



Transportation
Security
Administration

**Final Order on Sensitive Security Information in connection with
MacLean v. Department of Homeland Security, No. SF-0752-06-0611-I-1 (M.S.P.B.)**

I. Request for Issuance of Final Order

In *MacLean v. Department of Homeland Security*, No. SF-0752-06-0611-I-1 (M.S.P.B.), Appellant Robert MacLean, through his pleadings, seeks to challenge the Appellee U.S. Department of Homeland Security's position that certain information relevant to the above-captioned matter is Sensitive Security Information (SSI). In order to facilitate judicial review, Appellee's attorneys have asked for a final agency determination on the matter.

II. Delegation of Authority to Make Final SSI Determination

The authority to identify information pertaining to transportation security as SSI is delegated from the Administrator to the Deputy Administrator, pursuant to a delegation order signed by then Administrator J.M. Loy, on April 10, 2003. The Deputy Administrator further delegated the authority to the Director of the SSI Office, pursuant to a delegation order signed by then Acting Deputy Administrator, Kenneth Kasprisin, on April 29, 2005. Both delegation orders are in effect as of the date of this Final Order and have not been amended.

III. Final SSI Determination

The information at issue, which Federal Air Marshal (FAM) management disseminated via text message to the government-issued mobile phones of Las Vegas FAMs in late July 2003, is that "all RON (Remain Overnight) missions [from the date of the message] up to August 9th would be cancelled." See Notice of Removal (Apr. 10, 2006).

Pursuant to 49 U.S.C. § 114(s) and 49 C.F.R. Part 1520, it is my determination that, on July 29, 2003, the information in question constituted SSI under the SSI regulation then in effect, 49 C.F.R. § 1520.7(j),¹ as the information concerned specific FAM deployments or missions on long-distance flights.

¹ On May 18, 2004, TSA recodified § 1520.7(j) at 49 C.F.R. § 1520.5(8)(ii), its current citation.

IV. Final Order

This Order is issued under 49 U.S.C. § 114(s) and is final. Pursuant to 49 U.S.C. § 46110, any person disclosing a substantial interest in this Order may, within 60 days of its issuance, apply for review by filing a petition for review in an appropriate U.S. Court of Appeals.

Date: 8/31/2006


Andrew Colsky
Director, SSI Office