified."[22] While the article does not address the specifics of the dress code, the Committee is looking forward to seeing the modification and hopes it mirrors a common sense approach. *The*

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[21] Audrey Hudson, *Dress Code Wearing Thin on Air Marshals*, The Washington Times, December 8, 2004.

[22] Stephen Barr, *Association Representing Air Marshals Applauds Dress Code Modifications*, The Washington Post, August 12, 2005.

Washington Post article bases its sources on a statement from a Department of Homeland Security representative and excerpts from the Federal Law Enforcement Officers Association's (FLEOA) magazine.[23] In addition to being concerned about the efficacy of the a dress code that in and of itself reveals the presence of a Federal Air Marshal, the Committee also is concerned that both DHS and FLEOA commented publicly on law enforcement sensitive information that could provide additional verification about the identity of a Federal Air Marshal. By releasing such information, FLEOA has done a disservice to its Federal Air Marshal members as well as the general public. It would be entirely appropriate for DHS to investigate whether such release of information constituted an unauthorized release of SSI.

Hotel Policy

FAMS policy requires Federal Air Marshals to stay at designated hotels and to show their credentials to desk clerks, as governed by FLD 7330, *Designated Hotels During TDY Mission Deployment*. FAMS management justifies quartering Federal Air Marshals at designated hotels as a means by which management can more efficiently communicate with and assemble Federal Air Marshals in the event of an emergency. The policy requires Federal Air Marshals to identify themselves to hotel clerks upon check-in. The Committee does not find fault with the FAMS' desire to be able to quickly communicate with and locate Federal Air Marshals in the event of an emergency. However, this goal is not dependent upon Federal Air Marshals being required to identify themselves as Federal Air Marshals upon check-in. Moreover, requiring Federal Air Marshals to verify their identity to hotel personnel constitutes a great breach in the FAMS goal of maintaining anonymity for the Federal Air Marshals. Because having Federal Air Marshals

[23] See Appendix 10

identifying themselves to hotel personnel is not necessary for management to communicate with and assemble Federal Air Marshals, the Committee is concerned that requiring Federal Air Marshals to identify themselves upon check-in unnecessarily jeopardizes their identity and, subsequently, national security.

In addition to jeopardizing the anonymity of Federal Air Marshals - and consequently the safety of the flying public - the Committee is concerned that the FAMS hotel policies could put hotel patrons at risk. First, incidental hotel guests could observe Federal Air Marshals identifying themselves. Second, the policy has the effect of enabling hotels themselves to expose the presence of Federal Air Marshals as hotel guests. For example, the Sheraton Fort Lauderdale Airport initiated, and FAMS management did not prevent, a public declaration that the Federal Air Marshal Service was designated as a "company of the month" for reserving a substantial number of rooms for the Federal Air Marshals (see Appendix 12). This public designation essentially advertises for any terrorist wishing to attack a location populated by a concentration of Federal Air Marshals that such a target is the Sheraton Fort Lauderdale Airport. The Committee questions the judgment used in making and permitting this designation.

In the October 20, 2004 response letter to this Committee, Director Quinn responded to questions by the Committee about the effect of requiring Federal Air Marshals to reveal their identity as Federal Air Marshals by indicating a new and more discreet identification card would be forthcoming within 180 days. [redacted]. Director Quinn, in the same letter, also stated that FAMS is attempting to implement a program where all hotel bookings would be handled by [redacted]. This process has taken longer than expected to implement. On August 11, 2005, nearly ten months

after the Committee was informed a change would be forthcoming, this Committee was notified by FAMS Congressional Affairs that a pilot program of selecting and booking Federal Air Marshal hotel accommodations will be instituted at [redacted]. According to FAMS Congressional Affairs, "the program will:

1. Enable the recall of FAMs for Emergencies: The Mission Operations Center (MOC) will be able to quickly locate and notify all FAMs in the vicinity of emergencies or national incidents that require the availability of additional "mission-ready" FAMs. Such knowledge will also be invaluable in confirming the FAMs' safety during crisis incidents and reducing the confusion of multiple cellular telephone calls during emergencies.

2. Provide for Discrete Check-in: [redacted]

3. Alleviate FAMs of Burdensome Paperwork: [redacted]

4. Ensure Quality of Hotel Amenities and Room Availability: Hotels will be chosen based on specific criteria through field office input such [redacted] This initiative will also ensure the availability of hotel accommodations, even during room shortages attributed to conventions, tourist travel, etc."

The Committee is supportive of initiatives that protect the anonymity of Federal Air Marshals. The above policy appears to respond to concerns expressed by the Committee and by rank-and-file Federal Air Marshals by ensuring [redacted]. The Committee is concerned, however, about the large bureaucratic workforce [redacted]. The Committee

requests that the FAMS provide this Committee with the number of full time employees [redacted], as well as any other associated costs. This response also should indicate whether or not these positions require security clearances but the Committee cautions that if the positions do not require security clearances, the Committee will continue to be concerned that security lapses could arise under this practice just as they do under the current procedure.

Free Speech and Disciplinary Issues

FAMS employees' interactions with the media are governed by ADM 3700, *Employee Responsibilities and Conduct*, Sections 17 and 18. Specifically, Section 17 prohibits Federal Air Marshals from using "speech, writing, or other expression to criticize or ridicule FAMS … policy or other employees[;]" from creating or participating in "unofficial Internet websites concerning the FAMS[;]" and from making "any public statements concerning the FAMS" including addresses to public gatherings, appearances on radio or television, preparation of articles for publication, and correspondence with any newspaper or periodical. Finally, and more generally, under the directive, Federal Air Marshals may not "release or divulge investigative information or any other matters pertaining to the FAMS."

FAMS management contends that ADM 3700 is necessary to "efficiently and effectively safeguard civil aviation security and maintain a high level of public confidence in the country's civil aviation system."[24] While the Committee shares these concerns, the Committee is unclear whether ADM 3700 is the least intrusive means to safeguard air security and maintain confidence in the Nation's air transportation system. When individuals' free speech is restricted

[24]Response to question 4.B. in letter from Director Quinn to Chairman Sensenbrenner and Ranking Minority Member Conyers, October 20, 2004, page 10.

by the Government, it is incumbent that the Governmental restrictions be consistent with the Constitution. While the Committee supports efforts to safeguard classified national security information, the Committee is concerned that this directive is applied in a much broader manner than is constitutionally permissible or necessary for national security. Two federal lawsuits challenging the constitutionality of ADM 3700 were filed in 2005. In settling one of the lawsuits, the government agreed to amend ADM 3700 as well as notify Federal Air Marshals that they are not prohibited from publicly criticizing the agency, so long as they do not disclose inappropriate information about the highly secretive airline security operation.[25] Aside from the Committee's substantive concerns about the policy, the Committee also is concerned that FAMS management continued to open up DHS and the Government to unnecessary liability by enforcing ADM 3700 in a manner that is inconsistent with established protections of free speech.

The Committee also finds troubling allegations that FAMS management uses ADM 3700 as a retaliatory mechanism against those who vocalize legitimate concerns about FAMS policies. In October of 2004, it was widely reported that FAMS management removed Federal Air Marshal Terreri from flight duty because of an email sent to colleagues from his personal computer.[26] Terreri was accused of "threatening" a fellow Federal Air Marshal, known as "Becky," who was interviewed as part of a *People* magazine article on October 18, 2004. Terreri was critical of "Becky's" participation in the article, claiming that her disclosures about weapon type, training, and tactics jeopardized the anonymity and mission of the FAMS. Terreri also called "Becky" a "sellout." The Committee does not necessarily disagree with the FAMS' initiation of an investigation to determine if Terreri's comments were indeed creating a hostile

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[25] See *Air Marshal claims victory in lawsuit deal*, UPI, April 18, 2006.

[26] Eileen Sullivan and Tim Kaufman, *ICE Ethics Office Investigates Suspension of Air Marshal*, Federal Times, October 25, 2004.

work environment. What is troubling to the Committee, however, is Terreri's removal from flight status because, as the Committee understands, it is extremely unusual to remove someone from active duty during an investigation of an allegation that a Federal Air Marshal has violated a policy in a manner that does not threaten national security. In fact, the Committee is aware that Terreri was not the only Federal Air Marshal being investigated in this matter, yet he was the only one removed from flight status. It is this type of disparate disciplinary action that appears to be retaliatory, especially considering Terreri's written requests to effect policy changes at FAMS headquarters.

Additionally, Terreri was removed from flight status in October of 2004 but not permitted to return to normal duties until April 22, 2005, even though he had been cleared of all accusations by ICE Office of Professional Responsibility (OPR) on March 9, 2005 (see Appendix 13). The Committee is concerned by the delay in time between when OPR made its finding and when Terreri was permitted to return to active duty.

Moreover, as part of the rationale for finding no evidence of wrongdoing on the part of Terreri, OPR found that the ICE Office of the Principal Legal Advisor (OPLA) concluded that ADM 3700 is unenforceable as written because it was found to be overinclusive and excessively restrictive of protected speech.

The disparate disciplinary action experienced by Terreri does not appear to be an isolated incident. Atlanta Special Agent in Charge Strange was removed from his duties as Atlanta SAC for allegations of non-criminal misconduct in March of 2005. This action took place only a short time after Strange began communicating with this Committee. Further, just prior to being removed, Strange had just received an "above average" performance rating (See Appendix 14). The Committee is also aware of at least one other SAC who is under investigation for arguably

more egregious misconduct, yet was not removed from his position during the OPR investigation. The Committee believes that FAMS management should immediately implement a standard procedure for placing employees on administrative leave. In fact, the DHS Inspector General's Office recommended in August of 2004 that "the Assistant Secretary of U.S. Immigration and Customs Enforcement establish a policy addressing the FAMS' use of administrative leave."[27] The Committee is concerned that this recommendation has yet to be implemented.

Media Interaction

The Committee is concerned by FAMS management's overeagerness to disclose sensitive security information to national media outlets. On at least three occasions FAMS management has participated in televised news segments that reveal tactics, positioning, attire, and other sensitive information about the FAMS.

On November 5, 2003, WSVN, a FOX television affiliate in Miami/Ft. Lauderdale, aired a segment about the Federal Air Marshal Service.[28] The segment included information about where Federal Air Marshals are seated on an airplane, how they react to hostile situations, the fact that there are multiple Federal Air Marshals on flights, and out of which airports FAMS operate in the Miami area. Again, on February 5th and 6th, 2004, representatives of FAMS participated in a televised story on the NBC Nightly News. This program essentially walked the viewer through all of the steps and tactics Federal Air Marshals utilize when flying a mission. For example, it disclosed the number of Federal Air Marshals who fly a mission, check-in and

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[27]Department of Homeland Security, Office of the Inspector General, *Evaluation of the Federal Air Marshal Office*, OIG-04-32, August 2004, p. 21.

[28]http://www.wsvn.com/features/articles/specialreport/C106/

boarding procedures for the Federal Air Marshals, a Marshal's practice of interaction with the airline crew, their seating configuration, the specifications of the service weapon used by Federal Air Marshals, and the requirements for their attire. Finally, on February 17, 2005, CNN provided the world with a report about the Federal Air Marshal Service entitled "A Day in the Life of An Air Marshal". This segment was similar to the NBC story and revealed detailed information about FAMS tactics and procedures as well. While these media appearances may have been informative to the average viewer, the segments individually and collectively could potentially be used by those who wish to do harm to our aviation industry as they provide vital information about what to look for and what tactics the Federal Air Marshals on any given flight will utilize. In fact, the Federal Bureau of Investigation sent the FAMS a communication that an Al Qaida terrorist in custody was able to devise a plan of attack based upon information seen on a television news report.[29] While it is true that FAMS has a responsibility to bolster confidence in the aviation industry, it should not be done at the expense of Federal Air Marshal and passenger safety. The Committee believes that FAMS management should adhere to the same guidelines imposed upon their employees and refrain from divulging potentially compromising information about the mission of the Federal Air Marshals.

FINDINGS AND RECOMMENDATIONS

1.) **Finding:** Factual inaccuracies exist in the response letter from FAMS Director Quinn to the initial September 28, 2004 letter from this Committee.

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[29]Stephen Losey, *FBI to air marshals: Your cover is blown,* Federal Times, April 4, 2006.

Recommendation: FAMS should immediately reexamine the answers provided in the October 15, 2004 response letter and submit an addendum to the original response no later than 30 days after this report is issued to ensure no inaccuracies are present. In conducting this task, FAMS should obtain all information from any necessary source so the addendum fully and accurately respond to the Committee. This update should also include changes to policies that impact FAMS and the rationale behind each change, including those changes made as a result of section 4016 of P.L. 108-458.

2.) **Finding:** The check in and boarding procedures currently employed by FAMS are unacceptable to ensuring the anonymity of Federal Air Marshals.

Recommendation: FAMS management should expeditiously enter into a dialogue with Federal Security Directors, TSA, and other relevant entities to ensure that anonymous check-in and boarding procedures are available in each and every airport that Federal Air Marshals traverse.

3.) **Finding:** Any standard of dress or grooming that does not take into account the true nature of dress by the flying public on a given flight unnecessarily places Federal Air Marshals in jeopardy by potentially compromising the anonymity of the Federal Air Marshals.

Recommendation: FAMS should employ a dress code that reasonably reflects the nature of modern air travel and does not place Federal Air Marshals in harm's way or risk their

unnecessary identification.

4.) **Finding:** Requiring Federal Air Marshals to identify themselves as such to hotel employees is an unnecessary breach of security and anonymity.

Recommendation: The FAMS should immediately implement a process by which Federal Air Marshals can access appropriate hotel accommodations without disclosing their identity or affiliation and the FAMS can reach all Federal Air Marshals in a timely fashion.

5.) **Finding:** Restrictions on Federal Air Marshals' speech should only be as stringent as needed to ensure that no sensitive or classified information is released but should also protect Federal Air Marshals' First Amendment rights.

Recommendation: FAMS' Restrictions on Federal Air Marshals' speech should be rewritten to adequately protect First Amendment rights and reflect the written advice of ICE OPLA.

6.) **Finding:** FAMS has shared tactics, methods, and procedures, many of which should be considered sensitive, with local and national media outlets.

Recommendation: FAMS should exercise better judgement when dealing with the media to ensure that no sensitive information is revealed. Furthermore, FAMS should

not divulge any information that has the potential to enable a person to identify a Federal Air Marshal.

7.) **Finding:** Disciplinary procedures at FAMS can be called disparate and, on their surface, can be characterized as unfair and even retaliatory.

Recommendation: FAMS should employ disciplinary procedures that are standardized for any given infraction. Investigations and punishments should be handled by a neutral party, such as the ICE Office of Professional Responsibility.

COMMITTEE REQUESTS

1.) The Committee requests a delineation of the conclusion of all OPR investigations that resulted in a finding of unsubstantiated or unfounded claims, including when and by whom employees were notified of the disposition of the claims against them, the dates of OPR's conclusions, and the dates on which these exonerated employees returned to active duty.

2.) The Committee requests an explanation by FAMS management as to why it continues to enforce ADM 3700 that its own Office of Professional Legal Advisor has found unenforceable for lack of constitutional permissibility.

3.) The Committee requests a list of all media activities FAMS management has sanctioned,

authored and/or participated in since 2002.

CONCLUSION

Certainly the FAMS has come a long way since 9/11, but, as this report demonstrates, there are necessary steps to be taken to make the Service the elite law enforcement agency it should be. DHS, TSA, and FAMS management should address the obvious shortcomings in order to make FAMS a better agency. Ensuring the anonymity of Federal Air Marshals should be a top priority of the organization. Steps should begin immediately to ensure that policy initiatives are rapidly implemented to achieve this goal.

Appendix 1

F. JAMES SENSENBRENNER, JR., Wisconsin
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ONE HUNDRED EIGHTH CONGRESS

Congress of the United States
House of Representatives

COMMITTEE ON THE JUDICIARY

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September 28, 2004

The Honorable Thomas D. Quinn
Director
Federal Air Marshal Service
ICE Headquarters - FAMS
425 I Street NW
Washington, DC

Dear Director Quinn:

As you know, the Committee on the Judiciary has oversight responsibility for the Federal Air Marshal Service (FAMS). We are concerned by media reports, as well as reports from other sources, detailing alleged security gaps in air travel. As part of our oversight responsibilities, the Committee has the duty to ensure that the efforts of the FAMS are effective. We also owe a duty to the American public to do everything we can to make certain that air travel is as safe as possible.

To assist the Committee in our oversight efforts, please respond by 5:00 p.m. on October 15, 2004, to the following questions:

1. An April 2004 letter from an air marshal association to Members of Congress and July 2004 press reports in the Washington Times and New York Times, among others, note the professional dress code required for air marshals may be having the unintended consequence of making air marshals easily recognizable. Other reports indicate that the dress code is determined individually by FAMS field offices so that requirements vary throughout the Nation.

   A. Do you consider the benefits of this professional dress code to outweigh the potential harm to individuals and mission of having an unrecognizable FAMS team? Please explain.

   B. Please provide the dress code(s) as well as guidelines that have been used for interpreting implementation of the code(s). Please include all dress codes that the

FAMS has used since January of 2002.

C. Please provide the range of consequences that could be imposed if an air marshal does not adhere to the dress code.

D. Please provide information on all disciplinary action that has taken place as a result of an air marshal not adhering to the dress code. Please include all accompanying documentation to support disciplinary actions.

E. Please provide a summary of all complaints and requests for policy modification received from air marshals and an explanation of how each of these communications has been, or is being, resolved.

2. Concern has also been raised over other procedures that potentially expose the identity of air marshals, including procedures used by air marshals to bypass security checkpoints, to board and to identify themselves to security and airline personnel. We are also troubled by reports that seating configurations on flights are frequently, if not always, the same, thereby facilitating the identification of the air marshals. Moreover, we are concerned about reports that air marshals are required to stay in certain designated hotels and identify themselves specifically as federal air marshals, not just as government agents.

A. Please provide the procedures used by air marshals in bypassing security checkpoints, including, but not limited to, whether air marshals are ushered up the checkpoint exit in plain view of passengers.

B. Please provide the boarding procedures that air marshals are to follow, including, but not limited to, the timing of their boarding.

C. Please provide the procedures that air marshals utilize in revealing their identity to law enforcement, security, and airline personnel, including, but not limited to, showing their identification and signing logbooks.

D. According to media reports, when air marshals stay at hotels while on official travel, they are required to stay in specified hotels contained in a short list of approved hotels and, when checking in, must identify themselves and show their credentials in order to receive a special discount. These reports have raised concerns that the ability of air marshals to maintain cover may be compromised and that hotels regularly servicing air marshals may be targeted. Please verify the truth or falsity of this allegation, including, but not limited to, whether air marshals are required to present credentials identifying them as air marshals in order to receive a discount and whether they are limited to a small number of

hotels in which they may stay.

E. Please outline the seating configuration used by air marshals on flights.

3. Contradictory reports of the type of ammunition used by air marshals has sparked concern by travelers, pilots, and others. The debate includes whether all passenger aircraft can withstand impact by the type of ammunition used by air marshals and whether the ammunition is the type that continues to travel through a human body.

A. Please provide the specifications for the ammunition used by air marshals.

B. Do all air marshals always carry this type of ammunition? If not, please explain circumstances that warrant another type of ammunition, the specifications for any alternative ammunition used, how often these circumstances arise, and what procedures are in place to ensure safety when alternative ammunition is used.

C. Please provide examples that clarify the impact assessments for each type of ammunition used including, but not limited to, the effect on an aircraft and a human body from being penetrated by the ammunition used by air marshals when fired at varying distances.

D. Are air marshals trained in the specifics and capabilities of the ammunition and weapons they carry? If so, please detail the nature and extent of the training.

4. Several media outlets have reported on air marshal activities and procedures. Some of these reports have been in conjunction or cooperation with the FAMS and some have not.

A. Under what circumstances is official FAMS information shared with the public? Who is authorized to speak for the FAMS?

B. What restrictions are placed on air marshals with regard to speaking about their job or employer? Please describe the consequences that could be imposed if an air marshal fails to comply with these restrictions. Please also indicate all disciplinary action that has been taken regarding this issue.

C. Why did the FAMS believe that it was appropriate to provide Time Magazine access to air marshals on board NW flight 327, while failing to bring those individuals to a Congressional briefing about NW flight 327. If the air marshals are important enough to the facts to present to a national audience, why then, are they not important to a Congressional inquiry?

5. According to media reports, policy directives have required air marshals, in at least

portions of the country, to submit at least one "surveillance detection report" (SDR) per month, resulting in fraudulent reports being filed.

A. Please confirm whether such policy directives have been made (officially or unofficially).

B. If such policy directives have been made, please provide the copies of each.

C. What are the range of consequences that could be imposed for failure to comply with a directive?

6. I understand that providing the precise number of air marshals may impact law enforcement ability to prevent potential terrorists or others who may wish to disrupt the air travel system from taking advantage of lapses in coverage. Nevertheless, it is vital that Congress have a clear understanding of the depth of air marshal coverage within the air transportation system.

A. Please provide the number of active air marshals as of the date of your response to this inquiry. Because flights operate at all hours of the day, and because air marshals are provided annual and sick leave, please qualify the number of active air marshals according to the number who are on duty at any one time.

B. Please provide the number of non-FAMS Immigration and Customs Enforcement (ICE) agents used to support FAMS and the number of FAMS used to support non-FAMS ICE agents.

C. Please provide the number of law enforcement officials who are not employed by the FAMS but who may be considered air marshals or any other category of "air law enforcement" at any time. Under what circumstances are law enforcement officials counted as air marshals or any other category of "air law enforcement?" When law enforcement officials not employed by FAMS are participating in troop enhancement or are considered in any capacity as any "air law enforcement," are these individuals required to follow all of the same procedures and regulations as on-duty air marshals? For example, are law enforcement officials required to carry weapons on their bodies when flying for personal reasons or reasons unrelated to providing air safety? Are law enforcement officials permitted to sleep, read, or consume alcoholic beverages when flying for personal reasons or reasons unrelated to providing air safety? If these individuals are in a capacity in which they are not required to follow all of the same procedures and regulations as on-duty air marshals, are they counted for troop enhancement purposes or are they considered an "air law enforcement" officer for any purpose? If so, for what purposes?

D. Please provide the number of flights that are covered each day by the FAMS. In doing so, please indicate the size of each aircraft being covered as well as the distances traveled by each aircraft.

E. Please indicate how coverage of flights is determined by the FAMS. What factors are considered when making this decision?

7. All federal criminal investigators (those in the GS-1811 series) must have authorization for their investigative duties and are to be provided investigatory training.

A. Are air marshals considered investigators? What authority limits or authorizes any investigatory activities undertaken by air marshals?

B. What investigatory training do air marshals receive? Is this training required to be completed before air marshals begin service?

C. How are air marshals required to interact, or delineate duties, with other law enforcement officials? Please provide a complete breakdown of which law enforcement officials are to complete each task when an air marshal identifies a suspicious individual on a flight.

D. What preliminary intelligence, criminal background, or other information are air marshals provided prior to conducting any investigation or interrogation?

E. What limits constrain air marshals ability to gather information? For example, do air marshals have access to information regarding concerns about a flight on which an air marshal is serving? Do air marshals have access to flight manifests or other passenger databases?

8. Instances of probing occurring on flights have been reported on widely by the media, yet FAMS has stated that there have not been any credible reports of probing on aircraft.

A. Please confirm or deny whether FAMS has garnered credible evidence on probing.

B. Please detail the standard used by FAMS in determining whether allegations of probing are considered "credible."

C. Please provide a summary of all probing allegations that have been reported to and/or investigated by FAMS and the conclusions reached upon considering the allegations.

D. Please detail whether a central repository exists, containing reports of suspicious activity, that is available to all air marshals.

E. Though airline personnel have at their disposal procedures to report suspicious activity to FAMS, claims exist that, rather than have their employees report such activity to FAMS, airlines instruct their personnel to report such activity to airline security. Please detail whether FAMS is aware of such claims that airline personnel report suspicious activity to airline security rather than to FAMS and whether FAMS has investigated such claims. If FAMS has investigated these claims, please detail FAMS' findings regarding them.

9. It remains unclear as to what the standard procedures are in place when an air marshal encounters a suspicious or potentially hostile situation.

A. Please indicate what procedures are in place when an air marshal encounters a suspicious or hostile situation while the flight is in the air. Is there a difference between domestic and international procedure? If so, what is it? Who has the authority to divert or immediately land a plane should a situation arise? What thresholds need to be met in order to take this action?

B. Are there requirements that pilots or airline employees relay an air marshal suspicion to the Federal Aviation Administration (FAA), National Targeting Center (NTC), Maintenance Operation Control Center (MOCC), or a Joint Terrorism Task Force (JTTF)? If so, what are they? If not, why not?

C. How does ICE define critical high-risk flights? What policy is in place to screen foreign originating flights arriving at high-risk locations? What policy is in place when a "watch-listed" person or persons is discovered after takeoff?

D. Do FAMS air marshals receive training on immigration issues as a part of ICE?

10. What is the relationship between the FAMS, FAA and NTC? Please provide all documents including, but not limited to Memoranda of Understanding, relating to these relationships. What steps are being discussed or undertaken to improve these relationships, including, but not limited to standardization of airport rules, procedures and badges?

11. According to a recent DHS Inspector General (IG) report entitled, *Evaluation of the Federal Air Marshal Service (FAMS)*, in 2003 FAMS management began experiencing disciplinary problems with numerous active air marshals.

A. The IG reviewed 504 applicants who had been favorably adjudicated and

awaiting a job offer. Of those 504 applicants, 161 were found to have questionable financial, employment, and criminal activities. FAMS spokesman Dave Adams told *Government Executive* (September 1, 2004) that "ultimately, none of the 161 questionable applicants were hired." Please provide documentation of this claim.

B. Appendix A (p. 24) of the above mentioned report outlines 753 FAMS disciplinary actions between February 2002 and October 2003. Please provide all documentation relating to these actions.

C. Appendix B (p. 35) of the above mentioned report is the "Management Comments" and outlines 717 FAMS disciplinary actions between June 2002 and March 2004. Please provide all documentation relating to these actions. Please avoid all duplicative material that would coincide with the above request (9 B).

12. Please provide all complaints received from air marshals and field offices relating to any matter.

13. Please provide all policies, procedures, guidelines, regulations and any other materials relating to the duties and conduct of the FAMS.

14. Please indicate how many air marshals have been hired since September 11, 2001. How many have left on their own accord? How many have been fired?

We recognize that your answers to some of the questions posed in this letter may have classified responses. As you know, the Committee on the Judiciary has procedures in place to receive classified information. If you have any questions about procedures for transmitting classified information or about this letter in general, please contact Julia Tomala, Chief Counsel for Oversight and Investigations, Committee on the Judiciary at 202-225-3951. Thank you for your immediate attention to this matter.

Sincerely,

F. JAMES SENSENBRENNER, JR.
Chairman

JOHN CONYERS, JR.
Ranking Member

cc: The Honorable Michael Garcia
The Honorable Tom Ridge
The Honorable Asa Hutchinson
The Honorable Clark Kent Ervin

Appendix 2

Federal Air Marshal Service
U.S. Department of Homeland Security
425 I Street, N.W.
Washington, DC 20536

001-1220

October 20, 2004

The Honorable F. James Sensenbrenner, Jr.
Chairman
U.S. House of Representatives
Committee on the Judiciary
2138 Rayburn House Office Building
Washington, D.C. 20515

The Honorable John Conyers, Jr.
Ranking Member
U.S. House of Representatives
Committee on the Judiciary
2138 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Sensenbrenner and Ranking Member Conyers:

Attached for your information is the Federal Air Marshal Service's response to your memorandum dated September 28, 2004. The information contained in this response is considered Sensitive Security Information. Several of the answers are classified Secret and have therefore been separated and placed in a classified folder.

Thank you for your continued support for the Federal Air Marshal Service, and we look forward to working with you and your staff to ensure the successful accomplishment of our mission.

Sincerely,

Thomas D. Quinn
Director

Attachment

cc: Assistant Secretary Michael J. Garcia
Under Secretary Asa Hutchinson

Federal Air Marshal Service
U.S. Department of Homeland Security
425 I Street, N.W.
Washington, DC 20536

U.S. Immigration and Customs Enforcement

FEDERAL AIR MARSHAL SERVICE RESPONSE TO QUESTIONS FROM THE U.S. HOUSE OF REPRESENTATIVES COMMITTEE FOR THE JUDICIARY

Standard of Dress Policy

1.A. Do you consider the benefits of this professional dress code to outweigh the potential harm to individuals and mission of having an unrecognizable FAMS team? Please explain.

In April 2002, a number of airline industry representatives, Congressional representatives, and members of the Administration complained of what was deemed inappropriate Federal Air Marshal (FAM) attire that was not in keeping with dress normally worn by first class passengers. (As you know, FAMs are tactically positioned in the front of aircraft, which is normally the first class cabin.) It was noted that FAMs were traveling during mission status attired in shorts, blue jeans, sandals, fishing vests, tee shirts, sweatshirts, etc. Some FAMs took it upon themselves to don various disguises including one FAM who dressed as a priest. There were also no grooming standards, which further exacerbated the situation.

The Federal Air Marshal Service (FAMS) first issued a Standards of Dress policy in May 2002, later designated and reissued as Sensitive Security Information (SSI) on December 31, 2002, that directs FAMs to dress so as to present a professional image and blend into their environment. This policy enables FAMs to perform their duties without drawing undue attention to themselves. A professional image is critical in establishing credibility with the pilot and crew, and most important, with the passengers should they have to deploy on board the aircraft in response to an attack. The policy also gives field management the latitude to make exceptions to the policy should special circumstances warrant. An example of a policy exception would be [redacted]. The policy gives the FAMs the option of wearing a business suit or a sport coat with dress pants and a collared shirt.

We believe the dress code strikes the appropriate balance between maintaining a professional image while blending in with the travel environment. On many occasions, airline passengers have engaged in conversation with FAMs, openly speculating as to whether or not a FAM was on board, while being completely unaware that they were speaking with one.

SENSITIVE SECURITY INFORMATION
WARNING: THIS RECORD CONTAINS SENSITIVE SECURITY INFORMATION THAT IS CONTROLLED UNDER 49 C.F.R. PARTS 15 AND 1520. NO PART OF THIS RECORD MAY BE DISCLOSED TO PERSONS WITHOUT A "NEED TO KNOW," AS DEFINED IN 49 C.F.R. PARTS 15 AND 1520, EXCEPT WITH THE WRITTEN PERMISSION OF THE ADMINISTRATOR OF THE TRANSPORTATION SECURITY ADMINISTRATION OR THE SECRETARY OF TRANSPORTATION. UNAUTHORIZED RELEASE MAY RESULT IN CIVIL PENALTY OR OTHER ACTION. FOR U.S. GOVERNMENT AGENCIES, PUBLIC DISCLOSURE IS GOVERNED BY5 U.S.C. 552 AND 49 C.F.R. PARTS 15 AND 1520.

1.B. Please provide the dress code(s) as well as guidelines that have been used for interpreting implementation of the code(s). Please include all dress codes that the FAMS has used since January of 2002.

There have been two FAMS-level directives published regarding dress code: FLT 6002, *Standards of Dress* (May 9, 2002) and the current ADM 3702, *Standards of Dress* (December 31, 2002). These directives are identical, except that FLT 6002 (May 9, 2002) had a security disclaimer of "Law Enforcement Sensitive" and the superceding version of ADM 3702 (12-31-2002) now contains a "Sensitive Security Information" (SSI) disclaimer. In addition, FLT 6003, *In-Flight Policy*, Section 5(B) touches on dress code. These policies are attached. No other official guidelines have been issued to FAMs in addition to the policies referenced above. The FAMS dress code policy is designated as SSI.

1.C. Please provide the range of consequences that could be imposed if an air marshal does not adhere to the dress code.

The FAMS does not utilize a Table of Offenses for misconduct issues, including dress code violations. The FAMS evaluates each case individually and determines an appropriate penalty, taking into consideration such things as consistency, progressive discipline, past performance, the nature and seriousness of the offense, and whether the misconduct was committed inadvertently or intentionally.

A first time violation of the dress code policy will result in written counseling at the local level, which is not considered an adverse action. However, repeated violations may rise to the level of insubordination, which is considered a very serious matter and will be penalized accordingly.

When alleged violations arise, the FAMS follows the protocols established by ICE. Specifically, that protocol requires that any misconduct be immediately reported to ICE Office of Professional Responsibility (OPR). OPR officials then either refer the incident to DHS OIG; utilize OPR officials to investigate the incident, or defer action to the involved office, in this case the FAMS.

1.D. Please provide information on all disciplinary action that has taken place as a result of an air marshal not adhering to the dress code. Please include all accompanying documentation to support disciplinary actions.

For the period of June 2002 until the present, the FAMS' Operational Integrity Branch has received seven cases of dress code violations. Two of these seven cases involved dress code violations only, and both received counseling at the local level as the penalty. Again, this is not considered an adverse action. The remaining five cases involved multiple infractions in

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addition to the dress code violation, such as failure to follow procedures, insubordination, and late arrival for a mission. Penalties for these five cases ranged from counseling at the local level to a five-day suspension. See attached spreadsheet in reference to question 11.B.

1.E. Please provide a summary of all complaints and requests for policy modification received from air marshals and an explanation of how each of these communications has been, or is being, resolved.

Complaints and requests for policy modification on the dress code policy have been minimal since a complete and thorough explanation of the policy was personally conducted by the FAMS Director and Deputy Director during field office visits in 2002 and 2003. It should be noted that the overwhelming majority of FAMs understand the need for, and support, the policy.

The FAMS management provides clarifications to existing policies when questions or concerns are raised by FAMs. This information is subsequently forwarded to the FAMs in several different modes. Some field offices use FAM Advisory Counsels to disseminate the information. In other cases, the Special Agents in Charge prepare memoranda, which are sent to all FAMs within the field office.

If a modification to an existing policy were suggested, the Special Agent in Charge would send the requested modification to headquarters for review. To date, no such modification requests have been received from field offices.

Boarding Procedures

2.A. Please provide the procedures used by air marshals in bypassing security checkpoints, including, but not limited to, whether air marshals are ushered up the checkpoint exit in plain view of passengers.

Check-in, boarding, and pre-flight procedures are governed by FLT 6002, *Check-In, Boarding, and Pre-Flight Briefing Policy and Procedure - Domestic Mission Deployments*, dated May 5, 2004 (attached), and are designated as SSI.

The procedures for entering sterile areas at airports vary from airport to airport, and are generally subject to the requirements of the local Federal Security Director (FSD) and airport police. This process is under the control of Transportation Security Administration (TSA) or the local airport authority.

In January 2004, shortly after the FAMS transferred from TSA to ICE, the TSA began requiring FAMs to access airport sterile areas through public security screening checkpoints and to sign the law enforcement officer (LEO) logbook. [redacted], this

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process occurred in plain view of passengers and the public at the screening area. FAMs also had to wait for an airport LEO to respond and verify their badge and credentials. This process occurs in an area open to the public view and can be time consuming, which can jeopardize the FAMs' mission and potentially expose their identity.

The FAMS immediately objected to this new requirement. The new procedures compromised the FAMs' ability to discreetly enter airport sterile areas, which is necessary to prevent unwarranted identification of the FAMs by passengers, the public, and others. The FAMS requested that TSA require FSDs to work in cooperation with FAMS field office Special Agents in Charge (SACs) to identify locations within the airports where FAMs would be able to discreetly enter sterile areas in performance of their missions.

As a result, on May 10, 2004, TSA issued a new interim Screening Standard Operating Procedure (SOP). The new interim procedures allow [redacted]. It removed the requirement that the badge and credentials had to be verified by an airport LEO. It also withdrew the requirement that FAMs must sign the LEO logbook. The interim measures are intended to stay in effect [redacted]

On June 9, 2004, TSA issued a memorandum to FSDs directing them to meet with FAMS SACs. The FSDs were instructed to develop a plan with the FAMS SACs at individual airports to allow access by FAMs into the sterile areas away from public viewing. The FAMS is currently in the process of working with TSA to create airport-specific solutions for discreet movement of FAMs through sterile areas.

2.B. Please provide the boarding procedures that air marshals are to follow, including, but not limited to, the timing of their boarding.

FAMs were granted Trusted Agent Status by the FAA on November 26, 2003, which authorizes FAMs to pre-board an aircraft without the air carrier meeting the FAA minimum crew requirements required when the air carrier is in the boarding process. FAMs may remain onboard the aircraft without the necessity of having crew present. Trusted Agent Status is governed by FLT 6010, *FAA Trusted Agent Status*.

Additionally, check-in, boarding and pre-flight procedures are governed by FLT 6002, *Check-In, Boarding, and Pre-Flight Briefing Policy and Procedure - Domestic Mission Deployments*, and are designated as SSI. These procedures were developed with the goal of protecting FAMs' identities, while facilitating the necessary coordination and communication with crew and airline staff, and giving the FAM team sufficient flexibility to respond to changing circumstances at their own discretion. FAMs are required to take

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necessary and reasonable measures during the boarding process to avoid being identified by the public as FAMs. [redacted] that they are recognized as "trusted agents" by the FAA and notify the Mission Operations Center (MOC) to request guidance and further instructions. (The MOC is the FAMS' 24/7 operations center that controls daily operations, monitors ongoing missions and intelligence, and facilitates "day of" mission changes.) A copy of these procedures is attached.

2.C. Please provide the procedures that air marshals utilize in revealing their identity to law enforcement, security, and airline personnel, including, but not limited to, showing their identification and signing logbooks.

These procedures are governed by TSA Inter Office Memorandum, *Security Checkpoint Operating Procedure* – Revision 4, Change 1 and by FLT 6002, *Check-In, Boarding, and Pre-Flight Briefing Policy and Procedure - Domestic Mission Deployments* and are designated as SSI. A copy is attached.

Security checkpoint and boarding procedures have been evolving since September 2001 and continue to be updated or changed as necessary. In October 2002, TSA issued a Screening Checkpoint SOP that exempted "TSA LEO's" from screening and logbook entries. The FAMS asked that TSA follow their own SOP to allow FAMs to pass through checkpoints unimpeded. In March 2003, a SAC workgroup was established to recommend to the FAMS Director ways of improving the boarding procedures for FAMs. Recommendations were forwarded that led to a revision of FLT 6002 in October of 2003. The requirement that FAMs must sign in at the TSA security checkpoint logbook was eliminated in May of 2004, as explained in 2.A. above.

The current version of check-in, boarding and pre-flight briefing procedures is dated May 11, 2004 and is outlined as follows:

[redacted]

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The FAMS has requested to have Security Identification Display Area (SIDA) badges issued to FAMs at their home airports. These badges allow access to the airport sterile areas without passing through security checkpoints. FAMs with a SIDA badge are instructed to avoid public security screening checkpoints whenever possible and must always use and display their SIDA badge in accordance with airport regulations and requirements. FAMs without a SIDA badge must adhere to established TSA regulations or other established airport procedures at all security-screening checkpoints, as outlined in 2.A. above. TSA screening supervisors are required to check FAM credentials, badges, and identifications.

[redacted]

2.D. Please verify the truth or falsity of this allegation, including, but not limited to, whether air marshals are required to present credentials identifying them as air marshals in order to receive a discount and whether they are limited to a small number of hotels in which they may stay.

The FAMS policy regarding designated hotels is FLD 7330, *Designated Hotels During TDY Mission Deployments* (see attached).

In an effort to locate, communicate with, and assemble FAMs in the event of an emergency, the FAMS has identified a limited number of hotels within close proximity to the airports to be used by transiting FAMs. Some of these hotels have agreed to offer a discount to the official government rate; others will offer only the established government rate. In any event, the choice of hotel was not contingent on price, but rather on the hotel's operational/logistical advantage. The Immigration and Customs Enforcement (ICE) Office of the Principal Legal Advisor confirmed that this policy is not in conflict with GSA procurement regulations. Furthermore, operational security considerations are important criteria when selecting these lodging sites.

The requirement to discretely identify oneself as a government employee has always been a requirement for all federal government employees. Consequently, the initiation of the above policy did not place any new requirement on our employees to identify themselves as FAMs. [redacted]

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[redacted]

2.E. Please outline the seating configuration used by air marshals on flights.

See attached SECRET annex.

Ammunition

3.A. Please provide the specifications for the ammunition used by air marshals.

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3.B. Do all air marshals always carry this type of ammunition? If not, please explain the circumstances that warrant another type of ammunition, the specifications for any alternative ammunition used, how often these circumstances arise, and what procedures are in place to ensure safety when alternative ammunition is used.

3.C. Please provide examples that clarify the impact assessments for each type of ammunition used including, but not limited to, the effect on an aircraft and a human body from being penetrated by the ammunition used by air marshals when fired at varying distances.

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3.D. Are air marshals trained in the specifics and capabilities of the ammunition and weapons they carry? If so, please detail the nature and extent of the training.

Media

4.A. Under what circumstances is official FAMS information shared with the public? Who is authorized to speak for the FAMS?

The FAMS is subject to Department of Homeland Security (DHS) Management Directive MD 2010, *Public Affairs Guidance and Designated Spokespeople*, which provides guidelines relating to the disclosure of official DHS information to the media, and to FAMS directive ADM 3700, *Employee Responsibilities and Conduct*, Section 18(c). At the FAMS level, only the Director, or his designee, is authorized to speak for the FAMS, and only in accordance with DHS policy. DHS policy is to maintain the public trust by proactively providing timely and accurate information to the general public, the Congress and the news media about DHS efforts to protect the homeland.

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In accordance with DHS policy, authorized individuals who release information must exercise due care to preserve privileged information, protect the rights of individuals and comply with applicable policy, regulations and laws, including the Freedom of Information Act and Privacy Act. They must temper their responses to media inquiries by considerations for the potential impact on public safety, on-going criminal/civil investigations, sensitive foreign activities, pre-decisional matters, operational factors, the exchange of intelligence, matters in litigation, and time required to retrieve the information in question.

4B. What restrictions are placed on air marshals with regard to speaking about their job or employer? Please describe the consequences that could be imposed if an air marshal fails to comply with these restrictions. Please also indicate all disciplinary action that has been taken regarding this issue.

FAMS employees are governed by ADM 3700, *Employee Responsibilities and Conduct*, Sections 17 and 18, as well as by Department of Transportation and TSA human resources management policies. (See attached copy of ADM 3700.) These policies are drawn from Federal and administrative case law, Federal regulations and executive orders regarding Executive Branch employees' standards of ethical conduct.

The FAMS has a compelling interest in efficiently and effectively safeguarding civil aviation security and maintaining a high level of public confidence in the country's civil aviation system. As with other law enforcement and national security organizations, this compelling interest requires that public statements and communications with third parties by FAMS employees in their capacity as such are necessarily more restricted than those made by private citizens.

Accordingly, FAMs face a number of restrictions when speaking about their job or the FAMS. FAMs may not release sensitive or classified information unless authorized to do so. FAMs may not criticize or ridicule the FAMS, ICE or DHS policy or other employees, orally, in writing, or through any other expression that is defamatory, obscene, unlawful, would impair the operation or efficiency of the FAMS, ICE or DHS, or is made with reckless disregard for truth.

In addition, unless designated by the FAMS Director, FAMs may not address public gatherings, appear on radio or television, prepare any articles for publication, act as correspondents to a newspaper or periodical, release or divulge investigative information or any other matters pertaining to the FAMS, ICE, or DHS.

Violating any of the above policies may result in disciplinary action, including dismissal. To date, one disciplinary action has been initiated with respect to violations of the above policies.

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4.C. Why did the FAMS believe it was appropriate to provide Time Magazine access to air marshals on board NW flight 327, while failing to bring those individuals to a Congressional briefing about NW flight 327. If the air marshals are important enough to the facts to present to a national audience, why then, are they not important to a Congressional inquiry?

The FAMS will always comply with requests to have personnel appear before Congressional committees or to brief staff. However, to the best of our knowledge, the Judiciary Committee staff did not request to hear directly from the FAMs who were assigned to this flight. At the briefing, a detailed description was provided to your staff about NW flight 327 by Border and Transportation Security (BTS) and FAMS officials. Several days after the briefing, TIME Magazine approached the FAMS and inquired if they could interview one of the FAMs who was on NW flight 327. After a discussion with the DHS Office of Public Affairs, a decision was made to grant TIME access to one of the FAMs assigned to NW flight 327.

DHS believed that because of the widespread national media coverage concerning this flight, a first-hand account from a FAM would dispel the rumors that had been reported in the press. DHS believed that a clear message needed to be sent to the American public that it was safe to fly and that the passengers in question did not commit any criminal or terrorist acts while onboard this flight.

Surveillance Detection Reports

5.A. Please confirm whether such policy directives (regarding once a month SDR submissions) have been made (officially or unofficially).

There is no policy directive, either officially or unofficially, requiring FAMs to submit at least one surveillance detection report (SDR) per month.

The confusion comes from an August 4, 2004, MSNBC.COM article by Brock N. Meeks relating to the FAMS. Among other things, the article discussed an internal e-mail that discussed SDRs (reports detailing and tracking suspicious activity in the aviation domain), implying that there was an organizational directive that mandated the filing of one SDR per month, and that the failure to do so would reflect negatively on a FAM in his/her performance evaluation. That internal e-mail was misinterpreted, and was only meant to convey the importance of reporting observations of suspicious activity via SDRs. The subject e-mail was written by a first line supervisor to his squad. The supervisor was noting that some squad members had submitted numerous reports noting suspicious activity while others had submitted none. When the SAC learned of the confusion surrounding the supervisor's e-mail message, he sent a clarifying e-mail message to all the FAMs under his

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supervision. His message stressed the need for the FAMs to be vigilant in carrying out their mission through observation and accurate reporting. In addition, he made it clear that he did not expect the reports to be frivolous or inaccurate and noted there was not a quota for submitting SDRs.

5.B. If such policy directives have been made, please provide the copies of each.

SDRs are subject to FLT 6500, *Surveillance Detection System Policy*, and FLD 7110, *Surveillance Detection System Policy for Reporting Suspicious Activity*, which are designated as SSI. Please see attached. As indicated in the response to Question 5.A. above, there is no requirement of a minimum numbers of SDRs.

5.C. What is the range of consequences that could be imposed for failure to comply with a directive?

There is no range of consequences since no adverse action was ever included in the SDR Directive.

Federal Air Marshal Numbers/Surge/Force Multiplier Program/Flight Coverage

6.A. Please provide the number of active air marshals as of the date of your response to this inquiry. Please qualify the number of active air marshals according to the number who are on duty at any one time.

See attached classified SECRET annex.

6.B. Please provide the number of non-FAMs Immigration and Customs Enforcement (ICE) agents used to support FAMS and the number of FAMs used to support non-FAMS ICE agents.

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6.C. Please provide the number of law enforcement officials who are not employed by the FAMS but who may be considered air marshals or any other category of "air law enforcement" at any time. Under what circumstances are law enforcement officials counted as air marshals or any other category of "air law enforcement?" When law enforcement officials not employed by the FAMS are participating in troop enhancement or are considered in any capacity as any "air law enforcement," are these individuals required to follow all the same procedures and regulations as on-duty air marshals? Are law enforcement officials required to carry weapons on their bodies when flying for personal reasons or reasons unrelated to providing air safety? Are law enforcement officials permitted to sleep, read, or consume alcoholic beverages when flying for personal reasons or reasons unrelated to providing air safety? If these individuals are in a capacity in which they are not required to follow all of the same procedures and regulations as on-duty air marshals, are they counted for troop enhancement purposes or are they considered an "air law enforcement" officer for any purpose? If so, for what purpose?

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6.D. Please provide the number of flights that are covered each day by the FAMS. In doing so, please indicate the size of each aircraft being covered as well as the distances traveled by each aircraft.

See attached classified SECRET annex.

6.E. Please indicate how coverage of flights is determined by the FAMS. What factors are considered when making this decision?

See attached classified SECRET annex.

FAM Investigative Duties

7.A. Are air marshals considered investigators? What authority limits or authorizes any investigatory activities undertaken by air marshals?

The FAMs' job series is GS-1801, General Inspection, Investigation, and Compliance Series, and they are considered Federal law enforcement officers (FLEOs) by the powers conferred by Congress.

FAMs' law enforcement powers include the authority to carry firearms; make arrests for crimes committed in their presence or based upon probable cause; and seek and execute warrants for arrest or seizure of evidence. These powers are delineated in Title 49, United States Code, Sections 114(q) and 44903(d).

In response to the 9/11 attacks, Congress passed the Aviation and Transportation Security Act in November 2002, which authorized FAMs as FLEOs (TSA Law Enforcement Officers) and authorized FAMs to receive Law Enforcement Availability Pay (LEAP), a type of premium pay that is generally an entitlement for criminal investigators who are required to work, or be available to work, substantial amounts of "unscheduled duty."

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The FAMs assigned to the 56 FBI Field Office Joint Terrorism Task Forces (JTTFs) and the FBI Headquarters National JTTF have the full powers of Federal law enforcement officers. Just like their FBI agent counterparts, these FAMs carry cases, interview suspects, author affidavits, testify in court, arrest subjects, collect and analyze evidence, serve warrants and subpoenas, etc. In March 2003, when FAMs were first assigned to the JTTFs, a determination was made that FAMs did not need to receive Special Deputation from the Department of Justice in order to act as investigators, since FAMs already possessed the needed law enforcement and investigative authorities as enumerated in 49 U.S.C. § 114(q).

7.B. What investigatory training do air marshals receive? Is this training required to be completed before air marshals begin service?

FAMs receive basic Federal law enforcement training as part of the Phase I curriculum at the Federal Law Enforcement Training Center (FLETC). FLETC provides a solid foundation of legal instruction, arrest procedures, and other law enforcement requisites.

FAMS Phase II training involves an advanced, mission-specific curriculum, which includes training in surveillance detection. The Surveillance Detection program includes elements related to intelligence, identification of suspicious behavior, surveillance detection, and reporting. During this training, FAMs make extensive use of their issued Personal Digital Assistants (PDAs) as a reporting mechanism. FAMs also receive surveillance detection training as part of their field office-based recurrent training.

FAMs must complete Phase I and Phase II training prior to becoming fully operational. FAMS field offices routinely conduct refresher training during the required one-week quarterly Recurrent Training to enhance investigative skills. Such investigative training includes interviewing techniques, crime scene investigations, evidence recovery, legal updates, etc.

7.C. How are air marshals required to interact, or delineate duties, with other law enforcement officials? Please provide a complete breakdown of which law enforcement officials are to complete each task when an air marshal identifies a suspicious individual on a flight.

FAMs routinely interact with other Federal, state, local, and airport law enforcement (LEOs) officers on a daily basis. [redacted]

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FAM interaction with other LEOs in situations involving suspicious persons and arrests will be discussed in detail below.

Observations of suspicious incidents or individuals are divided by the FAMS into two categories: non-actionable or actionable. Non-actionable incidents are captured and reported by FAMs by submitting Surveillance Detection Reports (SDRs). The Surveillance Detection System (SDS) employed by the FAMS is described in greater detail in the answers to questions 8B and 8C.

A non-actionable incident does not require a FAM to "come out of cover" or otherwise take additional action, such as interviewing the suspicious person. An example of a non-actionable incident would be [redacted].

An actionable incident involves [redacted]. An example of an actionable incident would be [redacted] Such a scenario would call for the FAM [redacted] Further, the FAM would [redacted]

If time and circumstances permit and if appropriate, the FAM will [redacted] Notifications will also be made to the [redacted]

In any event, upon disembarking from the aircraft [redacted] The interviewing FAM may [redacted] If time and circumstances permit advance notification, [redacted] If the suspicious individual [redacted]

[redacted]

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Other information offered by the person during the interview [redacted].

The MOC will facilitate the conducting [redacted]. The FAMS [redacted]. If necessary, [redacted]

If FBI personnel are present [redacted]s. Theoretically, [redacted]

The vast majority of suspicious incidents are resolved [redacted]. The interviewing FAM prepares a report that is forwarded to the FAMS Investigations Division. All reports are reviewed and indexed for inclusion in the SDS database. However, if the situation is not resolved [redacted]

If a FAM makes an arrest aboard an aircraft, the FAMS follows the same notification procedures as outlined above. Although the FBI has the investigative jurisdiction for aircraft piracy and certain other crimes committed aboard an aircraft in flight, including interference with flight crewmembers and attendants, this authority does not pre-empt the FAMS' law enforcement authority to make arrests for violations committed in the presence of FAMs while in the special aircraft jurisdiction of the United States.

Per agreement with the FBI, the FAMS immediately notifies the FBI of any law enforcement action within the special aircraft jurisdiction. The FBI has agreed that the arrestee will remain in the custody of the FAMS until the defendant makes an initial appearance before a U.S. Magistrate Judge. The FAMS contacts the U.S. Attorney's Office and a FAM prepares the complaint and affidavit. The FBI is given immediate access to participate in the interview of the defendant. The FBI, in conjunction with the FAMS, will conduct a post arrest investigation, if required.

7.D. What preliminary intelligence, criminal background, or other information are air marshals provided prior to conducting any investigation or interrogation?

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7.E. What limits constrain air marshals ability to gather information? Do air marshals have access to information regarding concerns about a flight on which an air marshal is serving? Do air marshals have access to flight manifests or to other passenger databases?

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For international flights, the FAMS receive timely passenger manifest information from the U.S. Customs and Border Protection National Targeting Center.

Probing on Flights

8.A. Please confirm or deny whether FAMS has garnered credible evidence on probing.

The FAMS cannot substantiate that probing activities are occurring. However, the lack of credible evidence to date is insufficient to definitively conclude that no probing activity has occurred or will not occur in the future.

8.B. Please detail the standard used by FAMS in determining whether allegations of probing are considered "credible."

FAMs can initiate an interview of passenger(s) acting in a manner that the FAM deems suspicious. When passengers on NW327 became concerned about a large number of Arab musicians on their flight, FAMs initiated interviews, contacted FAMS supervisors and the FBI Special Agent assigned to the airport to meet the aircraft. Together, they conducted a preliminary investigation and cleared the matter. If a FAM initiates such actions, an Incident Report is prepared and submitted.

[redacted]. In addition, the TIB reviews email from flight crew concerning suspicious incidents forwarded to [redacted].

In August 2003, the Federal Air Marshal Service (FAMS) established a [redacted]-mail address. This email address was provided to corporate airline security executives to provide to their personnel and is intended to facilitate the ability of airline corporate security offices, as well as flight crewmembers, to expeditiously and efficiently report suspicious activity aboard aircraft to the TSA and the Federal Air Marshal Service. The Federal Air Marshals brief crewmembers and pilots on the [redacted] email address. During corporate airline security and crew briefs FAMs continue to stress the importance of a partnership approach in aviation security. [redacted] is not intended to be a mechanism for reporting matters requiring immediate attention.

Since the inception of [redacted], there have been [redacted]eports submitted to the FAMS. All reports submitted to [redacted] are reviewed and an acknowledgement is sent to the originator that includes TIB contact information. Each of

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8.C. Please provide a summary of all probing allegations that have been reported to and/or investigated by FAMS and the conclusions reached upon considering the allegations.

8.D. Please detail whether a central repository of suspicious activity exists, containing reports of suspicious activity, that is available to all air marshals.

8.E. Please detail whether FAMS is aware of such claims that airline personnel report suspicious activity to airline security rather than to FAMS and whether FAMS has investigated such claims. If FAMS has investigated these claims, please detail FAMS' finding regarding them.

Procedures for Encountering Suspicious Activity

9.A. Please indicate what procedures are in place when an air marshal encounters a suspicious or hostile situation while the flight is in the air. Is there a difference between domestic and international procedure? If so, what is it? Who has the authority to divert or immediately land a plane should a situation arise? What thresholds need to be met in order to take this action?

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[illegible] SENSITIVE SECURITY INFORMATION THAT IS CONTROLLED UNDER 49 C.F.R. PARTS 15 AND 1520. NO PART OF THIS RECORD MAY BE DISCLOSED TO PERSONS WITHOUT A "NEED TO KNOW," AS DEFINED IN 49 C.F.R. PARTS 15 AND 1520, EXCEPT WITH THE WRITTEN PERMISSION OF THE ADMINISTRATOR OF THE TRANSPORTATION SECURITY ADMINISTRATION OR THE SECRETARY OF TRANSPORTATION. UNAUTHORIZED RELEASE MAY RESULT IN CIVIL PENALTY OR OTHER ACTION. FOR U.S. GOVERNMENT AGENCIES, PUBLIC DISCLOSURE IS GOVERNED BY5 U.S.C. 552 AND 49 C.F.R. PARTS 15 AND 1520.

9.B. Are there requirements that pilots or airline employees relay an air marshal suspicion to the Federal Aviation Administration (FAA), National Targeting Center (NTC), Maintenance Operation Control Center (MOCC), or a Joint Terrorism Task Force (JTTF)? If so, what are they? If not, why not?

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9.C. How does ICE define critical high-risk flights? What policy is in place to screen foreign originating flights arriving at high-risk locations? What policy is in place when a "watch-listed" person or persons is discovered after takeoff?

9.D. Do FAMS air marshals receive training on immigration issues as part of ICE?

FAMs do not receive training on immigration issues.

Relationship with FAA and NTC

10. What is the relationship between the FAMS, FAA and NTC? Please provide all documents including, but not limited to Memoranda of Understanding, relating to these relationships. What steps are being discussed or undertaken to improve these relationships, including, but not limited to standardization of airport rules, procedures and badges?

The FAMS have an excellent relationship with the FAA and NTC. The FAA Administrator and her executive staff have met with the Director of the FAMS and his executive staff and worked on a number of projects of mutual concern. The FAMS Training Center [redacted]. On occasion, when the conditions within the commercial aviation system are constantly changing (most frequently as a result of weather issues) the FAMS assigns a FAM to the FAA's Flow Control. Flow Control is responsible for commercial aviation operations. In addition, the FAMS has a dedicated person who works as the FAMS/FAA liaison. The FAA and the FAMS also work together on a multitude of aviation related issues and working groups.

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The FAMS has developed and maintained an outstanding relationship with the NTC by [redacted] Lines of communication have been established between the NTC and the FAMS Mission Operations Center (MOC). The MOC monitors the FAA's Domestic Events Network (DEN) on a 24x7 basis.

Please refer to questions 2.A., 2.B., and 2.C. regarding the FAMS coordination efforts with TSA regarding SIDA badges.

Inspector General Report

11.A. The IG reviewed 504 applicants who had been favorably adjudicated and awaiting a job offer. Of those 504 applicants, 161 were found to have questionable financial, employment, and criminal activities. FAMS spokesman Dave Adams told *Government Executive* (September 1, 2004) that "ultimately, none of the 161 questionable applicants were hired." Please provide documentation of this claim.

FAMS Human Resources conducted a name-by-name review of the FAMS employee database and none of the 161 applicants whose adjudications were questioned has been offered a position with the FAMS. See attached letter.

11.B. Appendix A (p.24) of the above mentioned report outlines 753 FAMS disciplinary actions between February 2002 and October 2003. Please provide all documentation relating to these actions.

The OIG report states: "In cases of misconduct by FAMs currently employed, there were 753 documented reports of sleeping on duty, falsifying information, testing positive for alcohol or drugs while on duty, and stolen or lost weapons. These 753 actionable incidents represent disciplinary actions that were reported to the FAMS Human Resources division between February 2002 and October 2002."

An audit of the FAMS Operational Integrity Division database for the period June 2002 through March 2004 *(a 22 month period)* disclosed 717 cases. Therefore, to say we had 753 incidents in a 10 month period is inaccurate. Furthermore, the report cites only the most serious allegations of misconduct. It must be noted that a large portion of these cases includes the much less serious, but much more common allegations, such as those made by airline employees, like rude behavior by a FAM during the check-in process. The FAMS believe the chart below more accurately reflects the number and type of misconduct cases for the period of June 2002 through March 2004.

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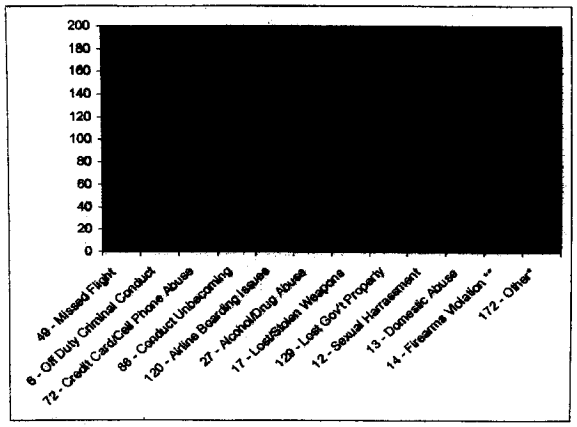

*Other to include: tardiness; failure to follow orders; failure to meet conditions of employment.
**Firearms Violations to include: mishandling of firearm during training and accidental discharges.

Another category noted in OIG's appendix A is 143 "Lost or Stolen Government Property – Includes Weapons." As the above chart illustrates, during the 22-month period noted, the FAMS had 17 lost/stolen weapons and 129 cases of other lost government equipment such as cell phones, PDAs, etc.

Also, please see attached spreadsheet, which details all of the 717 cases.

11.C. Appendix B (p. 35) of the above mentioned report is the "Management Comments" and outlines 717 FAMS disciplinary actions between June 2002 and March 2004. Please provide all documentation relating to these actions. Please avoid duplicative material that would coincide with the above request (11B).

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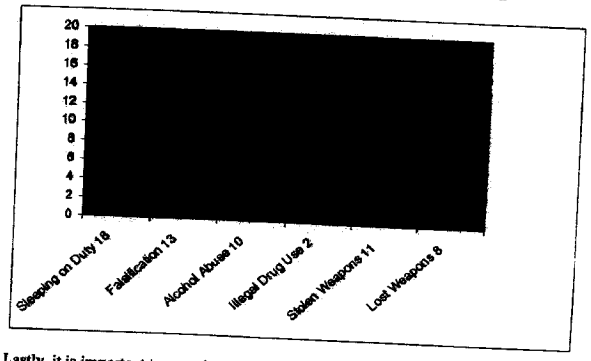
The above noted Appendix B of the OIG report cites only the most serious allegations of misconduct. It must be noted that a large portion of these cases includes the much less serious, but much more common allegations, such as those made by airline employees, like rude behavior by a FAM during the check-in process. In fact, of the 753 cases only 54 fell in to the categories cited in the OIG report, as depicted in the below chart.



Lastly, it is important to note that incidents were "allegations" of misconduct and not all were substantiated.

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Other Materials to Provide

12. Please provide all complaints received from air marshals and field offices relating to any matter.

The FAMS SACs all have procedures currently in place to address their FAMs concerns or issues. The field offices use basic methods of reporting such as the FAM contacting their immediate supervisor and following the chain of command. Some field offices have instituted committees called FAM Advisory Panels. The panels are staffed by elected FAMs. Each squad elects their representative. Meetings are held quarterly and the information discussed is documented. Each field office SAC provides answers to questions or concerns in the form of emails to all FAMS personnel within their field office. All of the SACs related that the flow of information is essential and has been helpful to ensure all are aware of policies and procedures. This proactive effort has enabled field office SACs to address issues as they arise.

Since November 2003, the FAMS has received 41 Congressional inquiries sent on behalf of FAM constituents regarding the following issues: termination (6), hardship transfer requests (12), work environment issues (7), security clearance issues (3), NBC News segment (4), dress code (4), EEO complaints (2), leave issues (1), child support (1), and government credit card issues (1). It should be noted that the FAMS has only received formal complaints from the field or FAMs through these Congressional inquiries.

13. Please provide all policies, procedures, guidelines, regulations and any other materials relating to the duties and conduct of the FAMS.

See attached.

14. Please indicate how many air marshals have been hired since September 11, 2001. How many have left on their own accord? How many have been fired?

See attached SECRET annex.

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Appendix 3

Strange Jr., Ernest D. (Don)

From: Strange Jr., Ernest D. (Don) **Sent:** Thu 7/17/2003 12:03 PM
To: Novak, John A(HQ-AD)
Cc:
Subject: program directives
Attachments: dress code.doc(24KB)

John,

The following is a slightly more philosophical approach to program directives.

<< dress code.doc >>

Ernest D. Strange, Jr.
Special Agent in Charge
Atlanta Field Office
Federal Air Marshal Service
Office: [redacted]
Cell: [redacted]
Email: [redacted]

2

Subject: Dress Code

The dress code as presently written is a conflicted document. It discusses "professional appearance" and "blending in" as if they are the same. Of course, they may or may not be the same. Example, -- on a flight from Atlanta to Washington the FAM wears dress pants and shoes, blazer with dress shirt and tie. Most would say this FAM is "professional" in his appearance and clearly "blends in" with the other passengers. Take that same FAM and put him on a Saturday evening flight to Phoenix on Southwest Airlines (no first class available). He may be viewed as "professional" but he sure doesn't "blend in". As a matter of fact, he could not stand out more on a flight dominated by jeans and cowboy boots.

I've flown approximately forty times in the past seven months and jeans are the number one garment common to the majority of the passengers. I usually quit counting jeans at twenty-five. I've never counted more than four suits on any one flight. So, if you're "blending in", what do you wear?

I recommend we emphasize "blending in" and, instead of using terms like "professional", use a common sense casual but tasteful approach with attire regulated by field office managers.

Field Offices should report inappropriate attire directly to managers of other field offices and not involve FAM Headquarters via self-serving email messages. I recommend FAM Headquarters leave this issue and others like it, such as facial hair, to the SAICs. If we put too much emphasis on attire at the Headquarters level, particularly from the Director, we will appear to be focusing Headquarters' attention at a relatively insignificant issue.

What we wear, where we sit, when we board, how we look, and our demeanor are all part of a larger issue – the terrorists ability to "profile" us. Let's not make it easier for them by being predictable and inflexible. The original directives were written early in our program with the best information available at that time and well intended. They should not, however, be viewed as written in stone. As the Federal Air Marshal Service evolves so should our program directives.

Appendix 4

Cervenak, Jason

From: Cahill, Timothy J. [redacted]
Sent: Monday, November 22, 2004 5:25 PM
To: Cervenak, Jason
Subject: Follow-up

Jason,
I wanted to follow-up with you on my conversation last week regarding the recent complaint from the airline industry and the flying hours of "'Becky" that I provided you.

I didn't mention I have spoken to the SAC that authored the passage you provided to myself and John Novak at our meeting last Wednesday. The SAC informed me that he sent the e-mail to Novak on July 17, 2003. John was the Asst. Director of Field Operations at the time and as such , the SAC's supervisor. The SAC informed me that his intention for the e-mail was "food for thought." It was a general philosophical type message covering several issues to include his thoughts on the policy directive covering the dress code. It was never intended to be a formal request to consider modifying the dress code according to the SAC. This same SAC informed me that this past April he submitted a "formal" opinion paper to his Assistant Director to consider modifying certain aspects of our scheduling system. All field offices were tasked to submit their opinions regarding a proposed policy change regarding mission deployment. The office's response was in the form of an official memorandum attached to an electronic message. The proposed policy is currently under review by the Asst. Director's office. The SAC drew the distinction between his e-mail message and the memorandum attached to the e-mail. Additionally, the SAC informed me that he forwarded the subject e-mail to his new AD, Ray Dineen, shortly after Mr. Dineen replaced Novak. The message had the same connotation as the e-mail to Novak, "meant for philosophical discussion and food for thought" according to the SAC. Mr. Dineen vaguely recalls the message but only as a message from a SAC introducing himself to the new AD and some philosophical type thoughts.

I hope this provides some further clarity on this issue for you.

Tim

Appendix 5

William M. Meares IV
FAMBAS-LAX

September 3,2002

Mr. Thomas D. Quinn
Director
Federal Air Marshal Service

Dear Mr. Quinn:

I would feel remiss if I did not forward my concerns regarding the restrictive dress code and grooming standard you have chosen to implement.

Adherence to these standards is directly counter to "...maintaining a standard of dress that enables them (FAMs) to perform their mission without drawing undo attention to themselves" and limits a FAMs ability to "...operate as unidentified and anonymous passengers..." The reality is that anyone in a position to observe Air Marshals quickly learns to pick them out of a crowd. This can be proven easily. Ask any flight crew, ground security coordinator, airport police officer, ticket agent, security screener, or ramp crewmember. Such personnel often use expressions like "dead giveaway," "stand out like a sore thumb" and "can spot them a mile away" to describe the ease at which they can identify Air Marshals.

A dress code provides a checklist for terrorists to identify FAMs. It is another tool they can use to penetrate an operational system already filled with SOPs that automatically compromise FAMs. Allowing Air Marshals to be credentialed and escorted through passenger screening stations in public view is one example. It is alarming that the TSA is not attempting to reduce the likelihood of compromise by eliminating this practice and others. A quick remedy is critical given intelligence reports demonstrating apparent efforts to identify Air Marshals. Devastating consequences are not difficult to imagine since more than a dozen people were arrested in August, 2002 as they tried to bring handguns through checkpoints at LAX. I respectfully submit that imposing an appearance standard that makes it easier for terrorists to identify Air Marshals rather than harder is a grave mistake.

Maximum flexibility in the dress code would maximize the tactical advantage outlined in ADM 3701. It is possible to present a professional appearance without the severe restrictions described in this directive. Blending in requires training and practice, not a dress code.

My perspective is based on more than fifteen years of experience in military special operations (Navy SEAL), undercover law enforcement (surveillance and arrest of international criminals L.A.P.D.) and high threat private security (Haiti, Africa and elsewhere). Like many others, I re-enlisted in the Military Reserves and joined the Air Marshal program to help defend our country after September 11, 2002. It is my hope that the TSA will work aggressively to implement policies and procedures designed to support patriotic Air Marshals by providing them with every possible advantage in the war against terrorism.

Sincerely,

William M. Meares IV

Appendix 6

Meares, William M.

From: Meares, William M
Sent: Fri 8/9/2002 3:15 PM
To: [redacted]
Cc: [redacted]
Subject: Mission Report August 7, 2002
Attachments:

Mr. [redacted]
Here is another checkpoint escort. I'll keep sending these reports with the hope that it gives you guys a little support when trying improve the security for FAMs in the field.
Respectfully,
Bill Meares

[redacted]

FEDERAL AIR MARSHAL MISSION REPORT

Fax complete report to FAM Operations at 609-486-8187

Qualifier: This report must be completed and submitted pursuant to the requirements outlined in Section III, "Reporting Requirements." There is no reporting requirement for "zero discrepancy" missions.

Note: "Incidents" involving Federal Air Marshals shall be reported separately on FAM Form 1650-20, "Federal Air Marshal Incident Report."

Section I: Identification

Name of Reporting Official: ___ Meares, William M. Contact: 310 [redacted]

Date/Time of Report: _____ 8/8/2002 1200

Section II: Mission Particulars

Date of Mission: ___ 8/7/2002 Air Carrier: [redacted] Flight: [redacted]

Departure Airport: __ [redacted] Time: [redacted] Arrival Air: [redacted] Time: 1028

Section III: Reporting Requirements: Answering "Yes" to any of the below questions requires the submission of this report.

	Yes	No	N/A
1. Were there any discrepancies with regard to Pre-Departure Procedures? (e.g. Check-In Procedures, Screening and/or Escort Procedures, Assigned Seating, Boarding, Briefings, Searches, etc.)	X		
2. Was the identity of the FAM team in any way compromised?	X		
3. Were there any discrepancies with regard to Arrival Procedures?		X	
4. Were there any discrepancies with regard to Equipment Retrieval/Turn-In?			X
5. Were there any other procedural discrepancies not covered above?		X	

Section IV: Description Please see attached narrative.

YES Additional sheet attached.

WARNING NOTICE: This document is a record subject to the provisions of 14 CFR 191.1 et.seq. Release of information contained herein is prohibited without the express written approval

FOR OFFICIAL USE ONLY
Public Availability to be

MEARES, WILLIAM
Mission Report [redacted] Airport, [redacted] from [redacted] to [redacted], [redacted], Departing at [redacted] arriving at [redacted].

Summary:
FAMs on mission status were required to transition via the passenger security checkpoint allowing for the easy identification of FAMs by interested parties.

Activity:
On [redacted], I William Meares [redacted] and my partner [redacted], were assigned [redacted] departing from [redacted] at [redacted] and arriving at [redacted] at [redacted] on [redacted].

My partner and I were escorted by an [redacted] GSC through the passenger security checkpoint. At the checkpoint we were required to produce our credentials for inspection by a police officer in public view. The GSC and police officer were as discrete as possible but understood that the procedure compromised us.

Suggestions:
Ensure that [redacted] understands through education and training that failure to escort FAMs covertly reduces the effectiveness of the FAM program and may increase the risk to flights originating at [redacted] by allowing terrorists to easily identify FAMs.

Impose a regulation causing airports to make reasonable efforts to protect the identity of FAMs.

[redacted]

[redacted].

Shift the FAM mission to overt security. Pretending to be covert when in fact FAMs are easily identified due to poor cooperation from some airports and airlines places FAMs at a serious disadvantage.

Expand the current easily identifiable dress code so FAMs are less obvious when forced in to a less than desirable escort situation or during normal duties. Ground Security Coordinators routinely state that FAMs stick out like a sore thumb.

Meares, William M.

From: Meares, William M
To: [redacted]
Cc: [redacted]
Subject:
Sent: Wed 8/14/2002 11:41 AM

Attachments: Meares, Face Sheet Aug13.xls(27KB) Meares Narrative Aug13.doc(24KB)

Mr. [redacted]:

I am very concerned that TSA is not placing much effort in to moving away from SOPs that automatically compromise FAMs. Taking FAMs through a checkpoint is directly counter to the FAM mission. It endangers FAMs and the passengers. Most GSCs at airports that do this are utterly unaware that all the airports in the country are not doing the same thing. As far as they know, taking FAMs through the checkpoint is how they are supposed to do. This makes me think that nobody is talking to them. Please give me some hope the TSA does not intend to accept this as Standard.

The fact that TSA is allowing this to continue instills a tremendous lack confidence for me in this program. Ensuring that SOPs do no automatically compromise FAMs will be my primary consideration as I evaluate my future as an Air Marshal.

Respectfully,

--

Bill Meares

[redacted]

FEDERAL AIR MARSHAL MISSION REPORT

Fax complete report to FAM Operations at [redacted]

Qualifier: This report must be completed and submitted pursuant to the requirements outlined in Section III, "Reporting Requirements." There is no reporting requirement for "zero discrepancy" missions.

Note: "Incidents" involving Federal Air Marshals shall be reported separately on FAM Form 1650-20, "Federal Air Marshal Incident Report."

Section I: Identification

Name of Reporting Official: ___ Meares, William M. Contact: 310 [redacted]

Date/Time of Report: _____ 8/14/02 0900

Section II: Mission Particulars

Date of Mission: ___ 8/13/2002 Air Carrier: [redacted] Flight: [redacted]

Departure Airport: __ [redacted] Time: [redacted] Arrival Airport: [redacted] Time: [redacted]

Section III: Reporting Requirements: Answering "Yes" to any of the below questions requires the submission of this report.

	Yes	No	N/A
1. Were there any discrepancies with regard to Pre-Departure Procedures? (e.g. Check-In Procedures, Screening and/or Escort Procedures, Assigned Seating, Boarding, Briefings, Searches, etc.)	X		
2. Was the identity of the FAM team in any way compromised?	X		
3. Were there any discrepancies with regard to Arrival Procedures?		X	
4. Were there any discrepancies with regard to Equipment Retrieval/Turn-in?			X
5. Were there any other procedural discrepancies not covered above?		X	

Section IV: Description Please see attached narrative.

Yes - Additional Sheets Attached

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FAM Form 1650-22 (2-02)

MEARES, WILLIAM
Mission Report/[redacted] Airport, [redacted] from [redacted] to [redacted], [redacted],
Departing at [redacted] arriving at [redacted].

Summary:
FAMs on mission status were likely compromised by being required to transition to the terminal via the passenger security checkpoint.

Activity:
I William Meares [redacted], and my partner [redacted], were assigned [redacted] departing from [redacted] at [redacted] and arriving at [redacted] at [redacted] on [redacted].

After check in, Customer Service Supervisor [redacted] informed us that she had escort us to the terminal via the security checkpoint used by passengers. At the checkpoint we would be required to meet another GSC plus present our credentials to law enforcement, all in public view. I asked if there were absolutely no alternative to walking through the checkpoint since we could be easily identified. She said no, but understood the problem. We spoke at length about escort issues specific to [redacted].

She explained that there was only one passageway that could be used to bypass the checkpoint. [redacted]

She added that she understood how easy it was for people to identify FAMs. The checkpoint is in public view and requires coordination between several people in order to get a FAM through. This creates a scene that invariably takes place as a large line of passengers watch. In addition, several rows of chairs are lined up facing the checkpoint providing a direct view of the activity. The chairs are intended for the use of people waiting on arriving passengers exiting the secure area. These chairs provide an excellent position for anyone to identify FAMs without drawing attention to themselves.

She further commented on the fact that the FAM dress code was very easy to identify. She said," I can spot Air Marshals in the check in line because they stand out so much and all dress the same. The have nice pants and a nice shirt, you guys should be in shorts and t-shirts. We have undercover officers in the airport and you could never pick them out because they were different stuff. Why do they make you guys do that?" She diplomatically made the point that FAMs lacked credibility in trying to get others to treat them covertly since they imposed a dress code that makes them easy to identify.

CSS [redacted] was extremely professional and genuinely concerned about the escort situation. She expressed her desire to improve her airlines security by trying to develop methods for escorting FAMs covertly. She seemed frustrated because she lacked authority to make the major policy changes required to improve the situation at [redacted]. She hoped that something was being done.

Suggestions.
Ensure that [redacted] understands through education and training that failure to escort FAMs covertly reduces the effectiveness of the FAM program and may increase the risk to flights originating at [redacted] by allowing terrorists to easily identify FAMs.

MEARES, WILLIAM
Mission Report[redacted] Airport, [redacted] from [redacted] to [redacted], [redacted]
Departing at [redacted] arriving at [redacted]

Impose a regulation causing airports to make reasonable efforts to protect the identity of FAMs.

Do not originate flights from [redacted]. This would allow FAMs avoid the checkpoint by starting and leaving from the secure area. For this to work, carriers could not be switched in [redacted].

Develop a shuttle system at [redacted] to drive FAMs via the ramp tunnel.

[redacted]

[redacted]

Expand the current easily identifiable dress code so FAMs are less obvious when forced in to a less than desirable escort situation or during normal duties. Ground Security Coordinators routinely state that FAMs stick out like a sore thumb. One Captain recently told me that he has nicknamed Air Marshals MIBS (Men In Baggie Shirts) because they are so easy to pick out.

Shift the FAM mission to overt security. Pretending to be covert when in fact FAMs are easily identified due to poor cooperation/procedures from some airports and airlines places FAMs at a serious disadvantage.

FEDERAL AIR MARSHAL MISSION REPORT

Fax complete report to FAM Operations at [redacted]

Qualifier: This report must be completed and submitted pursuant to the requirements outlined in Section III, "Reporting Requirements." There is no reporting requirement for "zero discrepancy" missions.

Note: "Incidents" involving Federal Air Marshals shall be reported separately on FAM Form 1650-20, "Federal Air Marshal Incident Report."

Section I: Identification

Name of Reporting Official: ___ Meares, William Contact: 310 [redacted]

Date/Time of Report: _____ 8/29/2002 1330

Section II: Mission Particulars

Date of Mission: ___ 8/29/2002 Air Carrier: [redacted] Flight: [redacted]

Departure Airport: __ [redacted] Time: [redacted] Arrival Airport: ___ [redacted] Time: [redacted]

Section III: Reporting Requirements: Answering "Yes" to any of the below questions requires the submission of this report.

	Yes	No	N/A
1. Were there any discrepancies with regard to Pre-Departure Procedures? (e.g. Check-In Procedures, Screening and/or Escort Procedures, Assigned Seating, Boarding, Briefings, Searches, etc.)	X		
2. Was the identity of the FAM team in any way compromised?	X		
3. Were there any discrepancies with regard to Arrival Procedures?		X	
4. Were there any discrepancies with regard to Equipment Retrieval/Turn-In?			X
5. Were there any other procedural discrepancies not covered above?		X	

Section IV: Description Please see narrative.

Yes-Additional sheets attached.

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FAM Form 1650-20 (9-02)

Meares Mission Report Narrative 8-29-02

Summary:
FAMs on mission status were required to transit to the secure area via a passenger security checkpoint allowing for the easy identification of FAMs by terrorist, passengers or other interested parties.

Activity:
I William Meares [redacted] and my partner, [redacted], were assigned [redacted] Departing [redacted] at [redacted] arriving [redacted] at [redacted] on [redacted].

During check in at the [redacted] ticket counter I asked the agent how they got FAMs through security. She stated that I had to go down to the second level where I would have to be escorted through the checkpoint by an LEO. The LEO would verify my credentials and require me to sign a logbook. I asked how long they had been doing it that way. She said it had just started because they weren't allowed to take FAMs around security any more. I asked who changed to policy. She said she didn't know. I asked if there was a GSC available for me to talk to. At that time two agents walked up to the counter. The agent I had been speaking with pointed to the pair and said, "One of them is a supervisor." I turned toward the pair and asked, "Is one of you a supervisor?" The pair looked at me and then walked away.

After several minutes I asked the agent if she could try again to locate a supervisor. She walked out of view for a few minutes then returned. She said, "They said you're supposed to go downstairs and they will take you through there." I told her I understood but would like to talk to a supervisor in order to clarify the policy for a report.

She walked out of view and then returned with GSC [redacted], one of the agents that walked away from me earlier. I explained that I was trying to clarify the procedure and source of the policy requiring FAMs to use the passenger checkpoint. He said, "We have been doing this for months and you are the only problem." I stated that I was not sure what he meant. GSC [redacted] then said in a loud voice near passengers, "We take Air Marshals all the time through there and you are the only on who is complaining." I said that I wasn't complaining and only wanted to clarify the procedure and the source of the policy for the purpose of a report. GSC [redacted] then stated that the TSA had ordered the change and wouldn't allow them to take FAMs around security anymore. I said, "TSA has ordered you not to escort FAMs?" Mr. [redacted] then said, " I don't know maybe it was the county, or the sheriffs, they tell us the rules and we follow the rules, that's all I know."

At that time GSC [redacted] walked up. Mr. [redacted] asked for my name. I wrote my name and credential number for him and he walked away. I relayed to GSC [redacted] that I was trying to figure out the policy and procedure for the purpose of a report. GSC [redacted] said," We used to be able to escort you but then the sheriffs got tired of coming up and down to check I.D.s so now you have to go down to them because they are always down there." She said she didn't know for sure where the change came from but that she thought it was the sheriffs because it made it easier for them. She added that the policy changes so frequently that it could be something different tomorrow. Ms. [redacted] was sympathetic and seemed to understand that escorting FAMs through the checkpoint compromised FAMs.

Meares Mission Report Narrative 8-29-02

I proceeded to the checkpoint as directed. At the checkpoint I had to produce my credentials to [redacted] County Sheriff's Deputies at a podium in the center of a wide lobby and then sign a logbook. The podium was in plain view of passengers being screened as well as passengers in the terminal. Anyone with an interest in identifying FAMs could easily do it at that location.

I asked the Deputies how long FAMs had been required to check in like this. The deputies said it had just started. They added that the airlines used to escort FAMs around the checkpoint and they never saw them. They believed that airlines other than [redacted] were still escorting FAMs around checkpoints. I said that [redacted] GSCs told me they believed the Sheriff's Department might be responsible for the change. The Deputies stated that that was absolutely untrue. According to the deputies [redacted] was responsible for the new policy and implemented it as an exertion of authority in some kind of power struggle. The Deputies were visibly upset at the implication that their department had anything to do with the policy. The Deputies lamented the check in and log book and stated that they knew the procedure compromised FAMs. The Deputies suggested I contact Lt. [redacted] at [redacted] for further assistance.

I called [redacted] and stated that I was trying to determine the source of the policy that required FAMs to use the passenger checkpoint. [redacted] refused to comment and stated that I should address my concerns to Mr. [redacted] of the TSA. I did not attempt to contact Mr. [redacted] do to time constraints.

Aircraft Brief
During our brief with the crew one of the flight attendants said, "You guys should be wearing ties so you'll stand out more, that way they (terrorists) will be able to spot you better." She added, " You're way to nicely dressed for a [redacted] flight, if you want to blend in you should wear sweats and a t-shirt. Further comments revealed that she thought FAMs wearing coats was "retarded."

Suggestions:
Determine what the escort policy is at [redacted] and whether it was implemented via proper channels.

Ensure that [redacted] understands through education and training that failure to escort FAMs covertly reduces the effectiveness of the FAM program and may increase the risk to [redacted] flights originating at [redacted] by allowing terrorists to easily identify FAMs.

Impose a regulation causing airports to make reasonable efforts to protect the identity of FAMs.

Cause [redacted] based FAMs to escort FAMs in transition via their local airport security badges.

Do not originate flights from [redacted]. This would allow FAMs to avoid the checkpoint by starting and leaving from the secure area. For this to work, carriers should not be switched in DTW unless they are in the same terminal. [redacted]

Meares Mission Report Narrative 8-29-02

Expand the current easily identifiable dress code so FAMs are less obvious when forced in to a less than desirable escort situation or during normal duties. Ground security coordinators and airline crews routinely state that FAMs stick out like a sore thumb. One Captain recently told me that he has nicknamed Air Marshals MIBS (Men In Baggie Shirts) because they are so easy to pick out. A GSC recently told me that the dress code was a dead giveaway.

Shift the FAM mission to overt security. Pretending to be covert when in fact FAMs are easily identified due to poor cooperation/procedures from some airports and airlines along with an easily identifiable dress code places FAMs at a serious disadvantage.

Observations:
[redacted] appears less concerned than other airlines about security.

It is not unusual for the cockpit door to be opened while there are passengers in the front lavatories or in the forward part of the aircraft. I have seen the open cockpit door slammed shut by the lavatory door due to a passenger exiting the lavatory.

[redacted]

[redacted] pilots rarely address security matters while conducting briefings with their crews.

[redacted] airport personnel consistently seem to be the least cooperative and most resistant to assisting FAMs in the performance of their duties.

[redacted] flight crews are generally but not always more receptive to FAM presence.

Appendix 7

FEDERAL LAW ENFORCEMENT OFFICERS ASSOCIATION
P.O. Box 326 Lewisberry, PA 17339
www.fleoa.org

To: Thomas D. Quinn
Director
Federal Air Marshal Service

28 October 2003

Representing Members Of:
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AGRICULTURE
OIG & Forest Service
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Export Enforcement, OIG
& National Marine Fisheries
DEFENSE
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Army - CID
Defense Criminal Investigative Service
Naval Criminal Investigative Service
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ENVIRONMENTAL PROTECTION AGENCY - CID & OIG
FEDERAL DEPOSIT INSURANCE CORPORATION - OIG
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Federal Air Marshal
Federal Emergency Management Agency
Federal Protective Service
Immigration & Naturalization Service
OIG
Secret Service
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National Park Service
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U. S. Park Police
JUSTICE
Bureau of Alcohol, Tobacco, Firearms & Explosives
Drug Enforcement Administration
Federal Bureau of Investigation
Marshals Service
OIG
U.S. Attorney's Office-CI
LABOR- OIG & Racketeering
NATIONAL AERONAUTICS & SPACE ADMIN. - OIG
NUCLEAR REGULATORY COMMISSION - OIG
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The purpose of this letter is to update you on the recent inaugural Federal Law Enforcement Officers Association Federal Air Marshal Agency President Electio addition to presenting issues and suggested resolutions of Federal Air Marshals or behalf of FLEOA. I am honored to announce that fellow Federal Air Marshals hav elected me to the position of FLEOA FAM Agency President position.

All Agency Presidents serve on the FLEOA National Executive Board (NEB) and have the power to represent the FLEOA National President in that federal law enforcement agency from which the Agency President has been elected. I would li to discuss with you, at your earliest convenience, the current issues that have been brought to my attention by FAM FLEOA members (see attached issues documentation). These issues affect each and every FAM and, if resolved, would make a safer and better work/family environment for the FAM. Effective communication between FAM management and the FAM are vital to building the both the FAM service and the safe, effective work environment for the FAM. I will keep FAM FLEOA members updated via personal email and/or via mass mailing c any current issues that are that being addressed by FLEOA concerning FAMS and your response to such.

I would like to stress that this is in no way a laundry list of "complaints from disgruntled employees." The Federal Air Marshals that have brought up these concerns are the Agents who desire to stay with this Agency through thick and thin. They are the Agents with vast experience in Federal, State, Local and/or Military L Enforcement. These Agents want this Service to be top notch. In order to achieve th goal, the Service needs to retain the best we have and to offer an Agency that will recruit the best in the future.

By presenting these issues to management and having some collaboration in achievi the presented resolutions, we believe that this Agency can achieve that goal. Whethe the Service wants to acknowledge it or not, there is an us vs. them mentality that has permeated this agency. This is derisive and creates animosity amongst Federal Air Marshals who only want to perform their mission without being compromised by nonsensical policies. These issues are not necessarily in order of importance, but thes issues are the most pressing according to our members and fellow FAM's that I have discussed issues/resolutions with. On behalf of FLEOA, I look forward to working with you on these issues and any concerns that may arise in the future.

Respectfully,

Frank Terreri
Federal Law Enforcement Association
Federal Air Marshal Agency President
P.O. Box 2311
Sun City, CA 92586
(909) 233-7345 MOBILE

AIRLINE PROCEDURES

ISSUES

➢ Certain airline boarding policies place FAM's and passengers at risk. FAM's are constantly boarded in front of the other passengers 3-5 minutes before they board. This practice obviously puts the FAM's cover status in jeopardy. These inept and potentially hazardous policies prevent [redacted]

➢ [redacted]

➢ FAM's should not sign the Law Enforcement Officers Log Book at the airport security screening points. Each point is requiring that the "log officer" obtain the following: flight number, destination, airline, phone numbers, etc. This is done in plain view of passengers transiting through these screening checkpoints. It is obvious that even a novice surveillance agent could sit near a checkpoint and determine who, what, and where these logged individuals are and their destination.

RESOLUTIONS

➢ Airlines should not dictate how FAM's will board. The FAM's safety should be the first concern, not political correctness. Airline employees should not compromise the FAM's mission due to laziness and/or ineffective boarding policies. If we cannot get the airlines to board us properly, assign FAM's to airports to escort other transiting FAM's. This way we can ensure FAM's are not compromised.

➢ To facilitate movement through airports and eliminate the need for ground airport personnel, universal SIDA badges should be issued to FAM's for all airports.

DRESS CODE POLICY

ISSUES/RESOLUTIONS

➢ It is understood that FAM Management wants Federal Air Marshals to present a professional image to the public; however, we rarely interact with the public as federal air marshals, rather as a fellow passenger. In fact, we deal less with the public that most other Federal Agents and these Agents do not have these very restrictive, and ultimately dangerous, codes placed on them. Our research indicates that exists no other plainclothes federal agency has such an inflexible grooming and/or dress policy, especially in a semi-covert status. These agencies deal directly with the public employing less stringent polices without affecting their duties and/or their "professional"

appearance. Our new agency, The Bureau of Immigration and Customs Enforcement, does not require its plain-clothes investigators to follow a military style grooming policy, nor that its agents wear suit coats and tie. On the rare occasion that the FAM needs to deploy and break out of his/her semi-covert status, professional behavior and actions will enforce and promote the FAM's authority, not the manner of dress. Moreover than the embarrassment it causes the FAM to have people spot us, due to our manner of dress, and thank us for being there or give us the 'thumbs-up" sign as they walk by, it is potentially deadly to the FAM, crew and passengers on the flight mission that the FAM has been compromised on. Not only is the present dress code the issue at hand, but the fact that various rogue field offices are misinterpreting the dress code is also a major concern. At many field offices, management is capriciously implementing a more restrictive and potentially dangerous dress code (i.e. wearing of sports coats, ties, etc. regardless of mission destination). This is an easily resolvable issue that will ensure the safety of all in the future. All that is needed is some common sense and confidence in the individual FAM that he/she will dress according the environment at hand, i.e. Washington D.C. First Class trips as opposed to Southwest hops from Los Angeles, Las Vegas and Oakland in the middle of July. If the individual FAM does not follow guidelines, he/she should be dealt with on an individual basis. This is not only a FAM concern, I suggest FAM management consult with Ground Security Coordinators, Gate Agents, pilots, flight attendants and/or any other airline personnel who can corroborate this assessment that FAM's are easily identifiable by their dress, and by being identified put all involved at considerable risk.

AIRPORTS AND TRANSFERS/SENIORITY

ISSUES

- There were many promises (real and/or implied) made when FAM's were hired and obviously many of those promises have not been kept. FAM's were promised new hubs would be opened and transfers would be readily accommodated once the program was "set up".
- There is no standard set of guidelines on how to rank FAM's in order of Seniority at the Field Offices.

RESOLUTIONS

- Solicit for non-paid moves (also known as no cost to government moves) from current FAM's before placing new hires at these available locations.
- Set up a database at each hub, by seniority, of current FAM's preference for relocation, i.e. 1. Miami 2. Los Angeles 3. New York. Compile this information to facilitate non-paid/no cost to government moves/swap of current employees who desire to relocate (i.e. FAM currently at Miami

wishes to transfer to Las Vegas is linked with a FAM at Las Vegas who desires to work in Miami. They agree to "swap" their positions, get approval from management and agree on non-paid move and timetable for move). FAM's would utilize their annual leave time and fund the cost of the move to their new duty location.

➢ A definitive set of rules on how to rank seniority needs to be established and followed by all field offices

SCHEDULING

ISSUES

➢ Schedules are not consistent, i.e. one mission may start at 0530 and the next at 1530 or vice-versa. This does not give the FAM or their family members any kind of schedule for outside matters, i.e. childcare, spouse work schedule, etc.

➢ FAM's would like to fly and train with either set partners or a very small group of people.

RESOLUTIONS

➢ Dividing FAM's into shifts and allowing them to bid on shift preference according to seniority. The shift breakdown can be as simple as start time before or after 0800hrs. 1400hrs. or 1800hrs. (Or later if flights supported this request). [redacted] Especially when flying out of your local HUB.

➢ Allow FAM's to bid on destination location, i.e. FAM #1 preference: Honolulu, Dulles and Baltimore. FAM #2 preference: Miami, Orlando and Atlanta.

➢ Allow trip swapping with another FAM. By allowing a trip swap, FAM's can choose times and destinations that improve the quality of life and job satisfaction for all involved.

➢ All FAM's to select overnight/same-day trip preference by seniority.

➢ Squads already divide FAM Field offices. It should be simple to make a schedule that allows these squad members to fly and train together.

LEAVE

ISSUE/RESOLUTION

➢ FAM'S feel the time-line for submitting leave requests is excessive and needs to be much more flexible.

Appendix 8

FEDERAL LAW ENFORCEMENT OFFICERS ASSOCIATION
P.O. Box 326 Lewisberry, PA 17339
www.fleoa.org

6 January 2

To: Thomas D. Quinn
Director
Federal Air Marshal Service

Mr. Quinn:

I was briefed today by my Team Leader, via phone, of your response to the FLEOA FAM issues forwarded to your office on 28 October 2003. I am a li perplexed at your response regarding the safety concerns presented by FLE FAM members, not only for their safety, but also for that of the American public. None of these safety issues presented were addressed nor were the working condition concerns. The only issue that was addressed was one that FLEOA did not present, that of dissemination of information to the troops. I done all that I could in attempting to contact FAM Management and to get responses to these pressing concerns, obviously without success.

I am only an employee and limited in my options, so the FLEOA National Executive Board will be contacting DHS and members of Congress with the unanswered concerns. It is our belief that the dress code and boarding procedures not only put the FAM in dire straits, but moreover, the flying public. This is due to the fact that not only can enemy surveillance teams picl out the FAM due to dress (thus determining that the flight is covered by FAMs), but they can also reconnoiter flights and determine what passengers are not FAMs due to their dress (i.e. beards, jeans, sneakers = not a FAM) th determining that the flight is not covered by FAMs. Unfortunately, some shortsighted employees felt the need to go to the press and essentially give ou dress code to the public and the bad guys. This bell cannot be unrung. [redacted]

I have been in Law Enforcement for over 14 years and have been involved in Labor Management relations during my entire tenure. My Bachelor's Degree is in Labor Management Relations and I finished top 10 in my graduating class. I can honestly say that I have never dealt with management officials wh were so unresponsive to employees concerns, especially valid safety concerns Once again, let me point out, these safety concerns are not being voiced by disgruntled employees, nor am I a disgruntled employee. Never in my entire Law Enforcement career have I been disciplined, proposed for discipline or received lower than an excellent performance rating. I have volunteered whenever needed for special missions and will continue to do so.

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Border Patrol
Coast Guard Investigative Service
Customs Service
Federal Air Marshal
Federal Emergency Management Agency
Federal Protective Service
Immigration & Naturalization Service
OIG
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U.S. Attorney's Office-CI
LABOR- OIG & Racketeering
NATIONAL AERONAUTICS & SPACE ADMIN. - OIG
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Federal Emergency Management Agency
Federal Protective Service
Immigration & Naturalization Service
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INTERIOR
Bureau of Indian Affairs
Bureau of Land Management
Fish & Wildlife Service
National Park Service
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U.S. Park Police
JUSTICE
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Treasurer
JOSEPH D'ORSANEO

The mentality of the FLEOA members is the same. These are the men and women who are consummate professionals and are only asking that commc sense policies are employed, i.e. dress code policy. There are offices who n their FAMs wear full suit and ties, not too practical considering that we are issued holsters, magazine carriers and handcuff cases that are all worn on tl outside of our belts. This translates to the FAM flying in full suit during the whole flight. And what other law enforcement agency makes their "semi-covert" agents wear ties (much less follow a military grooming standard); tl is an unbelievable safety hazard.

In closing, I consider it a great failure that we are the only Agency in the Federal Government where the FLEOA Agency President doesn't have dire contact with the head of the Agency, and in this case, no interaction with up management at all to discuss employee concerns.

How unfortunate it is that personnel outside of our Agency, on both ends of spectrum, will be discussing and attempting to solve our Agencies problems because we were unable to communicate effectively.

Respectfully,

Frank Terreri
Federal Law Enforcement Association
Federal Air Marshal Agency President
P.O. Box 2311
Sun City, CA 92586
(909) 233-7345 MOBILE
(702) 993-8463 FAX
FLEOAFAMPRESIDENT@MCHSI.COM

Appendix 9

Strange Jr., Ernest D. (Don)

From: Novak, John A
To: FieldOpsSAIC_All
Cc: HQFieldOps_All
Subject: Strategic Issues
Attachments:

Sent: Thu 5/8/2003 6:16 PM

We will be having a "Strategic Meeting" on or about May 19 concerning the FAMS. We are asking each of you to address issues which you see as significant issues affecting this organization. (Current and Future) Please email [redacted] and myself with your top 5 issues...or more if you have them. These will be due by COB: May 18. Thanks.

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John A. Novak
Deputy Assistant Director
Transportation Security Administration
Federal Air Marshal Service
Field Operations
(o) [redacted]
(c) [redacted]
(fax) [redacted]

Strange Jr., Ernest D. (Don)

To... Novak, John A

Cc... [redacted]

Bcc...

Subject: Strategic Issues

Attachments:

I recommend that the Federal Air Marshal Service (FAMS) establish a Special Agent in Charge (SAIC) Advisory Board to review FAMS policy and procedures and to advise the Director.

The SAIC Advisory Board will:

- Report to the Director who will chair the meetings
- Meet every two months or as needed by the Director
- Consist of five SAICs who will rotate at one year intervals
- Discuss issues of interest to the Director and the FAMS to include, but not limited to:
  - firing range acquisition
  - allocation of manpower and location of offices
  - boarding and seating policy
  - SAIC discretionary transfers
  - dress and appearance policy
  - research and development of new weapon
  - recruitment, hiring and retention issues
  - career development
  - etc.

John, this is just a general draft. I have in mind details regarding selection of SAICs to Advisory Board, one SAIC acting as co-chair, selection of agenda items, presentations to Director and Executive Staff, rotation of SAICs, vetting of issues and findings through all SAICs, etc.

Meares, William M.

From: Meares, William M
To: [redacted]
Cc:
Subject: Dress Code
Attachments:

Sent: Sat 7/6/2002 10:23 AM

Mr. [redacted]
No doubt it has been relayed in some manner that two guys sitting in [redacted] wearing coats is nearly comical if trying to be covert. The Director has ensured an easy method for evil doers to identify FAM's. The fact that this policy has been implimented demonstrates an alarming lack of operational common sense and gives me serious reason to re-evaluate my recent career change.
Respectfully,
William Meares

[redacted]

Meares, William M.

From: Meares, William M
To: [redacted]
Cc:
Subject: Admiral Loy Response
Attachments:

Sent: Thu 8/22/2002 8:24 AM

Mr. [redacted]:

I respectfully disagree with Admiral Loy on two main points:

Dress Code:

Our overly restrictive dress code does not need to be published for it to endanger Air Marshals. Ask anyone with even the most casual contact with FAMs and they will tell you without hesitation that they can spot a FAM a mile away due to dress. A dress code is a checklist that provides terrorists an additional method to identify FAMs.

Riddled With Problems:

The fact that at many airports required FAMs to enter secure areas via passenger check points is a serious problem. This automatically compromises FAMs before they get on the aircraft. The number of airports where this is the SOP is alarming. A system filled with operational procedures directly counter to the mission of its agents is riddled with problems.

I am outraged that the people went to the press. I agree with Admiral Loy that anyone that does not like it can quit. Developing operation procedures that do not automatically compromise me will be the primary factor I consider as I evaluate my future as an Air Marshal.

Sincerely,

William Meares

[redacted]

08/28/02

I have some suggestions for our security and safety in performing our duties as Federal Air Marshals. I know that being such a new agency and with all the changes in airport/airline security throughout the country there is going to be problems. But, the TSA is supposed to be in charge of this and we need to standardize the way things are done. There should be one way for all airlines and at all airports for how we get our tickets, get through security and board the aircraft. The TSA should decide how this is done not the airports or airlines.

I suggest that we get our tickets at a gate in the vicinity of the gate we are departing from in our home airport or when we fly in and do not leave the secure area before we fly out. When we are not at home and when we have left the secure area for some reason we should go to the ticket counter and get our tickets. There should be a standard discreet way for us to be taken into the secure area. This is not happening now. In [redacted] when flying [redacted], they walk FAMS past the people who are having additional searches done to their bags. In [redacted] they walk you over to the security checkpoint and you show your credentials 2-3 times and walk through the magnetometer setting it off. This causes all the passengers waiting who weren't watching the FAMS to look up at them. I am not sure about how to solve the problems with getting through security because every airport is different but it definitely needs to be reviewed for our safety and secrecy.

I do have a suggestion for boarding the plane. Currently in most places but not all we are [redacted]. In some places this is discreet and some it is not at all. Then there are places that they won't [redacted]. I have discussed this with my multiple partners and my father who is a Captain with [redacted] and I believe there is a solution to the lack of consistency and security with boarding. The TSA needs to put out our briefing to all pilots and flight crews. The briefing is virtually the same and most pilots and crews have heard it already. We should get our tickets; get to the secure area and board as normal passengers. [redacted]

I believe that we should board as normal passengers because no matter what you do if you are pre-boarded the passengers who want to figure out that you were pre-boarded can figure it out. Also, under the current conditions I have to identify myself to anywhere between 5-10 airline employees per flight. Many of these employees are not discreet and state out loud what we do. Due to the restrictions on our dress, many of these employees can identify us by sight. This is bad because the can share this information with friends and family. We need to be more secretive and blend in more. The flight crew doesn't need to know who/where we are because if the don't know they will do there job normally [redacted]. They can't identify us accidentally or under duress and they won't involve us in problems that we shouldn't be involved in if they don't know about us.

I know that boarding as normal passengers [redacted]. Also, I believe the curtains on the aircraft should be open at all times. Whether we are on the aircraft or not, the passengers and the flight crews need to be able to see to the front and the back of the aircraft. The passengers and the flight crew are our only defense it we aren't on the plane and they need to see what's going on just as we do to stop an incident. [redacted], and [redacted]till shut their curtains sometimes. If these airlines only keep the curtains open when FAMS are on board than that could possibly flag us.

Thanks for your consideration,

[redacted]

TRANSPORTATION SECURITY ADMINISTRATION

Federal Air Marshal Service
6380 S. Valley View Blvd
Suite #338
Las Vegas, NV 89118

08/29/02

I previously submitted the following memo. I have made some changes but due to some recent information I have found out I would like reiterate my concerns. [redacted] Airlines Operations in [redacted] keeps a FAM LOG. I have seen it and that is the title. They hand write all FAMS names, flights, and the supervisor who is meeting them on it. [redacted] in [redacted] pulls up a computer-generated list of FAMS that are flying in and out of there everyday. Again it lists names and flight numbers. When I questioned the supervisors of [redacted] and [redacted] they said that was the only way the could keep track of the FAMS they were escorting on to the planes. This would be unnecessary if we boarded with the normal passengers.

Updated Memo:

I have some suggestions for our security and safety in performing our duties as Federal Air Marshals. I know that being such a new agency and with all the changes in airport/airline security throughout the country there is going to be problems. But, the TSA is supposed to be in charge of this and we need to standardize the way things are done. There should be one way for all airlines and at all airports for how we get our tickets, get through security and board the aircraft. The TSA should decide how this is done not the airports or airlines.

I suggest that we get our tickets at the ticket counter. We should identify ourselves at that time and the GSC or supervisor should discreetly check our credentials. This should be the only time we show our credentials. [redacted] There needs to be an override in the computer that has **no** explanation for why we aren't selected for search. There should be a standard discreet way for us to be taken into the secure area. This is not happening now. In [redacted], when flying [redacted], they walk FAMS past the people who are having additional searches done to their bags. In [redacted], they walk you over to the security checkpoint and you show your credentials 2-3 times and walk through the magnetometer setting it off. This causes all the passengers waiting who weren't watching the FAMS to look up at them. I am not sure about how to solve the problems with getting through security because every airport is different but it definitely needs to be reviewed for our safety and secrecy.

I do have a suggestion for boarding the plane. Currently in most places but not all we are taken out on the runway and pre-boarded. In some places this is discreet and some it is not at all. Then there are places that they won't escort us on the ramp. The TSA needs to put out our briefing to all pilots and flight crews. The briefing is supposed the same and most pilots and crews have heard it already. We should get our tickets; get to the secure area and board as normal passengers. [redacted]

I believe that we should board as normal passengers because no matter what you do if you are pre-boarded the passengers (terrorists) who want to figure out that we were pre-boarded can figure it out. Also, under the current conditions I have to identify myself to anywhere between 5-10 airline employees per flight. Many of these employees are not discreet and state out loud what we do. Due to the restrictions on our dress, many of these employees can identify us by sight. This is bad because they can share this information with friends and family. We need to be more secretive and blend in more. The flight crew doesn't need to know who/where we are because if they don't know they will do there job normally which is what we ask them to do when we brief them. They can't identify us accidentally or under duress and they won't involve us in problems that we shouldn't be involved in if they don't know about us.

I know that boarding as normal passengers [redacted] FAMS. Also, I believe the curtains on the aircraft should be open at all times. Whether we are on the aircraft or not, the passengers and the flight crews need to be able to see to the front and the back of the aircraft. The passengers and the flight crew are our only defense it we aren't on the plane and they need to see what's going on just as we do to stop an incident. [redacted], [redacted], and [redacted] still shut their curtains sometimes. If these airlines only keep the curtains open when FAMS are on board than that could possibly flag us.

Thanks for your consideration,

[redacted]

MEMORANDUM

TRANSPORTATION SECURITY ADMINISTRATION
Federal Air Marshal Service

Subject: INFORMATION

Date: 02/20/03

From: [redacted] FAM

To: [redacted]

I previously submitted the following memo. I understand that these issues are going to be discussed at the upcoming SAIC conference and I wanted to give some information from the field. [redacted] Airlines Operations in [redacted] keeps a FAM LOG. I have seen it and that is the title. They hand write all FAMS names, flights, and the supervisor who is meeting them on it. [redacted] Airlines in [redacted] pulls up a computer-generated list of FAMS that are flying in and out of there everyday. Again it lists names and flight numbers. When I asked the supervisors of [redacted] and [redacted] about these practices they said that was the only way the could keep track of the FAMS they were escorting on to the planes. This would be unnecessary if we boarded with the normal passengers.

Updated Memo:

I have some suggestions for our security and safety in performing our duties as Federal Air Marshals. I know that being such a new agency and with all the changes in airport/airline security throughout the country there is going to be problems. But, the TSA is supposed to be in charge of this and we need to standardize the way things are done. There should be one way for all airlines and at all airports for how we get our tickets, get through security and board the aircraft. The TSA should decide how this is done not the airports or airlines.

I suggest that we [redacted] We should identify ourselves at that time and the GSC or supervisor should discreetly check our credentials. This should be the only time we show our credentials to airline employees. The GSC/supervisor should get us tickets that are not shown to be a selected passenger for search. This needs to be done without identifying us as diplomat, LEO, or military (currently some airlines identify us as LEO/Diplomat). There needs to be an override in the computer that has **no** explanation for why we aren't selected for search. There should be a standard discreet way for us to be taken into the secure area. This is not happening now. In [redacted] when flying [redacted] they walk FAMS past the people who are having additional

searches done to their bags. In [redacted], they walk you over to the security checkpoint and you show your credentials 2-3 times and walk through the magnetometer setting it off. This causes all the passengers waiting who weren't watching the FAMS to look up at them. I suggest that we are escorted by TSA officials either by calling a phone # or going to a specific location. Another idea would be a National SIDA badge and then we could go around security ourselves.

I do have a suggestion for boarding the plane. Currently in most places but not all we are taken out on the runway and pre-boarded. In some places this is discreet and some it is not at all. Then there are places that they won't escort us on the ramp. The TSA needs to put out our briefing to all pilots and flight crews. The briefing is supposed the same and most pilots and crews have heard it already. We should get our tickets; get to the secure area and board as normal passengers. [redacted].

I believe that we should board as normal passengers because no matter what you do if you are pre-boarded the passengers (terrorists) who want to figure out that we were pre-boarded can figure it out. Also, under the current conditions I have to identify myself to anywhere between 5-10 airline employees per flight. Many of these employees are not discreet and state out loud what we do. Due to the restrictions on our dress, many of these employees can identify us by sight. This is bad because they can share this information with friends and family. [redacted]

Boarding with the passengers would allow us to observe the passengers in the gate area. This doesn't happen very often now due to the lack of time we have since we board early. It would allow us to possibly avoid problems through surveillance in and around the gate area. I realize that if we board with the passengers this may cause problems with other LEO's. I believe that the airline GSC/Supervisor can give us information on them and the LEO's information on us. [redacted]

Thanks for your consideration,

[redacted]

Fax complete report to FAM Operations at [redacted]

Qualifier: This report must be completed and submitted pursuant to the requirements outlined in Section III, "Reporting Requirements." There is no reporting requirement for "zero discrepancy" missions.

Note: "Incidents" involving Federal Air Marshals shall be reported separately on FAM Form 1650-20, "Federal Air Marshal Incident Report."

Section I: Identification

Name of Reporting Official: [redacted] Contact #: 702 [redacted]

Date/Time of Report: 10/14/02 0830

Section II: Mission Particulars

Date of Mission: 10/13/02 Air Carrier: [redacted] Airlines Flight #: [redacted]

Departure Airport: [redacted] Time: [redacted] Arrival Airport: [redacted] Time: [redacted]

Section III: Reporting Requirements: Answering "Yes" to any of the below questions requires the submission of this report.

	Yes	No	N/A
1. Were there any discrepancies with regard to Pre-Departure Procedures? (e.g. Check-In Procedures, Screening and/or Escort Procedures, Assigned Seating, Boarding, Briefings, Searches, etc.)	X		
2. Was the identity of the FAM team in any way compromised?	X		
3. Were there any discrepancies with regard to Arrival Procedures?			X
4. Were there any discrepancies with regard to Equipment Retrieval/Turn-in?			X
5. Were there any other procedural discrepancies not covered above?			X

Section IV: Description See attached information.

Yes - No Additional Sheets Attached?

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Description (continued):

Yes - No Additional Sheets Attached?

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Determined under 5 U.S.C. 552

On [redacted], [redacted] my partner, [redacted] and I were on [redacted] Airlines flight [redacted] from [redacted] to [redacted] and [redacted] to [redacted]. The flight was weather delayed in LAS for thirty minutes. The gate agent for [redacted] in [redacted] said she would call ahead to BUR and SMF. She was going to inform them we were coming and that we would be late to prevent any problems. In [redacted] everything was fine and we stayed on the plane to continue on to [redacted]. We arrived at [redacted] at 1010, one hour late according to our schedule. When I came up the ramp in [redacted], FAM [redacted] was talking with the customer service representative. He identified himself, showed his credentials, requested a GSC to get our tickets and to escort us onto the aircraft. FAM [redacted] also asked that the representative call the gate we were suppose to leave from and request them not to board for a minute until we could be boarded. When the GSC, [redacted], arrived he had our tickets but all three of us could see they were already boarding for our flight [redacted]. He said to follow him and he would take care of us. We went out of the public's view and showed our credentials, signed our tickets, and received our boarding passes. GSC [redacted] walked us over to our gate to board. He told the gate agent, Ops. Supervisor [redacted], "these guys are late inbounds and I need to get them on this plane". GSC [redacted] then said he has already checked our "ID's". We expected to go on behind the 15-20 persons that had already walked down the ramp to board. Ops. Supervisor [redacted] allowed us to pass her but she immediately stopped the boarding process and followed us down the ramp. I said to her " Excuse me, can I asked what you are doing?" I was concerned that she was drawing an excessive amount of attention to us after GSC [redacted] had been as discreet as possible. She said "I have to inform the Captain about you". I said that we could and would take care of informing the Captain. I didn't want her to go with us and draw more attention to us. I was already concerned that she had stopped the boarding process when we passed her at the top of the ramp. She said no "I have to inform the Captain". I said okay but that I would stay back and talk with the Captain separately from her. FAM [redacted] and I agreed that I would go to the Captain and he would take his seat. If the Captain felt he needed to see FAM [redacted] credentials also, he would go back to the flight deck after I was seated. While we were discussing this Ops. Supervisor [redacted] had gone on the plane around the 10-15 people waiting at the door of the plane.

[redacted] returned to us at the end of the line of 10-15 people. She said " You two have to come back to the top and wait for the Captain". I said "Can't we wait here for a minute?" because I didn't want to go to the top where the other 120 people were waiting in line to enter the ramp for boarding. She began walking up the ramp turned to us and said "Come On!". We followed her to the top of the ramp and she pointed to a pilot that was on the phone and said that might be your Captain. Ops. Supervisor [redacted] then started the boarding process with the 120 people we had just passed coming back up the ramp. FAM [redacted] and I discussed the situation. We decided he would wait to talk with the Captain and I would call FAM operations. While I talked with [redacted], the FAM Operations watch commander, [redacted] boarded all the passengers.

I explained what had occurred and WC [redacted] said for us to stand down that he would get us on another flight home. In addition, to explaining the specifics, I told him that our cover was blown by [redacted]. She had not been discreet, she didn't trust us to inform the Captain, she had stopped the boarding process, and she brought us back up the ramp in front of the 120 passengers. Also, we would not have tactical positions on the plane because [redacted]. I told WC [redacted] we would go on the flight but that I felt very uncomfortable due to everything that had occurred.

FAM [redacted] and I briefly discussed everything with the Captain and told him to go ahead that we weren't going to be on his flight. He said he had watched everything and he agreed with us that we shouldn't take the flight. FAM [redacted] and I have both boarded planes and informed the Captain without the assistance of the gate agent in similar circumstances. We do not understand with our Top Secret security clearance and our other training why we were seen as incapable of doing this by Ops. Supervisor [redacted]. We have also boarded aircraft with partial crews on but not the Captain and never had a problem. It seems to be unclear to many Airlines on how to handle us when boarding the aircraft. These problems seem to be increasing based on my experiences.

Federal Air Marshal Service
Las Vegas Field Office
6380 S. Valley View Blvd., Suite 338
Las Vegas, NV 89118
(702) 263-8756

U.S. Immigration and Customs Enforcement

Interoffice Memorandum

To: ATSAIC [redacted]

From: FAM [redacted]

Date: January 18, 2004

RE: Suggestions for schedule improvement

Per a conversation with ATSAIC [redacted] of scheduling concerns he suggested that I list the issues with possible suggestions for improvement.

This memo is intended to be used as **possible suggestion and solutions only**. This is in no means scribed as a complaint form.

I have reviewed 100% of all FAM flight schedules and interviewed 35 FAMS assigned to the LASFO. After almost two years the method of scheduling has not improved. We have been told that we would not have [redacted] and that only lasted 1-2 schedules. We were told scheduling was going to cut back on the South West flights and that only lasted 1-2 schedules. Most of those interviewed would like to have training as to how the schedules are developed and more training to the potential health affects of constant flying. The biggest concerns with the current flight schedules of the 35 FAMS polled are:

1. Health issues & fatigue
2. [redacted] – [redacted]
3. [redacted]
4. Erratic start times (5 am one day, then 10 am the next, then back to 5am the following day)
5. [redacted] ([redacted])
6. [redacted].
7. 10 hour scheduled days will almost always turn into 12 plus hour days.
8. FAMS are experiencing headaches, nausea, joint pain and muscle cramps on days with more than three assigned flights.
9. More than a [redacted] layover is burdensome and to much time. [redacted] are perfect.
10. [redacted]
11. 8-9 hour maximum schedules only unless [redacted]
12. [redacted]

13. Some FAM's routinely are scheduled 7-8 over-nights a schedule, while others receive only 2-3. FAMS that want overnighters should be able to request more. Those that want less should be assigned a minimum amount (3-4)
14. Not being able to bid for show-times (example: before 9am or after 9am) FAM's interviewed were at about a 50/50 split.
15. [redacted].
16. [redacted]

Federal Air Marshal Service
Las Vegas Field Office
6380 S. Valley View Blvd., Suite 338
Las Vegas, NV 89118
(702) 263-8756

Interoffice Memorandum

To: ATSAIC [redacted]

From: FAM [redacted]

Date: January 18, 2004

RE: Suggestions for schedule improvements

This memo is per a conversation with ATSAIC [redacted]. During this conversation Mr. Korniloff suggested that I list some of the scheduling issues with possible suggestions for improvements.

This memo is intended to be used as **possible suggestions and/or solutions only**. This is not a complaint and is in no way intended to belittle management.

I have reviewed 100% of all FAM flight schedules for the period of 01/11/04-02/08/04 and interviewed [redacted] FAMS assigned to the LASFO. After almost two years the method of scheduling has not improved. We were told that we would have reasonable hours on our [redacted] and that only lasted 1-2 schedules. Most of the FAM's interviewed would like to have some form of training as to how the schedules are developed and more training regarding the potential health affects of constant flying. Schedules should be developed that work for the FAM and (FAM Service) that will enhance the FAM's abilities to perform their job under extreme pressure, taking into account the natural stress and tension associated with daily flying. Schedules should be developed that will maximize alertness and fitness, which in return will reduce fatigue. A survey is suggested office wide to determine start times and thus an attempt could be made to pair daily partners with preferred start times (within reason). If the scheduling department could develop flight schedules getting the full use of the Sabor System parameters, FAM's would be able to practice better future time management and make better use of annual leave, doctor appointments, child care etc. The local offices would also benefit from less abuse of emergency annual or sick leave and there would be less daily scheduling conflicts. If we know in advance of an activity, family function, or doctor appointment taking place, we should be able to schedule a specific airport arrival time for a certain day. This would reduce the need for the FAM to call in sick or request emergency leave due to an event that only requires a couple of hours either at the beginning or the end of the day. The LASFO should continue to make every effort to set the standards for improvement for the entire agency during these critical infant years. The LASFO could be the front-runners in applying some of these suggestions for scheduling improvement.

Listed below are suggestions and concerns with the current flight schedules of the 35 FAMS polled:

1. Health issues & fatigue. Sinus and ear problems are becoming a major concern.
2. [redacted] volunteered for [redacted] should be reduced to a minimum unless
3. [redacted]
4. [redacted]
5. The scheduled show times [redacted] during the week instead of staying consistent. This typically gets the FAM home [redacted]
6. [redacted]
7. [redacted]
8. 10 hour scheduled days frequently turn into 12 plus hour days.
9. [redacted]eg days is too much flying in one day on a continual basis. Keep all schedules to no more than three legs in one day when possible.
10. FAMS are experiencing headaches, vertigo, sinus and ear problems, nausea, joint pain and muscle cramps. These problems increase on days with more than 3 legs.
11. More than a fourteen hour layover is burdensome and to much time. 12-14 hours are perfect.
12. [redacted]
13. 8-9 hour maximum schedules only, [redacted] or the [redacted]
14. [redacted]
15. Some FAM's routinely are scheduled 7-8 over-nights for the month, while others receive only 2-3. Spread the wealth around with an equal amount of overnights with equal fly hours. FAMS that want overnighters should be able to request more. Those that want less should be assigned a minimum amount (3-4) a schedule.
16. FAM's would like to be able to bid for show times (example: before 0900 or after 0900) FAM's interviewed were at about a 50/50 preference of those that would rather come in early and those who would choose later times. (This can be done as professional pilots & flight crews are bidding for their start times using the same Sabor System currently used by the FAM program).
17. [redacted]
18. More [redacted]
19. [redacted]
20. Each HUB should have their own 24 hour OPS/MOC and more control of the schedules.
21. Less ten-hour schedules and more eight-hour scheduled days this will allow the FAM to maximize their family life during the week.
22. Some FAM's seem to get the same airlines more than others. i.e. [redacted]..spread the wealth and make it equitable.
23. FAM's don't mind an occasional tough schedule once in awhile, as long as we receive a decent schedule occasionally. Throw us a "bone" now and then.
24. The health and mental well being of the FAM should be more important than the scheduling statistics. This will create loyal employees for the agency. Scheduled LEAP is not worth all the health problems.

Federal Air Marshal Service
U.S. Department of Homeland Security
P.O. Box 51522
Irvine, CA 92618

U.S. Immigration and Customs Enforcement

September 7, 2004

INFORMATION

MEMORANDUM FOR: Whom It May Concern

THROUGH: ATSAC[redacted]

FROM: FAM William M. Meares IV

SUBJECT: Resignation

Purpose

Notification of resignation from the Federal Air Marshal Service (FAMS) effective the above date.

Background

On September 11, 2001, terrorists hijacked four airliners and successfully used them in the most devastating attacks ever launched against our homeland. As part of the emergency response to the attacks, President Bush and Congress expanded the Federal Air Marshal program from a handful of agents to several thousand. Their intent was to develop a highly trained security force that could discourage or defeat would be hijackers.

Regrettably, this goal has not been met. In reality, Federal Air Marshals have been set up for failure by their service's own, operational procedures, policies, and mind set.

Discussion

As originally conceived, a Federal Air Marshal (FAM) is an armed, well-trained, completely anonymous, undercover security agent. Anonymity serves an Air Marshal as both a deterrent to potential hijackers and as their most powerful tactical asset should a takeover be attempted in flight. Without anonymity, an Air Marshal is reduced to a target that need only be ambushed and eliminated or an obstacle that can be easily avoided.

Unfortunately, the executive level of the Federal Air Marshal Service has failed to acknowledge this fact. Instead, due to misguided priorities, inflexibility, and the consequences of cronyism, managers have stripped away any hope that Air Marshals will remain unknown to determined terrorists. In effect,

handing the element of surprise to our terrorist adversaries. FAM Service management has accomplished this in several ways:

- Policies and procedures have been implemented that result in the easy identification of Federal Air Marshals during the performance of their duties.
- The executive level has refused to acknowledge, or react to, the chorus of warnings from flying FAMs, members of congress, pilot's unions, flight attendant's unions, and passengers regarding operational procedures that unveil them to the public and potential terrorists alike.
- FAMS executives repeatedly release detailed personal, operational, and tactical information that can be used to defeat Air Marshals.
- Upper level management was filled by retired secret service agents, with retired secret service agents, who possess no aviation security experience or training.
- FAMS executives continually underestimate terrorist capabilities and base policies and procedures on a foe perceived to be ineffective.
- Management priorities are directed toward creating longevity for the Federal Air Marshal Service rather than ensuring that flying FAMs have every advantage if confronted by terrorists.

These problems are exasperated by the Federal Air Marshal Service's willingness to mislead on many levels. A short list includes:

- Mischaracterization and minimization of the nature and scope of the concern for security reported by the vast majority of flying Federal Air Marshals.
- Mischaracterization of the training and effectiveness of the Federal Air Marshal Service.
- Mischaracterization of the attrition rate and its effect on deployable Federal Air Marshals.
- Omission of the impact on individual FAM readiness due to incremental workload increases.
- Misstatements regarding known terrorist tactics and the denial that FAM Service policies cause Air Marshals to be vulnerable to such tactics.

The Federal Air Marshal Service portrays FAMs as anonymous agents working behind the scenes to protect the country. In reality, Federal Air Marshals are only anonymous when it sounds good for the latest headquarters press release. Current policies and procedures have effectively eliminated the unknown element for terrorist planners. There is no question that terrorists, using known tactics and methods, can easily determine whether or not a particular flight is covered by Air Marshals. When combined with videos released by the FAM Service that demonstrate the exact methods FAMs use to take back an airliner, and a myriad of other management missteps, terrorists have been given the clear advantage.

It is apparent that in spite of the best efforts of many people, including myself, that the trend toward compromising Air Marshals will continue. In the latest demonstration of this fact, the Federal Air Marshal Service has mandated that FAMs on mission status lodge at hotels assigned by the FAM service. The procedure (although omitted from the written policy) requires that Air Marshals call ahead to ask for a prearranged rate that identifies them as Air Marshals. This requirement reveals Sensitive Security Information (SSI) to unscreened hotel employees plus warehouses FAMs in a way that makes them vulnerable to known terrorist methods of attack. Consistent with FAMS management mischaracterization of the facts, a spokesman for the Service stated that among other reasons, the policy was implemented for FAM safety.

At this point it is painfully clear that little possibility exits for the FAM Service to deliver what the public believes it is receiving. To continue to be a participant in a system that I know is ineffective and dangerous would require an ethical compromise I am unwilling to make.

It has been alarming and disappointing to watch how FAM managers have squandered their opportunity to fulfill such a critical mission at such a critical time. This, even though they had at their disposal among the best qualified and most dedicated citizens America has to offer. Experts and veterans from a wide range of elite military and law enforcement units. Individuals that in many instances left lucrative private sector jobs with optimal quality of life and family benefits in order to answer the call and place their lives on the line in defense of their country. Rather than capitalize on this resource, FAMS managers have chosen to ignore or ridicule the serious and legitimate security issues raised by the men and women deployed on flights every day. It is telling to consider that qualifications that separated a few thousand Air Marshals from a pool of 250,000 applicants are apparently insufficient to qualify those Air Marshals to make assessments regarding operational safety and security.

Some reading this memorandum will know that my position is well founded and well documented. My perspective is based on more than seventeen years of combined experience in military special operations (Navy SEAL), undercover law enforcement (L.A.P.D.), private security and investigation (domestic and foreign), and federal law enforcement (FAM). I received top honors at FLETC for academics and shooting, received the Top-Gun award at Phase Two training, and received the Distinguished Graduate Award in the Los Angeles Field Office Instructor Evaluation Course. I have been selected as an assistant supervisor, served as an Acting ATSAC, Acting Training Officer, and a Firearms Instructor. I have been commended repeatedly by the Federal Air Marshal Service including the receipt of a Federal Cash Award. An extensive surveillance background has qualified me to testify as an expert regarding law enforcement surveillance operations in various felony proceedings. I have authored dozens of reports outlining security vulnerabilities in the Federal Air Marshal Service. I have not received official feedback on any but one report. At that time I learned that some of these reports had not been forwarded but remain in a drawer at the Los Angeles Field Office.

If terrorists are successful in another 911 style attack it will represent a catastrophic failure of the Department of Homeland Security and specifically the Federal Air Marshal Service. Very likely, terrorists will have identified and exploited all of the advantages that the managers of the Federal Air Marshal Service have provided to them.

Additional

I have forwarded copies of this memorandum to the below listed people since, according to the Government Accounting Office, the Federal Air Marshal Service does not have a system in place to compile and store data on the reasons Federal Air Marshals resign.

CC: Senator Barbara Boxer
Senator Diane Feinstein
Senator Herb Kohl
Senator John McCain
Senator Zell Miller
Congressman Christopher Cox
Congresswoman Carolyn Maloney
Inspector General Clark Kent Ervin
Mayor James Hahn
Deputy Chief John Miller
Auditor Gary Wilk
House Judiciary Committee

Appendix 10

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FEDERAL AIR MARSHAL DAILY
06/27/02

Today's Homeland Security Advisory System Rating:
ELEVATED - Significant Risk of Terrorist Attacks

(FOUO) Suspicious Activity Aboard an Aircraft: On [redacted], FAMs on an [redacted] Airlines flight from [redacted] to [redacted] airport reported two suspicious individuals performing possible surveillance of their activities. According to the FAMs, the two individuals boarded the plane separately. Upon arrival at [redacted]

(FOUO) Cat Head Key Chain: Found serving as a key chain ornament, this potential weapon is approximately three-to-four inches long. The cat ears can be used to stab/jab when the ornament is gripped as shown below. It is difficult to identify the cat head as a potential weapon when passed through x-ray machines and it could be overlooked if placed in a divestment container.

(FOUO) Cat Head Key Chain

(FOUO) Air Marshals Arrest Unruly Passenger: On June 24, Federal Air Marshals on a [redacted] flight from [redacted] airport arrested an unruly passenger after he threatened aircrew members. The passenger was observed being sexually aggressive and verbally abusive to at least two aircrew members. After witnessing several minutes of abuse, FAMs assigned to the flight asked the crew if they needed assistance. In response to the FAMs offer of assistance, the Captain requested the passenger be arrested. As the Captain taxied back to the gate, FAMs approached the passenger, identified themselves as Law Enforcement Officials, and informed him he was under arrest. While the FAMs were handcuffing the passenger, he began to struggle, subsequently injuring one of the FAMs. [redacted] Police arrested the passenger and he was charged and held for Crimes Onboard an Aircraft, Interference with the Flight Crew, and Battery on a Federal Law Enforcement Officer. The FAMs prevented what could have been a serious situation before the aircraft departed [redacted].

(U) Flights Banned Near Three Landmarks: On June 26, FAA officials announced temporary flight restrictions over three national landmarks for fear of possible attacks during the July 4th holiday. The ban prohibits planes from flying near the Statue of Liberty, the Mount Rushmore National Memorial in South Dakota, and the Gateway Arch in St. Louis. The no-fly zone around the Statue of Liberty bars flights within one nautical mile of the monument until September. Flights are also prohibited within four miles around Mount Rushmore from July 3 to July 5 and within three nautical miles of St. Louis's Gateway Arch on July 3rd and 4th. The airspace near the Statue of Liberty and the Gateway Arch, along with 28 other sites, are already protected and aircraft flying near these areas must seek permission before entering the airspace surrounding them. The sites are receiving added protection because large crowds are expected in those areas during July 4th celebrations. Due to repeated general threats of terrorist activity during the holiday period, FAMs flying missions should be extra vigilant.

Questions and/or comments may be addressed to TSIS-500 at:
24-Hour Watch (Washington, DC) [redacted]
24-Hour Watch (Atlantic City, NJ) [redacted]

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FEDERAL AIR MARSHAL DAILY
8/29/02

Today's Homeland Security Advisory System Rating
ELEVATED - Significant Risk of Terrorism Attacks

(FOUO) Possible Attempt to Identify FAMs. On [redacted] FAMs on board a [redacted] flight from [redacted] to [redacted] observed a passenger of Middle Eastern appearance acting suspiciously. When the passenger first boarded the aircraft, he appeared to examine the cockpit and then the flight-deck door from top to bottom and left to right, concentrating on the hardware attached to the door. While he was going to his assigned seat, the passenger stopped and looked at the passengers sitting in seats [redacted] and [redacted]. Furthermore, as he was walking past both seats, the subject first bumped both of the seated passengers with his carry-on bag and then touched them in the chest with an open hand. After arriving in [redacted], the subject kept looking back over his shoulder as he was walking toward baggage pickup. The subject was last observed walking to a nearby elevator located away from other passengers. The individual's activities have all the indications that the he was attempting to determine if FAMs were on board the flight. Although FAMs were on board, they did not break their cover to question the suspicious passenger. FAMs appropriately reported the incident and provided the passenger manifest information to operations. Further investigation did not reveal any terrorist links; however, the details were entered into the incident database. FAMs should continue to report similar incidents immediately, as these activities could be pre-operational planning. For additional information on similar incidents see *FAM Daily* 6-27-02, 5-23-02 and 5-22-02.

[redacted]

(U) Cockpit Door Deadline. According to the press, federal regulators are concerned airlines and aircraft manufacturers will not meet the 9 April 2003 deadline to install new bulletproof cockpit doors in all commercial aircraft. While larger airline companies believe they can do the work in time to meet the deadline, smaller airline companies fear they won't receive the doors in time. Smaller airlines have stated that it's been difficult to get their new door designs approved and are concerned they will have to ground planes. Reportedly, the FAA schedules weekly meetings with companies to get updates on the progress toward getting the new doors. It is expected that 80 percent of the new door designs will be approved by the end of September. Once the door designs are approved, the manufacturers will produce and deliver the doors to the airlines who are responsible for installation. The cost for each door is at least $29K and takes 14 hours to install. Airbus North America, which made about 700 planes registered in the U.S. expects its planes to be in compliance by the end of the year. As the deadline nears, FAMs can expect to see a greater number of new cockpit doors. The late arrival of new doors may cause flight delays as airlines are pressed to meet the deadline.

Questions and/or comments may be addressed to TSIS-500 at:
24-Hour Watch (Washington, DC) [redacted]
24-Hour Watch (Atlantic City, NJ) [redacted]

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Appendix 11

PRESIDENT'S MESSAGE

FLEOA Remembers Our Fallen Heroes

By FLEOA National President Art Gordon (TSA)

May is traditionally a bittersweet month for all of us in law enforcement because we know it is time once again to honor and mourn the loss of our fellow law enforcement officers who died in the line of duty.

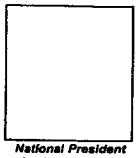
On May 13, 2005, I was honored to represent FLEOA at the National Candlelight Vigil at the National Law Enforcement Officers Memorial in Washington, D.C. As a "Reader," I had the distinct privilege of reading the names of those fallen Federal Law Enforcement Officers who were killed in the line of duty in 2004. Attorney General Gonzales, our nation's Chief Law Enforcement Officer, was the Keynote Speaker at this solemn event.

This same day I attended the NLEOMF Officer of the Month Luncheon honoring law enforcement officers throughout the country who performed heroically in the line of duty. I was humbled to be in the presence of these law enforcement heroes.

On May 15, 2005, I was an honored guest of the National Fraternal Order of Police (FOP) at the United States Capitol, as President Bush honored the families of our fallen heroes and the memories of those that made the ultimate sacrifice. After a Wreath Laying Ceremony, President Bush spent over an hour meeting with and consoling the surviving family members.

I had the honor and privilege of meeting with Attorney General Alberto Gonzales on behalf of FLEOA during May 2005. We discussed many issues facing the Justice Department law enforcement agencies, including: ATF, DEA, FBI and the U.S. Marshal Service. I expressed FLEOA's support for renewal of the "Patriot Act." This is a necessary and important law enforcement tool which has, and will, continue to help us combat terrorism.

I also met with representatives of the Congressional Budget Office (CBO) to discuss federal law enforcement pay reform. CBO has been directed by Congress to study federal law enforcement pay and benefits and prepare a report for Congress. I provided them with documentation that FLEOA has prepared over several years on this issue.



National President Art Gordon (TSA)

I was also a guest at a Congressional Breakfast sponsored by the National Center for Missing and Exploited Children (NCMEC) to honor the men and women of law enforcement who investigate crimes against our nation's children. I met with former Senator Dennis DeConcini (retired) who asked that FLEOA work with the NCMEC to protect our nation's children. I subsequently met with members of the NCMEC Executive Staff and offered FLEOA's support to the NCMEC.

The FLEOA Legislative Committee continues to push for federal law enforcement pay reform and has developed a proposal for new disability legislation for federal law enforcement officers. The Committee is working very hard on behalf of all of our members.

I am still awaiting a response from President Bush, who has been invited to be a guest speaker at the FLEOA Awards Banquet on November 4, 2005 in Tyson's Corner, Virginia. Attorney General Gonzales advised me that if the President was not available, then he would be honored to be our guest speaker at the FLEOA Banquet.

I have asked for help from Attorney General Gonzales and DHS Secretary Chertoff to ensure full implementation of the Law Enforcement Officer's Safety Act of 2004 for all federal retirees. FLEOA still believes that President Bush must issue an Executive Order to all Federal Agency heads to provide retired law enforcement credentials to all retirees and enact uniform firearms qualification standards so they can carry firearms pursuant to PL 108-77. I have asked both Attorney General Gonzales and DHS Secretary Chertoff to urge President

Continued on page 12

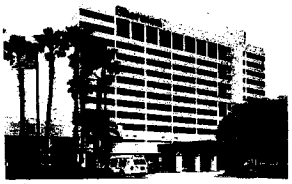
President's Message continued from page 4

Bush to issue this Executive Order.

I am happy to note that since our meeting with DHS retary Chertoff, the Federal Air Marshals Dress Code, pi ously implemented by FAMs Director Quinn, has been a ished. Now the FAMs can finally blend in with the "fl public" they have been sworn to protect. Thank you, Secre Chertoff, for your wisdom and leadership.

Appendix 12

SHERATON FT LAUDERDALE AIRPORT HOTEL
1825 GRIFFIN RD •DANIA, FL 33004 •US
Phone 954-920-3500



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Federal Air Marshall is Company of the Month in July, only at The Sheraton Fort Lauderdale!

As a special thank you for your continued business, we are making Federal Air Marshall ***"Company of the Month"*** in July.

We appreciate your business and want to recognize that, so during the month of **July**, we are extending Double Starpoints(R) on all ***Federal Air Marshall*** stays at The Sheraton Fort Lauderdale.

Please feel free to spread the word!

To reserve your stay, simply book online!

book now >

Points will be awarded when traveling at your *corporate negotiated rate*. Receive your company's negotiated rate and rebook your future stay for July or anytime.

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Appendix 13

Federal Air Marshal Service
U.S. Department of Homeland Security
425 I Street, NW
Washington, DC 20536

U.S. Immigration and Customs Enforcement

OCT - 5 2005

DIS 2-01 OI:MS:ID
05-FAMS-17808 RSA

Mr. Frank Terreri
[redacted]

Dear Mr. Terreri:

This is in response to your letter dated January 15, 2005, in which you requested, pursuant to the Freedom of Information Act (FOIA) and/or the Privacy Act, access to records pertaining to yourself.

Please be advised that we are releasing 13 pages of responsive documents to you. Within these documents we have redacted some information pursuant to exemptions (b)(2) and (b)(7)(C) of the FOIA. Additionally, three on-going investigations are being withheld in their entirety, pursuant to exemption (b)(7)(A) of the FOIA. Even if disclosure of these three investigations were directed, exemptions (b)(2), (b)(5), (b)(6), (b)(7)(C), (b)(7)(D), (b)(7)(E) and (b)(7)(F) of the FOIA could be cited to protect some information contained in the aforementioned investigations.

Insofar as you may consider the withholding of some information, as well as the three investigations, a denial of your request for disclosure, you may appeal our determination, in writing, within 35 days after the date of this letter to the Privacy Office, Department of Homeland Security, 245 Murray Lane SW, Building 410, Washington, DC 20528.

Enclosed is an information sheet pertaining to exemptions from disclosure under the FOIA, administrative appeal and judicial review.

Sincerely,

for Gloria L. Marshall
Chief, Information Disclosure Unit
Mission Support Division

Enclosures (2)

Definitions of the Exemptions
Under The Freedom of Information Act (5 U.S.C. 552)

Pursuant to 5 U.S.C. 552 (b), the Freedom of Information Act does not apply to matters that are –

- (1)(A) specifically authorized under rules established by an Executive Order to be kept secret in the interest of national security defense or foreign policy and (B) are in fact properly classified under such order;
- (2) related solely to the internal personnel rules and practices of an agency;
- (3) specifically exempt from disclosure by statute, provided that such statute (A) requires that the matters be withheld from the public so as to leave no discretion on the issue or, (B) established particular criteria for withholding or refers to particular kinds of matters to be withheld;
- (4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (5) inter-agency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the agency;
- (6) personnel and medical files and similar files the disclosure of which constitutes a clearly unwarranted invasion of personal privacy;
- (7) records of information compiled for law enforcement purposes, but only to the extent that the production of such records or information

  (A) could reasonably be expected to interfere with enforcement proceedings,
  (B) would deprive a person of a right to a fair trial or impartial adjudication,
  (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy,
  (D) could reasonably be expected to disclose the identity of a confidential source, including State, local or foreign agency or authority, or any private institution which furnished information on a confidential basis, and for a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source,
  (E) would disclose techniques and procedures for law enforcement investigations or prosecutions or procedures or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or
  (F) could reasonably be expected to endanger the life or physical safety of any individual;

DEPARTMENT OF HOMELAND SECURITY
ICE

REPORT OF INVESTIGATION

1. TECS ACCESS CODE: [redacted] (b)(2)
2. PAGE: 1
3. FILE ID: [redacted] (b)(2)

4. TITLE: TERRERI, FRANK /TRAN/NON-CRIM MISCON /CALIFORNIA CA

5. FILE STATUS: CLOSING RPT

6. REPORT DATE	7. ASSIGN DATE	8. CLASS	9. FILE DESC CODES	10. RPT NBR
03092005	10152004	[redacted] (b)(2)	[redacted] (b)(2)	005

11. RELATED FILE IDS:

12. UNDVL LEADS TO:

13. TYPE OF REPORT:
INVESTIGATIVE FINDINGS

TOPIC: ALLEGED E-MAIL THREAT AGAINST CO-WORKER - UNFOUNDED

14. SYNOPSIS:
On October 15, 2004, the Joint Intake Center, Washington, D.C., received a memorandum from Director Thomas D. Quinn, Federal Air Marshal Service, Washington, D.C., alleging Federal Air Marshal (FAM) Frank TERRERI, Irvine, CA, sent a threatening e-mail directed toward another FAM.

15. DISTRIBUTION:
[redacted] (b)(2)

16. ORIGINATOR: [redacted] (b)(7)(C)
(TITLE) CRIM INVSTGR

17. APPROVED BY: [redacted]
(TITLE) CRIM INVSTGR

18. ORIGIN OFFICE: [redacted] (b)(2)

19. PHONE: [redacted]

20. TYPIST: [redacted]

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SENSITIVE

DEPARTMENT OF HOMELAND SECURITY ICE REPORT OF INVESTIGATION CONTINUATION	1. PAGE: 2 2. FILE ID: [redacted] (b)(2) 3. REPORT NUMBER: 005

BACKGROUND:

On October 15, 2004, the Joint Intake Center (JIC), Washington, D.C., received a memorandum from Director Thomas D. Quinn, Federal Air Marshal Service (FAMS), Washington, D.C., requesting an investigation of Federal Air Marshal (FAM) Frank TERRERI, Irvine, CA. Director Quinn identified FAM TERRERI as the Federal Air Marshal Agency President of the Federal Law Enforcement Officers Association (FLEOA). In the memorandum, Director Quinn stated FAM TERRERI sent an alleged threatening e-mail to an undisclosed list of recipients on October 13, 2004. Director Quinn further stated the e-mail was directed toward a female FAM who was the subject of an article recently published in People Magazine. FAMS management had authorized the article with the FAM in the story identified only as [redacted] assigned to the [redacted] Director Quinn [redacted], that [redacted] would be easily identifiable to many FAMs as [redacted]. (b)(7)(C)

ALLEGATION: E-Mail Threat Against Co-Worker.
UNFOUNDED

DETAILS OF INVESTIGATION:

ALLEGATION: E-Mail Threat Against Co-Worker.

On October 15, 2004, the JIC received a memorandum, dated the same day, from Director Quinn requesting an investigation of FAM TERRERI. Director Quinn also identified FAM TERRERI as the Federal Air Marshal Agency President of the FLEOA. In the memorandum, Director Quinn alleged FAM TERRERI sent a threatening e-mail to an undisclosed list of recipients on October 13, 2004. Director Quinn stated the threatening e-mail was directed toward a female FAM who was the subject of a story that was published in the October 18, 2004, issue of People Magazine. FAMS management had authorized the article. Director Quinn advised the female FAM was identified in the article only as [redacted] assigned [redacted] Washington Field Office. However, Director [redacted] stated [redacted] would be easily identifiable to other FAMs as [redacted]. (b)(7)(C)

Director Quinn alleged the contents of FAM TERRERI's e-mail is a threat to FAM [redacted] person and encourages the recipients of the e-mail, her colleagues, to direct violence or harassment against FAM [redacted]. Director Quinn specifically noted as a threatening statement, FAM TERRERI's comment, "I'll be on the lookout for her in one of our friendly airports, probably as she is entering the restroom to ensure her Sig-Sauer .357 semi-automatic is concealed." Director Quinn stated this comment is a reference to the statement FAM [redacted] made in the article, "I make a stop [illegible]

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SAS SENSITIVE

DEPARTMENT OF HOMELAND SECURITY ICE REPORT OF INVESTIGATION CONTINUATION	1. PAGE: 3 2. FILE ID: [redacted] (b)(2) 3. REPORT NUMBER: 005

in the restroom and make sure my weapon is concealed a SIG Sauer .357-caliber semi-automatic."

Director Quinn advised that FAM TERRERI had his gun and credentials taken from him, and that FAM TERRERI was placed on administrative leave pending an investigation of the allegation. Director Quinn also provided the following four attachments to the memorandum: People Magazine article, October 18, 2004, FAM TERRERI's e-mail of October 13, 2004, FAMS Employee Responsibilities and Conduct Directive ADM 3700, and HRPM ER-4.1 Section 13 Workplace Violence (EXHIBIT #1).

On November 3, 2004, the Office of Professional Responsibility, Los Angeles, interviewed FAM TERRERI. FAM TERRERI provided an affidavit. FAM TERRERI stated in his affidavit he does not personally know FAM [redacted] and to his knowledge, has never had personal contact with her. FAM TERRERI said prior to this allegation, he had no knowledge of FAM [redacted] and has still never even seen her. FAM TERRERI said he wrote the subject e-mail on October 13, 2004, entitled "People Magazine Article", and sent it to members of the FLEOA. FAM TERRERI stated all of the recipients of the e-mail had asked to be included on the private e-mail list. FAM TERRERI said he did not send the e-mail to FAM [redacted] because she is not included on this private e-mail list. FAM TERRERI said FAM [redacted] told him that he had forwarded the e-mail to FAM [redacted] FAM TERRERI stated he wrote the e-mail on his personal computer and on his personal time. FAM TERRERI said he wrote and sent the e-mail because the anonymous FAM featured in the People Magazine article divulged Security Sensitive Information. FAM TERRERI said his e-mail was only intended to advise other FLEOA members that Security Sensitive Information was disclosed through the media and questioned the purpose of the disclosure. FAM TERRERI stated he never intended the e-mail to serve as either a threat directed towards FAM [redacted], or as an encouragement to others to threaten, or harass FAM [redacted]. FAM TERRERI opined that no part of the e-mail could even be construed as a threat against FAM [redacted]. FAM TERRERI stated he has never attempted, nor does he have any desire, to intimidate, or harm FAM [redacted]. FAM TERRERI stated he has no intention to harm FAM [redacted] in the future and has never encouraged others to intimidate, or harm her. FAM TERRERI added that he never knew of FAM [redacted] prior to this allegation and has no "ill will" towards her. (b)(7)(C)

FAM TERRERI opined that this allegation against him is "retaliation on the part of FAM management to FLEOA's activities regarding aviation security." FAM TERRERI stated he believes FAMS management initiated the allegation against him because he is the FLEOA Federal Air Marshal Agency President. FAM TERRERI said FAMS management is retaliating against him since FLEOA issued a letter of "no confidence" in Director Quinn about

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X A X S E N S I X I V E X

DEPARTMENT OF HOMELAND SECURITY ICE REPORT OF INVESTIGATION CONTINUATION	1. PAGE: 4 2. FILE TO: [redacted] (b)(2) 3. REPORT NUMBER: 005

one week prior to the action taken against him. FAM TERRERI said FLEOA's call for Director Quinn's removal was reported in many national publications. FAM TERRERI stated because of the e-mail incident, FAMS management came to his home and confiscated government issued property from him including his weapon, badge and credentials. FAM TERRERI stated he has never received a negative evaluation, nor has he ever been proposed discipline during his fifteen years in law enforcement. FAM TERRERI said no complaints from either civilians, or other law enforcement officers, have ever been received regarding his conduct as a law enforcement officer. FAM TERRERI said his opportunity for future advancement into a FAMS management position is now jeopardized due to this incident. FAM TERRERI stated he is not willing to submit to a polygraph examination regarding the allegation (EXHIBIT #2).

On November 30, 2004, the Office of Professional Responsibility, District of Columbia (OPR/District of Columbia), interviewed FAM [redacted] FAM [redacted] provided an affidavit. FAM [redacted] stated in her affidavit she resides in Alexandria, VA, and is assigned to FAMS Headquarters, Investigations Division. FAM [redacted] said she does not know FAM TERRERI, has never had any personal contact with him, and has never even seen him. FAM [redacted] stated she learned of the subject e-mail written by FAM TERRERI, dated October 13, 2004, from an e-mail she received from FAM [redacted] FAM [redacted] stated she does not perceive the e-mail as a threat, nor as an encouragement to others to threaten her safety. FAM [redacted] said FAM TERRERI has never threatened her, nor has he ever encouraged others to threaten her safety. FAM [redacted] said she did not know why FAM TERRERI authored and sent the e-mail (EXHIBIT #3). (b)(7)(c)

On February 11, 2005, the OPR/District of Columbia interviewed FAM [redacted] FAM [redacted] provided an affidavit. FAM [redacted] stated in her affidavit she was more intimidated than threatened by FAM TERRERI's e-mail. FAM [redacted] stated FAM TERRERI did not pose an immediate threat to her since FAM TERRERI was located in Los Angeles. FAM [redacted] said she never believed FAM TERRERI would cause her any physical harm. FAM [redacted] stated, however, she did believe the message of the e-mail could encourage other FAMs to behave negatively towards her. FAM [redacted] stated she now has personal safety concerns due to the resulting publicity from the disclosure of her identity (EXHIBIT #4).

PROSECUTORIAL ACTION: N/A.

PRIOR HISTORY/PREVIOUS ALLEGATIONS: None.

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DEPARTMENT OF HOMELAND SECURITY ICE	1. PAGE: 5
REPORT OF INVESTIGATION CASE EXHIBITS	2. FILE ID: [redacted] (b)(2)
	3. REPORT NUMBER: 005

1. Memorandum from Director Thomas D. Quinn, dated October 15, 2004, plus attachments 1 through 4
2. Affidavit prepared by FAM Frank TERRERI, dated November 3, 2004
3. Affidavit prepared by FAM [redacted] dated November 30, 2004 (b)(7)(C)
4. Affidavit prepared by FAM [redacted] dated February 11, 2005

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DEPARTMENT OF HOMELAND SECURITY
ICE

REPORT OF INVESTIGATION
<UNAPPROVED>

1. TECS ACCESS CODE: [redacted]
2. PAGE: 1 (b)(2)
3. FILE ID: [redacted]

4. TITLE: FEDERAL AIR MARSHAL /TRAN/NON-CRIMINAL MISCON /ILLINOIS IL

5. FILE STATUS: CLOSING RPT

6. REPORT DATE	7. ASSIGN DATE	8. CLASS	9. FILE DESC CODES	10. RPT NBR
	08262004	[redacted] (b)(2)	[redacted] (b)(2)	007

11. RELATED FILE IDS:

12. UNDVL LEADS TO:

13. TYPE OF REPORT:
INVESTIGATIVE FINDINGS

TOPIC: RELEASE OF SENSITIVE/SECURE/CLASSIFED INFORMATION

14. SYNOPSIS:

(b)(7)(C)

On August 26, 2004, the Department of Homeland Security, Immigration & Customs Enforcement, Office of Professional Responsibility, Joint Intake Center, Washington, D.C., received a Conduct Incident Report from the Department of Homeland Security, Immigration & Customs Enforcement, Federal Air Marshal Service. The report alleges that Federal Air Marshals [redacted] and Frank TERRERI have violated Federal Air Marshal Service policies regarding the release of sensitive, secure, or classified information.

15. DISTRIBUTION: [redacted] (b)(2)

(b)(7)(C)

16. ORIGINATOR: [redacted]
(TITLE) CRIM INVSTGR

17. APPROVED BY: [redacted]
(TITLE) SUPVY CRIM INVSTGR

18. ORIGIN OFFICE: [redacted] (b)(2)

19. PHONE: [redacted]

20. TYPIST: [redacted]

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DEPARTMENT OF HOMELAND SECURITY ICE <UNAPPROVED> REPORT OF INVESTIGATION CONTINUATION	1. PAGE: 2 2. FILE ID: [redacted] (b)(2) 3. REPORT NUMBER: 007

BACKGROUND:

On August 26, 2004, Immigration & Customs Enforcement (ICE), Office of Professional Responsibility (OPR), Joint Intake Center (JIC), Washington, D.C., received a Conduct Incident Report (CIR) from DHS ICE Federal Air Marshal Service (FAMS). The report alleged that Federal Air Marshals (FAMs), [redacted] and Frank TERRENI violated FAMS' policies regarding the release of sensitive, secure, or classified information. (b)(7)(C)

On November 11, 2004, Senior Special Agent (SSA) [redacted] OPR/Chicago, conducted a review of the FAMS Code of Conduct, which revealed potentially restrictive policies applied to FAM employees. As a result of this review, OPR/Chicago forwarded, via Federal Express, a copy of the FAM Code of Conduct to the Office of Principal Legal Advisor (OPLA), Washington, D.C. (Exhibit 1).

On January 2, 2005, OPR/Chicago received documentation from OPLA regarding their review of the FAMS Code of Conduct policy. The review by OPLA concluded that the FAM Code of Conduct policy is not enforceable as written (Exhibit 2).

[redacted] FAM/Chicago, President of the Federal Air Marshals Association (FAMA), was alleged by FAM management to have violated the FAM Code of Conduct policy previously determined by OPLA to be unenforceable as written. Based on the legal opinion of OPLA, the OPR/Chicago investigation excluded the following allegations made by FAM management, against FAM [redacted] (b)(7)(C)

1. Violation of FAMS Code of Conduct Directive ADM 3700, Paragraph 17. FAM [redacted] allegedly made statements, which were critical of FAMS management and FAMS employees.

2. Violation of FAMS Code of Conduct Directive ADM 3700, Paragraph 11. FAM [redacted] behavior on behalf of FAMA may have caused embarrassment to FAMS, its management, and employees.

3. Violation of FAMS Ethics/Standards of Conduct Directive OMS 2110, Paragraph 6 (A)(10), and FAMS Code of Conduct Directive ADM 3700, Paragraph 14. FAM [redacted] involvement in FAMA may constitute outside employment, which FAM [redacted] failed to disclose.

4. Violation of FAMS Code of Conduct Directive ADM 3700,

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DEPARTMENT OF HOMELAND SECURITY ICE <UNAPPROVED> REPORT OF INVESTIGATION CONTINUATION	1. PAGE: 3 2. FILE ID: [redacted] (b)(2) 3. REPORT NUMBER: 007

Paragraph 15. Alleged misuse of position by FAM [redacted] (b)(7)(C)

The OPR/Chicago investigation addressed the following allegations against FAM [redacted]

ALLEGATION ONE: Unauthorized use of FAMS Badge Image on FAMA Website.

UNFOUNDED

ALLEGATION TWO: Failure to Safeguard Sensitive or Secure Information.

UNFOUNDED

ALLEGATION THREE: Personal Use of Government Equipment.
UNFOUNDED

ALLEGATION FOUR: Unauthorized Disclosure.
UNFOUNDED

DETAILS OF INVESTIGATION:

ALLEGATION ONE: Unauthorized use of FAMS Badge Image on FAMA Website.

On November 17, 2004, SSAs [redacted] & [redacted] conducted an interview of FAM [redacted] Prior to conducting the interview, FAM [redacted] was provided (b)(7)(C) with the following documents for his review and signature:

1. Administrative Interview Notice of Rights and Obligations, (FAMS Form OMS F 2130 July 04).

2. DHS ICE Disclosure Warning for Non-Bargaining Unit Employees (Appendix C).

During the interview, FAM [redacted] denied ever making unauthorized use of (b)(7)(C) images of the Federal Air Marshal badge and/or providing the same to any unauthorized person(s), groups, organizations, websites, and/or associations.

OPR/Chicago investigation revealed that the "image" utilized by the FAMA website is of a nondescript nature and therefore not identifiable as a badge utilized by the Federal Air Marshal Service.

ALLEGATION TWO: Failure to Safeguard Sensitive or Secure Information.

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DEPARTMENT OF HOMELAND SECURITY ICE <UNAPPROVED> REPORT OF INVESTIGATION CONTINUATION	1. PAGE: 4 2. FILE ID: [redacted] (b)(2) 3. REPORT NUMBER: 007

During the interview, FAM [redacted] stated that he has never released sensitive, secure, or classified information to any unauthorized persons, groups, or associations. Additionally, FAM [redacted] stated that he never inappropriately used FAMS facilities, supplies, equipment, personnel, or duty time to conduct any activities for purposes other than official or authorized activity. (b)(7)(C)

An OPR/Chicago investigation revealed no direct evidence, neither independently gained, nor from information supplied to OPR/Chicago via FAM management, which directly linked FAM [redacted] with the photographic images of FAMS training displayed on the FAMA website. Additionally, investigation has determined that there are voluminous amounts, in all forms of media, of information pertaining to FAM training available for use by the public.

ALLEGATION THREE: Personal Use of Government Equipment.

On November 17, 2004, OPR/Chicago conducted an interview of FAM [redacted] who stated that he never inappropriately utilized FAMS facilities, supplies, equipment, personnel, and or duty time to conduct any activities for purposes other than official/authorized activity.

The information provided to OPR/Chicago regarding this allegation lacked evidence to support this allegation. FAM management based their allegations solely on Internet research. OPR/Chicago has uncovered no evidence to support the allegation against [redacted]

ALLEGATION FOUR: Unauthorized Disclosure.

On November 17, 2004, OPR/Chicago conducted an interview of FAM [redacted] who stated that he has never released, in any form, sensitive, secure, or classified information to any unauthorized persons, groups, or associations.

Following the interview, FAM [redacted] provided OPR/Chicago with an affidavit dated November 17, 2004 (Exhibit 3). (b)(7)(C)

OPR/Chicago's investigation identified several sources for the information allegedly disclosed by FAM [redacted] These sources are readily available to the public, and include information provided by FAM management, independent of the FAMA website.

OPR/Chicago investigation determined that the information provided OPR/Chicago by FAM management did not support the allegation that FAM [redacted] released sensitive, secure, and/or classified information.

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DEPARTMENT OF HOMELAND SECURITY ICE <UNAPPROVED> REPORT OF INVESTIGATION CONTINUATION	1. PAGE: 5 2. FILE ID: [redacted] (b)(2) 3. REPORT NUMBER: 007 (b)(7)(C)

Additionally, FAM management neither provided nor produced any witnesses to support the allegation that FAM [redacted] ever released, in any form, sensitive, secure, or classified information to any unauthorized, groups, or associations. FAM management's allegation was based solely on Internet research. OPR/Chicago has uncovered no evidence to support the allegations against [redacted]

[redacted] FAM/Las Vegas, member of the Federal Air Marshals Association, was alleged by FAM management to have violated the FAM Code of Conduct Policy previously determined by OPLA to be unenforceable as written. Based on the legal opinion of OPLA, the OPR/Chicago investigation excluded the following allegations where FAM management alleged that FAM [redacted] violated the FAM Code of Conduct policy:

1. Violation of FAMS Codes of Conduct Directive ADM 3700, Paragraph 14. FAM Management alleged that FAM [redacted] had an outside source of employment, which he failed to disclose.

An investigation conducted by OPR/Chicago addressed the following allegations against FAM [redacted]

ALLEGATION ONE: Failure to Safeguard Sensitive or Secure Information.

UNFOUNDED

DETAILS OF INVESTIGATION:

ALLEGATION ONE: Failure to Safeguard Sensitive or Secure Information.

On December 06, 2004, SSAs [redacted] conducted an interview of FAM [redacted] Prior to conducting the interview, FAM [redacted] was provided with the following documents for his review and signature:

1. Administrative Interview Notice of Rights and Obligations, (FAMS Form OMS F 2130 July 04).

During the interview, FAM [redacted] stated that he never released sensitive, secure, or classified information to any unauthorized persons, groups, or associations. (b)(7)(C)

Following the interview, FAM [redacted] provided OPR/Chicago with an affidavit dated December 06, 2004 (Exhibit 4).

OPR/Chicago investigation determined that the information provided

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DEPARTMENT OF HOMELAND SECURITY ICE <UNAPPROVED> REPORT OF INVESTIGATION CONTINUATION	1. PAGE: 6 2. FILE ID: [redacted] (b)(2) 3. REPORT NUMBER: 007 (b)(7)(C)

OPR/Chicago by FAM management does not support the allegation that FAM [redacted] released sensitive or secure information. FAM management provided no witnesses or specific evidence to support the allegation. Additionally, an e-mail authored by FAM ATSAC [redacted] Los Angeles Field Office, dated July 7, 2004, concerning the completion of Surveillance Detection Reports (SDR) as part of FAMs evaluation, was distributed to 25 Squad 3 and 25 Squad 9 respectively, and therefore not traceable to a specific source. An OPR/Chicago review of the e-mail determined that it was not marked sensitive, secure, and/or classified. OPR/Chicago has uncovered no evidence to support the allegations against FAM [redacted]

[redacted] FAM/Los Angeles was alleged by FAM management to have violated the FAM Code of Conduct Policy previously determined by OPLA to be unenforceable as written. Based on the legal opinion of OPLA, the OPR/Chicago investigation excluded the following allegations against FAM [redacted]

1. Abuse of Official Authority to Promote FLEOA.

2. Unauthorized and Inappropriate Use of Government Facilities and Property.

3. Unauthorized Use of Business Cards.

4. Violation of 18 U.S.C. 701, Unauthorized use of FAMS emblems, insignias, and names.

An investigation conducted by OPR/Chicago addressed the following allegation against FAM [redacted] (b)(7)(C)

ALLEGATION ONE: Failure to Safeguard Sensitive or Secure Information.

UNFOUNDED

DETAILS OF INVESTIGATION:

ALLEGATION ONE: Failure to Safeguard Sensitive or Secure Information.

On December 16, 2004, SSAs [redacted] & [redacted] conducted an interview of FAM [redacted] Prior to conducting the interview, FAM [redacted] was provided with the following documents for his review and signature:

1. Administrative Interview Notice of Rights and Obligations,

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REPORT OF INVESTIGATION
CONTINUATION

3. REPORT NUMBER: 007

(FAMS Form OMS F 2130 July 04).

(b)(7)(C)

On December 16, 2004, OPR/Chicago conducted an interview of FAM [redacted], who denied releasing sensitive, secure, or classified information to any unauthorized persons, groups, or associations. OPR/Chicago investigation determined that the information provided OPR/Chicago by FAM management relevant to this allegation did not support the allegation that FAM [redacted] released sensitive, secure, and/or classified information. Additionally, FAM management neither provided nor produced any witnesses to support the allegation that FAM [redacted] ever released, in any form, sensitive, secure, or classified information to any unauthorized, groups, or associations. FAM management's allegation was based solely on Internet research. OPR/Chicago has uncovered no evidence to support the allegations against [redacted]

Following the interview, FAM [redacted] provided OPR/Chicago with a sworn affidavit dated December 16, 2004 (Exhibit 6).

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DEPARTMENT OF HOMELAND SECURITY ICE <UNAPPROVED> REPORT OF INVESTIGATION CASE EXHIBITS	1. PAGE: 8 2. FILE ID: [redacted] (b)(2) 3. REPORT NUMBER: 007

1. Copy of the Federal Air Marshal's Code of Conduct.
2. OPLA Memorandum - Legal Review, FAMS Code of Conduct.
3. Affidavit of Federal Air Marshal [redacted] dated November 17, 2004. (b)(7)(C)
4. Affidavit of Federal Air Marshal [redacted] dated December 06, 2004.
5. Affidavit of Federal Air Marshal [redacted] dated December 16, 2004.

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Appendix 14

SEP 26 2005 14:1[redacted] [redacted] TO [redacted] P.02/13
APR-05-2005 TUE 10:57 AM FAX NO. [redacted] P. 02

ATTACHMENT # 8

TRANSPORATION SECURITY ADMINISTRATION
TRANSPORTATION SECURITY EXECUTIVE SERVICE PERFORMANCE PLAN

Employee's Name: Don Strange **Appraisal Period: FY 2004**

Position: SAC Atlanta Field Office **Organization: FAMS**

Duty Location: Atlanta

CRITICAL PERFORMANCE AREA 1: PROGRAM /MISSION OBJECTIVES

Achieves result in accordance with the Government Performance and Results Act (GPRA). Develops, prioritizes and aligns program responsibilities with bureau strategies, objectives, and goals. Ensures effective implementation of the strategic plan, including program measurement.

A. PROGRAM AREA 1 EXPECTATIONS MET BY:

During the FY 2004 performance period, the Atlanta Field Office continued to function in an innovative, responsible, and successful fashion. Your Operations FAMs are available and responsive on a 24/7 basis. Innovations and diligence in scheduling your FAMs have resulted in successfully achieving the required flight percentages regardless of the situation or changes, e.g., severe weather, special mission coverage flights, intelligence concerns, training requirements, NSSE and other high priority events. No requested annual leave had to be denied during this reporting period.

During the FY 2004 performance period, you successfully covered the G-8 Summit in the Atlanta District and [redacted] were covered by FAMs. If cancellations occurred, Atlanta Ops insured a FAM team recovered the flight(s). Atlanta Ops has developed a flight recovery system, which has had significant results. No training or RDOs of FAMs were cancelled to accomplish flight recovery. Operations FAMs fly missions on a regular basis to maintain proficiency and meet directive standards. Proper scheduling of FAMs is accomplished by the Operations Section to insure all FAMs receive their required FODs, RDOs, annual leave, and training. Detailed records are maintained by Operations, which enables a fair, equitable, and effective manner of scheduling foreign missions throughout the Atlanta FAM work force. An ATSAC is assigned to the airport during duty hours and remains on call for response after hours. Cell phone reception is spotty in the suburbs of Atlanta so a pager was obtained for the Duty ATSAC, which has significantly improved communications with the MOC and other personnel after hours.

During the FY 2004 performance period, the Atlanta Field Office had FAMs assigned to the six JTTFs in District: Atlanta, Birmingham, Mobile, Jackson, Memphis, and

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Knoxville. It was through the liaison and personal efforts of you and your management that these assignments occurred quickly and efficiently. A lengthy selection process was used to decide which FAMs would be assigned to these JTTFs. Feedback from each JTTF FBI supervisor, FBI SAC, and FSD has been extremely complimentary. Your FAMs are doing an outstanding job, which is pleasing and more than satisfactory to all agencies involved. Your management regularly attends JTTF executive meetings. Furthermore, frequent meetings and communications occur between your field office management, FSDs, and the FBI regarding our participation and involvement in the JTTFs.

CRITICAL PERFORMANCE AREA 2: EXECUTIVE/MANAGERIAL COMPETENCIES

Uses efficient business practices, including balanced measures (organizational results, customer satisfaction, and employee perspectives) to help create a high performing organization.

1. **Management/Business Practices:**

Effectively implement human resources, financial risk management, and management control (e.g., self inspection) programs. Ensures that classified information is managed, handled and safeguarded in accordance with applicable laws, rules regulations and procedures. Uses sound judgment to make effective and timely decisions.

During the FY 2004 performance period, your field office continues to be sound administratively. All your administrative requirements have been achieved in an excellent manner. Financial Management in the Field Office has been judicious, frugal, and successful. Atlanta A.O. Pam Phillips continues to mentor other less experienced Administrative Officers from different offices. All equipment, to include the vehicle fleet, of your field office has been properly accounted for and maintained.

2. **Leadership:**

Effectively leads employees by communicating the mission, core values, and strategic goals to them and other stakeholders. Responds creatively to changing circumstances, adheres to merit principles, and promotes communication, workforce effectiveness, collaboration, diversity, team building/teamwork and employee development. Ensures that subordinate supervisors and managers are developed to prepare them to assume leadership positions with increasing degrees of responsibilities. Demonstrates integrity and the highest standards of public service.

During the FY 2004 performance period, your liaison achievements of your field office have been exemplary. During this reporting period, a personal meeting

occurred between Atlanta management (SAC, ASACs) and all the FSDs in the Atlanta District, which encompasses Georgia, Alabama, Mississippi, and Tennessee. Atlanta management visited the major airports in the Atlanta District. Your field office management attended regular meetings of agency heads involving the Atlanta airport and the law enforcement community.

You coordinated meetings at the Atlanta airport involving the FSD, FBI, and ICE. This has resulted in a continuing dialogue, which not only strengthens communications and coordination between all of the involved agencies but also clarifies jurisdictions, responsibilities, and concerns of these agencies, especially in relation to the FAMS.

Liaison contacts have been made and fostered with the airport law enforcement agencies in this District. Communications and coordination is frequent and ongoing with the Atlanta Police Department, Airport Section. Liaison successes have been made with [redacted] You have attained quick access to [redacted] and you maintain frequent contact with these officials. You have obtained permission to staff the [redacted] in the event of an emergency involving [redacted] and the FAMS. Good liaison has been made and continues with [redacted]

You assigned a FAM to the Atlanta airport in a liaison capacity. This FAM assists transiting FAMs and maintains daily contact with the screeners, screener supervisors, working law enforcement officers, both Federal and local, as well as gate agents and other airline personnel.

The G-8 Summit occurred near Brunswick, GA during this reporting period. Supervisors and FAMs from your field office were involved in the security planning for this NSSE event from the initial stages through completion of the summit. The FAMS were well represented in all meetings and present at the Command Center during the event. ATSACs were assigned to the [redacted] airports to assist and facilitate the numerous FAMs on mission status transiting these areas. Successful liaison relations within the airport domain and local business community have fostered a favorable outlook towards the FAMS and have resulted in obtaining more than adequate hotel lodging for FAMs on RON in your field office.

You have spoken to local civic organizations. Frequent meetings occur between Atlanta supervisors and members of the U.S. Attorney's offices throughout the District.

3. **Organizational Effectiveness:**

Train and encourage all employees to conduct themselves as an effective team member to ensure that security is not compromised. Contribute to the accomplishment of the TSA mission and vision by:

- *Supporting TSA values*
- *Demonstrating the highest level on concern for the civil rights of both co-workers and the traveling public*
- *Making sure that all TSA funds, property, and other resources assigned or allocated for use are guarded against waste, loss, unauthorized use and misappropriation*
- *Ensuring a positive working environment by taking prompt and appropriate action to deal with all allegations of discrimination or other inappropriate conduct. Obtain guidance handling such situation, as necessary*
- *Supporting the Model Workplace Vision by providing authentic opportunities to all employees to raise workplace issues and resolve them cooperatively without fear of retaliation. Providing a working environment characterized by mutual respect and fair, consistent and non-discriminatory treatment, free of unlawful harassment. Creating and maintaining an environment that encourages and protects optimal information flow to and from employees within his/her organizational units when appropriate. Promotes cross-functional approach to problem solving to achieve organizational success.*

During the FY 2004 performance period, you and the Training Section of the Atlanta Field Office completely and effectively attained all mandated training requirements for FAMs during this reporting period. Working closely with the Operations Section, all Atlanta FAMs received their required training as well as additional recurrent training. Special emphasis is placed on firearms and tactical training. During this reporting period, several Atlanta FAMs from the Training Section were detailed TDY to Atlantic City to assist the Service in completing Phase 2 training. These Atlanta FAMs performed in an outstanding manner. Through the diligence and conscientious efforts of your training section, a substandard training facility has been transformed into an organized, effective, and professional environment. This includes strong efforts to obtain an aircraft simulator, which should occur before the end of 2004. Communications have been made and continue to be made to obtain a long-term relationship for a firing range facility that is not only adequate but at a reasonable cost.

During FY 2004, your field office initiated a management review of the entire training program. The results of this review have improved the training curriculum, the training facility, the training staff, as well as the goals of the Training Section.

The Atlanta management and supervisors have shown dedication to the mission and success of the FAMS. You are completely engaged and involved with the FAMs assigned to the field office. Regular and candid meetings occur with the FAMs. Management has opened and encouraged frank two-way communications. A "Suggestions" program has been devised. Atlanta management has demonstrated their availability and listens to FAMs' concerns and problems. When feasible, issues have been discussed with the appropriate HQ personnel. An answer is always given to the FAMs whether positive or negative, regardless of the sensitivity of the situation. [redacted]ive

feedback often occurs from the FAMs to Atlanta management describing this relationship. Atlanta FAMs realize management is available, supportive, and will listen. This has developed a positive attitude among the Atlanta FAMs and is making great strides in developing a "culture" by and for the Atlanta FAMs. Consequently, the morale of the Atlanta FAMs is optimistic and promising.

PERFORMANCE PLAN CERTIFICATION

This is to certify that we have met and, discussed and understand expectations for the established appraisal period.

3/29/04 — Rating Official's Signature/Date
3-29-2004 — Executive's Signature/Date

MID YEAR PROGRESS REVIEW:

Comments: (attach as required)

3/29/04 — Rating Official's Signature/Date
3-29-2004 — Executive's Signature/Date

PERFORMANCE RATING

Annual Summary Rating:

Critical Program Area 1: Rating: Level 3 Meets Expectations

Critical Program Area 2: Rating: Level 3 Meets Expectations

Overall Summary Rating: Level 3 Meets Expectations

10/15/04 — Rating Official's Signature/Date
10/15/04 — Reviewing Official's Signature/Date
10-18-2004 — Executive's Signature/Date

PERFORMANCE REVIEW BOARD ACTION:

Recommended Summary Rating: Meets Expectations

Recommended Award: Pay Increase: 6 percent (Percentage)

Performance Award: None ($ Amount)

Chair, Performance Review Board/Date

ACTION OF THE ADMINISTRATOR OR EQUIVALENT OFFICIAL:

Final Summary Rating: Meets Expectations

Pay Increase: _____ (Percentage)

Performance Award: None ($ Amount)

NOV 2 9 2004
Administrator/Equivalent Official /Date