

TSA in 'witch hunt,' air marshals say

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

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

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

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

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

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

NO FORMAL PROBE

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

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

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

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

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

Flip-flop on air marshal schedules

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

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

CAN'T INVOKE PATRIOT ACT

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

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

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

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

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

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