

9/19/06



**Department of Homeland Security  
Immigration & Customs Enforcement  
Office of Professional Responsibility**

**Office of Professional Responsibility  
Report of Investigation**

**MACLEAN, Robert  
Federal Air Marshal  
Los Angeles, CA  
200405873**

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## I A S E N S I T I V E

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TOPIC: UNAUTHORIZED MEDIA APPEARANCE - SUBSTANTIATED			

## 14. SYNOPSIS:

On September 17, 2004, the U.S. Immigration and Customs Enforcement, Office of Professional Responsibility, Joint Intake Center, Washington, DC, received a Conduct Incident Report from the Department of Homeland Security, Immigration & Customs Enforcement, Federal Air Marshal Service. The report alleges that Federal Air Marshal Robert J. MACLEAN, Los Angeles, made an unauthorized media appearance on the NBC Nightly News television program.

An additional allegation of unauthorized release of information to the media was also uncovered during the course of the investigation.

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## BACKGROUND:

On September 17, 2004, the U.S. Immigration and Customs Enforcement (ICE), Office of Professional Responsibility (OPR), Joint Intake Center (JIC), Washington, DC, received a Conduct Incident Report (CIR) from the DHS ICE Federal Air Marshal Service (FAMS). The report alleges that Federal Air Marshal (FAM) Robert J. MACLEAN, Los Angeles, California, made an unauthorized media appearance on the NBC Nightly News television program (Exhibit 1). An additional allegation of unauthorized release of information to the media was also uncovered during the course of the investigation.

ALLEGATION ONE: Unauthorized Media Appearance.  
SUBSTANTIATED

ALLEGATION TWO: Unauthorized Release of Information to the Media.  
SUBSTANTIATED

## DETAILS OF INVESTIGATION:

ALLEGATION ONE: Unauthorized Media Appearance

On May 04, 2005, OPR/Chicago Senior Special Agent (SSA) Thomas J. Ruzevich and Resident Agent in Charge (RAC) James M. Gibbons conducted an interview of FAM MACLEAN. Prior to conducting the interview, FAM MACLEAN 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).
2. Disclosure Warning for Non-Bargaining Unit Employees (Appendix C).

During the interview FAM MACLEAN admitted to appearing on the NBC Nightly News television broadcast on September 9, 2004, as the subject shown wearing a hood and identified only as FAM "Mike." FAM MACLEAN admitted that he did not obtain authorization from FAM management prior to making the aforementioned media appearance. FAM MACLEAN denied knowingly releasing, in any form, sensitive, secure, or classified information to any unauthorized persons groups, or associations. Following the interview, FAM MACLEAN provided OPR/Chicago with an affidavit dated May 4, 2005 (Exhibit 2).

ALLEGATION TWO: Unauthorized Release of Information to the Media.

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1. Administrative Interview Notice of Rights and Obligations (FAMS Form OMS F 2130 July 04).
2. Disclosure Warning for Non-Bargaining Unit Employees (Appendix C).

During the interview FAM MACLEAN admitted that he spoke to MSNBC reporter Brock Meeks regarding three newspaper stories authored by Meeks. FAM MACLEAN admitted to providing Meeks copies of FAMS Las Vegas Field Office e-mails that mandated FAMS from that office compose one Surveillance Detection Report per month. FAM MACLEAN denied knowingly releasing, in any form, sensitive, secure, or classified information to any unauthorized persons, groups or associations. Following the interview, FAM MACLEAN provided OPR/Chicago with an affidavit dated May 4, 2005 (Exhibit 2).

On May 4, 2005, FAM MACLEAN provided OPR/Chicago with copies of the below listed items:

1. "Air Marshal pulled from key flights," by Brock Meeks, MSNBC, July 29, 2003 (Exhibit 3).
2. "TSA in 'witch hunt' Air Marshals Say'," by Brock Meeks, MSNBC, August 11, 2003 (Exhibit 4).
3. "Air Marshals struggle with 'growing pains'," by Brock Meeks, MSNBC, August 4, 2004 (Exhibit 5).
4. "Flip-Flop on Air Marshal Schedules," by Brock Meeks, MSNBC, July 30, 2004 (Exhibit 6).
5. Six (6) FAMS Las Vegas Field Office inter-office e-mails dated from July 7, 2003 thru August 4, 2003 (Exhibit 7).

PROSECUTORIAL ACTION: N/A

PREVIOUS HISTORY/PAST ALLEGATION: None.

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1. Copy of Federal Air Marshal Conduct Incident Report (CIR).
2. Affidavit of DHS ICE FAMS Robert J. MACLEAN, dated May 4, 2005.
3. Copy of MSNBC news story "Air Marshal pulled from key flights," by Brock Meeks, July 29, 2003.
4. Copy of MSNBC news story "TSA in witch hunt Air Marshals say," by Brock Meeks, August 11, 2003.
5. Copy of MSNBC news story "Air Marshals struggle with growing pains," by Brock Meeks, August 4, 2004.
6. "Flip-Flop on Air Marshal Schedules," by Brock Meeks, MSNBC, July 30, 2004.
7. Six (6) FAMS Las Vegas Field Office e-mails dated from July 7, 2003 thru August 4, 2003.

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Exhibit 1

A verbatim recreation of the CIR is provided below.

-Begin-

Las Vegas Field Office (LASFO) based personnel believe Federal Air Marshal (FAM) Robert J. MacLean to be the hooded FAM "Mike" who appeared on NBC Nightly News on 9/9/04. The FAM complained of FAMS policies, implying that terrorists can easily identify and cut FAM's throats if dress code policies were not changed. If substantiated, his appearance would be in violation of internal directives.

SAC David R. Knowlton was on annual leave the week of 9/6-9/10/04 and did not view the NBC broadcast. On Saturday 9/11/04, LASFO ATTSAC John Plunkett advised SAC Knowlton that FAM MacLean's former supervisor, ATTSAC Michael Marzigliano, had watched NBC Nightly news on 9/9/04 and believed the voice of the hooded FAM to be that of MacLean based on his extensive contact with the FAM.

ON 9/13/04, SAC Knowlton requested FAM Headquarters forward a video copy of the news broadcast. Also on 9/13/04 a LASFO FAM on TDY assignment, Michael Kopanski, telephonically advised he viewed the broadcast and believed the hooded FAM to be MacLean, based on voice recognition. SAC Knowlton was on emergency leave the afternoon of 9/13/04 and 9/14/04 due to a death in the family. The video was received at the LASFO on 9/15/04.

On 9/15/04, ATTSAC Marzigliano confirmed what he had told ATTSAC Plunkett, stating to SAC Knowlton that, based on voice and mannerisms, he unequivocally believed the hooded FAM on NBC news to be MacLean, whom he had supervised. He also advised that subsequent to the broadcast, other FAMS who served with MacLean came to him and opined it was MacLean. Also on 9/15/04, LASFO Operations Officer, Muriel Blackburn, advised she had viewed the video and opined it was MacLean. She further related that her staff had heard from other LASFO FAMS who viewed the broadcast and complained it was MacLean on NBC news. She also advised her staff had allegedly been informed that MacLean was upset that his voice had not been disguised, prompting him to request it not be further televised.

Finally, on 9/15/04, the video was shown to MacLean's current supervisor, ATTSAC Charles Maurer. ATTSAC Maurer opined that the voice of "Mike" was probably MacLean based on his personal contact with him.

FAM MacLean has been in TDY status to Los Angeles pending the birth of a child, which occurred this week. He is currently on Family Medical Leave. FAM MacLean has previously announced to this office that he is the "FAM vice president" of the Federal Law Enforcement Officers Association (FLEOA). He has not been interviewed concerning this matter.

FAM MacLean has no previous CIR's!

-End-



Exhibit 2

DEPARTMENT OF HOMELAND SECURITY  
U.S. IMMIGRATION & CUSTOMS ENFORCEMENT  
OFFICE OF PROFESSIONAL RESPONSIBILITY

AFFIDAVIT

STATE OF:  
COUNTY OF:

I, Robert J. MacLean, who after being duly sworn state the following:

Q: Please state your name, current position and post of duty?

A: Robert James Maclean, Federal Air Marshal, assigned Los Angeles Field Office.

Q: How long have you been employed as a Federal Air Marshal with the Department of Homeland Security?

A: Over 3 ½ years.

Q: What employment have you held prior to becoming a FAM?

A: US Border Patrol Agent - assigned San Diego Sector.

Q: Have you ever been interviewed by any television news organization?

A: Yes.

Q: Have you ever been interviewed by the NBC Nightly News Television program?

A: Yes

Q: Did you appear on the NBC Nightly News television broadcast of September 9, 2004 as the subject shown wearing a hood and identified only as FAM "Mike"?

A: Yes

Q: Did you have prior permission from the Federal Air Marshal management to appear on the aforementioned television newscast.

A: No

Q: Is that the only time you appeared on any television news program?

A: Yes

Q: What was the purpose of your appearing on the aforementioned television news program?

A: After FAMS management ignored mine and other FAMS' concerns regarding FAMS' checkpoint bypass procedures, aircraft boarding procedures, dress / grooming codes, mandatory hotel policy and FAMS managements constant desire to divulge Sensitive Security Information to news organizations such as CNN and NBC Nightly News. I reported

these problems to the Oakland DHS / OIG office, but no Agents followed-up on my complaint.

Q: Who asked you to appear on the aforementioned television show?

A: Brock Meeks of MSNBC. I know him from 3 other stories I spoke to him about. I handed copies of these 3 articles to the investigators. They are: Air Marshal pulled from key flights, Brock Meeks, MSNBC, July 29, 2003; Air Marshals struggle with 'growing pains' by Brock Meeks, MSNBC, August 4, 2004; TSA in 'witch hunt,' air marshals say by Brock Meeks, MSNBC, August 11, 2003.

NBC Producers Tom Costello and Mario Garcia from New York, NY conducted my interview over a phone line.

I have never provided any documents of any nature to Meeks, Costello and Garcia.

For the August 4, 2003 article, I read Meeks word for word the six July 7, 2004 through August 4, 2003 e-mails (submitted to the investigators) that mandated Las Vegas FAMS to compose 1 Surveillance Detection Report (SDR). This policy was a violation of the law, gross waste of funds, abuse of authority and overall gross mismanagement that endangers public health and safety. Mandating intelligence reports can misdirect valuable resources and get many people hurt or killed. None of these e-mails were labeled having "Security Sensitive Information."

For the July 29, 2003 article, I informed Brock Meeks that all Las Vegas FAMS were sent a text message to their Government issued mobile phones that all RON (Remain Overnight) missions up to August 9 would be canceled. My supervisor told me that the Service ran out of funds for overtime, per diem, mileage and lodging.

It is FAM policy that Sensitive Security Information will not be broadcasted via text messages to our Service issued mobile phones.

Q: Are you aware of any procedures/policies/directives regarding media contact?

A: Yes - ADM 3700 (Para 17) which prohibits contact with the media.

Q: Have you ever released, in any form, be it verbal, written, or otherwise, sensitive, secure, or classified information to any unauthorized person or persons, group or groups, association or associations?

A: No, not to my knowledge.

Q: If you were to seek permission for a media interview who would you contact?

A: I assume it would be the FAMS Director or the Public Information Office.

Q: Who is your current supervisor?

A: Jim Murray (ATSAC)

Q: Have you ever had the following persons act as your supervisor in any capacity (ATSAC Marzigliano, ATSAC Plunkett, ATSAC Charles Maurer)?

A: Yes, I worked under the supervision of ATSAC Marzigliano for approx. 1 year, ATSAC Plunkett may have been Acting ATSAC when ATSAC Maurer was on extended leave he (Plunkett) replaced him temporarily. ATSAC Maurer supervised me for approx. six months just prior to my transfer to the LA Field Office.

Q: Who is LASFO Muriel Blackburn?

A: She is a civilian Operations officer assigned to the Las Vegas Field Office. She did not supervise me in any capacity. I've known her since mid November of 2001.

Q: Do you have anything else to add to your statement at this time?

A: Thomas D. Quinn, the Director of the Federal Air Marshal Service, and his executive staff are setting up commercial aviation for catastrophic failure by violating the law, gross waste of funds, abuse of authority and overall gross mismanagement that endangers public health and safety. Their checkpoint bypassing procedures, aircraft preboarding procedures, mandatory hotel policy, dress and grooming codes and their policy of divulging Sensitive Security Information to the media.

Thomas D. Quinn's executive staff:

Robert F. Beyers, Deputy Director  
John Novak, Assistant Director  
George Papantoniou, Assistant Director  
Raymond M. Dineen, Assistant Director  
Colleen Callahan, Assistant Director  
Michael H. Weikert, Assistant Director  
David Adams, SAC, Headquarters Public Information Office

Only the victims of the 9/11 attacks give me the strength and fortitude to accomplish my missions despite of the constant anxiety of having to counter a possible in-flight ambush made possible due to Director Quinn's deadly policies and gross mismanagement.

Regrettably, the following personnel continue to ignore Director Quinn and his executive staff's gross mismanagement:

Michael Chertoff, DHS Secretary  
Richard L. Skinner, Acting DHS Inspector General  
Randy Beardsworth, Acting Under Secretary for Border Transportation & Security  
Michael J. Garcia, Assistant Secretary of ICE

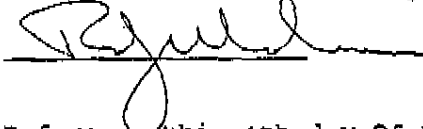
These individuals must stop allowing Director Quinn and his executive staff to threaten national security and listen to the rational advice of ONE of the only true advocates of commercial aviation security: Federal Air Marshal Frank Terreri.

Due to the fact that my chain of command, the DHS OIG and my Congressmen all ignored my complaints and would not follow them up with investigations, I have NO REGRETS or feel NO REMORSE for going to a credible and responsible media representative, Brock Meeks. Brock Meeks reporting these gross mismanagement issues has resulted in immediate and positive change in deadly FAMS policies.

The contents of this statement are true and correct to the best of my knowledge and belief.

Statement consists of 4 pages.

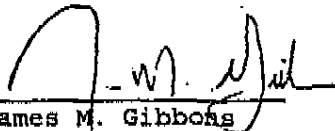
Subscribed and sworn to by



Before me this 4th day Of May 2005,



Thomas J. Ruzevich  
Senior Special Agent  
Department of Homeland Security  
Immigration & Customs Enforcement  
Office of Professional Responsibility



James M. Gibbons  
Resident Agent in Charge  
Department of Homeland Security  
Immigration & Customs Enforcement  
Office of Professional Responsibility

## Appendix C

## Disclosure Warning for Non-Bargaining Unit Employees

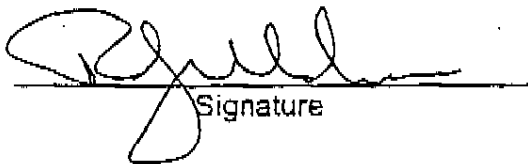
Form  
Department of the Treasury  
U.S. Customs Service

## WARNING TO NOT DISCLOSE INVESTIGATIVE INFORMATION

You are being interviewed as part of a continuing, official investigation by the U.S. Customs Service Office of Internal Affairs. As this investigation is sensitive in nature, you are instructed not to discuss the nature of this interview with any other person(s), except private legal counsel.

Failure to comply with this directive could subject you to disciplinary and/or criminal action for interfering with or impeding an official investigation.

I, Robert Marlean, have read and understand the above warning.

  
Signature

5/4/2005  
Date



### ADMINISTRATIVE INTERVIEW NOTICE OF RIGHTS AND OBLIGATIONS

Before we ask you any questions you must understand your responsibilities as an employee of the U.S. Department of Homeland Security, Federal Air Marshal Service.

This is a purely administrative inquiry. The purpose of this interview is to obtain your statement to questions concerning release of SST and unauthorised media as it relates to your official duties. appears.

You have a duty as an employee of the Federal Air Marshal Service to answer questions concerning the performance of your official duties. Your failure to answer questions posed to you, as they relate to your official duties, may cause you to be subjected to disciplinary action, including possible removal. Furnishing false information may result in criminal prosecution.

Any information or evidence you furnish in response to questions put to you during this interview, or any information or evidence, which is gained through your answers, may be used against you in administrative proceedings.

I have read the above advisement and understand its contents.

ROBERT MACLEAN \_\_\_\_\_ [Signature] 5/4/2005  
Print Name Signature and Date

JAMES M. Gibbon \_\_\_\_\_ [Signature] 5/4/2005  
Witness Name Signature and Date

Exhibit 3



## Air Marshals pulled from key flights

By Brock N. Meeks, MSNBC

July 29, 2003, Despite renewed warnings about possible airline hijackings, the Transportation Security Administration has alerted federal air marshals that as of Friday they will no longer be covering cross-country or international flights, MSNBC.com has learned. The decision to drop coverage on flights that many experts consider to be at the highest risk of attack apparently stems from a policy decision to rework schedules so that air marshals don't have to incur the expense of staying overnight in hotels.

SEVERAL AIR marshals contacted by MSNBC.com Tuesday confirmed that they were alerted via text messages on their TSA-issued cell phones to check their schedules for changes.

"All overnights, starting from August first through the ninth, were canceled," an air marshal told MSNBC.com. "My [supervisor] told me overnights for all [field offices] were being canceled for an indefinite amount of time," said the air marshal, who requested anonymity. "The supervisors said they only had time to change schedules through the ninth."

Current flight schedules, which run through the end of July, Thursday, are staying intact, another air marshal told MSNBC.com.

Federal air marshals are armed undercover agents deployed on U.S. airlines and authorized to use deadly force to thwart a terrorist incident. Prior to Sept. 11, 2001, there were only a few dozen marshals who flew mainly on international flights. But after the Sept. 11, 2001, terror attacks, Congress authorized a huge increase in air marshals. From a pool of 250,000 applicants, a few thousand -- the exact number is classified -- were hired and given special advanced anti-terrorist training.

Several marshals told MSNBC.com that the program is suffering budget troubles and that the agency is looking to make cuts wherever it can. Recently, enrollment in upgraded training for air marshals, known as "Phase II," was suspended.

The TSA declined to comment on the details behind this week's schedule change. "The agency cannot comment on details of federal air marshal mission operations," said Brian Turmail, a TSA spokesman. However, "TSA remains committed to aviation security and will take all appropriate steps necessary to respond to credible threat information," he said.

As to the allegation that budgetary constraints were at the root of the pullbacks, Turmail said that all programs within the TSA are "subject to ongoing review." In addition, "TSA's current task is to balance the need to meet changing threats with the need to live within the agency's budget," he said. "The federal air marshal budget is under review to determine how best to meet these two objectives."

The move to pull air marshals from any flight requiring them to stay overnight is particularly disturbing to some because it coincides with a new high-level hijacking threat issued by the Department of Homeland Security. That warning memo says that "at least one of these attacks could be executed by the end of the summer," according to a source familiar with the document.

The DHS memo also warns that new intelligence indicates that hijackers this time may simply try to crash the planes rather than fly them. "Hijackers may attempt to use common items carried by travelers such as cameras modified as weapons," and hijackers "may try to calm passengers" by making them believe they are only being taken hostage and "not on a suicide mission."

"Al-Qaida planners have primarily considered suicide hijackings and bombings as the most promising method to destroy aircraft in flight as well as to strike ground targets," the memo says. "Attack venues may include the United Kingdom, Italy, Australia or the East Coast of the United States due to the relatively high concentration of government, military and economic targets," the memo warns.

The cancellation of overnight stays has been floating around the air marshal rumor mill for weeks, based on conversations MSNBC.com has had with various sources in the air marshal program.

When the reality hit, several air marshals voiced their disbelief that the cutbacks were coming now, in the wake of newly issued warnings.

"The fact that this is coinciding with the new airline threats, it just blows our minds," an air marshal said. "We can't cover [every flight] but at least put us on the high-threat planes, the ones traveling across the country," the air marshal said, noting that the four planes hijacked on Sept. 11 were all scheduled cross-country flights and therefore filled to capacity with aviation fuel. Not having air marshal coverage on those types of flights, "it's just plain scary," the air marshal said.

The air marshal program has been beset by a number of problems during its quick ramp-up from a few agents to thousands. MSNBC.com reported in June that more than 100 federal air marshals had been fired or stripped of their flight status for problems stemming from their security clearance background investigations. In addition, some air marshals were flying without having received their final security clearances, Transportation Security Administration sources said.

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TJR  
5-4-05

Exhibit 4

## TSA in 'witch hunt,' air marshals say

Homeland Security denies knowledge of formal investigation  
by Brock N. Meeks, *MSNBC*, 11 August 2003

WASHINGTON, Aug. 11 -- The Transportation Security Administration is conducting a "witch hunt" to ferret out and discipline employees in the federal air marshal program who have talked to the media, several sources within the program told *MSNBC.com*. Some air marshals are even being threatened with having the USA Patriot Act, a law enacted to help fight terrorism, used against them. The Department of Homeland Security, which oversees the TSA, denies that any such investigation is taking place.

HOWEVER, A DEPARTMENT OF Homeland Security spokesman did acknowledge that an investigation is under way surrounding the circumstances involving a decision to pull air marshals from high risk flights in an attempt to save money at the cash strapped TSA, a story first reported in late July on *MSNBC.com*.

DHS is investigating "whether or not certain internal management decisions regarding federal air marshal scheduling were authorized," said Brian Roehrkasse, a department spokesman, "and if so, who may have authorized those."

Shortly after *MSNBC.com* reported that TSA was pulling air marshals from flights, based on information provided by sources within the air marshal program, an "investigative witch hunt was started," one air marshal who requested anonymity told *MSNBC.com*.

The air marshals work as undercover law enforcement officers aboard airlines; as such, they are often given access to classified mission information and therefore are made to sign documents pledging they will not divulge information to the media.

### NO FORMAL PROBE

Roehrkasse said there has been no formal investigation aimed at uncovering persons within the air marshal program that might have leaked information to the media.

However, Roehrkasse did say DHS "will investigate any incidents" of employees disclosing what they know to be classified information. "Every government employee, including someone in the federal air marshal service, is prohibited by law from releasing sensitive classified information unless given express permission to do so," he said. And if an investigation found that that classified information was divulged outside the agency, it would be a violation of law and the person or persons "subject to arrest and prosecution," Roehrkasse said.

But some air marshals did speak to *MSNBC.com* about being pulled from high-risk flights because they believed that act alone hurt overall security.

The move on the part of air marshals to come forward drew a nod from Senate Democrats who blasted TSA for considering the move to pull air marshals from some flights simply because of budget woes.

"I want to thank the air marshals who came forward and told the truth about what was going on within their agency and bringing this issue into the spotlight," said Sen. Barbara Boxer, D-Calif., during a news conference, "because I believe that cutting air marshals was clearly in the mix of budgetary cuts being considered."

### Flip-flop on air marshal schedules

One air marshal told *MSNBC.com* that his entire field office was given an oral briefing and told "that an investigation is under way" and that in order to help find people talking to the media, "the USA Patriot Act was going to be used" to pull home phone and Internet records. Several other air marshals *MSNBC.com* heard from told similar stories of an investigation under way; one additional air marshal also mentioned that his supervisor had mentioned the use of the Patriot Act.

"If these allegations are true, they show misplaced priorities," said Rep. Carolyn Maloney, D-N.Y., chair of the Democratic Task Force on Homeland Security. "They shouldn't be going after civil servants doing their patriotic duty; they should be going after whoever made the boneheaded decision and whoever approved it at the OMB."

### CAN'T INVOKE PATRIOT ACT

By law, however, the TSA isn't allowed to invoke the Patriot Act. That law was developed to give broader surveillance and prosecutorial power to law enforcement agencies in order to better combat terrorism.

Threatening to use the Patriot Act "is not an act of law, it's an act of intimidation," said Steven Aftergood, who runs the Project on Government Secrecy for the Federation of American Scientists. "The politics of this are the agency is trying to regulate what kind of interaction its employees have with the media and the general public," Aftergood said. "That is something that raises questions of agency good faith."

And from here the next step is "for Congress to investigate the behavior of the agency because they are skirting, if they haven't crossed the boundary, of bad faith," Aftergood said.

That's exactly the thinking of Rep. Maloney; she sent letters to the chairmen of the House and Senate Judiciary committee and the chairman and ranking member of the House Select Committee on Homeland Security urging further action.

"[To] invoke, or threaten to invoke, the USA Patriot Act, a law meant to battle terrorism, to target patriotic employees seems to be not only illogical, but a misuse of the law as well," Maloney says in her letter the Judiciary committee leaders. "I urge your committee to formally investigate the alleged misuse of the USA Patriot Act by DHS for its internal probe of employees."

In the letter to the House Homeland Security Committee, Maloney asks that there be an investigation to find out whether DHS is pursuing an investigation into leaks stemming from those in the Federal Air Marshal program to determine if "resources are being misdirected."

TJR  
5-4-05

Exhibit 5

### **Air marshals struggle with 'growing pains'**

**Autonomy of field offices creates bumpy ride for rank-and-file**

Federal air marshals are shown here performing tactical training inside a retired airliner. On the job, they must adhere to a dress code that some say makes them easily identifiable.

By Brock N. Meeks

Chief Washington correspondent

MSNBC

Aug. 4, 2004

WASHINGTON - Nearly three years after the government's dramatic resurrection of the moribund Federal Air Marshal Service in the aftermath of 9/11, the agency is hitting turbulence as it struggles with what one agency official called "growing pains."

A recent incident, as well as a new ad hoc policy directive, indicates that the ride could be getting bumpier for the high-profile agency before it gets better:

- The incident involved two federal air marshals from the Cleveland office who were recently stopped from boarding the plane they were assigned to protect because of a dispute with an air marshal supervisor regarding the agency's dress code standards, MSNBC.com has learned. The plane then took off without any air marshals aboard.

- The policy directive, which applies to air marshals only in certain parts of the country, requires the submittal of at least one "surveillance detection report" (SDR) per month, MSNBC.com has learned. These reports are used by rank-and-file air marshals to detail and track suspicious activity and are then analyzed by intelligence experts looking for possible terrorist trends. A directive mandating the submission of these reports creates a "ticket quota" mentality, one air marshal supervisor told MSNBC.com. Worse, such a mandate encourages filing bogus intelligence reports. "I had nothing to report, so I filed a false report," an air marshal told MSNBC.com when questioned about the effect of the policy.

*Two federal air marshals were stopped from boarding the plane they were assigned to protect because of a dispute with a supervisor regarding the agency's dress code standards.*

Both of these instances reflect the wide latitude supervisors of the agency's 21 field offices are given when interpreting and implementing agency policy. The situations suggest that agency policies can vary greatly from one field office to another, putting rank-and-file air marshals at odds with supervisors.

The dress code issue is perhaps the most visible example of the disconnect between management and working air marshals.

Air marshals have been upset with the agency's dress code since it was officially instituted early in the agency's life. Rank-and-file marshals claim the "suit and tie" dress code makes them too conspicuous to other passengers and by extension, any terrorists who might be lurking.

Frank Terreri, president of the air marshal chapter of the Federal Law Enforcement Officers Association, called the dress code "deadly" in a letter last year to agency director Thomas Quinn and has lobbied him to modify it.

During a recent congressional hearing, Homeland Security Secretary Tom Ridge, when questioned on whether the dress code put marshals at risk, said the standards would be reviewed and changed if needed.

The agency declined to provide the exact language of its official dress code, citing operational security concerns. However, "there is flexibility [in the dress code] depending on what mission the [air marshal] is going to fly," said Dave Adams, a spokesman for the Air Marshal Service.

Adams declined, however, to comment specifically on the Cleveland dress code incident saying, "We do not discuss internal issues involving our personnel." However, Adams did say that the service "adheres to professional standards to instill confidence and respect to both passengers and crew, especially if an

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emergency arises at 30,000 feet."

The field office supervisors, "because of their vast experience as being senior managers within different [federal law enforcement] departments prior to [joining the air marshal service], do have some flexibility in their internal procedures or running their offices," Adams said.

#### Rogue policy?

The relative autonomy given to the field offices may have allowed some air marshal officials to overstep their authority by instituting an unauthorized intelligence reporting quota, MSNBC.com has learned.

"Beginning in July 2004, each FAM [federal air marshal] must prepare one SDR [surveillance detection report] per month," says an internal air marshal service e-mail obtained by MSNBC.com. "The object of this instruction is to make you more alert to your surroundings not to generate bogus reports. However, this is part of your performance appraisal and you must prepare one a month," the e-mail says. "There may come an occasion when you just don't see anything out of the ordinary for a month at a time, but I'm sure if you are looking for it, you'll see something." — Internal e-mail Federal Air Marshal Service

Another internal e-mail obtained by MSNBC.com addressing the same issue says: "There may come an occasion when you just don't see anything out of the ordinary for a month at a time, but I'm sure if you are looking for it, you'll see something."

Part of the air marshals' job is to file SDRs "any time they see anything of a suspicious nature," Adams said. "Obviously the federal air marshals are out there everyday in the aviation domain and who better than them to know what's out of the norm?" noted Adams.

When asked about the mandatory SDR filing policy noted in the internal e-mails, Adams said "there is no mandatory requirement that [air marshals] must send in an SDR once a month for any appraisal purposes," adding, "we want pertinent, valuable information sent in."

#### Growing room

Any disparity in policy among the various field offices should be chalked up to an agency that "is kind of like newly poured concrete," said one field office supervisor. "There just hasn't been enough time for the concrete to harden up."

This supervisor, who like others in this story spoke on the condition of anonymity, said the air marshal service is "still going through growing pains.... It's a matter of getting the agency built out," he said. "I think it's going to be the best place to work in federal law enforcement in a couple of years, to tell you the truth. And it will just take time for all these problems to sort out."

One of these long-standing problems within the agency has been a conspicuous lack of promotion of rank-and-file air marshals into supervisory positions. Until now.

"Applications are being vetted right now, and we anticipate, hopefully within the next 60 days, to announce some [promotions to] supervisory positions drawn from within the rank-and-file FAMs," Adams said.

Air marshals also are slowly expanding their roles in other areas of law enforcement, such as being assigned to work with various Joint Terrorism Task Forces, in which they work with other members of federal law enforcement on terrorism-related cases. In addition, the entire agency transferred from being under the control of the Transportation Security Agency into Immigrations and Customs Enforcement late last year.

"ICE offers the air marshal service multiple investigative resources, such as additional access to intelligence, better coordination with other law enforcement agencies, and broader training opportunities," said Michael Garcia, assistant secretary for the bureau, at the time of the move.

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Exhibit 6

## Flip-flop on air marshal schedules

Air marshals will continue to fly on international, cross-U.S. trips

July 30 -- After MSNBC.com reported the new policy, the Transportation Security Administration said it would immediately begin scheduling air marshals back on cross-country and international flights. NBC's Pete Williams reports.

By Brook N. Meeks, MSNBC

WASHINGTON, July 30 — In an apparent reversal of policy, the Transportation Security Administration will immediately begin scheduling air marshals back on cross-country and international flights, MSNBC.com has learned. The move comes less than 24 hours after MSNBC.com reported that air marshals were being pulled from those flights because of budget problems associated with the costs of overnight lodging for the marshals.

THE DEPARTMENT of Homeland Security on Wednesday blamed the confusion on a mixup in communication and said the department had been working with air marshal officials on Monday to correct the situation.

"America should know that every air marshal that we have is being deployed, and additional resources are being directed to that very critical mission," Homeland Security Secretary Tom Ridge said Wednesday in a speech. Part of the plan to add resources includes a recall of 100 air marshals now doing other jobs with TSA, a spokesman for the said.

WashPost: New hijack warnings

The dropping of marshals from flights that many experts consider to be at the highest risk of attack came to light Tuesday when several air marshals contacted by MSNBC.com confirmed that they were alerted via a "text message" on their TSA-issued cell phones to check their schedules for changes.

The marshals found that, beginning Friday, they had not been scheduled for any flights that would require them to stay away from home overnight. That meant no air marshal coverage on international or cross-country flights, the very kind targeted in the Sept. 11, 2001, terrorist attacks.

Dem's renew call for security funding

The move to pull marshals from those flights was particularly disturbing to some because it coincided with a new high-level hijacking threat issued by the Department of Homeland Security. That warning memo said that "at least one of these attacks could be executed by the end of the summer," according to a source familiar with the document.

The TSA, which houses the air marshal program, has been under severe budgetary constraints, forcing cutbacks in several areas, including laying off of federal airport screeners and the recently announced suspension of advanced Phase II training for its agents, sources told MSNBC.com. The move to cut out flights requiring air marshals to stay overnight stemmed from those same budget problems, MSNBC.com was told by an agency source.

Sen. Charles Schumer, D-N.Y., called the cuts "nonsensical" in a letter Wednesday to Secretary Ridge. Schumer's letter urges DHS to "immediately reverse reported plans to cut air marshal service on coast-to-coast and international flights ... in light of intelligence indicating that al-Qaida and other terrorist groups may have stepped up plans" to launch attacks on airlines.

Soft Target: airport security

Schumer's letter says that "according to statements by TSA officials, the "proposed cuts in the air marshal program come in response to a \$900 million budget hole at the agency."

What is 'homeland security'?

President Bush has given former Pennsylvania Gov. Tom Ridge the job of managing the government's efforts to deter and respond to terrorist attacks. "Homeland security" — protecting Americans on U.S. soil — is a complex mission requiring the coordinated work of dozens of federal, state and local agencies.

Federal air marshals are armed undercover agents deployed on U.S. airlines and authorized to use deadly force to thwart a terrorist incident. Prior to Sept. 11, 2001, there were only a few dozen marshals who flew mainly on international flights. But after the Sept. 11, 2001, terror attacks, Congress authorized a huge increase in air marshals. From a pool of 250,000 applicants, a few thousand — the exact number is classified — were hired and given special advanced anti-terrorist training.

The program has been beset by a number of problems during its quick ramp-up from a few agents to thousands. MSNBC.com reported in June that more than 100 federal air marshals had been fired or stripped of their flight status for problems stemming from their security clearance background investigations. In addition, some air marshals were flying without having received their final security clearances, Transportation Security Administration sources said.



Exhibit 7

From: Maurer, Charles H.  
Sent: Thu 08-Jul-04 8:13 AM  
To: 25Squad5  
Cc:  
Subject: SDR

*Beginning in July 2004 each FAM must prepare one SDR per month. The object of this instruction is to make you more alert to your surroundings not to generate bogus reports. However, this is part of your performance appraisal and you must prepare one a month.*

-----Original Message-----

From: Plunkett, John R.  
Sent: Wed 7/7/2004 5:34 PM  
To: 25Squad3; 25Squad9  
Cc:  
Subject: SDRs

As you all know, completing and submitting SDRs is an important aspect of our job and is considered when evaluating a FAM's performance for each Quarter. Obviously, some FAMs have taken more of an interest in this aspect of our intelligence program. I say this because a significant number of FAMs have never submitted one. I can only encourage you to keep vigilant when transiting airports, etc. and when you see something suspicious, please consider sending a SDR. It doesn't have to rise to the level of PC, but if it looks out of place or the least bit suspicious, submit one.

The SAC has asked that we discuss this aspect of our job with all FAMs and fully expects everyone to participate on a monthly basis. There may come an occasion when you just don't see anything out of the ordinary for a month at a time, but I'm sure that if you are looking for it, you'll see something. I think some FAMs are hesitant about submitting SDRs for fear of being questioned by headquarters or their respective ATSAC. If it looks suspicious, but does not rise to the level of an interview, etc., send in a SDR.

John R. Plunkett  
ATSAC, Las Vegas FAM Field Office  
(702) 263-8756

-----Original Message-----

From: Marzigliano, Michael S.  
Sent: Wed 8/4/2004 1:28 PM  
To: 25Squad7  
Cc:  
Subject: SDR Reports !!!

Guys,

As we discussed during squad meeting, there is a mandatory SDR (at least one) which should be done each month. Those of you that did not generate an SDR report for July 2004, I need a memorandum simply stating why. Keep it short and direct. Any questions call...

Mickey Marzigliano,  
ATSAC Squad 7

-----Original Message-----

From: Korniloff, Gregory  
Sent: Wednesday, July 07, 2004 5:59 PM  
To: Billy Williams; Charles Maurer; Craig Hamic; Douglas Hladky; John Plunkett; Michael Marzigliano; Roger Schofield  
Subject: REMINDER - FAMs SDR REQUIREMENT

AS DISCUSSED DURING TODAY'S STAFF CONFERENCE, PLEASE REMIND YOUR SQUAD MEMBERS THAT EACH FAM IS NOW EXPECTED TO GENERATE AT LEAST ONE SDR PER MONTH.

GREGORY N. KORNILOFF  
Assistant Special Agent-in-Charge  
U.S. Immigration and Customs Enforcement  
Federal Air Marshal Service  
Las Vegas Field Office  
OFF: 702-263-8756 (EXT: 562)  
CELL: 702-523-1252  
FAX: 702-263-0832  
EMAIL: kornig01@secureskies.net

-----Original Message-----

From: Williams, Billy J.  
Sent: Thu 7/8/2004 11:24 AM  
To: 25Squad6  
Cc:  
Subject: FW: REMINDER - FAMs SDR REQUIREMENT

Las Vegas FAMs continue to be last in the nation when it comes to generating SDRs. Some LAS FAMs seem to be doing all of the reporting, while others are offering nothing. Conducting surveillance and generating SDRs is a part of your performance agreement. SAC Knowlton has decided that every LAS FAM must generate at least one SDR every month.

Billy J. Williams  
Assistant to the Special Agent in Charge  
U.S. Immigration and Customs Enforcement  
Federal Air Marshal Service  
LAS-209  
Office (702)263-8756  
Cell (702)499-1781  
PDA (702)335-4038

-----Original Message-----

From: Hamic, Craig A.  
Sent: Mon 7/12/2004 1:18 PM  
To: 25Squad1; 25Squad10  
Cc:  
Subject: FW: REMINDER - FAMs SDR REQUIREMENT

DEAREST MEMBERS OF SQUAD -1 AND SQUAD - 10,  
ALL FAMs IN THE AFOREMENTIONED SQUADS ARE REMINDED AND EXPECTED TO GENERATE ONE SDR A MONTH. PLEASE BE REMINDED THAT SDR'S ARE ONE OF THE MANY CRITERIA YOU ARE BEING EVALUATED....THANK YOU FOR COMPLYING WITH THIS OFFICE ORDER. YOUR LOVING ATSAC, CRAIG....

-----Original Message-----

VJR  
5-4-05



U.S. Immigration  
and Customs  
Enforcement

APR 12 2006

DIS 2-01 OI:MS:ID  
06-OPR-20648 SLG

Mr. Robert MacLean  
11 Knotty Oak Circle  
Coto de Caza, California 92679

Dear Mr. MacLean:

This is in reference to your request dated December 5, 2005, wherein you requested, pursuant to the Freedom of Information Act (FOIA), access to records pertaining to yourself. You specifically requested a copy of an audiotape used during an Office of Professional Responsibility (OPR) interview on May 4, 2005.

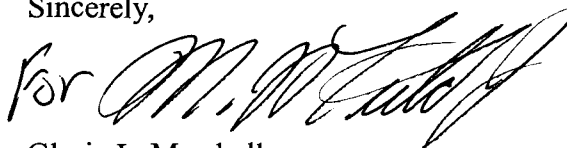
Please be advised that we do not currently have the technology to redact an audiotape. Therefore, we will provide you with a transcription of your taped interview. The transcription consists of seventeen pages. We have determined that portions of the documents are exempt from disclosure pursuant to exemptions (b)(2) and (b)(7)(C) of the FOIA.

In so far as you may consider the deletions a partial denial of your request for disclosure, you may appeal this decision, in writing, within 35 days after the date of this notification to the Privacy Office, Attn: FOIA Appeals, 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, your right to administrative appeal and judicial review.

If you have any questions, please feel free to contact Sandie Glover on (202) 305-1106.

Sincerely,

For 

Gloria L. Marshall  
Chief, Information Disclosure Unit  
Mission Support Division  
Office of Investigations

Enclosures

## Definitions of the Exemptions Under The Freedom of Information Act-5 U.S.C. 552

### EXEMPTIONS

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 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 or 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;
- (8) contained in or related to examination, operating or condition reports prepared by or for any agency responsible for the regulation or supervision of financial institutions; or
- (9) geological and geophysical information about wells, including maps.

1 (INTERVIEW OF FAM ROBERT MACLEAN, [REDACTED], 5/4/05)

2 [REDACTED] = SSA [REDACTED] RM = ROBERT MACLEAN

3 [REDACTED] = SSA [REDACTED] (b)(7)(C)

(b)(7)(C) 4 [REDACTED]: This is, uh, Senior Special Agent [REDACTED] with (b)(7)(C)  
5 Senior Special Agent [REDACTED]. Today is May 4<sup>th</sup>,  
6 2005. We're in Irvine, California, Federal Air  
7 Marshal's Office. Present here is Senior Special  
8 Agent [REDACTED] and [REDACTED] along with -- (b)(7)(C)

9 RM: Robert Maclean.

(b)(7)(C) 10 [REDACTED]: -- Robert Maclean who's a FAM. Um, Robert Maclean  
11 is the subject of this investigation of this case.  
12 This case deals with the release of -- allegations  
13 regarding the release of sensitive and secure  
14 information and unauthorized media appearances.

15 I'm about to tender to FAM Maclean the  
16 Administrative Interview Notice of Rights Obligation  
17 Form, FAMS Form (unintelligible) F 2130. And I'm  
18 going to give it to him to read now. Why don't you  
19 read that over? Basically it tells you your rights.  
20 And I want you to be honest with us, answer the  
21 questions truthfully and you're required to answer  
22 the questions. I'm sorry. The time now is, uh,  
23 2:30.

24 RM: Okay. So I'm, uh -- I am being ordered to, uh -- to  
25 do this interview. This is a condition of my

1 employment?

(b)(7)(C) 2 [REDACTED]: Right.

3 RM: (Unintelligible).

(b)(7)(C) 4 [REDACTED]: Exactly. (Unintelligible) to you you're required to  
5 answer all questions put forthright.

6 RM: And, uh, can -- and anything -- any -- any  
7 information gathered in this interview can't be held  
8 against me in a criminal proceeding?

9 [REDACTED]: It's administrative.

(b)(7)(C) 10 [REDACTED]: It's administrative only.

11 RM: Okay. Okay. Great. I just wanted to clarify that.

(b)(7)(C) 12 [REDACTED]: That's fine. Here you go. Bob, this next form is a  
13 form that's a disclosure warning for nonbargaining  
14 unit employees. It's basically what I -- I had  
15 mentioned before: It's an ongoing investigation by  
16 OPR. You're not to discuss the contents of this  
17 case -- this interview or this investigation with  
18 anyone but your private legal counsel. Okay?

19 RM: All right.

(b)(7)(C) 20 [REDACTED]: And I'll give you copies of this as well as your  
21 affidavit.

22 RM: Uh, do you gentlemen mind if I get a glass of water  
23 or something?

(b)(7)(C) 24 [REDACTED]: No, well, good. Go help yourself.

25 RM: (Unintelligible).

(b)(7)(C) 1 : Back on the record. Um, Bob, would you raise your  
2 right hand and stand, please? Do you swear this  
3 statement you're about to give is true and correct  
4 to the best of your knowledge so help you God?

5 RM: So help me God.

(b)(7)(C) 6 : Okay. Um, I'm gonna type while -- while you talk  
7 and I talk here for the first couple of questions  
8 here. Um, let's see. You do go by Bob, right?

9 RM: Yes.

(b)(7)(C) 10 : Okay. So Bob, the first question is, please state  
11 your name, current position and post of duty. So  
12 your first -- your full name is Robert --

13 RM: -- James Maclean, M-A-C-L-E-A-N.

(b)(7)(C) 14 : Okay. And what's your current position?

15 RM: Federal Air Marshal.

16 : And you're assigned where?

(b)(7)(C) 17 RM: Los Angeles Field Office.

18 : Okay. And, uh, Bob, how long have you been employed  
19 with the Federal Air Marshals Department of Homeland  
20 Security?

21 RM: Uh, over three and a half years.

(b)(7)(C) 22 : Bob, what employment have you held prior to becoming  
23 a FAM?

24 RM: Uh, U.S. Border Patrol agent.

(b)(7)(C) 25 : And where were you assigned?



1 RM: San Diego Sector.

(b)(7)(C) 2 [REDACTED]: You were busy there.

3 RM: Yeah.

(b)(7)(C) 4 [REDACTED]: Bob, the next question I have for you, have you ever  
5 -- have you ever been interviewed by any television  
6 news organization?

7 RM: Yes.

(b)(7)(C) 8 [REDACTED]: Next question I have for you, have you ever been  
9 interviewed by the "NBC Nightly News" television  
10 program?

11 RM: Yes.

(b)(7)(C) 12 [REDACTED]: Bob, next question I have for you is did you appear  
13 on the "NBC Nightly News" television broadcast  
14 September 9<sup>th</sup>, 2004, as a subject shown wearing a  
15 hood and identified only as FAM Mike?

16 RM: Yes.

(b)(7)(C) 17 [REDACTED]: Okay. I'll read that question there. Bob, have you  
18 ever released in any form, be it verbal, written or  
19 otherwise, sensitive, secure or classified  
20 information to any unauthorized person or persons,  
21 group or groups, association or associations?

22 RM: Did I release what, now?

(b)(7)(C) 23 [REDACTED]: Have you ever released in any form, be it verbal,  
24 written or otherwise, sensitive, secure or  
25 classified information to any unauthorized person or

1 persons, group or groups, association or  
2 associations?

3 RM: No, not to my knowledge.

(b)(7)(C) 4 : I have a couple of other questions to ask you. Um,  
5 who's your current supervisor?

6 RM: . (b)(7)(C)

7 : ? (b)(7)(C)

8 RM: Uh, yes.

(b)(7)(C) 9 : What's his position?

10 RM: Uh, assistant to --

(b)(7)(C) 11 : ASAIC?

12 RM: Yes.

(b)(7)(C) 13 TR: Okay.

14 RM: I'm sorry. ADSAIC.

(b)(7)(C) 15 : ADSAIC?

16 RM: Yeah.

(b)(7)(C) 17 : Okay.

18 RM: ADSAIC, the number two.

(b)(7)(C) 19 : Okay. Uh, let's see. Have you ever had the  
20 following -- um, next question I have for you, Bob,  
21 is have you ever, uh, had the following persons to  
22 act as your supervisor in any capacity. ADSAIC

23 : -- ? (b)(7)(C)

24 RM: Yes.

(b)(7)(C) 25 : Is he -- was he ever a supervisor of yours?

1 RM: Yes.

(b)(7)(C) 2 : For how long?

3 RM: He was, uh -- I believe -- I believe a year.

(b)(7)(C) 4 : He was your immediate supervisor so you dealt with  
5 him on a daily basis?

6 RM: Yes. Yeah.

(b)(7)(C) 7 : Okay. So for approximately one year, would it be  
8 fair to say?

9 RM: Yeah.

(b)(7)(C) 10 : Okay.

11 RM: And they rotate about every year.

12 : Okay. How about, uh, ADSAIC ? (b)(7)(C)

13 RM: He might have been an acting ADSAIC for me.

(b)(7)(C) 14 : Okay.

15 RM: Uh, if -- if -- usually he stepped in for (b)(7)(C)

16 who was my, uh -- who was -- who was my

17 ADSAIC.

(b)(7)(C) 18 : was your ADSAIC?

19 RM: Yes.

20 : For how long?

21 RM: Uh, about six months.

(b)(7)(C) 22 : Six months? Okay.

23 RM: Really unsure of those dates.

(b)(7)(C) 24 : Okay.

25 RM: But he was my -- was my, uh -- my last (b)(7)(C)

1 ADSAIC prior to transferring the Los Angeles Field  
2 Office. ADSAIC [REDACTED] -- of course ADSAIC [REDACTED], (b)(7)(C)  
3 [REDACTED] and [REDACTED] are all in the Las Vegas  
4 office.

(b)(7)(C) 5 [REDACTED]: Okay. So you were in Vegas?

6 RM: Yes.

(b)(7)(C) 7 [REDACTED]: Okay. These are all -- all under Vegas?

8 RM: Yes.

9 [REDACTED]: Okay. Okay. Who is, uh, [REDACTED]? (b)(7)(C)

10 RM: Uh, she is the operations officer.

(b)(7)(C) 11 [REDACTED]: Is she a FAM?

12 RM: No. She's a civilian.

(b)(7)(C) 13 [REDACTED]: Have you worked with her at all?

14 RM: Not directly.

(b)(7)(C) 15 [REDACTED]: Okay.

16 [REDACTED]: She's in Vegas, too, though, right?

17 RM: Yes.

(b)(7)(C) 18 [REDACTED]: Okay.

19 RM: Um, the only people that were my supervisors here  
20 were [REDACTED]. (b)(7)(C)

(b)(7)(C) 21 [REDACTED]: Okay.

22 RM: And, uh -- and a female ADSAIC here. And I'm sorry.

23 I can't think of her name.

(b)(7)(C) 24 [REDACTED]: That's okay. Bear with me for a minute here.

25 RM: Take your time. Please.

(b)(7)(C) 1 : So [REDACTED] may have been your acting ADSAIC but you  
2 don't recall whether or not he was or --  
3 (unintelligible) --

4 RM: Yeah. If -- if, uh -- if [REDACTED] went on -- the (b)(7)(C)  
5 policy in our office was -- was when -- if an ADSAIC  
6 went on extended leave, a -- another ADSAIC would be  
7 in their place so --

(b)(7)(C) 8 : Okay.

9 RM: -- probably at the longest, he was an ADSAIC for  
10 maybe three -- three weeks to a month.

(b)(7)(C) 11 : Okay. And I'm writing this, Bob, but you can sit  
12 down and change it in your own words. All right?

13 RM: Okay.

(b)(7)(C) 14 : I put ADSAIC [REDACTED] may have been acting ADSAIC  
15 when ADSAIC [REDACTED] was on extended leave.

16 RM: Right. He never conducted any performance, uh,  
17 evaluation meetings with me.

(b)(7)(C) 18 : Okay. Now, [REDACTED], she was assigned to the Las  
19 Vegas Field Office?

20 RM: Yes.

(b)(7)(C) 21 : And she didn't supervise you in any capacity,  
22 correct?

23 RM: No.

(b)(7)(C) 24 : Okay. All right.

25 RM: She's, uh, pretty much a support person.

(b)(7)(C) 1 [REDACTED]: Okay.

2 RM: I mean, she -- when I say that she indirectly  
3 supervised me, if she calls you up and said, "We  
4 need you on such and such flight," of course we'd be  
5 on that flight. So that's why.

(b)(7)(C) 6 [REDACTED]: Okay. But she was a supervisor.

7 RM: No, no. She's --

(b)(7)(C) 8 [REDACTED]: And I'm stipulating the fact -- okay.

9 RM: Yeah. She's not even -- no, she's nonsworn.

(b)(7)(C) 10 [REDACTED]: How long did you know her?

11 RM: I've known her, uh, since mid November of 2001.

12 [REDACTED]: Okay. [REDACTED], you got any questions?

13 [REDACTED]: Yeah, actually.

(b)(7)(C)

14 [REDACTED]: Go ahead.

(b)(7)(C) 15 [REDACTED]: Um, earlier [REDACTED] asked you if you'd ever been  
16 interviewed by "NBC Nightly News" television program  
17 and you said yes.

18 RM: Yes. Correct.

(b)(7)(C) 19 [REDACTED]: Did you have prior permission for that appearance  
20 from management?

21 RM: No.

22 [REDACTED]: Is that the -- is that the only time you appeared on  
23 television?

24 RM: Yes. The show was aired twice.

(b)(7)(C) 25 [REDACTED]: Okay.

1 RM: It was aired a second time when --

(b)(7)(C) 2 [REDACTED]: It was a single segment?

3 RM: Yes.

(b)(7)(C) 4 [REDACTED]: Okay. So I was going to ask you the same question  
5 again for the September 9<sup>th</sup>, 2004, but you didn't  
6 have permission from -- prior permission from  
7 management to appear on the show?

8 RM: Yeah, that's correct.

(b)(7)(C) 9 [REDACTED]: Okay.

10 RM: The show aired on the 9<sup>th</sup> and was re-aired on MSNBC  
11 on the 11<sup>th</sup>.

12 [REDACTED]: Right. What was the, uh -- can I keep going, [REDACTED]?

(b)(7)(C) 13 [REDACTED]: Yeah, go ahead.

14 [REDACTED]: What was the purpose for your appearance on the "NBC  
15 Nightly News" program?

16 RM: I discussed with the, uh -- with the producer, um,  
(b)(7)(C) 17 outward -- [REDACTED], Air Marshal safety and  
18 security problems. Specifically, uh, dress and  
19 grooming code, checkpoint bypassing procedures,  
20 hotel -- hotel mandatory policy, preboarding  
21 procedures, and FAMS executive management  
22 authorizing sensitive security information to be  
23 aired on, uh -- on several news networks.

(b)(7)(C) 24 [REDACTED]: All right. Were you asked -- how -- how did this  
25 come about for you? Were you asked to appear? Did

1 someone ask you to appear?

2 RM: Yes.

3 : Who?

(b)(7)(C) 4 RM: .

(b)(7)(C) 5 : Who's -- who's ?

6 RM: He's the, uh -- he's the chief Washington

7 correspondent for MSNBC.

(b)(7)(C) 8 : And how did you come in contact with ?

9 RM: I've, uh -- I've -- he knew me from other stories  
10 that I gave him.

(b)(7)(C) 11 : From the Air Marshals or from Border Patrol or --

12 RM: No. From Air Marshals.

(b)(7)(C) 13 : ?

14 RM: Yes.

(b)(7)(C) 15 : Of, uh, Newsweek -- MSNBC?

16 RM: Yes.

(b)(7)(C) 17 : Washington, D.C., right?

18 RM: Yes.

(b)(7)(C) 19 : Keep goin', . I got (unintelligible).

20 : Numerous -- numerous other stories or --

21 RM: Yes.

(b)(7)(C) 22 : -- one or two stories?

23 RM: Uh, I --

(b)(7)(C) 24 : (Unintelligible) tell us?

25 RM: Yes.



(b)(7)(C) 1 [REDACTED]: Are you going to provide us with those?

2 RM: Yes.

(b)(7)(C) 3 [REDACTED]: Okay. (Unintelligible).

4 RM: Uh, this was -- this was the first one that I --

5 where I contacted him. I -- I have that on, uh --

6 on my memory chip. I can just download it for you

7 guys.

(b)(7)(C) 8 [REDACTED]: Okay.

9 RM: Or to your laptop and --

(b)(7)(C) 10 [REDACTED]: Okay.

11 RM: Or you can keep that copy. But I figure if you have

12 an electronic copy, that way you can cut, copy and

13 paste to your reports.

(b)(7)(C) 14 [REDACTED]: That's fine. How many -- how many stories did you -

15 -

16 RM: And also, uh --

(b)(7)(C) 17 [REDACTED]: Are you quoted directly in there or just --

18 RM: Yes.

(b)(7)(C) 19 [REDACTED]: -- down as a source as --

20 RM: No. Well, yeah. As anonymous.

(b)(7)(C) 21 [REDACTED]: Anonymous source?

22 RM: Yes.

(b)(7)(C) 23 [REDACTED]: Okay.

24 RM: I gave him that. And this is the NBC interview.

25 This is pretty much a transcript.

(b)(7)(C) 1 [REDACTED]: Of the, uh, NBC one?

2 RM: Yes.

(b)(7)(C) 3 [REDACTED]: The one we're talking about?

4 RM: Right.

(b)(7)(C) 5 [REDACTED]: Okay.

6 RM: And this is information -- this is the information

7 that I gave, uh, over the phone to [REDACTED] when (b)(7)(C)

8 he did the -- the Growing Pains interview. Those

9 are e-mails from, uh -- from supervisors in Las

10 Vegas.

(b)(7)(C) 11 [REDACTED]: Okay.

12 RM: And I gave them that -- all that information. Um,

13 can we, uh -- off the record for --

14 [REDACTED]: Well, nothing's off the record.

(b)(7)(C)

15 [REDACTED]: Nothing's off the record unfortunately.

16 RM: Well, the reason why I say, uh -- when you -- when

17 you ask me about sensitive security information --

(b)(7)(C) 18 [REDACTED]: Right.

19 RM: Whether have I divulged it, uh, what I believe is

20 sensitive security information is not -- probably

21 not necessarily what somebody else might think. So

22 that's why I say -- instead of saying no, I want to

23 tell you, to be completely honest, that no, not to

24 my knowledge. So that's why I --

(b)(7)(C) 25 [REDACTED]: Fair enough.

1 RM: Okay.

(b)(7)(C) 2 [REDACTED]: Okay. And that's what --

3 RM: (Unintelligible) --

(b)(7)(C) 4 [REDACTED]: And that's what I have in your affidavit.

5 RM: Okay.

(b)(7)(C) 6 [REDACTED]: What's, uh -- just, you know, one more question.

7 Are you aware of any -- any, uh, procedures,

8 policies or directives pertaining to media contact?

9 RM: Yes, I am.

(b)(7)(C) 10 [REDACTED]: And what is your -- what is that knowledge?

11 RM: It's A -- ADM 3700, Chapter 17, that, uh, I'm

12 forbidden for discussing Air Marshal issues with the

13 media.

(b)(7)(C) 14 [REDACTED]: 3700, 17, you said?

15 RM: Yes. Paragraph 17.

(b)(7)(C) 16 [REDACTED]: Thank you. And that policy prohibits you from doing

17 --

18 RM: Yes. I signed it and, uh -- and read it.

19 [REDACTED]: Okay. That's all I have, [REDACTED].

(b)(7)(C) 20 [REDACTED]: Okay. What was the question, are you aware of FAM

21 policy and/or reg --

(b)(7)(C) 22 [REDACTED]: Are you aware of, uh, any procedures, policies or

23 directives pertaining to media contact?

(b)(7)(C) 24 [REDACTED]: Procedures, policies, directives regarding media

25 what?

(b)(7)(C) 1 [REDACTED]: Contact.

2 [REDACTED]: Yes, it's ADM 3700, correct?

(b)(7)(C) 3 [REDACTED]: Right.

4 [REDACTED]: Okay.

(b)(7)(C) 5 [REDACTED]: Uh, ADM 3700, paragraph 17.

6 [REDACTED]: Paragraph 17.

(b)(7)(C) 7 [REDACTED]: Prohibits contacts with the media; is that correct?

8 RM: Yes.

(b)(7)(C) 9 [REDACTED]: (Unintelligible).

10 RM: I was also a source for that story. This is my, uh  
11 -- this is my time and attendance worksheet for when  
12 I did the interview. I did it on the 7<sup>th</sup>. It was  
13 recorded on the 7<sup>th</sup>. I was -- it was my day off.

(b)(7)(C) 14 [REDACTED]: (Unintelligible). It was on a Tuesday, though?

15 RM: Uh --

(b)(7)(C) 16 [REDACTED]: (Unintelligible) day off, right?

17 RM: Yes.

(b)(7)(C) 18 [REDACTED]: Any more questions, [REDACTED]?

19 [REDACTED]: No.

20 [REDACTED]: Okay.

(b)(7)(C) 21 [REDACTED]: Actually, I do have one more. Who -- if you were to  
22 seek permission to do an interview with the media --

23 RM: Uh-huh.

(b)(7)(C) 24 [REDACTED]: -- who has the authority to grant that permission?

25 Is it the SAIC or is it headquarters or --

1 RM: Yeah, headquarters.

(b)(7)(C) 2 [REDACTED]: Headquarters?

3 RM: Yes. I'm assuming the, uh -- the public information  
4 office or the director's office.

5 [REDACTED]: Okay. Sorry, [REDACTED].

(b)(7)(C)

6 [REDACTED]: Okay. You said public information office?

7 RM: Yes.

(b)(7)(C) 8 [REDACTED]: And they're located where, about? Do you know?

9 D.C.?

10 RM: D.C. area.

(b)(7)(C) 11 [REDACTED]: Okay.

12 RM: I'm not sure if it's, uh -- there's -- I believe  
13 there's a downtown headquarters office and then  
14 there's one in -- in Northern Virginia. I'm not too  
15 sure.

(b)(7)(C) 16 [REDACTED]: Turn this off.

17 Back on the record. The time now is, uh, 4:20.

18 Today is May 4<sup>th</sup>, 2005, and we're at the -- this

19 interview of Air Marshal Robert Maclean. Um, Air

20 Marshal Maclean, have I or, uh, Agent [REDACTED] (b)(7)(C)

21 intimidated you in any way?

22 RM: No.

(b)(7)(C) 23 [REDACTED]: Okay.

24 RM: You've been very professional the whole time.

25 [REDACTED]: Thank you.

1 [redacted]: Thank you.  
(b)(7)(C)

2 [redacted]: Would you be willing to take a polygraph  
3 examination?

4 RM: Yes.

5 [redacted]: Okay. Any questions, [redacted]?

(b)(7)(C) 6 [redacted]: No.

7 [redacted]: This concludes the interview of Air Marshal Maclean.  
8 It's, uh, 4:21, May 4<sup>th</sup>, 2005, and we're in the, uh,  
9 Los Angeles Field Office.

10 (CONCLUSION OF INTERVIEW)

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