



Homeland Security

Robert MacLean
[REDACTED]

DEC 12 2006

Subject: Freedom of Information Act Request No. 2006-092

Dear Mr. MacLean:

This is in response to your Freedom of Information Act (FOIA) request dated July 16, 2006, (a copy with all attachments are attached for reference). The Office of Inspector General (OIG) assigned the above-referenced tracking number to your request.

To provide you with the greatest degree of access authorized by the FOIA, 5 U.S.C. § 552 and the Privacy Act, 5 U.S.C. § 522a, we have considered your request under both statutes.

The Office of Inspector General (OIG) conducts independent investigations, audits, inspections, and special reviews of U.S. Department of Homeland Security (DHS) personnel, programs, and operations to detect and deter waste, fraud, and abuse, and to promote integrity, economy, and efficiency within the Department. In response to your request, a search of the OIG's investigative indices was conducted electronically using several search terms in order to locate the requested records. The records from the Office of Investigations are maintained in the system of records DHS-OIG-002 - "Investigations Data and Management System" (IDMS). The IDMS is a Privacy Act system of records. Therefore, disclosure is governed by the Privacy Act, 5 U.S.C. § 552a. The Privacy Act permits agencies to exempt from first party disclosure material compiled for law enforcement purposes. 5 U.S.C. §§ 552a(j) and (k). The OIG has so exempted the IDMS records. See Federal Register Vol. 70, No. 216 (November 9, 2005). Therefore, release is not required under the Privacy Act. However, the Privacy Act requires review of your request under the FOIA to determine whether there are records required to be released under the FOIA.

All withheld documents were reviewed under the FOIA to determine if any information could be segregated for release. Based on that review, this office is providing the following:

- 2 page(s) are being released in full (RIF);
- 6 page(s) are being released in part (RIP);
- page(s) are withheld in full (WIF);
- page(s) are duplicate copies of material already processed;
- page(s) are non-responsive to your request and therefore withheld in full;
- 189 page(s) were referred to another agency.

The exemption(s) cited for withholding records or portions of records are marked below.

Freedom of Information Act, 5 U.S.C. § 552			Privacy Act, 5 U.S.C. § 552a
<input type="checkbox"/> 552(b)(1)	<input type="checkbox"/> 552(b)(4)	<input type="checkbox"/> 552(b)(7)(B)	<input checked="" type="checkbox"/> 552a(j)(2)
<input checked="" type="checkbox"/> 552(b)(2)	<input type="checkbox"/> 552(b)(5)	<input checked="" type="checkbox"/> 552(b)(7)(C)	<input checked="" type="checkbox"/> 552a(k)(2)
<input type="checkbox"/> 552(b)(3)	<input checked="" type="checkbox"/> 552(b)(6)	<input type="checkbox"/> 552(b)(7)(D)	<input type="checkbox"/> 552a(k)(5)
	<input type="checkbox"/> 552(b)(7)(A)	<input type="checkbox"/> 552(b)(7)(E)	<input type="checkbox"/> Other:

OIG redacted from the enclosed documents, names and identifying information of third parties and employees to protect the identities of these individuals. Absent a Privacy Act waiver, the release of such information concerning the third parties named in these records would result in an unwarranted invasion of personal privacy in violation of the Privacy Act, 5 U.S.C. § 552a. The information excised is also exempt from disclosure pursuant to sections (b)(6) and (b)(7)(C) of the Freedom of Information Act, 5 U.S.C. § 552.

Exemption 6, 5 U.S.C. § 552(b)(6)

Exemption 6 allows withholding of "personnel and medical files and *similar files* the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." 5 U.S.C. § 552(b)(6)(emphasis added). Exemption 6's protection applies to files that can be identified as referring to a particular individual. The Exemption applies to OIG investigative records which can be considered "similar files" under Exemption 6. Names and initials of lower level employees, non-agency employees, and private citizens in these reports are exempted from public disclosure under Exemption 7C, and also qualify for withholding under Exemption 6 because disclosure of such names or identifying information "would amount to a clearly unwarranted invasion of the privacy of *any* person." Thus, Exemption 6 clearly applies to the employee and private citizens' names, signatures, and initials redacted in the attached documents.

Exemption 7C, 5 U.S.C. § 552(b)(7)(C)

Exemption 7C protects from public disclosure "records or information compiled for law enforcement purposes . . . [if disclosure] could reasonably be expected to cause an unwarranted invasion of personal privacy." 5 U.S.C. § 552(b)(7)(C). The OIG invokes Exemption 7C relative to the redaction of the identities of OIG Special Agents, investigative assistants, complainants, third parties mentioned or referenced during the conduct of the investigation, and any information which could reasonably be expected to identify such individuals. OIG therefore protects the identities of third parties in much the same way as OIG protects your identity as the subject of investigation upon receiving a request for information from anyone other than you.

Exemption 2, 5 U.S.C. § 552(b)(2)

Information used for predominantly internal purposes, such as direct telephone numbers or facsimile number that referenced above, is protected from public disclosure under Exemption 2. Generally, agencies dedicate and disclose specific telephone and facsimile lines, as well as electronic sites, for communication with the public. The reason for this is that unlimited dissemination of non-public telephone and facsimile numbers could lead to congestion or abuse of those numbers, rendering operationally useless the internal means through which the agency conducts official business. Where disclosure would render the internal information operationally useless, it is protected from public disclosure under Exemption 2. Thus, redactions to the internal telephone and facsimile numbers are made in accordance with Exemption 2.

Referrals

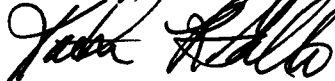
Additionally 189 pages have been referred to the Immigration and Customs Enforcement (ICE) agency, a DHS component. This DHS component will process these records under the FOIA and respond to you directly. This referral was made in accordance with DHS regulations, which require DHS agencies to determine whether another agency is better able to determine whether the record is exempt under the FOIA. If so, then the record must be referred to the other agency. In general, the agency that originated a record is presumed best able to determine whether to disclose it. *See* 6 C.F.R. § 5.4(c)(2).

This is the final action this office will take concerning this matter. You have the right to appeal this response. Your appeal must be in writing and **received** within 60 days of the date of this response. Please address any appeal to:

Associate General Counsel (General Law)
Department of Homeland Security
Washington, D.C. 20528

Both the envelope and letter of appeal must be clearly marked, "Freedom of Information Act/Privacy Act Appeal." Your appeal letter must also clearly identify the OIG's response. Additional information on submitting an appeal is set forth in the Department of Homeland Security regulations at 6 C.F.R. § 5.9.

Sincerely,



Katherine R. Gallo
Assistant Counsel to the Inspector General

FOIA/PA Analyst: Nikki Gramian
Phone Number: (202) 254-4001

Requester's Name: Robert Maclean
FOIA/PA NO. 2006-92

MIXED DOCUMENTS

2 (RIF)

6 (RIP)

 (WIF)

 (DUP)

189 (REFERRED)

 (NR)

Office of Inspector General
Office of Investigations

U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
Security**

September 10, 2004

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

FROM: *ER*
Elizabeth M. Redman
Assistant Inspector General for Investigations

SUBJECT: *ER*
Referral of OIG Complaint Number: R04-BICE- SID-07042
Your File Number: 200405493

This matter is being referred to you for appropriate action and disposition in accordance with your organization's applicable rules, regulations, policies, and procedures. You are not required to include this matter in your monthly report to the Office of Inspector General (OIG), nor are you required to provide the OIG with a copy of your findings and/or final action concerning this matter.

If you have any questions concerning this matter, you may contact me at (202) 254-4100, or Joseph G. Sullivan, Jr., Deputy Assistant Inspector General for Investigations, Headquarters Operations, at (202) 254-4300.

Mixed DUE
RIF | RIP | Referred
1 4 7

RIF



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

OIG CASE NUMBER: 204-07042

Hotline (Mail/Email/Fax/Hotline Call/ETC..)

Referred by OPR # [20040 5493]

Field Generated (Office): _____

Predicate Documents Received?

DESK OFFICER'S INITIALS/DATE: () 8/30/04

Referred to Field Office Yes [Faxed to _____ On _____]
 No

FO Reply Received Yes No

Reason for Referral Outside OIG:
ORR

Classification Box 1 Box 2 Box 3

CONFIDENTIALITY ISSUE? (Yes) (No)

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

Subject Name Queried (List Case Numbers)?

OPR Number Queried? Cross-referenced?

HOTLINE INVESTIGATOR'S INITIALS/DATE: () 9/10/04

COMMENTS: Ref- under 204-07042

Administrative Closure (Close to File)

Referral/Notification Memorandum reviewed and signed by ()

This document is intended solely for the internal, official use of the Department of Homeland Security Office of Inspector General. No distribution of this document may be made, in whole or in part, outside the Department of Homeland Security, without prior authorization by the Office of Inspector General.

b6
7c

RIP
b6
7c

(b2)



JOINT INTAKE CENTER

Washington, D.C.

IMMEDIATE NOTIFICATION

DATE: August 27, 2004
TO: Department of Homeland Security
Office of Inspector General
FROM: Joint Intake Center
SUBJECT: Notification

Number of pages including this cover: 8

FILE NUMBER: 200405493

RELATED FILE(S):

COMMENTS:

*Ref. Back relating to DHS-OIG File # R04-07042,
Some info previously received.*

----- DHS/OIG OFFICIAL USE ONLY -----

Accept for Investigation: _____

Referred back to Joint Intake Center: Require Results: Yes No

Date: 8/31/04

DHS OIG File Number: R04-07042

DHS OIG Desk Officer Name: _____

Important: This document may contain confidential and sensitive U.S. Government information. Please deliver it immediately to the intended recipient(s) listed above. The Joint Intake Center has not approved the documents review, retransmission, dissemination, or use by anyone other than the intended recipient(s).

Please contact (202) 927-1016 immediately regarding any problems with the transmittal/receipt of this document.

*RIP
b2*

*** TX REPORT ***

TRANSMISSION OK

TX/RX NO	0066
CONNECTION TEL	
CONNECTION ID	OPR
ST. TIME	08/30 10:51
USAGE T	00'17
PGS. SENT	1
RESULT	OK

(b2)

RIP
b2

Deletion Page

Requester: Robert MacLean
Request #: 2006--092

Documents consisting of 7 page(s)
originating and/or of interest with the
Immigration and Customs Enforcement (ICE)
is/are being referred to ICE for review and direct
response to the requester.



Homeland Security

Office of Inspector General

U.S. Department of Homeland Security
Washington, DC 20528

PRINT CLOSE

REFERRAL DATA ENTRY FORM

DHS Case No.	R04-BICE-SID-07042	Status:	C
Other Reference No.	200405493,	Dollar Loss:	<input type="text" value="0"/>
Case Entered by:	<input type="text"/>	Date Case Entered:	08/18/2004
Primary Office:	Special Inv Division	<input type="checkbox"/> Special Designation	
Agent Assigned:	<input type="text"/>	Date Assigned:	<input type="text"/>
Date Received:	<input type="text" value="08/17/04"/>	Received Method:	<input checked="" type="checkbox"/> MAIL
Bureau Received From:	<input type="text"/>		
DHS Agency Affected:	Bureau of Immigration and Customs Enforcement		
FEMA Disaster:	<input checked="" type="checkbox"/> Select a disaster if DHS AGCY affected is FEMA		
Case Title:	<input type="text"/>		
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 3700.

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	<input type="text"/>	No Records
Subject	2	Other Unidentified FAM Employees	No Records
Complainant	1	<input type="text"/>	
Complainant	2	<input type="text"/>	

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

Mixed Doc

RIP | RIP | Referred
2 | 1 | 182

RIP
b6
7c



**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 Xref# _____

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

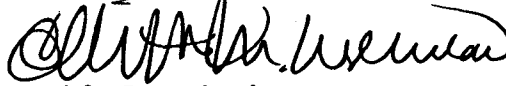
RIP
DB
7C



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)

R 15

Deletion Page

Requester: Robert MacLean
Request #: 2006--092

Documents consisting of 182 page(s)
originating and/or of interest with the
Immigration and Customs Enforcement (ICE)
is/are being referred to ICE for review and direct
response to the requester.