

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
SOUTHERN DIVISION

FILED
U.S. DISTRICT COURT
DISTRICT OF MARYLAND

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AUDREY HUDSON
4728 Idlewilde Rd.
Shady Side, MD 20764

and

THE WASHINGTON TIMES, LLC
3600 New York Ave., NE
Washington, DC 20002

Movants,

vs.

UNITED STATES DEPARTMENT OF
HOMELAND SECURITY
425 Murray Lane, Bldg. 410
Washington, DC 20528

Respondent.

Civil Action No. WDQ - mc - 0570


MOTION FOR RETURN OF PROPERTY

Pursuant to Federal Rule of Criminal Procedure 41(g), AUDREY HUDSON and THE WASHINGTON TIMES, LLC, by counsel, respectfully hereby move the Court to enter an Order for the return of their property that has been unlawfully seized by the Respondent UNITED STATES DEPARTMENT OF HOMELAND SECURITY in violation of the Fourth and First Amendments to the Constitution of the United States. In support thereof, Movants rely upon the grounds set forth in their accompanying Memorandum in Support of Motion for Return of Property.

Wherefore, Movants Audrey Hudson and The Washington Times, LLC, respectfully pray that their Motion be granted, that the Court enter an Order in accordance with the proposed Order submitted herewith requiring Respondent United States Department of Homeland Security

to return to Movants all property that has been unlawfully seized, together with all documents and materials derived from, or created based upon, such unlawfully seized property, and that the Court award to Movants such other and further relief as the Court deems to be just and proper.

Dated: November 21, 2013

By: 

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SECURITY

AUDREY HUDSON
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THE WASHINGTON TIMES, LLC
3600 New York Ave., NE
Washington, DC 20002

Movants,

vs.

**UNITED STATES DEPARTMENT OF
HOMELAND SECURITY**
425 Murray Lane, Bldg. 410
Washington, DC 20528

Respondent.

Civil Action No. WDQ-mc-0576

ORDER

Upon Consideration of Movants Audrey Hudson's and The Washington Times, LLC's Motion for Return of Property and Respondent's opposition thereto, and upon consideration of the evidence received by the Court and upon consideration of the record herein, it is, on this _____ day of _____, 2013

ORDERED that Movants' Motion for Return of Property be, and hereby is GRANTED; and it is further

ORDERED that within three (3) days of the date hereof Respondent shall return to Movants, in care of their counsel, the property which is the subject of the Motion; and it is further

ORDERED that Respondent shall forthwith conduct a search and investigation to locate any and all photocopies of the illegally seized documents and all records of any kind in the possession or control of the government containing information derived from the unlawfully seized material and within five (5) days of the date hereof deliver all such materials to the Court so they can be destroyed under the Court's supervision.

Dated: _____, 2013

So Ordered.

United States District Judge

Copies to:

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Allen V. Farber (Bar No. 04349)
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AD [unclear]

AUDREY HUDSON
4728 Idlewilde Rd.
Shady Side, MD 20764

and

THE WASHINGTON TIMES, LLC
3600 New York Ave., NE
Washington, DC 20002

Civil Action No. WDJ-MC-0570

Movants,

vs.

UNITED STATES DEPARTMENT OF
HOMELAND SECURITY
425 Murray Lane, Bldg. 410
Washington, DC 20528

Respondent.

**MEMORANDUM IN SUPPORT OF
MOTION FOR RETURN OF PROPERTY**

Audrey Hudson and The Washington Times, LLC, move for the return of their property that has been unlawfully seized by agents of the Respondent, in violation of the Fourth and First Amendments to the Constitution of the United States. The property unlawfully seized by the Respondent from the residence of Ms. Hudson comprises confidential notes, draft news articles, and related internal communications prepared by Ms. Hudson in her capacity as a journalist employed by The Washington Times. The seized materials identify confidential sources and record or constitute information provided by those sources. Movants seek the return of these materials, including all photocopies thereof made by agents of the Respondent. Movants also seek an Order directing that all records of any kind in the possession or control of the

Respondent containing information derived from the unlawfully seized materials be delivered to the Court for destruction under its supervision.

LEGAL STANDARD

“The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated” U.S. Const. amend. IV. “[T]he [Supreme] Court has made clear that the context of the First Amendment intensifies the Fourth Amendment concerns that may be present” when government investigations impinge upon the constitutionally guaranteed right to freedom of expression. *In re Grand Jury Subpoena: Subpoena Duces Tecum*, 829 F.2d 1291, 1297 (4th Cir. 1987) *rev’d in part, remanded by United States v. R. Enters, Inc.*, 498 U.S. 292 (1991). Hence, Congress has enacted the Privacy Protection Act of 1980 which provides, in pertinent part, that it is unlawful “for a government officer or employee, in connection with the investigation or prosecution of a criminal offense, to search for or seize any work product materials possessed by a person reasonably believed to have a purpose to disseminate to the public a newspaper.” 42 U.S.C. § 2000aa (West 2013).

The Federal Rules of Criminal Procedure provide:

A person aggrieved by an unlawful search and seizure of property or by the deprivation of property may move for the property’s return. The motion must be filed in the district where the property was seized. The court must receive evidence on any factual issue necessary to decide the motion. If it grants the motion, the court must return the property to the movant, but may impose reasonable conditions to protect access to the property and its use in later proceedings.

Fed. R. Crim. P. 41(g).

“When a motion for return of property is made before an indictment is filed (but a criminal investigation is pending), the movant bears the burden of proving both that the seizure was illegal and that he . . . is entitled to lawful possession of the property.” *In re Grand Jury*

Subpoena Duces Tecum Issued to Roe & Roe, Inc., 49 F. Supp. 2d 451, 453 (D. Md. 1999). If, however, no criminal charges have been brought, the movant need only show he is entitled to lawful possession of the property. *See, e.g., United States v. Comprehensive Drug Testing, Inc.*, 621 F.3d 1162, 1173 (9th Cir. 2010) (noting 1989 amendment to Rule 41 “was designed to expand the rule’s coverage to include property lawfully seized”); *Savoy v. United States*, 604 F.3d 929, 932-33 (6th Cir. 2010) (“the person seeking return of property must show that they are lawfully entitled to possess it”); *In re Search of Office of Tylman*, 245 F.3d 978, 980 (7th Cir. 2001) (holding “motion may be made whether or not the search was lawful”); *see also* 3A Fed. Prac. & Proc. Crim. § 690 (4th ed.) (“In order to file a motion for return, the seizure need not have been unlawful”).

“Once the movant makes out a prima facie case of lawful entitlement, the burden shifts to the government to show that it has a legitimate reason to retain the property.” *United States v. Lindsey*, 202 F.3d 261 (4th Cir. 2000). This burden must be satisfied by a preponderance of the evidence. *See, e.g., United States v. Dean*, 100 F.3d 19, 21 (5th Cir. 1996). To the extent there is “any factual issue necessary to decide the motion,” the court reviewing a motion for return of property “*must* receive evidence.” Fed. R. Crim. P. 41(g) (emphasis added).

BACKGROUND

1. Audrey Hudson (hereinafter “**Hudson**”) resides at 4728 Idlewilde Rd.; Shady Side, Maryland 20764.
2. The Washington Times, LLC (hereinafter “**The Washington Times**”) is a limited liability company registered under the laws of the State of Delaware, and its principal place of business is located at 3600 New York Ave., NE, Washington, District of Columbia 20002. The Washington Times publishes The Washington Times newspaper.

3. Respondent United States Department of Homeland Security (hereinafter “DHS”) is an agency of the United States federal government.

Hudson’s Work with The Washington Times

4. Hudson is a veteran Washington, D.C. reporter and award winning journalist who was employed with The Washington Times between 1999 and 2009.

5. The Washington Times is a newspaper of general circulation in the District of Columbia, known for its thorough political reporting and opinion pieces by, among others, prominent political leaders.

6. In December 2004, Hudson wrote an investigative story for The Washington Times critical of the Transportation Security Administration (hereinafter “TSA”) and the Federal Air Marshal Service (hereinafter “FAMS”). *See Dress code wearing thin on air marshals*, Wash. Times, Dec. 8, 2004, at A01, *available at* <http://www.washingtontimes.com/news/2004/dec/8/20041208-122555-6114r> (attached hereto as Exhibit A). Hudson reported that a strict dress code for air marshals was compromising their undercover status. *See id.* In March 2005, Hudson wrote another story for The Washington Times that was critical of TSA and FAMS. *See Flight marshal numbers disputed*, Wash. Times, Mar. 3, 2005, at A01, *available at* <http://www.washingtontimes.com/news/2005/mar/3/20050303-123754-2141r> (attached hereto as Exhibit B). The story detailed how air marshals were protecting less than 10 percent of domestic and international flights during the month of December 2004. Hudson wrote a related story for The Washington Times that was published on March 10, 2005. *See Air marshals’ coverage said inflated*, Wash. Times, Mar. 10, 2005, at A09, *available at* <http://www.washingtontimes.com/news/2005/mar/9/20050309-112254-1647r> (attached hereto as Exhibit C). The information that Hudson and others reported regarding deficiencies in aviation security led to a Congressional

investigation of FAMS. See H. Comm. on the Judiciary, 109th Cong., *Plane Clothes: Lack of Anonymity at the Federal Air Marshal Service Compromises Aviation and National Security* (Comm. Print 2006).

7. During the period from 2004-2009, Hudson continued to investigate security and operational deficiencies within FAMS, and throughout TSA and DHS. Hudson authored numerous critical stories regarding these matters that were published by The Washington Times.¹

¹ *Flight security stiffened after failed plot*, Wash. Times, Dec. 27, 2009, at A01; *Airports manual leak stirs concern*, Wash. Times, Dec. 16, 2009, at A05; *Marshal's sex trial seen as threat to air safety; official fears backlash*, Wash. Times, Nov. 6, 2009, at A01; *Feds probe why pilots overshot airport; alcohol, drugs not checked*, Wash. Times, Oct. 24, 2009, at A01; *Screeners get OK for masks in a reversal; U.S. flu cases climb to 155, with 1 death*, Wash. Times, May 2, 2009, at A01; *TSA probes treating of Ron Paul official*, Wash. Times, Apr. 6, 2009, at A01; *Gun program for pilots set for expansion, officials insist; backers take exception to inaccurate editorial*, Wash. Times, Mar. 24, 2009, at A03; *Napolitano inquiring into unionizing of airport screeners*, Wash. Times, Feb. 26, 2009, at A02; *Air Marshal Service aces GAO report; changes spur rebound at the fledgling agency*, Wash. Times, Feb. 14, 2009, at A01; *Whistleblowers seek protection; air marshals who challenged procedures lost their careers*, Wash. Times, Feb. 2, 2009, at A01; *TB data shared too late to stop traveler; GAO finds border open to Mexican*, Wash. Times, Nov. 14, 2008, at A01; *Sheriff probes theft of security laptop; frequent fliers' data put at risk*, Wash. Times, Aug. 13, 2008, at A03; *Missing laptop found, firm eyed; contained air passenger data*, Wash. Times, Aug. 6, 2008, at A03; *Agreement for "respectful" treatment of troops reached*, Wash. Times, July 24, 2008, at A10; *Foreign students labeled "threats"; TSA wording raises alarm*, Wash. Times, June 23, 2008, at A01; *Feingold presses Bush on marshals; checks reform of no-fly list*, Wash. Times, May 2, 2008, at A01; *Air marshals grounded in list mix-ups; share names with terrorism suspects*, Wash. Times, Apr. 30, 2008, at A01; *Activists suspect bias by screeners; video scrutiny of TSA urged*, Wash. Times, Apr. 9, 2008, at A04; *Security flap arises over nipple ring removal*, Wash. Times, Mar. 29, 2008, at A03; *Faulty rules blamed for gun's firing; pilot tried to lock weapon while landing*, Wash. Times, Mar. 28, 2008, at A05; *California airport isolates troops; flight back from Iraq parked 400 yards away*, Wash. Times, Oct. 3, 2007, at A04; *Toys to merit more scrutiny at security; airlines urge fliers to check gadgets with remote controls*, Wash. Times, Oct. 2, 2007, at A07; *TSA screeners found to cheat; probe expands*, Wash. Times, Sept. 28, 2007, at A06; *Airport T-shirt prompts suit; TSA employee asked man to cover Arabic phrase*, Wash. Times, Aug. 11, 2007, at A03; *TSA warns of terror "dry runs" at airports*, Wash. Times, July 26, 2007, at A03; *Security on alert ahead of attacks*, Wash. Times, July 3, 2007, at A01; *Trash find prompts reminder to shred; officials warned on sensitive data*, Wash. Times, June 21, 2007, at A09; *US Airways cites TSA guidelines in response to imams*, Wash. Times, May 31, 2007, at A06; *Report confirms terror dry run; government handling hit*, Wash. Times, May 30, 2007, at A01; *Airports keep security tight over holiday; TSA cautions travelers*, Wash. Times, May 26, 2007, at A01; *TSA hard drive with employee data missing; FBI probes "serious" breach*, Wash. Times, May 5, 2007, at A03; *Imams booted from US Airways flight file lawsuit*, Wash. Times, Mar. 14, 2007, at A03; *Marshals book trans-Atlantic flights; bomb cache, arrest spur tactic*, Wash. Times, Mar. 10, 2007, at A01; *Homeland Security moves to increase armed pilots*, Wash. Times, Feb. 2, 2007, at A03; *Holiday pies won't fly this year; similarities to gels, aerosols seen as security risks*, Wash. Times, Dec. 21, 2006, at A03; *British pilots say no to armed marshals*, Wash. Times, Dec. 17, 2006, at A02; *Muslim pilgrim surged to complain; "airport profiling" seen as concern*, Wash. Times, Dec. 13, 2006, at A01; *Imams seek to settle with airline; Muslim group hired as counsel*, Wash. Times, Dec. 11, 2006, at A01; *Imam disputes tie to Hamas; "true Muslims not terrorists"*, Wash. Times, Dec. 1, 2006, at A01; *Marshals decry imams' charges; fliers may not report suspicions*, Wash. Times, Nov. 29, 2006, at A01; *How the imams terrorized an airliner; clerics protest bump from Flight 300*, Wash. Times, Nov. 28, 2006, at A01; *Marshals kept off plane at Reagan; team "denied boarding" after gate agent asks for wrong paperwork*, Wash. Times, Nov. 20, 2006, at A01; *Ex-air marshal to sue over "SSI" label*, Wash. Times, Oct. 30, 2006, at A04; *Report hits preparedness to protect transport systems; absence of plan seen hurting TSA functioning*,

8. In the course of conducting her investigation of security and operational deficiencies within DHS, TSA and FAMS, Hudson communicated with a number of confidential sources who were current or former federal government employees. The names of certain of these confidential sources, and the information they provided, were recorded or maintained by Hudson in file folders. Hudson also maintained in these file folders her research notes, drafts of news articles, materials received from confidential sources, and communications with her editors at The Washington Times. Hudson stored five of these working file folders in her home office at her residence in Shady Side, Maryland.

Wash. Times, Oct. 6, 2006, at A06; *Screeners allow small amounts of liquid; "common-sense approach" taken to security on airlines*, Wash. Times, Sept. 26, 2006, at A03; *Air marshals' injuries raise lawmaker's concern*, Wash. Times, Sept. 21, 2006, at A01; *Air marshals ousted over job injuries; federal force cut in half; safety policies delayed*, Wash. Times, Sept. 20, 2006, at A01; *Airline-security incidents seen as terrorist feints*, Wash. Times, Sept. 4, 2006, at A01; *12 on U.S. flight detained in Amsterdam; passengers attempted to use cell phones after takeoff*, Wash. Times, Aug. 24, 2006, at A13; *Radio chips leave visa data unsecured; Homeland vows to safeguard systems*, Wash. Times, Aug. 22, 2006, at A04; *Flight passengers describe hours of bizarre behavior; woman cited al Qaeda, urinated*, Wash. Times, Aug. 18, 2006, at A05; *United plane diverted from Dulles; military jets escort London flight to Boston airport after disruption*, Wash. Times, Aug. 17, 2006, at A03; *Terror roundup widens; it's still safe to fly, says DHS chief*, Wash. Times, Aug. 12, 2006, at A01; *New chief targets air marshal morale but rank and file see few results*, Wash. Times, Aug. 6, 2006, at A02; *Air marshals warn their bullets are too powerful; House panel completes probe of in-flight "danger"*, Wash. Times, June 13, 2006, at A01; *TSA tries to classify report; air marshals' policies rapped*, Wash. Times, June 8, 2006, at A11; *Probe finds air marshals at risk; dress code compromises anonymity*, Wash. Times, May 20, 2006, at A01; *TSA protects report on feared terror practice*, Wash. Times, Apr. 25, 2006, at A03; *Chertoff criticized over budget lawmakers fret about shortfalls on security needs*, Wash. Times, Feb. 17, 2006, at A07; *Air marshals wait for new director; many eyed Border Patrol move*, Wash. Times, Jan. 19, 2006, at A03; *Air marshal chief resigns to "start enjoying life"; salutes "dedication and performance" of 2,000-strong force*, Wash. Times, Jan. 6, 2006, at A03; *Relaxing of airline screening defended aim is to lessen staff workload*, Wash. Times, Dec. 28, 2005, at A04; *Chertoff seeks end of failed policies; alien detention policy revisited*, Wash. Times, Dec. 21, 2005, at A09; *White House backs marshals in shooting*, Wash. Times, Dec. 9, 2005, at A06; *Air marshals kill passenger; boast of bomb on plane provokes shooting in Miami*, Wash. Times, Dec. 8, 2005, at A01; *30,000 fliers seek watch-list removal*, Wash. Times, Dec. 8, 2005, at A11; *GAO faults results of anti-terror training*, Wash. Times, Dec. 4, 2005, at A02; *U.S. seeks to let air passengers keep shoes on agency calls for effective, but hassle-free technology*, Wash. Times, Aug. 10, 2005, at A01; *Air marshals sue Homeland Security over rules*, Wash. Times, June 4, 2005, at A02; *Passengers describe flight as a terrorist dry run; officials questioning Syrians didn't notice their expired visas*, Wash. Times, Apr. 27, 2005, at A09; *Marshal files suit, gets his job back, had criticized federal agency*, Wash. Times, Apr. 26, 2005, at A12; *Bills would ban sales of guns with watch lists; critics see breach of Second Amendment*, Wash. Times, Apr. 8, 2005, at A04; *GAO to release evaluation of Secure Flight system; lawmakers wary of screening using personal, consumer data*, Wash. Times, Mar. 28, 2005, at A03; *Private aircraft seen as new terror target*, Wash. Times, Mar. 15, 2005, at A04; *Pilots group insists safety since 9/11 still inadequate*, Wash. Times, Mar. 11, 2005, at A11; *Air marshals' coverage said inflated Ex-FAA official claims agency is fudging figures*, Wash. Times, Mar. 10, 2005, at A09; *Flight marshal numbers disputed Agents criticize data "padding"*, Wash. Times, Mar. 3, 2005, at A01; *Board will review air marshal dress code, complaints*, Wash. Times, Feb. 4, 2005, at A05; *"Inch of snow" shuts down air marshals operation grounded for 8 hours*, Wash. Times, Jan. 21, 2005, at A01; *Agency drops nondisclosure rule for workers training set on unclassified data*, Wash. Times, Jan. 18, 2005, at A07; *Dress code wearing thin on air marshals*, Wash. Times, Dec. 8, 2004, at A01; *Scouting jetliners for new attacks*, Wash. Times, July 22, 2004, at A01.

9. The notes, draft articles, and other documents prepared or obtained by Hudson in the course of researching, investigating or authoring news stories for The Washington Times are the property of The Washington Times.

Warrant Issued to Search Hudson's Residence

10. On August 5, 2013, a district court in Haverford County Maryland issued a warrant authorizing Maryland State Police to enter and search Hudson's residence at 4728 Idlewilde Road, Shady Side, Anne Arundel County, Maryland 20764. *See* Warrant (attached hereto as Exhibit D). On information and belief, the State Police were solicited to procure the warrant by one or more officials of the U.S. Coast Guard Investigative Service (hereinafter "CGIS"), a component of DHS.

11. The Warrant was issued on the basis of an affidavit alleging that Hudson's spouse, Paul Roland Flanagan (hereinafter "**Flanagan**") had violated various firearm possession laws. *See* Affidavit (attached hereto as Exhibit E). The affiant officer asserted that Flanagan was "prohibited from possessing any firearms due" to two 30-year-old criminal convictions. Affidavit [Ex. E] at 6.

12. The Affidavit did not assert any wrongdoing on Hudson's part. Nor does the Affidavit set forth any basis for searching or seizing journalist's work product belonging to Hudson or The Washington Times.

13. The Warrant authorized the Maryland State Police to do the following:
- a. Enter and search 4728 Idlewilde Rd, Shady Side, Anne Arundel County, Maryland 20764;
 - b. Seize all evidence to include:
 - i. "All instrumentalities of the afore-mentioned crimes";

- ii. Any and all firearms and firearm accessories/parts;
 - iii. Ammunition, magazines, holsters, and firearm related equipment;
 - iv. Receipts and purchase orders of firearms and firearm accessories;
 - v. Indicia of occupancy of the residence; and
 - vi. Contraband liable to seizure under Maryland law;
- c. Seize and/or view “all evidence including ledgers, logs, telephone”;
 - d. Seize and examine electronic data; and
 - e. Seize personal property to establish the identity of the person(s) in control of the premises. *See* Warrant [Ex. D] at 1.

14. The Warrant did not, however, authorize the search or seizure of records, files, or documents unrelated to Flanagan’s alleged firearms possession. *See id.* Plainly, the Warrant did not authorize the search or seizure of journalist’s work product belonging to Hudson and The Washington Times. *See id.*

August 6th, 2013 Execution of the Warrant

15. At approximately 4:30 a.m. on August 6, 2013, State Police conducted a search of Hudson’s residence. The State Police were accompanied by a federal agent with the CGIS named Miguel Bosch (hereinafter “**Bosch**”). On information and belief, prior to joining the CGIS Bosch served as a federal air marshal within FAMS.

16. Hudson’s residence is a two-story, three bedroom house. All of the bedrooms are located on the second level of the residence. One of the bedrooms is used as a master bedroom and another is used as a guest room.

17. The remaining bedroom is used by Hudson as a home office and work area. There is a desk with drawers in Hudson’s home office. There are also several filing cabinets and

boxes in the area adjacent to Hudson's desk, and in a closet within Hudson's home office. The desk, filing cabinets and boxes contained numerous file folders, documents, photographs, tablets and other materials. Of the numerous file folders stored in the filing cabinets and boxes within Hudson's home office on August 6, 2013, at least five of the file folders contained journalist's work product relating to Hudson's investigative reporting for The Washington Times. As described below, those five file folders contained materials relating to Hudson's investigation of security and operational deficiencies within DHS, TSA and FAMS.

18. Shortly after the early morning search began, CGIS Agent Bosch asked Hudson if she was "one and the same Audrey Hudson" who had written news stories about FAMS for The Washington Times. Hudson responded that she was The Washington Times reporter who had written these news stories. Bosch also named certain individuals who were working, or had worked, within TSA and/or FAMS, and asked Hudson if she was familiar with those individuals.

19. The State Police and Bosch completed their search of Flanagan's and Hudson's residence in approximately three hours. The State Police confiscated firearms, ammunition and firearm accessories as specified in the Warrant. In addition, the law enforcement officers seized "[m]iscellaneous paperwork located in upstairs office," as described in the inventory prepared by the State Police. At the time of the search, Hudson believed that this "miscellaneous paperwork" referred to pieces of mail bearing Flanagan's name that one of the State Police officers had indicated he would seize as evidence of Flanagan's occupancy of the premises. In fact, this "miscellaneous paperwork," as described below, was five file folders containing journalist's work product relating to Hudson's investigation of security and operational deficiencies within DHS, TSA and FAMS.

20. The law enforcement officers who searched Hudson's office left it in disarray, thus making it impossible for Hudson to ascertain what, if anything, had been taken. Filing cabinet drawers and boxes were pulled open, and all of the filing cabinets and boxes that had been in the closet were moved from their original locations and placed in the center of the room.

The Washington Times Files Seized from Hudson's Residence

21. On or about September 5, 2013, CGIS Agent Bosch contacted Flanagan to inform him that Hudson could come to Bosch's office and retrieve the "files" taken from Hudson's home office during the August 6 search. Until this time, Hudson was not aware that any files or documents, other than a few pieces of U.S. mail addressed to Flanagan, had been seized from her residence. Flanagan told Bosch to call Hudson directly.

22. When Bosch called Hudson, she demanded to know what files had been removed from her home office and the reason her files had been seized. Bosch informed Hudson that he had taken the files to verify with TSA whether it was "legitimate" for Hudson to have the information contained in those files.

23. It was not until Bosch returned five file folders to Flanagan on September 10, 2013 that Hudson learned what specific documentary materials were seized by the law enforcement officers during the August 6 search of her residence. The first file folder, labeled "FAMS Ballistics/PDA," contained information regarding a story Hudson had written about the firearms used by FAMS agents during air travel. *See Air marshals warn their bullets are too powerful*, Wash. Times, June 13, 2006, at A01, available at <http://www.washingtontimes.com/news/2006/jun/13/20060613-123248-2105r> (attached hereto as Exhibit F). One or more of the individuals named in documents within this file folder are confidential sources who were

working, or had worked within DHS, TSA, and/or FAMS. The documents also contained information that these sources had provided to Hudson.

24. The second file folder, labeled "FAMS," contained Hudson's general research regarding FAMS operations and FAMS press relations. The file folder contained communications from one or more confidential sources.

25. The third file folder, labeled "Redacted Report FAMS," contained a redacted, publicly available copy of the U.S. House of Representatives investigative report regarding FAMS. This investigation, as noted above, was conducted following Hudson's story in The Washington Times which detailed how federal air marshals were protecting less than 10 percent of domestic and international flights during the month of December 2004. *See Flight marshal numbers disputed* [Ex. B]. Additionally, the file contained a memorandum from Hudson to an editor at The Washington Times outlining Hudson's concern that some of her confidential sources were being retaliated against by DHS, TSA and/or FAMS. Hudson also authored a story for The Washington Times regarding retaliatory action that had been taken by DHS against whistleblowers within FAMS. *See Marshal files suit, gets his job back, had criticized federal agency*, Wash. Times, Apr. 26, 2005, at A12, available at <http://www.washingtontimes.com/news/2005/apr/25/20050425-095008-1578r> (attached hereto as Exhibit G). One or more of the individuals named in documents within this file folder are confidential sources who were working, or had worked within DHS, TSA, and/or FAMS.

26. The fourth file folder, labeled "Syrian Musicians," contained information regarding suspicious activities of passengers during flights. Hudson authored several stories for The Washington Times regarding these incidents. *See Scouting jetliners for new attacks*, Wash. Times, July 22, 2004, at A01, available at <http://www.washingtontimes.com/news/2004/jul/>

21/20040721-101403-1508r; *Passengers describe flight as a terrorist dry run*, Wash. Times, Apr. 27, 2005, at A09, available at <http://www.washingtontimes.com/news/2005/apr/26/20050426-105951-8168r>; *TSA protects report on feared terror practice*, Wash. Times, Apr. 25, 2006, at A03, available at <http://www.washingtontimes.com/news/2006/apr/24/20060424-104210-4880r> (attached hereto as Exhibit H). The first two documents in the file folder are letters on DHS letterhead releasing information to Hudson pursuant to a Freedom of Information Act (“FOIA”) request. Included with these letters were reports and documents Hudson had obtained from DHS under FOIA and which are clearly labeled as such.

27. The fifth and last file folder, labeled “Marshal #s,” contained information Hudson acquired from confidential sources regarding the number of air marshals FAMS employed during certain time periods. Hudson authored a story for The Washington Times regarding this topic. *See Air marshals’ coverage said inflated* [Ex. C]. One or more of the individuals named in documents within this file folder are confidential sources who were working, or had worked within DHS, TSA, and/or FAMS.

28. When the files folders were returned to Hudson, they were contained in a clear evidence bag, along with a Maryland State Police Chain of Custody Log. *See Custody Log* (attached hereto as Exhibit I). The Custody Log identifies the five file folders as “Item #27 Misc. Documents.” *See id.*

29. The Custody Log contained only four entries, two of which record the seizure of the files on August 6, 2013 and their delivery to the State Police Evidence Room the same morning. *See id.* The Custody Log does not indicate that any of the file folders were ever removed from the State Police Evidence Room for inspection or analysis by the Maryland authorities in connection with their investigation of alleged firearms violations by Flanagan. *See*

id. Rather, the two other entries on the Custody Log show that only CGIS Agent Bosch accessed the file folders. *See id.* The Custody Log shows that Bosch first removed the file folders from the State Police Evidence Room on September 3, 2013, nearly a month after the initial seizure, and returned the file folders to the Evidence Room an hour later. *See id.* The Custody Log also shows that the file folders were released by State Police Evidence Room personnel to Bosch on September 5, 2013, the date on which Bosch notified Flanagan that Hudson could retrieve her files from Bosch at his office.

30. The Custody Log does not show, and it is not otherwise known, whether Bosch or other law enforcement officers made photocopies of the documents contained in the five file folders. Nor is it known whether Bosch or other law enforcement officers made notes of – or otherwise recorded in other CGIS, DHS, TSA or FAMS reports, files or communications – the confidential information contained in the five file folders seized from Hudson’s home office. Finally, it is unknown whether CGIS Agent Bosch seized other file folders or information not recorded in the Custody Log.

ARGUMENT

“Federal magistrates should be aware that unrestricted power of search and seizure [can] be an instrument for stifling liberty of expression. Where the materials sought to be seized may be protected by the First Amendment, the requirements of the Fourth Amendment must be applied with scrupulous exactitude.” *Zurcher v. Stanford Daily*, 436 U.S. 547, 564 (1978). Following the Supreme Court’s decision in *Zurcher*, Congress enacted the Privacy Protection Act of 1980 which made it unlawful “for a government officer or employee, in connection with the investigation or prosecution of a criminal offense, to search for or seize any work product

materials possessed by a person reasonably believed to have a purpose to disseminate to the public a newspaper.” 42 U.S.C. § 2000aa (West 2013).

It is well-established in this Circuit that “[w]hen a search is conducted pursuant to a warrant, it ‘is limited in scope by the terms of the warrant’s authorization.’” *United States v. Williams*, 592 F.3d 511, 519 (4th Cir. 2010); *see also United States v. States v. Phillips*, 588 F.3d 218, 223 (4th Cir. 2009). Although “a search warrant is not to be assessed in a hypertechnical manner,” *United States v. Srivastava*, 540 F.3d 277, 289 (4th Cir. 2008), “[w]hether seized evidence falls within the scope of a warrant’s authorization must be assessed solely in light of the relation between the evidence and the terms of the warrant’s authorization,” *Williams*, 592 F.3d 511, 520-21 (4th Cir. 2010); *United States v. Oloyede*, 982 F.2d 133, 141 (4th Cir. 1992) (“government may not seize legitimate files even when it has evidence of an extensive fraud scheme in one particular area of the business”); *United States v. Berlin*, 707 F. Supp. 832, 838 (E.D. Va. 1989) (finding warrant authorizing seizure of documents related to defendant’s procurement of two defense contracts did not authorize seizure of notebook that contained notes concerning defense contract not listed in warrant).

Thus, when “documents not covered by the warrant are improperly seized, the government should promptly return the documents.” *Williams*, 592 F.3d at 520; *see also Andresen v. Maryland*, 427 U.S. 463, 482 n.11 (1976) (“to the extent such papers were not within the scope of the warrants or were otherwise improperly seized, the State was correct in returning them voluntarily and the trial judge was correct in suppressing others”).

The seizure of the file folders containing Hudson’s journalist’s work product and proprietary information belonging to The Washington Times was unlawful for a number of reasons. First, no reasonable reading of the Warrant gave Bosch or the State Police the authority

to seize the file folders. The Warrant, by its own terms, permitted only the search for and seizure of firearms, related accessories, or other evidence of the allegedly unlawful possession of firearms by Flanagan. Nothing on the face of the file folders indicated that the contents related in any way to Flanagan's possession of firearms, so there was no basis for the law enforcement officers to open and inspect the file folders during the search, much less to seize the contents. Simply put, the inspection and seizure of these file folders fell outside the scope of the Warrant. *See Williams*, 592 F.3d at 520.

Second, the contents of the file folders plainly related to Hudson's work as a journalist. When the search commenced, Bosch confirmed that Hudson was a journalist and that she had written stories about FAMS. Thus, he and the other law enforcement officers conducting the search were on notice that Hudson's files may contain privileged journalist's work product that was beyond their authority to seize. 42 U.S.C. § 2000aa (West 2013) (it is unlawful "for a government officer . . . to search for or seize" such work product). When Bosch returned the originals of the file folders a month after their seizure, he sought to justify his unlawful seizure of those materials by claiming that he needed to determine with TSA whether it was "legitimate" for Hudson to have the information contained in her file folders. This proffered justification was pure pretext. First, to the extent that one of the file folders contained government documents, it was clear on the face of those documents that they were obtained by Hudson pursuant to a FOIA request. The documents were attached to official DHS letterhead and FOIA coversheets indicating that Hudson had obtained the documents through appropriate and official channels.

In any event, the vast majority of the materials contained in the file folders were clearly not government documents at all. The file folders are full of handwritten or typewritten notes and memoranda Hudson had produced in her work for The Washington Times. Even a cursory

review would reveal that these materials were not government property but rather were the intellectual property of The Washington Times.

Given Bosch's questions during the execution of the Warrant surrounding Hudson's work as a journalist for The Washington Times, the complete lack of any relationship between Hudson's work product and the alleged offense for which the Warrant was issued, and the timeline provided by the Custody Log, Movants have substantial reason to believe that the information contained in the five file folders seized from Hudson's home office has been disseminated to or within CGIS, DHS, TSA, FAMS and/or possibly other federal authorities.

"Movants are persons aggrieved by an unlawful search and seizure of property or by the deprivation of property." Fed. R. Civ. P. 41(g). The materials seized from Hudson's home office were property belonging to Hudson and The Washington Times which they were lawfully entitled to possess. The burden now shifts to the government to show that it either no longer possesses the illegally seized materials, including any information derived therefrom, or that there is a legitimate reason for the government to retain the information. Given the substantial risk that CGIS Agent Bosch has retained or disseminated information derived from the illegally seized materials, the Court must take testimony from Agent Bosch in order to determine whether that has occurred. Fed. R. Crim. P. 41(g).

CONCLUSION

For all of the foregoing reasons, Hudson and The Washington Times respectfully request that this Court grant the Motion for Return of Property. Further, Movants request that this Court direct the government to return all photocopies of the illegally seized documents, and to submit to the Court all records of any kind in the possession or control of the government containing

information derived from the unlawfully seized materials so that those records may be destroyed under the Court's supervision.

REQUEST FOR HEARING

There are factual issues incident to this Motion for Return of Property that require this Court to receive and review evidence. *See* Fed. R. Crim. P. 41(g). Pursuant to Local Rule 105.6, Movants hereby request a hearing to present oral argument and evidence on this Motion for Return of Property.

Respectfully submitted,

Dated: November 21, 2013

By:



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Audrey Hudson
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion for Return of Property, Memorandum in Support of Motion for Return of Property, and Order Granting Motion for Return of Property was served via Federal Express, overnight delivery, on this 21st day of November, 2013 upon:

Allen F. Loucks,
Assistant U.S. Attorney
Chief, Civil Division
36 South Charles Street
Baltimore, MD 21201 - 2692


Charles S. Leeper

EXHIBIT A

NewsRoom

12/8/04 Wash. Times (D.C.) A01
2004 WLNR 13584503

Washington Times (DC)
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December 8, 2004

Section: PAGE ONE

Dress code wearing thin on air marshals Spot check prompts firing threat

By Audrey Hudson, THE WASHINGTON TIMES

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.

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.

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.

20041208084632-120804

--- Index References ---

News Subject: (Economics & Trade (1EC26); Women's Businesses (1WO64))

Region: (USA (1US73); Americas (1AM92); Florida (1FL79); North America (1NO39); New York (1NE72))

Language: EN

Other Indexing: (COMPLIANCE; FAMS; FEDERAL AIR MARSHAL SERVICE; MIAMI FAMS; SENATE; THANKSGIVING; THANKSGIVING DAY; WASHINGTON TIMES (THE)) (Thomas Quinn)

Word Count: 881

End of Document

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NewsRoom

EXHIBIT B

NewsRoom

3/3/05 Wash. Times (D.C.) A01
2005 WLNR 3238629

Washington Times (DC)
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March 3, 2005

Section: PAGE ONE

Flight marshal numbers disputed Agents criticize data 'padding'

By Audrey Hudson, THE WASHINGTON TIMES

Flight reports by the Federal Air Marshal Service show that federal agents were on less than 10 percent of the nation's flights in December, a number several air marshals say was inflated to make it appear to Congress that commercial air travel is better protected than it is.

"The numbers reported to headquarters come back higher than originally reported and are sometimes upwards of double the number of what is actually flown," an air marshal said. "Everyone knows they are padding the numbers."

FAMS flight reports for December, obtained by The Washington Times, show air marshals were on about 9.4 percent of the nearly 30,800 daily domestic and international flights.

But the marshals say that figure is impossible, because more flights are reported as having armed agents aboard than the service's 21 field offices can deploy.

The marshals say the numbers are manipulated upward to make it appear as if the agency has met staffing levels that Congress mandated.

Congress members and officials at the Government Accountability Office are the only people outside the Homeland Security Department privy to the number of air marshals and information about the flights they protect.

FAMS spokesman Dave Adams initially refused to comment on the methods used to count missions unless a page of the monthly reports containing the data was faxed to him for verification.

"When CBS had accusations about President Bush's reserve-duty time, CBS gave them the courtesy to review the document before commenting on it, and I would like the same courtesy," Mr. Adams said.

After reviewing the document, he only said: "For obvious security and operational reasons, we never comment on the specific locations or numbers of federal air marshals employed around the country on any given day."

"At the same time, we can neither confirm nor deny the accuracy of the information provided to reporters purporting to detail the locations and deployment of air marshals," he said.

FAMS has never divulged the number of armed agents protecting planes, except to say that it is in the thousands.

The December reports include the number of flights from all major airports on which air marshals depart, which The Times did not reveal as requested by the Homeland Security Department because of national security reasons.

The Times received some of the flight reports on Monday, the day U.S. intelligence and security officials said new information indicates that al Qaeda leader Osama bin Laden has asked Iraq-based terrorists to focus future attacks on targets inside the United States.

The officials said al Qaeda wants to rival its September 11 attacks, in which almost 3,000 people were killed in terrorist plane hijackings.

According to the flight reports, the number of missions air marshals flew on any given day ranged from a low of slightly more than 2,000 to as many as 3,400.

"The actual flight numbers are artificially high to give a perception that the aviation transportation system is actually better protected by air marshals than what it is. But we're suffering from shortfalls in manpower because of mass exodus of marshals in the last two years," the first marshal said.

The marshals also say the number is inflated because agents who leave the service but remain employed by the federal government and can be used by FAMS are still counted as marshals, as are Border Patrol agents used during peak travel periods.

At one time, FAMS employed the 4,000 agents mandated by Congress, but the number has been halved, marshals say. Based on the number of guns issued, there are about 2,200 marshals stationed nationwide to fly seven days a week.

During Senate hearings on the September 11 commission report in the fall, Sen. Barbara Boxer, California Democrat, questioned whether there has been a decrease in the number of air marshals protecting aircraft and demanded that FAMS provide her office with data.

Mrs. Boxer's office did not return calls last night.

Marshals always travel in teams - a minimum of two agents and sometimes as many as four per plane. This means a minimum of 1,100 teams protect domestic and international flights. With sick days, regular days off, vacation and medical leave, it is statistically impossible to cover even the minimum number of flights listed by the report on any given day, the marshals say.

"The numbers don't add up; it's way too much," a marshal said. "Several field offices have complained about it and were told to shut up. This is a scam."

More than 2,600 flights were listed as covered on Christmas Eve, 2,039 on Christmas Day and 2,893 on New Year's Eve.

"The numbers are impossible," said another air marshal.

20050303111004-030305

--- Index References ---

News Subject: (Violent Crime (1VI27); Crime (1CR87); Social Issues (1SO05); Government (1GO80))

Industry: (Homeland Security (1HO11); Security (1SE29))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (CBS; CONGRESS; FAMS; FEDERAL AIR MARSHAL; GOVERNMENT ACCOUNTABILITY OFFICE; HOMELAND SECURITY DEPARTMENT; WASHINGTON TIMES (THE); TIMES) (Adams; Barbara Boxer; Boxer; Bush; California Democrat; Christmas Eve; Dave Adams; Qaeda)

Word Count: 958

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EXHIBIT C

NewsRoom

3/10/05 Wash. Times (D.C.) A09
2005 WLNR 3718496

Washington Times (DC)
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March 10, 2005

Section: NATION

Air marshals' coverage said inflated Ex-FAA official claims agency is fudging figures

By Audrey Hudson, THE WASHINGTON TIMES

A former Transportation Department inspector general says the Federal Air Marshals Service apparently is inflating the number of flights it protects while reducing the number of flying officers, repeating failures that left only 33 marshals employed on September 11.

Mary Schiavo, who headed the investigative office from 1990 to 1996, said the previous operator of FAMS, the Federal Aviation Administration, began slashing the number of marshals in the 1980s and "robbed" the funding for general budget items.

"This is more of the same: They are betting that under the sensitive secure information guidelines, no one would ever find out because they made it all secret," said Ms. Schiavo, who resigned from the FAA after blowing the whistle on lax airport and airplane security.

In the 1990s, FAA officials steadily reduced the ranks of air marshals, maintaining the "impression" of security was the main deterrent to terrorists, and used the money for other things, she said in an interview with The Washington Times.

"They said, 'Look, people don't know how many [marshals] there are.' It's the appearance, the impression that matters. The government's opinion was, it's OK to lie about it."

The number of air marshals and which flights they protect is classified as "sensitive security information," but unclassified reports obtained by The Washington Times indicate that currently fewer than 10 percent of flights have armed agents aboard. And several marshals say that number is inflated to dupe Congress into believing its mandates for protecting commercial air travel have been met.

"This was supposed to change after September 11, but it doesn't look like it has. It's like September 11 never happened," said Ms. Schiavo, who is now a lawyer with the South Carolina firm of Motley Rice. She represents passengers and crews involved in air crashes, including some victims of the September 11 attacks.

The air marshal ranks swelled to nearly 4,000 after the September 11 attacks, but based on the number of guns issued, several marshals estimate only 2,200 marshals are available to protect 30,800 daily domestic and international flights.

FAMS spokesman Dave Adams said Congress approved another \$50 million this year for new hires and some promotions have been made, and that they expect more hires in the next few months.

"Both the Congress and Homeland [Security] Department know our figures and percentage of flights that we're on, and we're not manipulating our figures at all," Mr. Adams said.

"We have not been under the Transportation Department in several years, so [Ms. Schiavo's] knowledge does not really reflect the present-day FAMS program."

Ms. Schiavo's views on the safety of ValueJet before a crash in July 1996 led to some congressional criticism and demands to review her records. After resigning, she wrote a book on airport safety titled "Flying Blind, Flying Safe."

20050310100135-031005

---- Index References ----

News Subject: (Government (1GO80))

Industry: (Transportation (1TR48); Aerospace & Defense (1AE96); Air Transportation (1AI53); Homeland Security (1HO11); Air Safety (1AI68); Security (1SE29); Airports (1AI61); Passenger Transportation (1PA35))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (CONGRESS; FAA; FAMS; FEDERAL AIR MARSHALS SERVICE; FEDERAL AVIATION ADMINISTRATION; HOMELAND [SECURITY] DEPARTMENT; TRANSPORTATION DEPARTMENT) (Adams; Dave Adams; Mary Schiavo; Schiavo)

Word Count: 594

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NewsRoom

EXHIBIT D

IN THE CIRCUIT/DISTRICT COURT FOR HARFORD COUNTY, MARYLAND
SEARCH AND SEIZURE WARRANT

TO: Trooper First Class V. Hodgkin of the Maryland State Police or any Police Officer.

Upon reviewing the Application and the accompanying Affidavit of TFC V. Hodgkin of the Maryland State Police, which are incorporated into this Warrant, I find there exists probable cause to issue this Search and Seizure Warrant. You are therefore commanded with the necessary and proper assistants to search forthwith the following residence/person and/or motor vehicle and seize the following specified items:

A. Enter and Search:

B. 4728 Idlewilde Rd, Shady Side, Anne Arundel County, Maryland 20764- The residence is described as a two story, single family. The exterior construction of the residence consists of tan in color siding and brown shingled roof. There is an entrance to the residence with a white front door with white trim. The front door to the residence is located on a porch with six (6) steps. There are two large windows located to the right sides of the front door. The numbers "4728" are located vertically on the left hand railing for the front porch. The driveway approaches the front right side of the residence. There is also a flag pole located on the north side of the residence. Your Affiant has personally observed and can identify the aforementioned residence.

C. Seize all evidence to include:

1. All instrumentalities of the afore-described crimes
2. Any and all firearms, their accessories and/or parts,
3. Ammunition; magazines; holsters; firearm cases; packaging and boxes that contained those items; cleaning kits; documentation in the form of receipts and purchase orders for those firearms, ammunition, magazines, firearm cases, holsters, and cleaning kits; and telephone records regarding the acquisition of firearms or accessories.
4. Indicia of occupancy, residency, and/or ownership of the premises described above, including, but not limited to, utility, telephone bills, keys and canceled envelopes.
5. Contraband found liable to seizure under the laws of this State.

C. Seize and/or view all evidence including ledgers, logs, telephone.

D. Seize and examine by persons qualified to conduct said examination and in a laboratory setting any and all electronic data processing and storage devices, computers and computer systems, including central processing units; internal and peripheral storage devices such as fixed disks, external hard disks, floppy disk drives and diskettes, tape drives and tapes, optical storage devices, optical readers and scanning devices, CD ROM drives and Compact Disks (CD) and related hardware, Operating logs, software and operating instructions, operating manuals, computer materials, software and programs used to communicate with other terminals via telephone or other means, and any computer modems, monitors and printers, personal data storage devices such as palm pilots/blackberry's, etc which may contain, has been used to contain electronic communications;

E. Seize articles of personal property tending to establish the identity of the person(s) in control of the premises and vehicles to be searched;

1. Upon execution of this Warrant, you shall leave an inventory of the items seized, together with a copy of this Warrant, Application, and supporting Affidavit (unless previously sealed by court order) with the person from whom the items are seized, or with the person in charge

IN THE CIRCUIT/DISTRICT COURT FOR HARFORD COUNTY, MARYLAND
SEARCH AND SEIZURE WARRANT

of the premises, or if neither of those persons is present, then in a conspicuous place on the premises.

2. You shall return this Warrant to me or, if I am not available, to any judge of this Court within 10 days of the date of its execution, along with verified inventory of the items seized.
3. If this Warrant is not executed within 15 days of its issuance, it expires and shall become null and void. This Warrant may be executed at anytime of the day or night.

Hereof, fail not at your peril and have you then and there this warrant. Given under my hand this 8th day of August in the year of our Lord, 2013.



JUDGE'S SIGNATURE

Wanda Ruthel Lopez

JUDGE'S PRINTED NAME

W

EXHIBIT E

HOME OWNER

TFC HODGIN #5228

443-324-6462

APPLICATION/AFFIDAVIT FOR SEARCH AND SEIZURE WARRANT

TO: The Honorable Mr. Robert [Signature], Judge
of the District Court, Harford County, State of Maryland.

YOUR APPLICANT, the undersigned, herewith make application for issuance of Search and Seizure Warrants, in that there is probable cause to believe that the laws of the State of Maryland relating to Restrictions on Possession of a Regulated Firearm, as contained in Public Safety Article, Title 5 Section 133(b) and Federal Law, United States Code, Title 18, Section 922(g), relating to Restrictions on Possession of all types of firearms and ammunition; Federal 'Gun Control Act of 1968, and Title 18, United States Code, Chapter 44, including but not limited to Section 922 'Unlawful acts ...' have been and are being violated and that evidence of such violations are on the following described person and/or in the following described premises.

1. FLANAGAN, Paul Roland, W/M, height of 5'08", weight of 170 pounds, blue eyes, blond hair, whose date of birth is August 21, 1959, Maryland Drivers License number F-452-676-744-653, Social Security Number 217-74-0014, who resides at 4728 Idlewilde Rd, Shady Side, Anne Arundel County, Maryland 20764, FBI# 924435DA0, State ID # 920761
2. 4728 Idlewilde Rd, Shady Side, Anne Arundel County, Maryland 20764- The residence is described as a two story, single family. The exterior construction of the residence consists of tan in-color siding and brown shingled roof. There is an entrance to the residence with a white front door with white trim. The front door to the residence is located on a porch with six (6) steps. There are two large windows located to the right sides of the front door. The numbers "4728" are located vertically on the left hand railing for the front porch. The driveway approaches the front right side of the residence. There is also a flag pole located on the north side of the residence. Your Affiant has personally observed and can identify the aforementioned residence.

EXPERTISE:

Your affiant Trooper First Class Victor Hodgin of the Maryland State Police, Criminal Investigation Division - Firearms Task Force. Your Affiant, is a duly sworn member of the Maryland State Police, and has been a member since October 2006. Your Affiant successfully completed a six (6) month course of training that included courses of instruction pertaining to the identification and detection of Controlled Dangerous Substances. During this instruction, Your

[Handwritten signature]

APPLICATION/AFFIDAVIT FOR SEARCH AND SEIZURE WARRANT

Affiant Hodgin was able to examine numerous types of Controlled Dangerous Substances including Marijuana, Cocaine/Crack, Heroin, and Phencyclidine (PCP.) Further, during this training your affiant received instruction in the Laws and Regulations of Search and Seizure Warrants. Your affiant graduated from the Maryland State Police Academy on April 27, 2007, and is certified by the Maryland Police Commission as a Police Officer.

Upon graduation from the Maryland State Police Academy, your Affiant has performed uniformed duties providing motor vehicle law enforcement and criminal investigations for three (3) years. Your Affiant has worked investigations for crimes such as Malicious Destruction of Property, 2nd Degree Assault, and Thefts, and Controlled Dangerous Substance Violations. Your Affiant has spent a total of six (6) months as an investigator assigned to Criminal Investigative Units at the Maryland State Police Glen Burnie Barrack. That as a part of your affiant's duties as a uniformed trooper, your affiant received mandated in-service training in addition to that taught in the police academy which dealt with the following: The Interdiction of Controlled Dangerous Substances on the Highways of Maryland, Contemporary Drug and Legal Issues, and the Identification of Controlled Dangerous Substances. Your affiant has further attended required In-Service training and seminars on the investigation of criminal laws, every year since 2007. In addition to the above training your affiant has attended and completed training and schools directly related to the investigation of criminal activity. A portion of this training dealt with the investigation of Theft, firearms trafficking, and drug offenses. Your affiant has attended and completed an interview and interrogation course.

Your Affiant has effected the criminal arrests of numerous persons with charges ranging from possession of drug paraphernalia, possession of Marijuana, possession of Cocaine, possession of Heroin, to possession with intent to distribute Marijuana. Your Affiant's testimony in said arrests has been accepted by the courts of the State of Maryland and has resulted in the conviction of said persons for violations of the Controlled Dangerous Substance Act of the State of Maryland.

Your Affiant has handled, packaged and field tested various types of Controlled Dangerous Substances and Firearms. Further, your affiant has assisted into firearms and drug investigations, and seized monies and other assets in the course of investigating narcotic and/or firearms cases.

APPLICATION/AFFIDAVIT FOR SEARCH AND SEIZURE WARRANT

Your Affiant graduated cum Laude from the York College of Pennsylvania with a Bachelor of Science Degree in Criminal Justice. The Criminal Justice program at aforementioned college includes instruction for Criminology, Narcotics Trafficking, Criminal Law, Death Investigation, and Judicial Process. Your Affiant has furthered his investigative training by enrolling in online courses offered by the Multi- Jurisdictional Counterdrug Task Force through St. Petersburg College

Your Affiant attended a two (2) day, sixteen (16) hour training course in Highway Drug Interdiction. This training was given by the Maryland State Police Proactive Criminal Enforcement Team (P.A.C.E. Team) and was given at the Maryland State Police JFK Highway Barrack. During the training, your affiant received instruction on characteristics and behaviors of persons who are involved in the illegal transportation of Controlled Dangerous Substances. This course dealt with the 4th Amendment issues pertaining to vehicle stops, developing Probable Cause, Search Warrants as well as concealment methods used by persons transporting Controlled Dangerous Substances.

Furthermore your Affiant Hodgin has attended and successfully completed a six (6) day forty-four (44) hour Top Gun Undercover Drug Investigation School. During this school your affiant received training in investigative techniques, rules of evidence, hidden compartment investigations, warrant service techniques including search and seizure, surveillance techniques, interview and interrogation techniques and courtroom testimony.

That in March 2010, your affiant was reassigned to the Criminal Investigative Division – ATF Firearms Task Force to investigate the illegal firearms violations throughout the state of Maryland. That as part of your affiant duties is to conduct and participate in firearms related investigations in the southern counties within the state of Maryland. Your Affiant is currently deputized by the United States Marshals Service

Your affiant Hodgin, through his training and experiences as a Maryland State Trooper (Police Officer) has developed various sources of information concerning criminal activity in the Maryland area. Some of these sources are, but not limited to;

- 1) Maryland State Troopers who live and/or work in Counties throughout the State of Maryland.
- 2) Police Officers of allied agencies in the State of Maryland and from other states;

APPLICATION/AFFIDAVIT FOR SEARCH AND SEIZURE WARRANT

- 3) Concerned citizens, who often times choose to remain anonymous, are conscientious enough to report occurrences of suspected criminal activity;
- 4) Persons involved in the criminal community who are arrested for various crimes, these persons often times offer and give information concerning ongoing criminal activities in the Maryland area.

In support of this application and as the basis for probable cause, your affiant states and affirms that:

In April 2013 Your Affiant was assigned an Alcohol Tobacco Firearms and Explosives (ATFE) referral. Information obtained from the ATFE provided that Paul Roland Flanagan (W/M 08/21/1959) obtained possible machine gun parts from a Swedish National. Flanagan was subsequently interviewed by members of the ATFE and the United States Coast Guard Investigative Service (CGIS). Flanagan is currently employed by the United States Government where he is assigned as an ordinance technician. The interview was performed and Flanagan was evasive but stated he did receive a "potato gun" but it was defective and it was thrown away.

(*Note according to the ATFE the term "potato gun" is slang used during the illegal importation of silencers) Flanagan did provide personal information including that he was married to Audrey Flanagan (W/F 03/13/1963). The case was forwarded to your Affiant based on several firearms registered to Audrey Flanagan through the Maryland Automated Firearm Services System

(MAFSS.) The following regulated firearms are still registered to Flanagan:

Paul R. V.H. 8/5/13 mm 8/9/13

Paul R. V.H. 8/5/13 mm 8/9/13

Purchase Date	Make/Model / Caliber	Serial Number
07/25/1983	Amt -Model ACP - .380 cal	P53288
09/28/1982	CAC -Model 9228 - .22 cal	B021788
09/28/1982	CAC -Model 9228 - .22 cal	B022893
02/24/1981	INR - Model VA - .45 cal	C2479
11/21/1980	ECM - Model TQ-38 - .38 cal	L45160

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Your Affiant completed a check utilizing multiple databases to identify prohibited persons in possession of firearms.

Your affiant caused a check through the Maryland Motor Vehicle Administration on Paul Roland Flanagan which revealed the following:

Paul Roland Flanagan
W/M, DOB: 08/21/1959
Ht: 5-08, Wt: 170
Address: 728 Shore Drive, Edgewater, MD, 21037
MD License: JF-452-676-744-653

Your affiant caused a check through the National Crime Information Center (NCIC) on Paul Roland Flanagan, W/M, DOB: 08/21/1959 which revealed the following:

Paul Roland Flanagan
W/M, DOB: 08/21/1959
Social Security #: 217-74-0014
MD SID #: 920761
FBI #: 924435DA0

Criminal History consists of the following:

Maryland Criminal History:

1/4 8/13 04/14/1985 Prince George County Police Department
09/13/86 (1) Carrying concealed deadly weapon- Nolle Pros/Dropped
(2) Assault - Not Guilty
(3) Resisting Arrest - Guilty
(4) CDS Unlawful Possession - Not Guilty
Sentence: 3 years// Suspended 3 years// 3 years Probation

1/4 8/13 04/04/1986 US Marshal Service Baltimore
05/23/86 (1) Poss Machine Gun - Guilty
Sentence: sentence suspended // 3 years Probation

1/4 8/13 02/25/1996 Anne Arundel County Police Department Millersville
(1) Handgun in Vehicle - STET

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Therefore, Paul Roland Flanagan is prohibited from possessing any firearms due to his criminal convictions consisting of the following: 9/13/85- District Court for Prince Georges County: Resisting Arrest, ETC. Case # 00017867E3, 05/23/86- U.S District Court: Unlawfully Manufacture and Possessing Firearm Case # 86-0145. Your Affiant obtained true test copies of the convictions from the prospective courts.

Maryland Public Safety, Title 5, Subtitle 1 Regulated Firearms/5-133(b) Restrictions on possession of a regulated firearm after having been convicted of a disqualifying crime. Maryland Public Safety, Title 5, Subtitle 101(g)(3), defines disqualifying crime as 'a violation classified as a misdemeanor in the State that carries a statutory penalty of more than two (2) years.

Maryland Criminal Law, Title 5 Section 622(a), "Firearm" defined- in this section, "firearms" includes:

- (1) A handgun, antique firearm, rifle, shotgun, short-barreled shotgun, and short barreled rifle.
- (2) A machine gun as defined in 4-401 of this article; and
- (3) A regulated firearm, as defined in 5-101 of the Public Safety Article

The term "firearm" includes regulated firearms, handguns, antique firearm, rifles, shotguns, short barreled shotguns and short barreled rifles as defined in CR 4-201, a pistol, revolver and antique pistol or revolver as defined in CR 4-201, and a machine gun as defined in CR 4-101, Annotated Code of Maryland.

Therefore, Paul Roland Flanagan. is prohibited from possessing all regulated firearms under the laws of the State of Maryland.

Maryland Code Public Safety/Title 5, Firearms/Subtitle 1 Regulated Firearms/ 5-101 defines a regulated firearm as:

- (1) Any handgun as defined in this section; or
- (2) Any assault weapon as defined in this section

APPLICATION/AFFIDAVIT FOR SEARCH AND SEIZURE WARRANT

A handgun as:

- (1) Any firearm with a barrel less than 16 inches in length including signal, starter, and blank pistols.

A firearm as:

- (1) Any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; or
- (2) The frame or receiver of any such weapon

Additionally, Paul Roland Flanagan is prohibited from possessing non regulated firearms and ammunition under Federal Law. United States Code, Title 18, Section 922(g) (1) prohibits the possession of firearms or ammunition not regulated by a state by any person who has been convicted in any court, of a crime punishable by imprisonment for a term exceeding one year. The crimes Paul Roland Flanagan has been convicted of carries a penalty of more than (1) year.

During the month of July 2013, your Affiant was in contact with CGIS Investigator Miguel Bosch. Bosch interviewed members of the ordinance shop where Flanagan is employed Bosch provided the following information: The persons interviewed had contact with Flanagan on a daily basis and spoke frequently about non-work related topics, including firearms. During these interviews it was learned that Flanagan portrayed himself as a "firearms collector" and frequently had conversations about the firearms he owned. One party that was interviewed remembered distinctly about Flanagan advising he had recently purchased a Bersa .380 Handgun, and observed pictures of firearms similar to AK-47 semi-automatic rifles which were identified by Flanagan as being his. Investigator Bosch was also able to obtain screen shots of the Facebook internet website for a "Paul Flanagan." Screenshots of this website reference the need to shoot his AR-15 Rifle more often, and the purchase by "Paul Flanagan and his wife" of a .Bersa .380. Your Affiant accessed the same Facebook website for "Paul Flanagan" and observed the individual utilizing the web page is currently employed as an Ordinance Technician for the US Coast Guard and that he is married to an Audrey Hudson.

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Your affiant performed a browse through the Motor Vehicle Administration for an Audrey Hudson. Your Affiant discovered an Audrey Hudson Flanagan (W/F DOB: 03/13/1963) who resides at 4728 Idlewilde Rd, Shady Side, Maryland 20764. Your affiant compared the MVA picture for Audrey Hudson Flanagan (F-452-074-319-192) and Facebook Website Profile picture and observed they were the same person. Your affiant also queried the Maryland Automated Firearm Services System (MAFSS) for Audrey Hudson and Audrey Flanagan both DOB:03/13/1963. Your Affiant observed the following results:

Audrey Hudson Flanagan

1. Purchase: 08/20/2008 – Beretta, Model 21A, .22 Caliber Handgun SN:DAA317764
2. Purchase: 09/22/2010 – LAR, Model AR15, .223 Caliber Semi Auto Rifle
SN:CAT03266
 - a. NOTE this firearm is the same type of firearm as observed on “Paul Flanagan” Facebook Website posted in 2010
3. Purchase: 12/10/2012 – Bersa, Model Thunder 380P, .380 caliber SN: C70141
 - a. NOTE: This firearm is the same firearm purchased by Flanagan as identified by co-workers of Flanagan, and the same firearm as mentioned during 2012 on “Paul Flanagan” Facebook Website.

Audrey Kay Hudson

1. Purchase: 12/19/2005 – Century Arms, Model WASR10, 7.62 cal, SN:SBB182185
 - a. NOTE: This firearm is a analogue of the AK-47 semi-automatic rifle and a similar rifle as the photographs observed by co-workers of Flanagan.
2. Purchase: 01/31/06 – Bersa, Model Thunder 380, .380 cal, SN:7D5956

Your Affiant compared information provided by Audrey Kay Hudson and Audrey Hudson Flanagan and observed that both individuals provided the same date of birth, social security number, home address, home phone number, and physical descriptors. The identical information identifies that Audrey Kay Hudson is the same Audrey Hudson Flanagan and is in possession of a total of 5 regulated firearms.

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Your Affiant further observed that the current W2 Form for Paul Roland Flanagan identifies his current residence as 4728 Idlewilde Rd, Shady Side, Maryland 20764. This is the same residence as provided to the Maryland Motor Vehicle Administration by Audrey Hudson as her residence.

Therefore, there is probable cause to believe that the laws of the State of Maryland relating to Maryland Public Safety Article, Title 5 Section 133(b) , prohibited person in possession of (a) firearm (s), and United States Code, Title 18, Section 922(g), relating to Restrictions on Possession of all types of firearms and ammunition; have been and are being violated by Paul Roland Flanagan., W/M, height of 5'08", weight of 170 pounds, blue eyes, blond hair, whose date of birth is August 21, 1959, Maryland Drivers License number F-452-676-744-653, Social Security Number 217-74-0014, who resides at 4728 Idlewilde Rd, Shady Side, Anne Arundel County, Maryland 20764,

That based on your affiant's knowledge, training, and expertise, he knows that individuals who purchase or sell/transfer firearms and ammunition and/or possess firearms, maintain the following items in their residences: additional firearms, additional ammunition, magazines, parts, firearm cases, holsters, instructional materials for firearm use, packaging and boxes that contained those items, cleaning kits, documentation in the form of receipts, purchase orders, shipping paperwork, repair orders for firearms, and telephone records regarding the acquisition of firearms or accessories. Your affiant knows that the aforementioned items are sometimes kept in safes or lock boxes. Your affiant also knows that individuals possessing firearms and related items frequently keep them on their person, in vehicles accessible to them, and in their residences. Your affiant knows the records maintained by www.Facebook.com will allow him to further implicate Paul Roland Flanagan in the illegal possession firearms. He also knows it is common for people to discuss their activities on www.Facebook.com and based on information received to date, Paul Flanagan routinely uses www.Facebook.com to post information referencing his illegal possession of firearms. Your affiant further knows that to access www.Facebook.com a user must utilize an electronic device with internet capabilities.

APPLICATION/AFFIDAVIT FOR SEARCH AND SEIZURE WARRANT

Your affiant, therefore, prays that Search Seizure Warrants be issued, authorizing the Maryland State Police with the necessary and proper assistance, in the day or night, to:

A. Search:

FLANAGAN, Paul Roland, W/M, height of 5'08", weight of 170 pounds, blue eyes, blond hair, whose date of birth is August 21, 1959, Maryland Drivers License number F-452-676-744-653, Social Security Number 217-74-0014, who resides at 4728 Idlewilde Rd, Shady Side, Anne Arundel County, Maryland 20764

B. Enter and search:

The residence of 4728 Idlewilde Rd, Shady Side, Anne Arundel County, Maryland 20764. To include any and all sheds, barns, out-buildings, or any other structure found in or upon said premises;

C. Open and search:

Any safes, boxes, bags, compartments, or things in the nature thereof, found in or upon said property, vehicle, or person that could be used to contain evidence of the afore-cited violations;

D. Seize all evidence to include:

1. All instrumentalities of the afore-described crimes
2. Any and all firearms, their accessories and/or parts,
3. Ammunition; magazines; holsters; firearm cases; packaging and boxes that contained those items; cleaning kits; documentation in the form of receipts and purchase orders for those firearms, ammunition, magazines, firearm cases, holsters, and cleaning kits; and telephone records regarding the acquisition of firearms or accessories.
4. Indicia of occupancy, residency, and/or ownership of the premises described above, including, but not limited to, utility, telephone bills, keys and canceled envelopes.
5. Contraband found liable to seizure under the laws of this State.

E. Seize and/or view all evidence including ledgers, logs, telephone.

F. Seize and examine by persons qualified to conduct said examination and in a laboratory setting any and all electronic data processing and storage devices, computers and computer systems, including central processing units; internal and peripheral storage devices such as fixed disks, external hard disks, floppy disk drives and diskettes, tape drives and tapes, optical storage devices, optical readers and scanning devices, CD ROM drives and Compact Disks (CD) and related hardware, Operating logs, software and operating instructions, operating manuals, computer materials, software and programs used to communicate with other terminals via telephone or other means, and any computer modems, monitors and printers, personal data storage devices such as palm pilots/blackberry's, etc which may contain, has been used to contain electronic communications;

G. Seize articles of personal property tending to establish the identity of the person(s) in control of the premises and vehicles to be searched;

H. Arrest all persons found in or upon said premises and curtilage who may be participating in violation of the statutes hereinbefore cited;

APPLICATION/AFFIDAVIT FOR SEARCH AND SEIZURE WARRANT

SUBSCRIBED AND SWORN TO, this 5 day of August, 2013.

TFC V. Hodgin # 5228

AFFIANT

Before me, a District Court/Circuit Court Judge of the State of Maryland, in and for Harford County, this 5th day of August, 2013, personally appeared Trooper First Class Victor Hodgin #5228, personally known to me or properly identified, and made oath that the contents of the aforementioned are true and correct.

[Signature]

JUDGE

8/5/13 NOON

Date/ Time

mw

EXHIBIT F

NewsRoom

6/13/06 Wash. Times (D.C.) AO1
2006 WLNR 10114020

Washington Times (DC)
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June 13, 2006

Section: PAGE ONE

Air marshals warn their bullets are too powerful
House panel completes probe of in-flight 'danger'

Audrey Hudson, THE WASHINGTON TIMES

Federal air marshals say their guns are loaded with bullets capable of running through more than one person, metal doors and thick glass - too much firepower for an airplane.

"Not only is the person getting shot in danger, but everyone on the plane is because of the distance it travels," said one air marshal who testified in a recently completed House Judiciary Committee investigation of policies marshals deemed dangerous.

Several marshals say their bullets can penetrate most of the material in planes, leaving pilots and the plane's hydraulics and flight-control system vulnerable if a weapon is discharged. Cockpit doors have been hardened with steel, but the walls on either side of the door have not.

Another marshal told the House committee agents should be issued ammunition loaded with frangible bullets, which break into smaller pieces on impact and thus have limited power to exit the target and continue.

"An aircraft is made up of composites, plastics, and aluminum. If a round were to penetrate through the front plastic/composite windshield of the aircraft, the results would be catastrophic at 500 miles per hour. We should be using frangible ammunition. It's a no-brainer," the Nov. 27 memo said.

The House Judiciary report, released last week, included the committee's concerns about the ammunition, but the Transportation Security Administration's response was redacted from the report.

Federal Air Marshal Service Director Dana Brown is reviewing the agency's use of a .357-caliber handgun and Speer Gold Dot .357 SIG round, nonfrangible ammunition, said FAMS spokesman Conan Bruce.

Mr. Bruce said air marshals used to use frangible ammunition but switched weapons and ammunition after researching testing by outside groups. The change was approved by former FAMS Director Thomas Quinn, a former Secret Service agent.

Massad Ayoob, a ballistics authority and director of the Lethal Force Institute, calls the ammunition "an excellent load" that the Secret Service uses to protect the president. The bullet is designed to expand in the body to cause greater physical harm.

"If you get a peripheral hit in the arm, it has enough power to keep going and kill whoever it hits," said Mr. Ayoub, who explained that the bullet moves 1,350 feet per second.

"It's no trick to change the ammunition load they are using now to 1,500 feet per second to get a 10-inch, very substantial wound, and it would minimize the likelihood of an exit," Mr. Ayoub said. "That would reduce penetration by a few inches and widen the wound, which brings about a faster cessation of the action."

Federal air marshals have tough shooting requirements and "are among the best shooters in law enforcement," Mr. Ayoub says.

Don Strange, former special agent in charge of the FAMS Atlanta field office, said the ammunition FAMS agents use is good for the Secret Service and other law enforcement but not in the "tube of an airplane."

"It would penetrate at least the first body, but it can also penetrate a second and possibly third body," Mr. Strange said.

Mr. Strange has more than 30 years of federal law-enforcement experience but says he was fired from FAMS by Mr. Quinn for criticizing the agency's choice of ammunition, dress code and other policies.

When Mr. Strange informed officials at FAMS headquarters of his concern about the weapon's load, "I told them I hoped the reason we were using it was not because Quinn wants us to, and they said that is the reason."

Philip Van Cleave, a former deputy sheriff and president of the Virginia Citizens Defense League, said he was surprised to learn the marshals are not using frangible firepower.

"It's ironic that the very people who are carrying the guns are complaining, that tells you something there - they don't want to be underarmed, but they want to be able to protect passengers," Mr. Van Cleave said.

Several thousand pilots are trained to carry guns to protect the cockpit, however David Mackett, president of the Airline Pilots Security Alliance, declined to say what kind of weapons or ammunition are used by federal flight-deck officers.

"The federal air marshals are competent and experienced law enforcement, and I would take any recommendations they would make very seriously," Mr. Mackett said.

The House investigation said in its report released last week that policies dictating dress and boarding procedures in sight of passengers undermine the marshals' anonymity and suggested that any marshal who initiated changes fell victim to retaliation.

In its response to the committee, the Transportation Security Administration, which manages FAMS, said the policies have been changed. Air marshals who spoke to panel lawyers disagreed with the TSA's claims in interviews with The Washington Times.

---- Index References ----

News Subject: (Legal (1LE33); Judicial (1JU36))

Industry: (Aerospace & Defense (1AE96); Defense (1DE43); Military Ordnance & Weapons Systems (1MI79); Defense Equipment (1DE51))

Language: EN

Other Indexing: (AIR; AIRLINE PILOTS SECURITY ALLIANCE; FAMS; FAMS ATLANTA; FEDERAL AIR; HOUSE; HOUSE COMMITTEE; HOUSE JUDICIARY; HOUSE JUDICIARY COMMITTEE; LETHAL FORCE INSTITUTE; SECRET SERVICE; SPEER GOLD DOT; STRANGE; TRANSPORTATION SECURITY ADMINISTRATION; TSA; VIRGINIA CITIZENS DEFENSE LEAGUE) (Ayoob; Brown; Bruce; Conan Bruce; David Mackett; Mackett; Massad Ayoob; Philip Van Cleave; Quinn; Service Director; Strange; Thomas Quinn; Van Cleave)

Word Count: 947

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EXHIBIT G

NewsRoom

4/26/05 Wash. Times (D.C.) A12
2005 WLNR 6524189

Washington Times (DC)
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April 26, 2005

Section: NATION

Marshal files suit, gets his job back Had criticized federal agency

By Audrey Hudson, THE WASHINGTON TIMES

An air marshal placed on six months administrative leave for criticizing the Federal Air Marshal Service (FAMS) was reinstated one day after he filed a lawsuit that accuses the agency of violating his constitutional right to free speech.

Marshals say that there is a pattern of disciplinary action for criticizing their agency within the Homeland Security Department and that Frank Terreri was suspended in retaliation for his activities as president of the air marshals unit of the Federal Law Enforcement Officers Association (FLEOA).

Mr. Terreri was suspended six days after the professional association voted "no confidence" in agency Director Thomas D. Quinn and called for his resignation. Mr. Terreri issued an Oct. 7 press release detailing the vote.

Dave Adams, spokesman for FAMS, said the lawsuit had no bearing on Mr. Terreri's reinstatement.

"I can assure you the timeliness of the two have no correlation at all," he said.

Mr. Terreri was removed from duty Oct. 13 by FAMS officials, who requested that the Office of Professional Responsibility (OPR) investigate an e-mail he sent to fellow agents. Mr. Adams described it as creating a hostile work environment.

"The OPR review has been received and is pending a headquarters review by the FAMS. We have no reason not to put him back on flight status at this time, and that is what we did," said Mr. Adams, who refused to say when the investigation was completed.

Mr. Terreri's e-mail criticized agency managers for allowing national TV networks and magazines to view and report secret methods and operations, which - Mr. Terreri says - puts undercover marshals at risk.

The lawsuit was filed Thursday by the American Civil Liberties Union on behalf of Mr. Terreri and will continue despite reinstatement of the marshal. Mr. Terreri was alerted Friday that the OPR had cleared him of all charges and that he was to report to work Monday.

"We maintain this was a direct result of Frank being outspoken," said John Adler, FLEOA national first vice president. "We believe FAMS director Tom Quinn is exploiting the OPR process by expeditiously referring anyone with a different opinion to OPR for investigation."

The lawsuit names Department of Homeland Security Secretary Michael Chertoff and Mr. Quinn and challenges a policy that prohibits air marshals from using "speech, writing or other expressions to criticize" the Federal Air Marshal Service. Marshals also are prohibited from talking to each other on the Internet or from making "any public statements concerning the FAMS."

About a dozen marshals who have questioned agency policy are under investigation by the OPR.

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---- Index References ----

Industry: (Homeland Security (1HO11); Security (1SE29))

Language: EN

Other Indexing: (AMERICAN CIVIL LIBERTIES UNION; DEPARTMENT OF HOMELAND; FAMS; FEDERAL AIR MARSHAL SERVICE; FEDERAL LAW ENFORCEMENT OFFICERS ASSOCIATION; FLEOA; HOMELAND SECURITY DEPARTMENT; OFFICE OF PROFESSIONAL RESPONSIBILITY; OPR; TV) (Adams; Dave Adams; Frank; Frank Terreri; John Adler; Michael Chertoff; Quinn; Terreri; Thomas D. Quinn; Tom Quinn)

Word Count: 542

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EXHIBIT H



1 of 2 DOCUMENTS

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The Washington Times

July 22, 2004, Thursday, Final Edition

SECTION: PAGE ONE; Pg. A01

LENGTH: 1307 words

HEADLINE: Scouting jetliners for new attacks;
Crews cite suspicious Arab passengers

BYLINE: By Audrey Hudson, THE WASHINGTON TIMES

BODY:

Flight crews and air marshals say Middle Eastern men are staking out airports, probing security measures and conducting test runs aboard airplanes for a terrorist attack.

At least two midflight incidents have involved numerous men of Middle Eastern descent behaving in what one pilot called "stereotypical" behavior of an organized attempt to attack a plane.

"No doubt these are dry runs for a terrorist attack," an air marshal said.

Pilots and air marshals who asked to remain anonymous told The Washington Times that surveillance by terrorists is rampant, using different probing methods.

"It's happening, and it's a sad state of affairs," a pilot said.

A June 29 incident aboard Northwest Airlines Flight 327 from Detroit to Los Angeles is similar to a Feb. 15 incident on American Airlines Flight 1732 from San Juan, Puerto Rico, to New York's John F. Kennedy Airport.

The Northwest flight involved 14 Syrian men, and the American Airlines flight involved six men of similar Arab descent.

"I've never been in a situation where I have felt that afraid," said Annie Jacobsen, a business and finance feature writer for the online magazine Women's Wall Street who was aboard the Northwest flight.

The men were seated throughout the plane pretending to be strangers. Once airborne, they began congregating in groups of two or three, stood nearly the entire flight, and consecutively filed in and out of bathrooms at different intervals, raising concern among passengers and flight attendants, Mrs. Jacobsen said.

Scouting jetliners for new attacks; Crews cite suspicious Arab passengers The Washington Times July 22, 2004,
Thursday, Final Edition

One man took a McDonald's bag into the bathroom, then passed it off to another passenger upon returning to his seat. When the pilot announced the plane was cleared for landing and to fasten seat belts, seven men jumped up in unison and went to different bathrooms.

Her account was confirmed by David Adams, spokesman for the U.S. Immigration and Customs Enforcement's Federal Air Marshal Service [FAMS], who said officers were on board and checked the bathrooms several times during the flight, but nothing was found.

"The FAMS never broke their cover, but monitored" the activity, Mr. Adams said. "Given the facts, they had no legal basis to take an enforcement action. But there was enough of a suspicious nature for the FAMS, passengers and crew to take notice."

A January FBI memo says suicide terrorists are plotting to hijack trans-Atlantic planes by smuggling "ready-to-build" bomb kits past airport security, and later assembling the explosives in aircraft bathrooms.

On many overseas flights, airlines have issued rules prohibiting loitering near the lavatory.

"After seeing 14 Middle Eastern men board separately [six together and eight individually] and then act as a group, watching their unusual glances, observing their bizarre bathroom activities, watching them congregate in small groups, knowing that the flight attendants and the pilots were seriously concerned and now knowing that federal air marshals were on board, I was officially terrified," Mrs. Jacobsen said.

"One by one, they went into the two lavatories, each spending about four minutes inside. Right in front of us, two men stood up against the emergency exit door, waiting for the lavatory to become available. The men spoke in Arabic among themselves ... one of the men took his camera into the lavatory. Another took his cell phone. Again, no one approached the men. Not one of the flight attendants asked them to sit down."

In an interview yesterday with The Washington Times, Mrs. Jacobsen said she was surprised to learn afterward that flight attendants are not trained to handle terrorist attacks or the situation that happened on her flight.

"I absolutely empathize with the flight attendants. They are acting with no clear protocol," she said.

Other passengers were distraught and one woman was even crying as the events unfolded.

The plane was met by officials from the FBI, Los Angeles Police Department, Federal Air Marshal Service and Transportation Security Administration. The Syrians, who were traveling on one-way tickets, were taken into custody.

The men, who were not on terrorist watch lists, were released, although their information and fingerprints were added to a database. The group had been hired as musicians to play at a casino, and the booking, hotel accommodations and return flight to New York from Long Beach, Calif., also checked out, Mr. Adams said.

"We don't know if it was a dry run, that's why we are working together with intelligence and investigative agencies to help protect the homeland," he said.

Mrs. Jacobsen, however, is skeptical that the 14 passengers were innocent musicians.

"If 19 terrorists can learn to fly airplanes into buildings, couldn't 14 terrorists learn to play instruments?" she asked in the article.

The pilot confirmed Mrs. Jacobsen's experience was "terribly alike" what flight attendants reported on the San Juan flight.

He said there is "widespread knowledge" among crew members these probes are taking place.

Scouting jetliners for new attacks; Crews cite suspicious Arab passengers The Washington Times July 22, 2004, Thursday, Final Edition

A Middle Eastern passenger attempted to videotape out the window as the plane taxied on takeoff and, when told by a flight attendant it was not permitted, "gave her a mean look and stopped taping," said a written report of the San Juan incident by a flight attendant.

The group of six men sat near one another, pretended to be strangers, but after careful observation from flight attendants, it was apparent "all six knew each other," the report said.

"They were very careful when we were in their area to seem separate and pretended to be sleeping, but when we were out of the twilight area, they were watching and communicating," the report said.

The men made several trips to the bathroom and congregated in that area and were told at least twice by a flight attendant to return to their seats. The suspicious behavior was relayed to airline officials in midflight, and additional background checks were conducted.

A second pilot said that, on one of his recent flights, an air marshal forced his way into the lavatory at the front of his plane after a man of Middle Eastern descent locked himself in for a long period.

The marshal found the mirror had been removed and the man was attempting to break through the wall. The cockpit was on the other side.

The second pilot said terrorists are "absolutely" testing security.

"There is a great degree of concern in the airline industry that not only are these dry runs for a terrorist attack, but that there is absolutely no defense capabilities on a vast majority of airlines," the second pilot said.

Dawn Deeks, spokeswoman for the Association of Flight Attendants, said there is no "central clearinghouse" for them to learn of suspicious incidents, and flight crews are not told how issues are resolved.

She said a flight attendant reported that a passenger was using a telephoto lens to take sequential photos of the cockpit door.

The passenger was stopped, and the incident, which happened two months ago, was reported to officials. But when the attendant checked back last week on the outcome, she was told her report had been lost.

Recent incidents at the Minneapolis-St. Paul International Airport in Minnesota have alarmed flight crews. Earlier this month, a passenger from Syria was taken into custody while carrying anti-American materials and a note suggesting he intended to commit a public suicide.

A third pilot reported watching a man of Middle Eastern descent at the same airport using binoculars to get airplane tail numbers and writing the numbers in a notebook to correspond with flight numbers.

"It's a probe. They are probing us," said a second air marshal, who confirmed that Middle Eastern men try to flush out marshals by rushing the cockpit and stopping suddenly.

LOAD-DATE: July 22, 2004

NewsRoom

4/27/05 Wash. Times (D.C.) A09
2005 WLNR 6585235

Washington Times (DC)
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April 27, 2005

Section: NATION

Passengers describe flight as a terrorist dry run Officials questioning Syrians didn't notice their expired visas

By Audrey Hudson, THE WASHINGTON TIMES

The Homeland Security Department's inspector general is investigating an incident involving 14 Syrian passengers aboard a flight from Detroit to Los Angeles last summer described by many federal air marshals and passengers as a dry run for a terrorist attack.

The investigation began shortly after the June 29 incident, but did not become public until the final phase of the inquiry when passengers reported facing hours of questioning in March from inspectors.

The interviewed passengers said the questioning by inspectors suggested the flight had faced a serious situation. Some federal officials have dismissed the incident and suggested passengers had overreacted and were never in danger.

Annie Jacobsen, a passenger on Northwest Flight 327 who blew the whistle on the incident, said she felt "vindicated and relieved" after learning the investigation had been ongoing since July.

She consented to an interview, the last scheduled by the inspector's office, three days before the due date of her second child. "I really wanted to hear what they had to say, and as I told them, I have absolutely nothing to hide."

Mrs. Jacobsen, a writer for womenswallstreet.com, said the 14 men traveling as musicians consecutively filed in and out of restrooms, stood nearly the entire flight in congregations, carried a McDonald's bag into the lavatory and passed it to other Syrians, and carried cameras and cellular phones to the restroom.

Just before landing, seven of the men stood in unison and went inside the restrooms. Upon returning to his seat, the last man mouthed the word "no" as he ran his finger across his throat.

At least four other passengers also were questioned, and learned from inspectors that the musicians from the terrorist-sponsor state of Syria had traveled back and forth across the country with one-way, cash-paid tickets, and entered the country on P-3 cultural visas. Two months prior to the flight, the FBI issued a warning that terrorists may be trying to enter the country under P-3 cultural or sports visas.

When the men were detained briefly for questioning after the flight, only two of the 14 were questioned and officials did not notice the men's visas had expired, inspectors said.

Dave Adams, spokesman for the Federal Air Marshal Service, said the inspector general's office is "looking at all aspects of the flight" and confirmed marshals aboard the flight had been interviewed.

"I've said publicly our federal air marshals acted appropriately on that flight, other than that, I'm not going to make any more comments on that," Mr. Adams said.

Mr. Adams initially dismissed Mrs. Jacobsen's account as coming from "untrained civilian eyes," in spite of other passenger reports backing her account.

Inspectors also confirmed to Mrs. Jacobsen that September 11 hijacker Mohamed Atta was on a flight prior to that attack with actor James Woods, who reported to the pilot he believed a hijacking was about to take place. Mr. Woods has recounted that incident to reporters, but it has never been substantiated by law enforcement.

20050427091852-042705

--- Index References ---

News Subject: (International Terrorism (1IN37); Sept 11th Aftermath (1SE05))

Industry: (Homeland Security (1HO11); Security (1SE29))

Region: (Middle East (1MI23); USA (1US73); Americas (1AM92); Syria (1SY20); North America (1NO39); Arab States (1AR46))

Language: EN

Other Indexing: (FBI; FEDERAL AIR MARSHAL SERVICE; HOMELAND SECURITY DEPARTMENT; MCDONALDS; NORTHWEST) (Adams; Annie Jacobsen; Dave Adams; Jacobsen; James Woods; Mohamed Atta; Woods)

Word Count: 628

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April 25, 2006

Section: NATION

TSA protects report on feared terror practice

By Audrey Hudson, THE WASHINGTON TIMES

The Homeland Security Department's inspector general yesterday released a summary of its 22-month probe into Syrian nationals suspected of practicing to hijack a plane during a Detroit-to-Los Angeles flight, but its findings will remain classified.

Tamara Faulkner, a spokeswoman for the inspector's general office, said the Transportation Security Administration (TSA) invoked a classification called "sensitive security information" to protect nearly all of the 40-page report. She called the classification a TSA "invention."

A seven-line summary of the report said the department needs to better coordinate information on suspicious passengers and that investigations could be compromised because both the Federal Air Marshal Service and the FBI have authority to investigate in-flight incidents.

"The government is using its secret red stamp and no one is left to protect the flying public," said Annie Jacobsen, a passenger who wrote about her experience on the flight at womenswallstreet.com and in a recently published book, "Terror in the Skies."

The June 29 incident involved 13 Syrian nationals and one legal Syrian immigrant who frightened several passengers on Northwest Flight 327 as they consecutively filed in and out of restrooms carrying the same McDonald's bag and stood during most of the flight.

Just before landing, seven of the men jumped up and went to the restrooms, and one man mouthed the word "no" as he ran his finger across his throat, passengers reported.

Homeland Security officials said the passengers were "just musicians," who were playing a gig at a nearby resort, but numerous air marshals and pilots said it was a terrorist "probe," or a dry run.

The Washington Times first reported the story in the summer of 2004 that flight crews and passengers on several flights were experiencing probes, which received widespread press attention and ignited congressional and inspector general investigations.

Passengers interviewed by the inspector general investigators now say that only two of the 14 band members shown in a photo of the previous gig were the same Syrians on Flight 327. Federal officials questioned only one of them when the plane landed.

"It was a classic bait and switch," Mrs. Jacobsen said.

Investigators told passengers that the Syrians bought one-way tickets with cash - which is prohibited in visa agreements with citizens from terrorist-sponsored states - and confirmed that the Syrians were traveling under expired visas. Immigration officials failed to report to the airport as required; otherwise, the Syrians would have been detained.

Officials initially said they questioned the passengers for hours and then followed them to the casino where they were to perform. They now say the interviews took five minutes and that the Syrians were not followed, nor were they contacted for the investigation.

Investigators told Mrs. Jacobsen that there was no protocol in place to divert the plane to one of the 27 airports between Detroit and Los Angeles.

20060425113201-042506

--- Index References ---

Company: MCDONALDS CORP

News Subject: (Violent Crime (1VI27); Social Issues (1SO05); Crime (1CR87))

Industry: (Air Safety (1AI68); Resorts (1RE44); Security (1SE29); Passenger Transportation (1PA35); Transportation (1TR48); Air Transportation (1AI53); Homeland Security (1HO11))

Region: (Americas (1AM92); North America (1NO39); Middle East (1MI23); USA (1US73); Michigan (1MI45); Syria (1SY20); Arab States (1AR46))

Language: EN

Other Indexing: (FBI; FEDERAL AIR; HOMELAND SECURITY; HOMELAND SECURITY DEPARTMENT; MCDONALDS; NORTHWEST; SYRIANS; TRANSPORTATION SECURITY ADMINISTRATION; TSA) (Annie Jacobsen; Jacobsen; Service; Tamara Faulkner)

Word Count: 617

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EXHIBIT I

MARYLAND DEPARTMENT OF STATE POLICE
 REQUEST FOR LABORATORY EXAMINATION-
 CHAIN OF CUSTODY LOG

CRIME LABORATORY FILE #
 AGENCY TELEPHONE #
 (410) 953-8200
 CASE #
 13-40-01346
 PROPERTY HELD #

INSTALLATION/AGENCY
 40-CEJ
 SUSPECT
 FLANAGAN, PAUL
 VICTIM
 STATE OF MARYLAND
 OFFENSE
 FIREARMS INVESTIGATION
 DATE OF OFFENSE
 8/6/13
 COUNTY
 ANNE ARUNDEL
 TYPE EXAMINATION REQUESTED
 EXAMINATION REQUESTED BY

TRACE EVIDENCE ONLY (SEX, RACE, D.O.B. OF VICTIM AND/OR SUSPECT - BRIEFLY DESCRIBE LOCATION OF CRIME SCENE AS TO OWNERSHIP AND IMMEDIATE SURROUNDINGS - EXAMPLE - BEDROOM, CAR, WOODS, ETC.)

LIST OF ARTICLES

ITEM # 1 KEY (LOCATED ON FLANAGAN'S PERSON)

ITEM # 13 GALLS BALLISTIC VEST

ITEM # 23 MISC. MAIL ADDRESSED TO PAUL FLANAGAN

ITEM # 27 MISC. DOCUMENTS Released to: Miguel Bosch, SA on 9/5/13 was Miguel Bosch released to PAUL FLANAGAN on behalf of Audrey HUDSON on 9/10/13

[Signature]

I, THE UNDERSIGNED, HEREBY CERTIFY THAT THE EVIDENCE SUBMITTED IN THIS CASE, AND LISTED ABOVE, WHILE IN MY CUSTODY, REMAINED AND WAS DELIVERED IN ESSENTIALLY THE SAME CONDITION AS WHEN I RECEIVED IT, EXCEPT THAT MATERIAL OR PORTION THEREOF CONSUMED IN THE ANALYTICAL PROCESS AT THE CRIME LABORATORY, AND THAT I RECEIVED AND DELIVERED IT TO THE PERSON INDICATED ON THE DATE AND TIME STATED.

See Instructions on Back of Page 5

Print and Sign Name or Location	Date	Time	Print and Sign Name or Location	Date	Time
Original Source: location or person from which evidence was obtained			13.		
1. 4728 IDLEWILDE RD			14.		
2. TFC V. HODGEN	8/6/13	0500	15.		
3. CED EVIDENCE	8/6/13	1130	16.		
4. Miguel Bosch SA CCIS	9/3/13	0930	17.		
5. CED Prof Room	9/3/13	1030	18.		
6.			19.		
7.			20.		
8.			21.		
9.			22.		
10.			23.		
11.			24.		
12.			25.		