

1 But it's clear in your mind today that when you
2 informed Mr. Meeks that RON missions would be canceled, that
3 that was prior to any cancellation of missions; isn't that
4 right?

5 A. Could you please - can you please rephrase it?

6 Q. You didn't understand my question?

7 A. No, ma'am. I'm sorry.

8 Q. Okay. So at the time that you told Mr. Meeks that RON
9 missions would be canceled, that was prior to the cancellation
10 of any missions; isn't that right?

11 A. Yes. No missions were being canceled imminently. It was
12 - it was supposed to happen days later. The - the Instructor
13 General Report stated that the Director said it was to begin
14 on August 3rd. But I believe the article said August 1st.

15 Q. Just give me a second to look at my notes, Mr. MacLean.

16 A. Yes, ma'am.

17 Q. You testified earlier that you spoke to a supervisor at
18 some point after receiving this text message on your cell
19 phone; isn't that right?

20 A. Yes, after speaking to other FAMs that I knew around the
21 country.

22 Q. Okay. And in speaking with that supervisor you never
23 asked him if the information on the text message was, in fact,
24 sensitive secured information, did you?

25 A. I - I don't - that was a long time ago. I don't remember,

200

1 but I'm pretty certain that I would not have such a
2 conversation with him. That was not even the topic. The -
3 the dialogue that we had was pretty jovial. He was just kind
4 of - it was - he made it a joke about what was happening.

5 Q. And you didn't ask that supervisor or any other supervisor
6 if you could disclose this information to a news reporter;
7 isn't that right?

8 A. No, I didn't ask to have permission.

9 Q. At the time that you disclosed the information to the news
10 reporter, it didn't matter to you what the nature of the
11 information that you were disclosing was, did it? It didn't
12 matter to you that it was -

13 A. I believe -

14 Q. - sensitive security information or any other type of
15 protected information; isn't that right?

16 A. That's what I said - that's what I said in my deposition,
17 but I was speculating with - with the - with the scenarios
18 that you were giving me. I'm just speculating that - when you
19 asked me that question.

20 It matters to me that - I don't believe that breaking
21 - breaking the law to prevent law being broken is - is
22 justified. I didn't believe I was breaking the law at the
23 time.

24 Q. You had an opportunity to respond to the proposal to
25 remove you as a Federal Air Marshal; isn't that right?

205

1 I don't know exactly what he said. I don't
2 want to do an exact quote, but he said that there was
3 nothing that could be done about it. There was no
4 money and, therefore, the missions had to be canceled.

5 Q So, during this conversation, you didn't ask
6 him whether or not the cancellation of RON missions was
7 sensitive security information?

8 A I told him it was a violation of Federal law.

9 Q My question is, did you ask him whether or not
10 it was SSI?

11 A No.

12 Q Were you on duty when you received the text
13 message?

14 A I don't remember.

15 Q When you received the text message, it didn't
16 contain a label that it was SSI, correct?

17 A That's correct.

18 Q At the time that you received it, did you
19 wonder whether or not it was SSI?

20 A No.

21 Q At any time, did you wonder whether or not it
22 was SSI?

206

1 A No. Can I continue?

2 Q You're not finished with your response?

3 A No.

4 Q Okay, go ahead.

5 A Actually, I didn't believe that the text
6 message was actually factual, that it was a mistake.

7 That's why I wanted to speak with Roger
8 Scoffield about it. I wanted to speak to somebody in
9 charge about it.

10 Q At the time that you spoke with Mr. Scoffield,
11 had you already contacted OIG?

12 A I already had known -- I had spoken to
13 somebody else, I don't remember, but I had spoken to a
14 fellow Air Marshal.

15 I called him up and asked him if it was a fact
16 that they were -- that everything was being canceled
17 and they had said they called operations and were told
18 so.

19 Q So, after you checked with another Federal Air
20 Marshal, was it at that point you contacted OIG?

21 A I believe so. I'm almost certain that I spoke
22 with OIG prior to speaking with Roger Scoffield.

207

1 Q. Well, okay. So after the disclosure did you become aware
2 that there was an investigation at some point, whenever it
3 was?

4 A. Yes.

5 Q. How long after the disclosure was there an investigation?

6 A. Approximately 13 - 13 months.

7 Q. Okay. And -

8 A. I'm sorry. That's - that's incorrect. I had no - it
9 would have been - it would have been approximately 23 months,
10 22 months when I knew there - I was under investigation for
11 the - for the SSI disclosure.

12 Q. Okay. And when you first became aware of the
13 investigation, was it for the SSI issue or were there other
14 issues that you - that were involved?

15 A. Well, the investigation initially was started because of
16 my appearance on "NBC Nightly News with Tom Brokaw."

17 And I was told by a supervisor in the field office
18 that the Special Agent in Charge has begun an investigation to
19 find out who was the Air Marshal on that program.

20 Q. Okay. And how soon after your appearance on that program
21 that you became aware that you were the subject of an
22 investigation?

23 A. Within days.

24 Q. Okay. And what did you understand the scope and the
25 issues in that investigation were, initially?

1 A. They just wanted to know who was - it - it was - it was
2 impossible any sensitive security information or classified
3 information was divulged during my interview, so -

4 Q. With Mr. Brokaw?

5 A. That's correct.

6 Q. Okay.

7 A. It was just who find - just to find out who was - who was
8 on the program.

9 Q. Okay. And during the course of that investigation did
10 there come a time when you informed the investigators that you
11 - you had disclosed this information that the Agency considers
12 to be SSI?

13 A. Yes. Approximately seven months later in May of - early
14 May, the Of- - the Immigration and Customs Enforcement, Office
15 of Professional Responsibility, ICE OPR, the investigators
16 came in and gave me a pep talk, saying, "Be completely and
17 fully forward here. You do not want to lie to us," -

18 Q. Um-hum.

19 A. - "because we will find out. So you need to tell us
20 everything."

21 Q. And they asked you about that?

22 A. They asked me if I was the person, and I said yes.

23 Q. Um-hum.

24 A. And they go, "Well, why - why - why did he approach you
25 and what other information did he [sic] give to them" and -

1 what is going on.

2 And he said pretty plainly that there was a
3 Headquarters' decision to save money on hotel costs because
4 there was no more money in the budget.

5 Q. Okay. And did you have a concern with that?

6 A. Yeah. Right after - we had just gotten the - this suicide
7 hijacking alert that was issued. And we were getting these
8 one-on-one emergency briefings, and the Agency was - was
9 pretty much advertising which planes that we were - we were
10 on.

11 I thought it was - I thought the - everything - I
12 thought it was a mistake. I didn't believe it was - could
13 possibly make such a decision to - to be removing Air Marshals
14 from the flights that the law mandated.

15 Q. When you say the Agency was basically advertising which
16 flights you were on, what do you mean by that?

17 A. When the - when they gave us the - the dress code policy
18 and grooming standards and not - just not - at one time we
19 were covertly boarding aircraft.

20 And - but the airlines said that they just - they
21 didn't want to - they didn't have the manpower to help us to
22 get on the plane without having all of the passengers know who
23 we were.

24 So it was - it was becoming - we were - and people
25 were trying - submitting memos suggesting ways that Air

1 Marshals could board without letting everybody know their
2 identities.

3 Q. So what happened next?

4 A. I - after speaking with the supervisor, I - I don't
5 remember exactly what our conversation was. I - I know we
6 didn't - he didn't tell me if it was - this information was
7 SSI or had any classification. But he said, he goes, "There's
8 nothing we could do here at the field - this is not a field-
9 office-level decision. This is a Headquarters' decision
10 that's affecting all - every field office in the country."

11 And I - I hung up. Pretty much - I just struggled
12 with it. You know, I was just - we were constantly - it just
13 got to the point, you know, I - I follow orders, and I don't
14 make the rules. In my - I've always been a journeyman
15 employee.

16 One day I'm told to pick up the green rocks; the
17 other day I'm told to pick up the red rocks. On this day it
18 seemed like they wanted us to take the rocks and throw them at
19 the kids. It just seemed that the - the Agency had - had
20 either lost control or was just making a grave mistake. And I
21 decided, well, I'll try the OIG.

22 I always thought - I mean every telephone I ever
23 picked up while in government service had the OIG sticker and
24 every wall said if there's - if there is a violation of law,
25 you call - you call the OIG. So I did that.

1 I called the Department of Homeland Security Office
2 of Inspector General Hotline and spoke to a operator. And
3 they asked me where I was located.

4 And I was kind of vague. I said I'm in southern
5 Nevada. And said she, "Okay, call - here's the phone number
6 for the San Diego office."

7 So I made a phone call to the San Diego Field Office.
8 And they said, "We just do - we just do audits here. You need
9 to speak to a Criminal - Criminal Investigative Division and
10 the closest one here is the Oakland Field Office."

11 And I called the Oakland Field Office. And that's
12 when I spoke to a Special Agent about - I don't know if I - I
13 didn't immediately speak to a Special Agent. I probably spoke
14 to a receptionist first, and I said, "I'd like to speak to a
15 criminal investigator."

16 I spoke to him. I told him what's going on. He said
17 he was very aware of all the problems at the Air Marshals. He
18 said, he goes, "I fly, and it's pretty obvious who you guys
19 are. Some people like to play who's the Air Marshal on their
20 flight." He was kind of making a big joke out of it.

21 And he's just - and he - I said, "Well, what - what
22 could be done here? Can there" -

23 And he goes, "Uh, this is - this is - there's nothing
24 that could be done. Just - just walk away from it, don't -
25 don't bother. You know, you got a lot of years left in your

1 career." I think we had a discussion. Even - we even talked
2 about his old agency. He was - he had just recently become an
3 OIG agent with the DHS, because he was an OIG agent with the -
4 with FEMA. So he was really new to a lot of that.

5 And so it looked like it wasn't going anywhere. And
6 after I hung up, I kind of stewed on this thing. And I
7 decided to make a phone call to a reporter that had been doing
8 some good reporting on - on TSA. I thought he wrote - wrote
9 some very responsible articles.

10 I - I remember I liked - a lot of even - even the
11 field office people liked this guy because the way he wrote
12 his articles he was not trying to endanger the public but
13 trying to - trying to make people aware. And that - so I
14 spoke to him. And I told him what happened. And -

15 Q. What did you do - okay. What did you tell him?

16 A. I told him that there - there was a plan to remove Air
17 Marshals off of all long-distance flights, and this was right
18 after we just got our - our suicide hijacking briefings.

19 Q. Okay.

20 A. And he was aware - he was aware of the - the briefings.

21 Q. Now when you made that statement to him, did you
22 understand that what you were telling him was SSI-protected?

23 A. No.

24 Q. Why not?

25 A. Well, the message, once again, was sent to me without any

1 Q Why did you contact OIG?

2 A Because it was a violation of the law.

3 Q So, what was your purpose of calling OIG?

4 A To report a violation of law. And they were
5 the only people that I knew that could address such an
6 issue.

7 Q What did OIG say in response to your
8 reporting, if anything?

9 A I spoke to an operator and they said that this
10 had to be something that had to be discussed with my
11 chain of command.

12 They weren't interested. I got the feeling
13 they were very much uninterested in my claim.

14 Q So, did you speak to Mr. Scoffield because OIG
15 said to go to your chain of command?

16 A Yes.

17 Q What makes you think that OIG was uninterested
18 in your reporting?

19 A Because I wanted to speak to an investigator.

20 And they told me no investigators were
21 available at the time, and then they told me to

22 contact, to eventually contact a Special Agent in the

201

1 Oakland field office.

2 Q Did you do that?

3 A I called there and I spoke to a Special Agent
4 Davidson in the Oakland office, and he pretty much said
5 that it was not an issue that he could deal with. He
6 seemed very uninterested also.

7 Q Did you speak to anyone else about this before
8 talking to Meeks?

9 A I think I spoke to several Air Marshals about
10 it.

11 Q Anyone else?

12 A Not that I can think of.

13 Q Prior to speaking with Meeks, you had some
14 sort of relationship with him already, right?

15 A I knew that he was reporting on Air Marshal
16 issues. That's all I knew of Meeks.

17 Q How did you know that?

18 A Because I read his articles before and I knew
19 to contact him. He had also be attempting to contact
20 me since I was the Executive Vice President of the
21 Federal Law Enforcement Officers Association, the
22 Federal Air Marshal Chapter.

1 individual.

2 Q When you were speaking with other FAMS about
3 this text message, did you verify that they too also
4 received the same text message?

5 A Correct. I also verified that they had
6 received the same information about the fact that the
7 missions were being canceled.

8 Q The FAMS that you did speak to about this text
9 message, were they all from the Las Vegas field office?

10 A Yes.

11 Q Did you speak to any other FAMS about this
12 text message that were not out of the Las Vegas field
13 office?

14 A I don't remember.

15 Q When you shared this text message with Brock
16 Meeks, did you have an understanding as to what he
17 would do with the information?

18 A Yes, I knew he was going to report it. He was
19 going to write a story about it, immediately, and he
20 was also going to contact senators and other
21 responsible Government employees.

22 Q When speaking with Meeks, did you ask to

215

1 remain anonymous?

2 A Yes. In the article, I asked to remain
3 anonymous.

4 Q Did you know whether or not he would quote you
5 as someone that was anonymous?

6 A He promised that he wouldn't quote me, that he
7 wouldn't use my name.

8 Q He wouldn't use your name, but you understood
9 that he would be quoting the text message that you
10 shared with him, correct?

11 A I don't know. I don't remember that much.

12 Q Did you tell him not to quote the text message
13 that you shared with him?

14 A No, I didn't ask him.

15 Q How did you know that he would contact
16 Senators?

17 A He told me so.

18 Q Did you contact any senators about this text
19 message?

20 A No.

21 Q Did you contact any other Government officials
22 about this text message?

217

1 one moment so I can just confer with my cocounsel?

2 JUDGE KANG: Yes. Go ahead, Mr. Berger.

3 (Appellant counsel confer off the record.)

4 BY MR. BERGER:

5 Q. Now at the time that you spoke to the reporter did you
6 believe that you were violating some law?

7 A. No, I did not.

8 Q. Why not?

9 A. Because there was - I believe there was a - there was -
10 there was danger going on, not just to Air Marshals but the
11 general public. And the information, I believe, was - may
12 have been potentially harmful had this plan ever gone into
13 effect. I didn't think it was illegal, but I thought that
14 what was happening was illegal and dangerous to the - to the
15 public.

16 Q. Now prior to this disclosure or at any time after this
17 disclosure had you ever disclosed any information to an
18 unauthorized recipient that was marked as SSI?

19 A. No, absolutely not.

20 Q. And has anyone ever accused you of disclosing any
21 information to an unauthorized recipient that was marked SSI?

22 A. Not until this proposal to have me fired.

23 Q. And in this case there was no marking for SSI, correct?

24 A. That's correct.

25 Q. Now after you spoke to the reporter, do you have any

1 you're not -

2 A. That's a possibility.

3 Q. - but you're not confused today?

4 A. I - I probably was trying - this was my first deposition -
5 probably trying to be all knowing and a little arrogant in my
6 line of questioning [sic], but that was not my intent. When I
7 - when I released that message, -

8 Q. Okay.

9 A. - I never intended to break the law or release information
10 that would put - put people in danger.

11 Q. Okay. Well, do you recall then after giving your answer
12 that it doesn't matter, I asked you why?

13 A. Yes, I do recall that. And that's not what I meant.

14 Q. Well, what did you say in response to my question why?
15 Why didn't it matter?

16 A. You told me - you said I - I believed at the time that a
17 law was being broken in my deposition. And my - when we were
18 talking I believed that breaking the law or putting people's
19 lives in danger or national security, that there was an issue
20 of whether that information was being disclosed or not.

21 I don't - I don't believe I disclosed information
22 that was illegal, or I was breaking the law, or did I have an
23 intent to. All I wanted to do was protect lives and - and
24 uphold the law.

25 Q. But you told me under oath during your deposition that day

1 Q. Mr. Donzanti, you can - from your review of the letter,
2 you can see that the letter concerns Mr. MacLean and other
3 self-described whistleblowers or Air Marshals who are critics
4 of Agency policy, can't you?

5 A. Yes.

6 Q. And could you read the last sentence on the end of page 2
7 for me?

8 A. "I can also state that at no time did they disclose
9 classified or critical, sensitive information."

10 Q. Thank you.

11 So it appears that Mr. Eastman from OPR at least
12 didn't agree with your assessment; is that correct?

13 A. I'm not - by reading that one sentence, I'm not really
14 sure that he's referring to the incident that we're here for
15 today.

16 Q. Okay. Thank you, sir.

17 Did you talk to Mr. Eastman about the - the findings
18 of the investigation?

19 A. No, I didn't.

20 MS. CALAGUAS: That question is vague as -

21 BY MR. DEVINE:

22 Q. Did you ask -

23 MS. CALAGUAS: - to which investigation. Objection.

24 MR. DEVINE: I'm glad to amplify.

25 BY MR. DEVINE:

229

1 Q. Well, he was one of the employees that you're responsible
2 for, though, wasn't he?

3 A. Yes, he was.

4 Q. So did you take any action to have those who are - who do
5 handle those - that type of work to review whether his
6 clearance should be revoked in light of his untrustworthiness?

7 A. That's done by our Policy Compliant Unit. They handle
8 that. I wouldn't get -

9 Q. Did you -

10 A. - involved in it. I -

11 Q. Did you suggest to the Policy - excuse me.

12 Did you communicate with the Policy Compliance Unit
13 that it might be appropriate for them to consider this?

14 A. I don't recall.

15 Q. Okay. Did you engage in any restriction of Mr. MacLean's
16 duties during that interim period?

17 A. No.

18 Q. Okay. Let's turn then now to whether or not there was any
19 basis for him to be confused about the status of the
20 information as SSI information. You stated that the Agency
21 engages in SSI training.

22 Do you think that the extent of the Agency's training
23 is adequate?

24 A. I think it's adequate.

25 Q. I'd like to direct you to your deposition, Mr. Donzanti,

1 information disclosed was SSI. And that's already been
2 determined and adjudicated. And so any further questioning on
3 this point is irrelevant.

4 JUDGE KANG: I disagree. Whether or not this is SSI
5 has been litigated. I just - but I don't agree with your
6 objection that that's the sole purpose of this line of
7 questioning. I'm going to permit Mr. Devine some latitude.
8 You can renew your objection.

9 I'm aware, as I stated previously on the record, of
10 the Ninth Circuit ruling. I'm aware of the Board's final
11 order on the matter pertaining to the SSI issue. Those are
12 all a matter of record, you know, as we've discussed
13 extensively prior to the hearing today.

14 But I'm going to grant Mr. Devine some latitude on
15 this. But feel free to renew your objection, and I'll
16 consider it if you decide to renew it.

17 MS. CALAGUAS: Thank you, Your Honor.

18 JUDGE KANG: Go ahead, Mr. Devine.

19 BY MR. DEVINE:

20 Q. Do I need to repeat the question, Mr. Donzanti?

21 A. Please. Please.

22 Q. Okay. Is it your understanding that the rules on SSI back
23 at the time required that information be kept in a secure,
24 restricted-access area?

25 A. Yes.

1 Q. What steps did the Agency take to protect this particular
2 SSI information, or are you - if you're aware?

3 A. I'm not aware of precisely what was done in this case.

4 Q. And none of this would have raised a question in your mind
5 then whether the Agency was treating the information as SSI?

6 MS. CALAGUAS: Objection, that question is vague and
7 confusing.

8 JUDGE KANG: Please restate, Mr. Devine.

9 BY MR. DEVINE:

10 Q. Is it correct that none of this information would have
11 raised a question in your mind whether the Agency was treating
12 the information as SSI?

13 MS. CALAGUAS: That question is vague as to use of
14 the term "information."

15 BY MR. DEVINE:

16 Q. Whether - let's go back, and we can spell everything out
17 in every question.

18 Did these - did the answers that you just gave me
19 create any confusion for you whether the Agency was treating
20 the information in a July 2003 text message about canceling
21 RON missions, whether the Agency was treating that information
22 as SSI?

23 A. Well, I never read the - the text message myself. I found
24 out about it later. I don't think it was confusing. The -
25 the SSI banner should have been on it, if that's what you're

1 referring to..

2 Q. So I'm asking if that would have raised any questions in
3 your mind whether the Agency treated this as SSI information.

4 Did it, or didn't it?

5 A. Yes, it would have.

6 Q. Thank you.

7 Before you made your decision about Mr. MacLean's
8 inexcusable mistake or misconduct, did you consult the
9 Agency's experts on sensitive security information?

10 A. I did not personally.

11 Q. Okay. Mr. Donzanti, have you ever seen any information
12 that you believe was SSI but wasn't marked that way?

13 MS. CALAGUAS: The question is vague as to time.

14 JUDGE KANG: Response - the objection was that - the
15 objection was based on whether or not you're intending to
16 specify a time period.

17 MR. DEVINE: I'm not. The relevant timeframe was
18 ever in your - but I'll give a timeframe.

19 BY MR. DEVINE:

20 Q. During employment with the Federal Air Marshal Service.

21 A. I believe on one occasion I did see a schedule that wasn't
22 marked SSI.

23 Q. What did you do about it?

24 A. I can't recall at this time.

25 Q. Okay. Let's then switch to this question about the impact

229

1 on the job. And then he's - he's given legal training
2 throughout his career incrementally. It's done every quarter
3 in every field office. It's mandated training.

4 Q. So do you know what training Mr. MacLean received?

5 When you're speaking of generalities of the Agency's
6 process, do you know what training he received?

7 A. No, not - not - not directly.

8 Q. Okay. You stated that it's common knowledge that the type
9 of information he released, this SSI, that's very, very basic;
10 is that correct?

11 A. It's common knowledge? Yes, it's common knowledge within
12 - within the Federal Air Marshals -

13 Q. And so is it your opinion that - is it your opinion that
14 virtually any Agency employee would - would or should be
15 sharing your assessment that this was obviously SSI?

16 A. Yes. The Federal Air Marshals should have that
17 information.

18 Q. Okay. I'd like to direct you to Appellant's Exhibit 5.

19 A. I have it in front of me.

20 Q. Can you tell us what the - I'm sorry.

21 What was that, sir?

22 A. I just - I made a statement I have it in front of me.

23 Q. Okay. And can you tell us what that exhibit is?

24 MS. CALAGUAS: Could you give him an opportunity to
25 review it, please?

A225

1 recollection of what the Agency's response was to this?

2 A. Yeah. It was - it was pretty surreal, what was
3 happening -

4 MS. CALAGUAS: Objection, that question is vague.

5 JUDGE KANG: Stand by.

6 MS. CALAGUAS: I'm sorry. Objection, that question
7 is vague. Use of the word "this," I'm not sure what that's
8 referring to.

9 MR. BERGER: That's referring to the disclosure.

10 JUDGE KANG: Okay. Mr. Berger, please just go ahead
11 and restate your question again -

12 MR. BERGER: Yeah.

13 JUDGE KANG: - for clarity.

14 MR. BERGER: Yeah.

15 BY MR. BERGER:

16 Q. Yeah. After you made the disclosure did you become aware
17 of an Agency response?

18 A. Yes. It was -

19 Q. What happened?

20 A. It was - it was just - oh, it was all over the TV. I was
21 - I was watching the Secretary. He was going on to explain
22 what - what it was. He said it was a mistake, and it - I'll
23 never forget seeing the president on - in the - in the front
24 of the White House when he was - he was asked about it by
25 reporters.

1 Q. Now you said the Secretary said it was a mistake?

2 A. Yes.

3 Q. And was the mistake corrected by the Agency?

4 A. Yes. The plan never went into effect. I also remember
5 the - the press conference with Senator Hillary Clinton,
6 Senator Barbara Boxer, Senator Frank Launtenberg, and Senator
7 John Kerry were just ripping our Agency for it. And it was -
8 it was on - it was very uncomfortable because I had a lot of
9 pride in the Agency and I - it looked like that - being the
10 source of that disclosure was having my Agency getting -
11 getting severely criticized.

12 And I didn't - I had a lot of pride and I didn't like
13 watching that unfold all over television.

14 Q. All right. Now after the disclosure of this information,
15 did there come a time when you became the subject of an
16 investigation by the Agency?

17 A. Yes.

18 Q. And how - how much time lapsed between the disclosure and
19 the time you became aware that you were under investigation?

20 A. Well, I pretty - I felt pretty ashamed of having to do
21 this anonymously. And I figured - I figured the best way to
22 start addressing these problems was in a collective voice.
23 And that's when I formed - I was the cofounder for the Federal
24 Law Enforcement Officers Association. And that's where things
25 started getting very hectic. I -

1 BY MR. DEVINE:

2 Q. Didn't you send another agent that you supervised, Frank
3 Terreri, home immediately when you perceived misconduct on his
4 part?

5 A. I don't - I did not direct that to take place, and I don't
6 recall exactly how many days were in between a decision to do
7 that and the actual occurrence of it.

8 Q. Was it much less than a month?

9 A. I don't recall.

10 Q. And isn't Mr. Terreri the president of the Air Marshals
11 Chapter for the Federal Law Enforcement Officers Association?

12 A. Yes, he is.

13 Q. Isn't Mr. MacLean - wasn't Mr. MacLean at the time that
14 you were supervising him an executive vice president of the
15 Federal Law Enforcement Officers Association?

16 A. I believe he was.

17 Q. You stated that it didn't change your opinion about Mr.
18 MacLean's liability that the information he disclosed wasn't
19 marked SSI because he should have known it.

20 Why should we even bother to mark information like
21 this "SSI" then?

22 MS. CALAGUAS: Objection, that's argumentative.

23 JUDGE KANG: It's overruled.

24 THE WITNESS: I would say it's a - it's a good
25 practice to put it on there.

A228

FOR IMMEDIATE RELEASE

CONTACT:

Captain Denis Breslin
Allied Pilots Association
(817) 302-2350 (office)
(619) 980-8941 (mobile)
Gregg Overman
Allied Pilots Association
(817) 302-2250 (office)
(817) 312-3901 (mobile)

**ALLIED PILOTS ASSOCIATION ANNOUNCES SUPPORT FOR FEDERAL
LAW ENFORCEMENT OFFICERS ASSOCIATION'S POSITION THAT
FEDERAL AIR MARSHAL PROGRAM NEEDS IMMEDIATE REVISION OF
ATTIRE AND BOARDING POLICIES**

APA agrees that current policies "will compromise Federal Air Marshals' mission"

Fort Worth, Texas (June 23, 2004)—The Allied Pilots Association (APA), collective bargaining agent for the 13,500 pilots of American Airlines (NYSE: AMR), announced its support for the Federal Law Enforcement Officers Association's (FLEOA) letter to Congress dated April 16, 2004.

In that letter, FLEOA—which represents more than 22,000 Federal Agents—calls for a full-scale administrative review of the Federal Air Marshal (FAM) program to identify and rectify obvious security flaws.

FLEOA and APA believe significant changes must be made immediately to protect the identities of our nation's Federal Air Marshals and preserve the program's effectiveness.

"One of the most essential elements of the Federal Air Marshal Program is the ability of Federal Air Marshals to maintain secrecy as to their tactics and identities," said Captain John E. Darrah, APA President. "To that end, we recommend overhauling current policies governing attire, checkpoint bypass procedures and boarding procedures. Current policies will compromise the Federal Air Marshals' mission.

"The Federal Air Marshal program and the Federal Flight Deck Officer program—which arms pilots against a terrorist takeover of an airliner—together provide essential, complimentary layers of security for our country's air transport system," said Darrah. "We must ensure that both programs are as effective and secure as possible."

For further details or to obtain a copy of FLEOA's April 16 letter, log onto FLEOA's Web Site at www.fleoa.org or call 305-491-4687.

Founded in 1963, APA is headquartered in Fort Worth, Texas.

229

1 Q Can you recollect that now without having to
2 take a look at any documents?

3 A Yes.

4 Q So, that's your understanding, then, as to
5 what you believed that these individuals were
6 disclosing as SSI?

7 A Correct.

8 Q How do you know that that list of information
9 is SSI?

10 A Because it compromised FAM identity, tactics,
11 operations, procedures on national television.

12 Q Are you relying on any particular document in
13 determining whether or not that list is SSI?

14 A No, I'm relying on the fact that I used to be
15 an Air Marshal, and these were issues that compromised
16 my position on a daily basis. And also people that I
17 worked with.

18 Q Your interview with ICE/OPR took place on or
19 about May 4th, 2005?

20 A Correct.

21 Q So, at that time, in may 2005, you believed
22 that the Directors office and the Public Affairs office

1 disclosed SSI?

2 A They disclosed sensitive security information
3 by their definition.

4 Q When do you believe "they disclosed SSI by
5 their definition"?

6 A Numerous times. They were on CNN, ABC News,
7 FOX News, NBC, Time Magazine, People Magazine. To tell
8 you the exact dates of when those programs aired, I
9 don't recall. I believe the record has all that
10 information. I just don't know off the top of my head.

11 I just know the networks that they divulged
12 and information.

13 Q Do you think you can place that disclosure as
14 early as 2003?

15 A No, I don't remember. Prior to that, it
16 probably started -- I believe it started before that,
17 yes.

18 Q Before 2003?

19 A Correct.

20 Q So, at the time that you shared the text
21 message with Brock Meeks in late July of 2003, you were
22 already aware of the Directors office or the Public

231

A231

1 Affairs office disclosing SSI themselves?

2 A Yes. I'm not sure it was at the time the -- I
3 believe that was under TSA.

4 Yes, I believe that the Directors office and
5 the Public Affairs office was divulging sensitive
6 information.

7 Q And you believe that because they identified
8 the information as sensitive security information when
9 they were divulging it; is that correct?

10 A I don't know if -- by the definitions that the
11 agency has given me of their definition of SSI, that's
12 what I concluded.

13 Q And, again, your conclusion was made before
14 you met with Brock Meeks in July of 2003?

15 A Correct.

16 Q Did you believe that the information that was
17 disclosed -- strike that.

18 Do you know who David Grayson is?

19 A I believe he's somebody that handles the
20 classification of material at headquarters.

21 Q How did you become aware of that?

22 A It was just, I believe I looked on a roster.

232

1 Affairs, to the TSA, and to the Office of Professional
2 Responsibility of ICE, to my Congressman and to my
3 Senators.

4 Q After the Brock Meeks incident, when was the
5 next time you engaged in whistle blowing activities, as
6 you understand it?

7 A I don't remember.

8 Q With the entities that you've described as
9 entities that you've disclosed whistle blowing activity
10 to, what did you talk about? In other words, what were
11 you whistle blowing about, as you understand it?

12 A Checkpoint bypassing procedures, aircraft
13 boarding procedures, dress and grooming codes,
14 mandatory hotel policy, and the FAM Service
15 Management's constant desire to divulge sensitive
16 information --

17 MR. NOONE: Slow down because she has to
18 record your testimony.

19 THE WITNESS: I'm sorry -- to news
20 organizations, such as CNN and NBC

21 BY MS. CALAGUAS:

22 Q That's what you told the ICE/OPR Investigator,

233

1 Q When you say the agency would have had a copy
2 of this, which agency are you talking about?

3 A The Department of Homeland Security. Unless
4 the reports that I sent to congress, those are filed
5 with Congress.

6 Q Do you specifically remember sending a report
7 and filing a report to Congress?

8 A Yes.

9 Q Can you describe that to me?

10 A It was the copy that you provided me from
11 Senator Reed.

12 Q In terms of your reports to Congress, were
13 there any others aside from the ones to Senator Reed?

14 A It's possible, but I don't remember. I know
15 of that one because that was a copy you provided for
16 me.

17 Q Did you ever let Mr. Donzanti know that you
18 had made these complaints -- sorry, that's my word.

19 Your word was reports -- to congress or to OIG or to
20 IA?

21 A I do not recall specifically doing so.

22 Q Do you believe that Mr. Donzanti was aware of

234

1 your reports at any time?

2 A Yes.

3 Q Why do you have that belief?

4 A Because of my position with FLEOA, the Federal
5 Law Enforcement Officers Association, F-L-E-O-A. It
6 was a public and high visible position.

7 Q Well, were you making it publicly known that
8 you were filing a report with Senator Reed, for
9 example?

10 A No.

11 Q Did you let Mr. Donzanti know that you were
12 filing a report with Senator Reed?

13 A No.

14 Q Did you let anyone know at the Los Angeles
15 field office that you were filing a report with Senator
16 Reed?

17 A Frank Turerri.

18 Q Frank Turerri is not part of the management at
19 the field office in Los Angeles?

20 A Correct.

21 Q When I'm asking my question, I'm saying that
22 you were going to file.

235

1 Let me also ask you whether you had informed
2 any management official at the Los Angeles field office
3 that you had filed a report with Senator Reed?

4 A No.

5 Q When I reviewed the record, the dates of the
6 reports to IA/OIG and Senator Reed were in '05.

7 Do you believe that you had reports filed to
8 any of these entities before 2005?

9 A I don't know.

10 Q Do you believe that any management level
11 official at the Los Angeles field office was aware of
12 your report to IA?

13 A I do not know.

14 Q And when you say "IA," are you referring to
15 TSA's IA?

16 A TSA's IA, correct.

17 Q Do you believe that any management level
18 official at the Los Angeles field office was aware of
19 your report to the OIG?

20 A I do not know.

21 Q Now, this report to the OIG is different from
22 the report that we were talking about earlier where you

236

1 had called about RON missions, correct?

2 A That's correct.

3 Q What was this report to the OIG about?

4 A Checkpoint bypass procedures, aircraft
5 boarding procedures, dress grooming codes, mandatory
6 hotel policy, and the FAM Service management's constant
7 desire to divulge SSI to news organizations.

8 Q For any of these entities do you believe that
9 you were reporting anything else beyond what you would
10 have put in the written report that you submitted to
11 them?

12 A I do not know.

13 Q You don't know or you don't recall?

14 A I don't recall. I don't remember. Unless I
15 have the documents before me, I cannot make any
16 specific recollections.

17 Q Any other activity that you consider to be
18 whistle blowing that you engaged in?

19 A I can't remember. At this point, I don't
20 know.

21 Q Did you consider your appearance on NBC
22 Nightly News in 2004, to be whistle blowing?

237