

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 to 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."

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Air marshals back to long flights

By Mimi Hall and Fred Bayles, USA TODAY

WASHINGTON, 08/01/2003 — The Department of Homeland Security hastily cancelled a fledgling plan Wednesday that would have taken federal air marshals off long-distance flights to cut costs. Secretary Tom Ridge pledged to maintain the security program amid warnings of possible new terrorist attacks.

The about-face came after some marshals were informed of schedule changes that would bump them off flights requiring overnight hotel stays. That would have left most international and cross-country flights, such as those hijacked by terrorists on Sept. 11, 2001, without the added security.

The placement of air marshals on U.S. airlines was one of several measures taken by the federal government to tighten aviation security after the Sept. 11 attacks. In addition, passengers and luggage were put through more elaborate screening, and cockpit doors were reinforced. Now, some pilots are being trained to carry guns.

An estimated 4,000 armed and plainclothes marshals ride in the cabins of commercial airlines. The exact number and percentage of flights is classified.

"Americans should know that every available air marshal is being deployed, and additional resources are being directed to this critical program," Ridge said.

After first denying that air marshals would have been shifted, the Transportation Security Administration acknowledged Wednesday that schedules had been changed late last week. "Those actions were premature and a mistake by the people who were involved," the agency's spokesman, Robert Johnson, said. A source in the air marshal program said long-haul flights were put back into schedules over the past two days.

The controversy erupted after the Homeland Security Department warned of a possible hijacking plot involving five-man teams that might try to seize planes and fly them into government, military or economic targets.

President Bush acknowledged a "real threat" that al-Qaeda could try to carry out another such attack. But he said, "I'm confident we will thwart the attempts."

CNN, citing an anonymous government source, said Thursday that some of the information on the latest threat came from a high-level al-Qaeda member being held at Guantanamo Bay, Cuba.

Ali Abd al-Rahman al Faqasi al-Ghamdi — allegedly one of the key organizers of the May 12 suicide bombings in Riyadh, Saudi Arabia, that killed 23 people, including nine Americans — gave information concerning possible hijackings, CNN said.

In Congress, the possibility of schedule changes in the marshals program sparked an outcry. "Given the potential fallout of another attack that intelligence reports suggest is on the way, it is incredible that the TSA would consider reducing the air marshal presence on these flights simply to save the cost of an overnight hotel room," Sen. Charles Schumer, D-N.Y., said.

The TSA, which is part of the new Homeland Security bureaucracy, faces a \$900 million budget gap. It has asked Congress for permission to cut \$104 million from the air marshal program. Johnson said the cuts would be made by postponing training and hiring of support staff.

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Air marshal program in disarray, insiders say

By Blake Morrison, USA TODAY

For



By Tom Mihalek, AFP

Two federal air marshals engage in tactical handgun training on the gun range at the FAA Technical Center in Pomona, New Jersey.

Years, the government touted federal air marshals as the best of the best — an "elite corps" of undercover officers trained to stop hijackings on commercial flights.

But today, after rushing to hire thousands of new marshals, the program is so beset with problems that sources say at least 80 marshals have quit, and other marshals say they are considering a class-action lawsuit over working conditions that they fear put travelers at risk.

Documents obtained by USA TODAY and interviews with more than a dozen current and former marshals from around the nation suggest many have grown disillusioned with a program that one says has become "like security-guard training for the mall."

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Hiring standards for marshals added since Sept. 11 have been lowered dramatically, sources say. No longer must applicants pass a difficult marksmanship course that used to be the make-or-break test for the program. In addition, many new hires were given guns and badges and put aboard flights before extensive background checks were completed.

At some of the agency's more than 20 regional offices, the program has struggled to provide ammunition for shooting practice, sources say. Despite the undercover nature of the work, officials have implemented a dress code that marshals worry identifies them to terrorists. And scheduling has been haphazard: While some marshals have not flown for weeks at a time, sources say others are working 12- to 16-hour days and are falling asleep or getting sick aboard flights.

"This used to be an elite, great group. This used to be the baddest people you could find — war heroes," says one marshal who joined the program just after the

terrorist attacks. "Now they've turned this into a laughingstock."

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At least three incidents involving the conduct of individual marshals are under investigation by federal authorities.

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... one incident last month, a marshal was removed from a flight in Washington after smelling of alcohol. The head of the air marshal program confirms at least two cases in which marshals accidentally discharged their weapons, one in a hotel room in Las Vegas. And sources say one marshal was suspended after he left his gun in a lavatory aboard a United Airlines flight from Washington to Las Vegas in December. A passenger discovered the weapon.

By law, the marshals — all with top-secret security clearances — are not allowed to speak publicly about the program. All requested anonymity and say they have been told they will be fired or prosecuted for talking to the media. Based on a presidential order first issued in 1979, they cannot form a union, either. That's why some of the marshals say they're considering contacting lawyers. They say they're frustrated that managers ignore their concerns, and they have little hope that the organization will improve.

Officials with the new Transportation Security Administration (TSA) downplay the concerns. They say any organization that has grown as quickly as the air marshal division is bound to have some problems. Although the precise number of marshals is classified, sources say about 6,000 have been hired since Sept. 11. Before the terrorist attacks, fewer than 50 marshals flew, and only on international routes.

Tom Quinn, the head of the program, disputes those figures and the number of marshals who have resigned. "I'm not going to share the number, but it's significantly less" than 80, he says. The marshals with complaints, Quinn says, represent "a small number of disgruntled individuals who are total amateurs."

"I'm very pleased with the way the program is going so far. ... We've gotten it right," he says.

'It's not growing pains'

That's not how some marshals see it. They say they were lured to the program with promises of promotions and four-day workweeks to make up for the rigors of travel and days away from their families. Now, they say they've been misled or lied to, and they worry that new rules put them and travelers in harm's way.

A lot of people were drawn to this agency because it was a fresh agency," says one manager involved in the hiring process. "Now it's spoiled to the point that it's rotten. They tell us to bear with it, that it's growing pains. It's not growing pains. It's a disease."

After Sept. 11, the air marshal program became especially appealing to hundreds of law enforcement officers who guarded the nation's borders, monuments and federal buildings. Promises of better pay enticed many applicants, who left jobs with federal law enforcement agencies and local police departments.

The typical marshal earns about \$52,000 a year, officials say — at least \$2,000 to \$5,000 more than a Border Patrol agent.

"The people I see staying are one of two types: people who were on the border working in the heat for 60 hours a week, and the other are local cops who are seeing another \$18,000 to \$20,000 a year in salary," says the marshal who joined the program just after Sept. 11.

But even some of those marshals have come to regret their decisions, says the president of the union representing border patrol agents.

"We've had over 700 people go over there, and we hear from a fair number of those people — people who have left (the air marshals)," says T.J. Bonner, head of the National Border Patrol Council. Bonner says the former agents he talks with say "they made a mistake" by becoming air marshals.

'Real issues with morale'

"The folks were lured over and were told they'd be flying three days a week with a day of training. Now they're flying five days a week and rarely train," Bonner says. "They never in a million years thought they'd be taken advantage of any way they're being taken advantage of."

Documents obtained by USA TODAY, including e-mails, minutes from meetings and standard operating procedures for the division, underscore their complaints. One memo from a June 18 teleconference of regional managers notes

al issues with morale in the ranks" of those applying for leadership positions in the program.

Among the concerns:

- A marksmanship test that simulates conditions a marshal might face aboard a jet was eliminated as a means of qualifying for the program, apparently to get more marshals on more flights quickly, sources say. A manager and two sources within the TSA say the difficult shooting course was cut from qualification tests after a high number of applicants began failing what had once been the program's critical requirement. Program officials insist the shooting standards for marshals are among the highest for law enforcement organizations.
- Regular training opportunities, such as time on the shooting range, are often precluded by the expanded flight schedules, marshals say. Even getting bullets for shooting practice has proven difficult.

Quinn denies any office ever has struggled to provide ammunition to marshals. "It's never been true," he says. But one memo obtained by USA TODAY documents the problem last March: "The question keeps coming up and believe me I feel your pain," says an e-mail to marshals from a manager in one regional office. "We are getting bullets shortly. ... You can shoot on your own time and buy bullets with your own money however."

- Although they work undercover, marshals at some regional offices have been ordered to adhere to a dress code that requires them to wear "conservative male or female business attire" during most of their trips, documents show. Without special permission, they cannot dress more casually.

Quinn says working marshals reviewed the dress code before it was issued, and good marshals "would clearly understand, respect and appreciate" the policy. He says marshals who provided details of the dress code to USA TODAY "are putting us all at risk."

Do dress codes threaten cover?

Marshals say making them look and dress alike is what threatens their cover. "This is really dangerous," says one marshal, who left the Justice Department for the air marshal program five months ago. "We are so obvious, the terrorists don't need to bring guns on the planes anymore. They just need to gang up on us and take our guns."

- New hires were given badges and guns and put aboard flights before extensive background checks necessary for national security clearances were completed. Quinn says that, in order to hire marshals quickly, the new hires were given waivers while the more extensive background checks were underway. "Would I prefer it another way? Certainly," he says.

So would some marshals. "If someone slips through the cracks, how do you not know they're not a terrorist?" says one marshal who received a waiver. "You've already put them on a plane."

- Work schedules are disorganized. Schedules reviewed by USA TODAY show marshals often fly with different partners each day, even though they were told during training that developing rapport with a partner was crucial. Many end up flying more than 10 hours a day. "It's ridiculous," says the marshal from the Justice Department. "Guys are complaining about headaches and vertigo and dizziness. We're falling asleep. We're nodding off."

And though one memo from a manager's teleconference says the agency is "being judged on how many flights we can cover," more than a dozen marshals in each of two offices were not scheduled for weeks at a time, sources say.

"In May, for 3 1/2 weeks, they forgot about me," says one marshal. "And not just me. There had to be 15 guys in the office they forgot about. We sat in the office watching kung fu movies."

The marshal says many colleagues, cynical about the division's failure to offer them training, jokingly considered the Bruce Lee movies "our close-quarters training." When the marshals repeatedly called the scheduling center in Atlantic City to try to get on flights, schedulers said, "Don't worry about it. You're getting paid," the marshal recalls.

Large 'totally erroneous'

Quinn denies the marshal's account. "Totally erroneous," he says. "There was no office with federal air marshals sitting there watching kung fu movies for a month."

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Other marshals say they routinely work more than 50 hours a week but, because of a government pay structure for law enforcement officers, never earn overtime.

Instead, based on a policy called "law enforcement availability pay," they are paid for 50 hours of straight time each week even if they work more than that. Quinn says schedulers take into consideration whether marshals have worked long weeks and try to schedule them for less time in subsequent weeks. But one manager says if marshals report more hours than 50 hours, time sheets are changed to reflect only the 50 hours. "I do it on a weekly basis," the manager says. "I'm having to white 'em out."

When he speaks with marshals at regional offices, Quinn says he stresses two points: "Professionals embrace change. Amateurs cling to the past and what somebody may have said to them along the way."


But for some marshals, what they were told when they applied affected their decision to join the program.

In an Aug. 1 letter of resignation obtained by USA TODAY, one former marshal wrote of frustrations stemming from "the lies that were fed to myself, and most of my colleagues." The letter details concerns about scheduling, pay and promotions. The marshal who wrote it would not comment on the letter, but he accepted a position outside the division "because I can trust the people and organization that I will be working for," he wrote.

The new job, he wrote, pays "\$11,000 less" than his air marshal salary.

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Air Marshals Should Remain Undercover, Say AFA and FLEOA

Effectiveness Requires Anonymity, Flight Attendants, Marshals Say

WASHINGTON, June 30 -- The Association of Flight Attendants- CWA today voiced its opposition to a scheme forcing federal air marshals to dress like stereotypical G-men, warning that the policy jeopardizes the lives of airline passengers and crew.

"Under current rules, air marshals often look like FBI or Secret Service agents straight out of Central Casting," said AFA International President Pat Friend. "This seriously compromises their ability to protect the people on board."

The Federal Air Marshal Service has prohibited the use of less than formal attire and grooming, such as jeans, tattoos, long hair and beards, even though such appearance would help the marshals blend in as ordinary passengers. Instead, they must wear suits and ties, shiny shoes and short hair. Initially, they were permitted to make their own dress and grooming decisions.

In April, the Federal Law Enforcement Officers Association urged members of Congress to intervene. "The current dress code and military grooming policy compromise air marshals' identities, thus gravely jeopardizing aviation security. Easy identification of air marshals permit terrorists to distinguish between flights air marshals will be protecting, and more importantly, flights they won't be protecting. Consequently, this renders our loved ones vulnerable to another attack by al Qaeda or other fanatical groups," said John Adler, first vice president of FLEOA.

FLEOA has supported AFA's efforts to attain mandatory security training for flight attendants. Both groups would like such training to be coordinated between air marshals, flight attendants and pilots in order to facilitate harmonized responses during emergencies.

More than 46,000 flight attendants join together to form AFA, the world's largest flight attendant union. AFA is part of the 700,000 member strong Communications Workers of America, AFL-CIO. The Federal Law Enforcement Officers Association represents more than 22,000 federal agents, including employees of the Federal Air Marshal Service.

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The Washington Times

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Originally published 12:25 a.m., December 8, 2004, updated 12:00 a.m., December 8, 2004

Dress code wearing thin on air marshals

A Thanksgiving Day morale booster for federal air marshals has instead turned into possible pink slips for air cops who ignore their strict dress code.

Thomas Quinn, director of the Federal Air Marshal Service (FAMS), paid a surprise visit to Ronald Reagan Washington National Airport on Thanksgiving to thank the law-enforcement officials for their holiday work. He reportedly was angered when nearly 30 marshals deplaned and only one was dressed satisfactorily.

In response, supervisors are being assigned to airports nationwide to inspect the air cops before and after flights to make sure business suits or sports coats are being worn, according to numerous memos issued last week and obtained by The Washington Times.

"The most recent incidents with [New York marshals have] shown that they are not adhering to the agency's dress-code policy," said one memo.

Air marshals are being told that if their dress is not up to snuff, they will be suspended from flight duty. They are referring to the incident as the "Thanksgiving Day massacre."

A spokesman for FAMS could not be reached for comment.

One air marshal who asked not to be identified called it "ridiculous" that marshals are expected to blend in with holiday travelers by wearing a suit.

"On Thanksgiving Day, travelers don't wear business suits to visit family and friends," the marshal said.

The dress-code policy is a sore point among the traveling marshals, who say it compromises their undercover status.

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A provision included in the intelligence-reform bill would allow the air marshals to wear less-conspicuous clothing. The final vote on the bill is expected today in the Senate.

Pulling air cops from flight duty because of attire puts a strain on an agency already stretched for manpower, say marshals, who cover less than 2 percent of an estimated 30,000 daily flights. Suspending one marshal means the suspension of an entire team, which can affect two to four flights per day, the second marshal said.

"Of all times to do this, during the holidays, this is insane," the second marshal said.

Marshals say they need to protect their undercover status so terrorists cannot determine which flights are protected.

One memo from the Miami FAMS field office says: "Effective immediately, rotating [supervisors] will be assigned to and will be present in each of our airports every day.

"I am particularly concerned about the general appearance of some FAMS and that will be one of the factors I expect supervisors to observe and report ... A professional appearance means well-groomed and wearing neat and clean clothing -- not rumpled, wrinkled, mismatched, etc."

A memo issued from the Boston field office says that "failure to meet the standards will result in administrative action.

"Compliance with these policies is mandatory, not optional."

The dress code for marshals is described in a separate field-office memo as "conservative male or female attire, such as that worn by business persons in first-class seating," a business suit, or sports coat with dress pants and tie, or sports coat with dress pants and collared shirt.

The memo issued from the New York field office requires marshals flying into Washington to also wear ties.

"FAMS will present a professional image and blend into their environment by maintaining a standard of dress that enables them to perform their mission without drawing undue attention to themselves," the New York memo says.

Marshals in one field office were warned not to "get caught" without jackets, while another office warned that supervisors who do not properly monitor the dress code also will be subject to disciplinary action.

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Marshals say the strict code does not take climate into consideration. In the Miami heat, marshals are required to keep their suit coats on at all times, yet in Pittsburgh, agents are forbidden from wearing overcoats in cold weather.

"You wear a sports coat, or you wear a suit coat, or you look for another job," agents were told Monday.

"They're making a huge deal of this. They've blown a gasket," the first marshal said.

Two marshals were yanked from a flight in July for not wearing suits or sports coats and a third marshal faces three days of suspension in January for not wearing a jacket before two flights in July.

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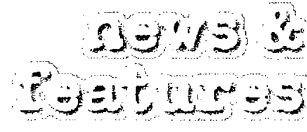
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ACLU/SC, Dept. of Homeland Security Reach Agreement to Safeguard Whistleblower Rights of Air Marshals

Monday, April 17, 2006

LOS ANGELES – A year after filing a lawsuit to stop federal policies designed to silence whistleblowers in the Federal Air Marshal Service, the ACLU of Southern California announced an agreement with the Department of Homeland Security and other government agencies that will permit marshals to speak about public safety concerns.

"We are very pleased that the government has agreed to clarify its policy, which was previously so vague that it effectively silenced members of the air marshals," said Peter Eliasberg, managing attorney for the ACLU/SC. "It is of vital importance that there be clear rules about employee speech so that air marshals, can when necessary, bring to the attention of the public policies and practices that undermine the safety of our aviation system."

As a part of the agreement, which was reached late Friday, the government has agreed to send an e-mail within the week to all federal air marshals clarifying its policy on what marshals can say publicly. In particular, the message will clarify the meaning of two policies that Federal Air Marshal Frank Terreri argued were unconstitutionally vague.

The message will also inform marshals that while the personnel policy does prohibit employees from undermining teamwork or public confidence, "nothing in the (directive) is intended to limit the free public expression of an employees personal opinions about matters of public concern relating to the FAMS – provided the individual complies with all laws and policies safeguarding the unauthorized disclosure of official information."

In the original lawsuit, filed in April 2005 against Department of Homeland Security Secretary Michael Chertoff and other security officials, Terreri challenged Federal Air Marshal Service rules that prohibited him from speaking publicly about his job or saying anything to do with the Air Marshal Service, a clear violation of his First Amendment rights.

The government changed its rules governing employee speech in July after the lawsuit was filed, but, like the previous policy, the new policy also contained speech-restrictive provisions. At the end of August 2005, Terreri amended his lawsuit to also challenge the constitutionality of the new policy. In February U.S.

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District Judge Edward Rafeedie denied the government's motion to dismiss the case and ruled that it should move forward toward a trial.

"I am grateful for this settlement," Terreri said. "Finally the American public will be able to hear an honest account of our federal air marshal program and air marshals interested in improving the public's safety will not have to risk their employment to do so."

Terreri, who has 16 years of law enforcement experience with an unblemished record, has since been asked to testify in front of Congress about the federal air marshal program. For the past four years he has been a federal air marshal and is also a president of the air marshal division of a professional membership organization that represents more than 24,000 federal agents, including 1,400 air marshals.

The ACLU of Southern California, Professor Allan Ides of Loyola Law School and Paul Hoffman of Schonbrun, DeSimone, Seplow, Harris and Hoffman are representing Terreri.

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ABC News: The Blotter

Federal Air Marshals' Bosses Accused of Arrogance, Cover-Up

May 16, 2006 12:55 PM

A damning investigation of the Federal Air Marshal program is set to be released by Congress next week, staffers tell ABC News.

"The attitude of this agency stinks," the Chairman of the House Judiciary Committee, James Sensenbrenner, told Brian Ross in an interview to be broadcast on World News Tonight and 20/20 this Friday.

Sensenbrenner said officials of the Air Marshal program "stonewalled" his staff and retaliated against air marshals who tried to reveal problems.

"This report should have come out a year ago had we gotten even minimal cooperation from the Air Marshal service," Sensenbrenner said.

"I think the American public will be shocked," Sensenbrenner said of his committee's findings.

A spokesperson for the Federal Air Marshal program said the agency had no comment.

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called "Becky" a "sellout." The Committee does not necessarily disagree with the FAMS' initiation of an investigation to determine if Terreri's comments were indeed creating a hostile work environment. What is troubling to the Committee, however, is Terreri's removal from flight status because, as the Committee understands, it is extremely unusual to remove someone from active duty during an investigation of an allegation that a Federal Air Marshal has violated a policy in a manner that does not threaten national security. In fact, the Committee is aware that Terreri was not the only Federal Air Marshal being investigated in this matter, yet he was the only one removed from flight status. It is this type of [REDACTED] [REDACTED] especially considering Terreri's written requests to effect policy changes at FAMS headquarters.

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

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

The disparate disciplinary action experienced by Terreri does not appear to be an isolated incident. Atlanta Special Agent in Charge Strange was removed from his duties as Atlanta SAC for allegations of non-criminal misconduct in March of 2005. This action took place only a short

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 Case Entered by: () Date Case Entered: 08/18/2004
 Primary Office: Special Inv Division Special Designation
 Agent Assigned: () Date Assigned: ()
 Date Received: 08/17/04 Received Method: MAIL
 Bureau Received From: ()
 DHS Agency Affected: Bureau of Immigration and Customs Enforcement
 FEMA Disaster: () Select a disaster if DHS AGCY affected is FEMA
 Case Title: ()
 Investigative Type: General Crimes - Failure to abide by laws

Narrative of the Allegation

On August 11, 2004, the Immigration and Customs Enforcement (ICE) Office of Professional Responsibility (OPR) received an allegation against Federal Air Marshal (FAM) () and other unidentified FAMS engaged in and are continuing to engage in activities that tended to criticize or ridicule FAMS policy and management by speech and writing that is defamatory and that impairs the operation of FAMS, in violation of FAMS Employee Responsibilities and Conduct Directive ADM 700.

8/27/04: Additional correspondence received via OPR pertaining to issues surrounding an organization known as the Federal Air Marshal Association (FAMA).

Index of Associated Persons

Persons Type	Number	Person Name	Disposition
Subject	1	()	No Records
Subject	2	Other Unidentified FAM Employees	No Records
Complainant	1	()	
Complainant	2	()	

Complaint Disposition Information

Disposition Date: 08/18/2004 Referral to: ICE Office of Professional Responsibility

This case was referred with no reply requested.

Date Case Closed: 08/25/2004 Allegation Disposition: Referred to a DHS Bureau

U.S. Department of Homeland Security - Office of Investigations IDMS Version 2 - July 2004

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Mixed Doc
 RIP | RIF | Referred
 2 | 1 | 182

RIP
 106
 74



**Department of Homeland Security
Office of Inspector General - Office of Investigations
Complaint Processing Form**

OIG CASE NUMBER: 04-07042

Hotline (Mail/Email/Fax/Hotline Call/ETC..) Other # _____

Referred by Agency Name and Xreff# _____

Field Generated (Office): _____

Predicate Documents Received? Yes No

DESK OFFICER'S INITIALS/DATE: () 8/25/04

Referred to Field Office Yes No Faxed to _____ Date _____

FO Reply Received Yes No Date _____

Referred to (Bureau): OPR Date Ref: _____

Reason for Referral Outside OIG: _____

Classification: Box 1 Box 2 Box 3 Other

CONFIDENTIALITY ISSUE? (Yes) (No)

COMPLAINANT DHS EMPLOYEE? (Yes) (No) (Unk)

Subject Name Queried (List Case Numbers): _____

Other Agency Number Queried? Cross-referenced?

HOTLINE INVESTIGATOR'S INITIALS/DATE: () 8/18/04

COMMENTS: Ref to OIG by Agency

Date Referral/Notification Memorandum reviewed/signed by () 8/25/04

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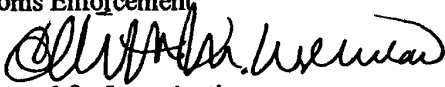
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Homeland Security

August 25, 2004

MEMORANDUM FOR: Robert W. Weber, Director
Office of Professional Responsibility
Immigration and Customs Enforcement

FROM: Elizabeth M. Redman 
Assistant Inspector General for Investigations

SUBJECT: *OIG Complaint Number R04-07042*

On August 12, 2004, this office received the attached referral from your office in which Thomas D. Quinn, Director, Federal Air Marshal Service (FAMS), requested that the OIG conduct an investigation of certain FAMS employees allegedly involved in a concerted campaign, in coordination with outside advocacy organizations, to maliciously and irresponsibly discredit and undermine management officials at the FAMS, to include Director Quinn.

After a thorough review of the allegations identified by Director Quinn in his investigative referral memorandum dated August 11, 2004, the Office of Inspector General has decided to refer this matter to your office for whatever action that you deem appropriate. While the actions of the FAMS employees as identified by Director Quinn may be contrary to the efficient operation and effective management of the FAMS program, no criminal activities nor serious misconduct issues are alleged; therefore these allegations are best addressed internally by the FAMS senior management. FAMS management should take whatever corrective program and/or employee disciplinary action they deem appropriate and necessary to effectively accomplish the FAMS mission.

If you have questions concerning this matter, please call me at (202) 254-4042, or have your staff contact Joseph G. Sullivan, Jr., Deputy Assistant Inspector General for Investigations, Headquarters Operations at (202) 254-4300.

Attachment(s)

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R 15

179 170



MacLean, Robert <rjmaclean@gmail.com>

Front page Wall Street Journal article on FAMS problems

Robert MacLEAN <rjmaclean@gmail.com>

Fri, Feb 9, 2007 at 10:49 AM



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February 9, 2007

PAGE ONE

SKY PATROL U.S. Air Marshal Service Navigates Turbulent Times

Armed Secret Agents Have Gripes After 9/11; Dress Codes Blew Cover

By LAURA MECKLER and SUSAN CAREY
February 9, 2007; Page A1

On Sept. 11, 2001, the Federal Air Marshal Service -- an undercover squad trained to stop or kill hijackers on U.S. carriers -- consisted of just 33 agents scattered on more than 26,000 daily flights around the globe.



Dana Brown

None were aboard any of the hijacked planes on 9/11. Six days later, Congress passed legislation calling for a massive expansion of the law-enforcement service as part of the nation's mobilization against terrorism. More than 200,000 people applied to become agents. Soon, thousands of recruits were quietly training in hand-to-hand combat, advanced marksmanship and techniques for discreetly defusing onboard disturbances without ever identifying themselves as marshals.

The service swelled to a current force somewhere between an estimated 2,500 and 4,000. (The exact number of marshals is classified.) Their presence,

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17/11

Dana Brown

combined with new provisions allowing U.S. pilots to carry guns in the cockpit, has changed the equation of onboard security. Would-be terrorists now must enter into their calculations a fair chance that a fellow passenger is a well-trained policeman concealing a semiautomatic weapon.

But building and maintaining the force in recent years has been an uneasy ride. Marshals have griped that it's unhealthy flying four or more flights a day and say the job is a monotonous rut that doesn't lead to advancement. Another big complaint: Their cover can be easily blown, particularly when they go through special boarding procedures.

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RELATED READING

"The check in and boarding procedures currently employed by FAMS are unacceptable to ensuring the anonymity of federal air marshals."

• In a report this spring, the [House Judiciary Committee](#)¹ was highly critical of the marshal program.

"The shooting death ... is legally justified in light of the surrounding circumstances presented to the air marshals. It should be noted that both air marshals demonstrated remarkable restraint."

• In a [May 2006 report](#)², the Miami State Attorney's office determined that the December 2005 shooting of an American Airlines passenger by federal air marshals was legally justified.

"People are terrestrial creatures ... suited for surface living. When they venture above the surface of the earth, they encounter certain difficulties. Those are most directly related to flying and the change in barometric pressure."

• A marshal in the program's Charlotte, N.C., field office [filed a report](#)³ critical of the program's handling of health issues in July 2005.

"The manner of dress should allow you to blend in and not direct attention to yourself, as well as be sufficiently functional to enable you to conduct your law enforcement responsibilities, and effectively conceal your duty equipment."

• In two emails sent to marshals in the summer of 2006, Dana Brown, the director

Budget issues led to a hiring freeze, and in some cases resulted in heavier schedules and fewer flights covered. Government oversight bodies, including the House Judiciary Committee and Homeland Security's Inspector General, raised concerns as to whether the marshals were able to do their jobs effectively.

Some marshals say many of their colleagues have quit, although agency officials say defections have been minimal. But Dana Brown, the current director, concedes that the program's \$700 million budget wasn't enough to sustain any new hires between July 2002 and fall 2006.

In an interview, Mr. Brown said the agency challenges are largely due to growing pains. "It's the equivalent of having a mom-and-pop or good small business that worked very well and overnight it turned into a large Fortune 500-type corporation with many more issues than it had previously," he said. Mr. Brown is now taking steps to address the marshals' complaints.

The job is a stressful mixture of tedium and high pressure. Marshals have made 59 arrests since 2001 and drawn their weapons only twice -- once shooting a man dead. In the end, none of the incidents were found to be related to terrorism.

Last summer, their secretive operations came into rare public view after Northwest Airlines Flight 42 lifted off from Amsterdam's Schiphol Airport on Aug. 23 for a nearly nine-hour flight to Mumbai, India. Less than two weeks earlier, British authorities had foiled an alleged trans-Atlantic airliner bombing plot, and officials were on high alert.

A group of 11 Indian passengers on Flight 42 attracted the attention of flight attendants and one undercover marshal when they allegedly didn't follow crew member instructions while boarding. Shortly after the DC-10 left the runway, one of the Indian men allegedly handed several cellphones to another, while a third member of the group appeared to be deliberately obstructing the view of what was happening.

Within minutes, as the plane continued to climb, three air marshals on board broke cover and took control of the cabin, moving into the aisles, revealing badges and assuming defensive positions -- according to an internal Federal Air Marshal Service report on the incident and accounts from passengers and crew. A pair of Dutch F-16 fighter jets scrambled to escort the plane back to Amsterdam. Half an hour after takeoff, Flight 42 touched back down, and the

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of the program, discusses low morale⁴ among the marshals and announces a change in the program's hotel policy and dress code⁵.

"I'm very appreciative of the time that so many of you have dedicated to helping me through the last nine months."

• At the end of 2006, Mr. Brown sent a letter⁶ to air marshals explaining what he had done in his first nine months on the job to improve their working conditions.

Indian men were detained by Netherlands law enforcement.

The incident was a classic demonstration of the marshals' daunting, and often imprecise, task. A potentially dangerous situation was defused with no injuries. But in the end, there had been no security risk at all. The cellphones were just cellphones. All of the suspects were quickly released. Some passengers, particularly Indian nationals, believed the marshals overreacted to plainly innocent conduct.

"We were not passing cellphones," said Shakil Chhotani, a 33-year-old Mumbai exporter of women's garments who was among the arrested men. "Just because one of us was wearing kurta pajamas and four or five of us had a beard, they thought we were terrorists."

Mr. Brown backed up his officers' actions. "I'm comfortable that the federal air marshals did exactly what they thought they should do under the circumstances," he said, noting that the decision was made in consultation with the crew.

President Kennedy launched the air-marshal program in 1961, in response to a wave of hijackings of U.S. flights to Cuba. In the years prior to 9/11, its ranks rose and fell, amid various threat levels and bureaucratic shuffling. Today, after obtaining top-secret security clearance, marshals undergo 15 weeks of preparation for the job, divided between facilities in Artesia, N.M., and Atlantic City, N.J. Each is issued a Sig Sauer sidearm, a small but powerful, Swiss-designed weapon popular in law enforcement.

They are trained to shoot in small areas that replicate airline cabins, practicing with low-powered paint balls. They drill repeatedly through scenarios they might encounter.

The flying force is more than 95% male, and includes recruits from the Secret Service, the Border Patrol, the Bureau of Prisons and the military. The full-time positions pay salaries starting at about \$36,000 and average just under \$62,000 a year, with a premium for working in certain cities. Marshals travel in teams of at least two, often sitting in first class to be near the cockpit door. Routes considered to be high-risk are given priority.

At the Mission Operations Center outside Washington, stars dot a digital map of the U.S. looming large over the control room, each one representing a plane with a marshal on board. Officials here relay intelligence to marshals in the field and are poised to redeploy marshals if need be.

While marshals train for the most dangerous criminal scenarios, the job is usually uneventful. Many spend their hours in the sky reading. At the same time, they must stay constantly alert.

Marshals say that after flying four or more flights in a single day, they experience fatigue, headaches, and other maladies. Compounding their frustrations, marshals -- mostly in their 20s and 30s -- have little opportunity to advance in or diversify their careers. "Federal air marshals cannot sustain a career in an airborne position, based on such factors as the frequency of flying, their irregular schedules, and the monotony of flying repetitive assignments," the Government Accountability Office concluded in November 2005 report.

Since the post-9/11 expansion, marshals have protested that their anonymity hasn't been adequately protected. Agents are required to check in at airport ticket counters, and in most cases display oversized credentials. Until recently, a jacket-and-tie dress code was mandated on all flights, even those filled with tourists headed for Disney World. They also were instructed to stay in designated hotels, where they had to display their marshal credentials to secure a discounted rate.

To bypass security checkpoints, where notice would obviously be taken of their guns, marshals typically enter concourses through the exit lanes. But they often wait for several minutes while a security guard checks their IDs -- a process that sometimes draws attention from passengers. In some cases, they must enter via alarmed exit doors. "The lights and sirens go off. Everyone turns and looks," one marshal said in an interview.

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At the gate, at least one marshal must board the plane 10 or 15 minutes before passengers to check for hidden weapons and meet briefly with the crew. Marshals report being thanked and given the "thumbs up" from passengers who had obviously figured out who they were.

"Without anonymity, an air marshal is reduced to a target that need only be ambushed and eliminated or an obstacle that can be easily avoided," wrote former air marshal William Meares in a letter resigning from the service in 2004. "There is no question that terrorists, using known tactics and methods, can easily determine whether or not a particular flight is covered by air marshals."

Don Strange, the agent formerly in charge of the Atlanta field office, says he repeatedly complained about the stuffy dress code -- internally and to the House Judiciary Committee. "My views were not well received," he said in an interview. Mr. Strange was subsequently dismissed, in October 2005. The Federal Air Marshal Service wouldn't comment on Mr. Strange's termination.

Federal law prohibits marshals from unionizing. But in 2003, mounting discontent prompted them to organize and seek affiliation with the Federal Law Enforcement Officers Association. That gave them a unified voice to deal with management. In October 2003, Frank Terreri, the group's newly elected president, wrote to the agency's then-director, Thomas Quinn, complaining about issues including boarding procedures, dress code, transfer policy and scheduling. In the spring of 2004, the House Judiciary Committee launched its investigation into the service.

Protecting the Skies

The number of U.S. air marshals has fluctuated as aircraft hijackings spiked and then faded from public consciousness.



Air-marshal candidates train at an FAA technical center in 2001.

1961: Rash of hijackings of U.S. aircraft to Cuba prompts President Kennedy to start air-marshal program; program appears to deter most hijackings but by 1967 hiring slows

1968: New wave of hijackings begins involving criminals escaping prosecution in the U.S. and Cuban exiles trying to return home

1970: President Nixon gives U.S. Customs Service control of marshals; ranks grow to 1,784

1974: Federal Aviation Administration gains control of marshals; numbers begin to decline substantially



Passengers disembark in Cuba from a hijacked Eastern Airlines flight in 1969.



Hijacker in 1985 aboard TWA aircraft in Beirut

1985: After terrorist group Hezbollah hijacks TWA flight in Europe, President Reagan expands program to overseas flights by U.S. carriers; numbers grow to 400 by 1987

2001: On Sept. 11, there are just 33 active marshals. After four hijackings, the program is beefed up and transferred to the new Transportation Security Administration. More than 200,000 people apply.

2003: Program moves to Immigration and Customs Enforcement in part to give marshals more career options; plan fails, according to a government report.

2005: Marshals move back to TSA; in December, two marshals shoot and kill passenger Rigoberto Alpizar, who claimed to have a bomb; they are cleared of wrongdoing

2007: Program has an estimated 2,500 to 4,000 marshals

