

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

JONATHAN CORBETT,

Plaintiff,

v.

TRANSPORTATION SECURITY
ADMINISTRATION, et al.

Defendants.

No. 1:12-cv-20863-JAL

**DEFENDANT TSA’S MOTION FOR SUMMARY JUDGMENT AND
MEMORANDUM IN SUPPORT**

Plaintiff’s Amended Complaint (Doc. 20) sets forth numerous claims against three federal defendants – the United States, the Transportation Security Administration (TSA), and TSA employee Alejandro Chamizo. On November 16, 2012 (Doc. 69), this Court dismissed all claims against the federal defendants except Count 17 against TSA, which was brought pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552. Plaintiff alleges TSA has failed to adequately respond to his FOIA request for documents and video created in connection with his refusal to undergo pre-flight security screening at Fort Lauderdale-Hollywood International Airport (FLL) on August 27, 2011. Although TSA responded to plaintiff’s FOIA request in June and July 2012, producing 29 of 32 responsive documents (redacting employee names for privacy reasons and “Sensitive Security Information” as required by 49 U.S.C. § 114(r)) and all requested checkpoint video of the incident in its possession (also pixelated for privacy reasons), plaintiff now objects to the withholdings and redactions. But because they are fully justified under one or more of FOIA’s nine enumerated exemptions, 5 U.S.C. § 552(b)(1)-(9), TSA respectfully submits that summary judgment as to plaintiff’s FOIA claim is appropriate.

INTRODUCTION

Based on the record set forth in the attached declarations and exhibits, Defendant TSA now moves for summary judgment as to plaintiff's FOIA claim regarding the documents and video that were produced in response to plaintiff's FOIA request.¹ As the declarations make clear, TSA conducted an adequate search for relevant records in light of plaintiff's FOIA request and produced all information in those records not subject to withholding pursuant to one of FOIA's nine exemptions. As explained more fully below, most of the information withheld from the plaintiff in this case is routinely redacted. The information withheld under Exemption 3 was designated "Sensitive Security Information," which unambiguously prevents its disclosure. The redactions to the names of individuals involved in the underlying incident fall within the ambit of Exemptions 6 and 7(C). The only unusual redaction here – applied to the video footage of the incident – was nevertheless fully appropriate under Exemption 6. Because TSA has otherwise tendered to plaintiff all nonexempt records requested by him, it is entitled to summary judgment.

STANDARD OF REVIEW

This Court may grant summary judgment "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Fed. R. Civ. P. 56(c). The burden of establishing the absence of a genuine issue of material fact lies with the moving party. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). When a motion for summary judgment is filed in a suit brought to compel production under

¹ Recognizing that neither an *in camera* inspection nor a *Vaughn* index is required "when there are so few documents involved," defendant has not prepared a *Vaughn* index. *Miscavige v. I.R.S.*, 2 F.3d 366, 367-68 (11th Cir. 1993). If this Court would be aided by an *in camera* review, however, TSA stands ready to provide the material in question to the court in unredacted form.

FOIA, an agency is entitled to summary judgment “if no material facts are in dispute and if it demonstrates that each document that falls within the class requested either has been produced . . . or is wholly exempt” from production through one of FOIA’s nine exemptions. *Fla. Immigrant Advocacy Ctr. v. Nat’l Sec. Agency*, 380 F. Supp. 2d 1332, 1336-37 (S.D. Fla. 2005) (internal quotation marks omitted). The agency’s determination that it has fulfilled its obligations under FOIA is reviewed by this Court *de novo*. *Id.* at 1337. “Generally, FOIA cases should be handled on motions for summary judgment, once the documents in issue are properly identified.” *Miscavige v. I.R.S.*, 2 F.3d 366, 369 (11th Cir. 1993). Additionally, when a FOIA request implicates the privacy concerns reflected in Exemptions 6 and 7(C), courts must balance the personal interest in preserving the privacy of the information with the public interest served by its disclosure. *Ely v. FBI*, 781 F.2d 1487, 1490 (11th Cir. 1986).

ARGUMENT

As indicated above, plaintiff challenges TSA’s decision to withhold information pursuant to Exemptions 3, 5, 6, and 7(C) of FOIA.² Congress enacted FOIA to “open agency action to the light of public scrutiny.” *Dep’t of Air Force v. Rose*, 425 U.S. 352, 361 (1976) (internal quotation marks and citation omitted). In line with promoting government accountability, “disclosure, not secrecy, is the dominant objective of the Act.” *Id.* It is equally established, however, that balanced against these precepts is the acknowledgment that disclosure can harm legitimate interests. *Trentadue v. Integrity Comm.*, 501 F.3d 1215, 1225–26 (10th Cir. 2007). As a result, FOIA contains exemptions from disclosures for nine categories of records. *Id.* at 1226. Here,

² Neither plaintiff’s opposition to the defendants’ motion to dismiss nor his administrative appeal contest TSA’s decision to withhold in full, pursuant to Exemption 5, three pages of emails sent between the Department of Justice and TSA’s Office of Chief Counsel. Thus, the propriety of those withholdings is not addressed in this motion.

each category of information withheld from the plaintiff falls squarely within one or more of these exemptions.

I. TSA's search for responsive records was adequate

To demonstrate the adequacy of a search for the purposes of summary judgment in a FOIA action, “the agency must show beyond a material doubt . . . that it has conducted a search reasonably calculated to uncover all relevant documents.” *Ray v. U.S. Dep’t of Justice*, 908 F.2d 1549, 1558 (11th Cir. 1990), *rev’d on other grounds, U.S. Dep’t of Justice v Ray*, 502 U.S. 164 (1991). It is well-settled that under FOIA, an agency’s search for responsive records need not be exhaustive, and the adequacy of any search is measured by reasonableness in light of the specific request. *Ray*, 908 F.2d at 1558; *Meeropol v. Meese*, 790 F.2d 942, 956 (D.C. Cir. 1986). An agency’s purported failure to locate any particular document does not undermine an otherwise adequate search. *Iturralde v. Comptroller of the Currency*, 315 F.3d 311, 315 (D.C. Cir. 2003) (noting that “it is long settled that the failure of an agency to turn up one specific document in its search does not alone render a search inadequate After all, . . . a reasonable and thorough search may have missed” particular documents). Nor is a search inadequate because it did not uncover “documents that [plaintiff] claims *must* exist.” *Oglesby v. U.S. Dep’t of Army*, 920 F.2d 57, 68 n.13 (D.C. Cir. 1990) (emphasis in the original).

Here, as set forth in the attached declarations, *see* Decs. 1 and 2, TSA’s search for records responsive to Plaintiff’s request was more than adequate. *Meeropol*, 790 F.2d at 952; *see also Perry v. Block*, 684 F.2d 121, 127 (D.C. Cir. 1982) (declaration need not “set forth with meticulous documentation the details of an epic search for the requested records” but need only “explain in reasonable detail the scope and method of the search conducted by the agency”). Upon receiving plaintiff’s FOIA request, TSA referred the request to the offices that it identified

as most likely to have responsive records – the TSA office at the FLL Airport and TSA’s Office of Chief Counsel. Dec. 1 at ¶¶ 11, 13. This decision was reasonable based on the nature of the incident, the responsibilities of the respective offices, and the likelihood that they would have records responsive to plaintiff’s request. Thus, TSA’s searches were reasonably expected to produce the information requested. *See Greenberg v. U.S. Dep’t of Treasury*, 10 F. Supp. 2d 3, 30 n.38 (D.D.C. 1998) (finding agency demonstrated adequacy of search when agency affidavit explained that agency “searched those files which officials expected would contain the information requested by plaintiff[]”). Because TSA employed an adequate search for documents, it should be granted summary judgment on this issue.

II. The withheld information was properly exempted under 5 U.S.C. § 552(b)

a. TSA properly withheld material designated as Sensitive Security Information under Exemption 3

i. This Court does not have jurisdiction to review material designated as SSI.

Plaintiff contends that TSA improperly withheld information designated as “sensitive security information” (SSI) and requests this Court to order its disclosure. Material designated as SSI, however, is exempt from disclosure pursuant to Congress’s explicit command that disclosure be prohibited “[n]otwithstanding section 552 of title 5.” 49 U.S.C. § 114(r). The meaning of “notwithstanding section 552 of title 5” is plain – section 114(r) supersedes FOIA as applied to information designated as SSI.³ *Cf. Energy Transp. Group, Inc v. Skinner*, 752 F.

³ Analyzing nearly identical language in a predecessor statute vesting similar authority in the Federal Aviation Administration, the D.C. Circuit has held that the phrase “notwithstanding section 552 of Title 5,” “clearly and unambiguously provides that [the non-disclosure statute], where applicable and invoked by the FAA, trumps FOIA’s disclosure requirements.” *Pub. Citizen, Inc. v. FAA*, 988 F.2d 186, 194 (D.C. Cir. 1993). The Court explained, “we conclude unmistakably that Congress intended to allow the FAA to withhold from public disclosure information falling within § 1357(d), whether or not FOIA is invoked.” *Id.* at 195; *see also id.* (“Congress’ intent was to broaden the FAA’s power to withhold sensitive information, not to

Supp. 1, 10 (D.D.C. 1990) (“[T]he phrase ‘notwithstanding any other provision of law,’ or a variation thereof, means exactly that; it is unambiguous and effectively supersedes all previous laws.”). Further, the text of Exemption 3 itself “authorizes an agency to withhold information that is specifically exempted from disclosure by statute . . . if that statute requires . . . that the matters be withheld from the public in such a manner as to leave no discretion on the issue.” 5 U.S.C. § 552(b)(3).

Courts are in agreement that material designated under section 114(r) fall within Exemption 3.⁴ *Tooley v. Bush*, No. 06-306, 2006 WL 3783142, at *20 (D.D.C. Dec. 21, 2006), *rev’d & remanded in part on other grounds sub nom., Tooley v. Napolitano*, 556 F.3d 836 (D.C. Cir. 2009); *Gordon v. FBI*, 390 F. Supp. 2d 897, 900 (N.D. Cal. 2004); *see also Elec. Privacy Info. Ctr. v. DHS*, 384 F. Supp. 2d 100, 110 & n.10 (D.D.C. 2005) (applying Exemption 3 to SSI after noting that this point was uncontested). Whether exempted by section 114(r)’s explicit removal of SSI from disclosure under FOIA, or exempted by FOIA’s Exemption 3 itself, the result is the same: TSA may withhold SSI from the plaintiff.

Additionally, once TSA has designated certain material as SSI, only the Court of Appeals can review that designation under 49 U.S.C. § 46110 (a), which provides that:

. . . a person disclosing a substantial interest in an order issued by the Secretary of Transportation . . . in whole or in part under this part, part B, or subsection (l) or (s) of section 114 may apply for review of the order by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit or in

limit that power . . . Where disclosure of information specified in § 1357(d)(2) and the FAA’s implementing regulations would jeopardize passenger safety, Congress clearly intended for the FAA to be able to withhold such information under § 1357(d)(2).” (emphasis in original)).

⁴ Section 114(s) is the subsection that formerly authorized TSA to designate certain material as SSI; in 2007, this section was redesignated as section 114(r). Section 46110(a) has not yet been updated to reflect this clerical change.

the court of appeals of the United States for the circuit in which the person resides or has its principal place of business

The jurisdiction of the Court of Appeals is exclusive and bars district court review of any final order issued by TSA, including SSI designations under section 114(r). *See* 49 U.S.C. § 46110 (c). As such, district courts may not review orders of TSA designating material as SSI. *Robinson v. Napolitano*, 689 F.3d 888, 892-94 (8th Cir. 2012); *MacLean v. DHS*, 543 F.3d 1145, 1149 (9th Cir. 2008) (holding that § 46110 governs review of decision to designate a document SSI); *Koutny v. Martin*, 530 F. Supp. 2d 84, 91 (D.D.C. 2007) (“A remedy to challenge a final TSA classification order [of SSI] is provided by statute. An interested party may petition to modify or set aside such an order in an appropriate court of appeals.”); *Shqairat v. U.S. Airways Group, Inc.*, 2008 WL 4232018, at *2 (D. Minn. Sept. 9, 2008) (“District Courts are without jurisdiction to entertain challenges to the TSA’s decisions regarding disclosure of SSI.”); *In re September 11 Litig.*, 236 F.R.D. 164, 174-75 (S.D.N.Y. 2006) (“TSA’s determinations of SSI” are subject to review in the Courts of Appeals “as provided by 49 U.S.C. § 46110.”); *Chowdhury v. Northwest Airlines Corp.*, 226 F.R.D. 608, 614 (N.D. Cal. 2004) (“Congress has expressly provided that an appeal from an order of the TSA pursuant to section 114(s) lies exclusively with the Court of Appeals.”). Therefore, this Court lacks jurisdiction to make further inquiry about TSA’s SSI designations and any challenge to SSI must be brought directly in the Court of Appeals.

- ii. Even if this Court does review the material designated as SSI, TSA’s designations were appropriate.

Even if this Court concludes that it has jurisdiction to review TSA’s designation of information as SSI, that review is still quite limited. “When analyzing whether the defendant is entitled to invoke Exemption 3, the court need not examine the detailed factual contents of

specific documents withheld; rather, the sole issue for decision is the existence of a relevant statute and the inclusion of withheld material within the statute's coverage." *James Madison Project v. CIA*, 607 F. Supp. 2d 109, 126 (D.D.C. 2009) (internal quotation marks and citation omitted). TSA's affidavits are entitled to "substantial weight" as to what constitutes SSI. *See Larson v. Dep't of State*, 565 F.3d 857, 865 (D.C. Cir. 2009).⁵

TSA referred all records that were responsive to plaintiff's FOIA request that were either marked SSI or were the types of documents that contain SSI to the SSI branch for review. Dec. 1 at ¶ 12. The SSI branch thoroughly reviewed each document to ensure that SSI was redacted and considered whether certain SSI designations were still appropriate Dec. 2 at ¶ 8. The SSI branch makes such designations based on the analysts' training, and in consultation with subject-matter experts who provide expertise on the threats posed by those seeking to do harm to transportation security. Dec. 2 at ¶ 4. This expertise permits the SSI Branch to understand how different terms, phrases, and concepts could be used by terrorists to undermine security systems in their attempt to harm transportation security. *Id.* Upon its review, TSA determined that the release of certain information could be detrimental to transportation security, and therefore withheld this information from disclosure as SSI. Dec. 2 at ¶¶ 9-14.

First, TSA withheld information on a standard incident report form regarding how to characterize the "Verbal Report from Image Operator (IO) to Screening Operator (SO)." TSA

⁵ Indeed, courts typically give great deference to agency declarations regarding the use of FOIA exemptions to withhold information. *See Krikorian v. Dep't of State*, 984 F.2d 461, 464 (D.C. Cir. 1993) (noting deference to expertise of agencies engaged in national security and foreign policy). "[A] reviewing court 'must take into account . . . that any affidavit or other agency statement of threatened harm to national security will always be speculative to some extent, in the sense that it describes a potential future harm.'" *Wolf v. CIA*, 473 F.3d 370, 374 (D.C. Cir. 2007) (quoting *Halperin v. CIA*, 629 F.2d 144, 149 (D.C. Cir. 1980)) (omission in original). "Ultimately, an agency's justification for invoking a FOIA exemption is sufficient if it appears 'logical' or 'plausible.'" *Id.* at 374-75.

withheld this information because the information reflects the pre-set criteria by which the IO identifies to the SO the reasons for a particular search following an Advanced Imaging Technology Scan (AIT) scan. Dec. 2 at ¶ 11. Additionally, disclosing the granularity with which the IO specifies areas to search (and the boundaries of those areas) would allow individuals with nefarious intent to refine the locations in which they conceal an item (e.g., on the border between two or more designated zones, in order to complicate efforts to discover the item). *Id.* Thus, this information was withheld as SSI on the basis that its disclosure would compromise transportation security. *See* 49 C.F.R. § 1520.5(a)(3), Dec. 2 at ¶ 11. TSA also withheld information from a standard incident report form located in a box labeled “Section XII – Report from IO.” Disclosure of this information presented the same concerns associated with the “Verbal Report from Image Operator (IO) to Screening Operator (SO).” *Id.* at ¶¶ 11.

Next, TSA withheld (from multiple copies of a printed description of the incident by a Supervisory TSO), passages indicating why the STSO ““decided that additional attention was needed”” during the incident. Those passages describe considerations of the individual in question that are used in deciding whether a passenger – in this case, the plaintiff – warranted additional screening. Public disclosure of these considerations would provide insight into some of the behaviors and characteristics that checkpoint personnel might consider suspicious (and thus meriting more attention), and could therefore be used in attempting to avoid notice. Dec. 2 at ¶ 12. As above, this information was withheld as SSI on the basis that its disclosure would compromise transportation security. *See* 49 C.F.R. § 1520.5(a)(3).

Finally, TSA withheld an annotation about the kind of pat-down that was offered to plaintiff (and which plaintiff declined). Disclosure of the types of pat-down performed in response to any particular circumstance would afford individuals insight into the level of

thoroughness to be expected as a result of any particular type of conduct, and therefore afford greater predictability to those attempting to circumvent TSA's screening efforts – particularly when that individual surveys other instances in which a particular label is used in association with other descriptions of TSA procedures. Dec. 2 at ¶ 14. Accordingly, this information was withheld as SSI on the basis that its disclosure would compromise transportation security. *See* 49 C.F.R. § 1520.5(a)(3).

In light of the foregoing, even if this Court has jurisdiction to review TSA's SSI designations, the information so designated in the records provided to plaintiff was properly withheld. Accordingly, TSA should be granted summary judgment as to all information withheld pursuant to Exemption 3.

b. TSA properly withheld privacy protected information under Exemption 6

Plaintiff's principal objection addresses the frequency with which TSA applied Exemption 6 to withhold the names of individuals with whom he interacted during the incident described in his Amended Complaint. Exhibit C, at ¶¶ 1-2. Plaintiff also challenges TSA's decision to blur the video footage of the incident that it produced to him because the individuals who appear in it had a privacy interest that would be infringed by the production of the unblurred footage. *Id.* at ¶ 8. As discussed below, TSA's decision to withhold both types of information under Exemption 6 is fully justified

Under 5 U.S.C. § 552(b)(6), FOIA's disclosure provisions do not apply to "personnel and medical files and similar files that the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Thus, Exemption 6 purports "to protect individuals from the injury and embarrassment that can result from the unnecessary disclosure of personal information." *United States Dep't of State v. Washington Post Co.*, 456 U.S. 595, 599 (1982).

See Nat'l Ass'n of Retired Fed. Employees v. Horner, 879 F.2d 873, 875 (D.C. Cir. 1989) (noting that the exemption is designed to protect personal information, “even if not embarrassing or of an intimate nature”). Moreover, the government cannot waive an individual’s privacy interests under FOIA, even if it previously disclosed the individual’s information at an earlier time. *See Sherman v. U.S. Dep’t of Army*, 244 F.3d 357, 364 & n.12 (5th Cir. 2001). When evaluating an agency’s withholding under Exemption 6, a court is required to balance the public interest in disclosure against the individual’s right of personal privacy. *United States Dep’t of Def. v. Federal Labor Relations Auth.*, 510 U.S. 487, 495 (1994); *United States Dep’t of State v. Ray*, 502 U.S. 164, 175 (1991); *Dep’t the Air Force v. Rose*, 425 U.S. 352, 372 (1976).

Based on these principles, it is understood that Exemption 6 justifies the redaction of individuals’ names from records that must otherwise be disclosed. The Eleventh Circuit has held that when a requester seeks information that “touches upon certain areas defined in the exemptions [T]he requester must indicate how disclosing the withheld information ‘would serve the core purpose of the FOIA, which is contributing significantly to public understanding of the operations or activities of the government.’” *News-Press v. U.S. Dep’t of Homeland Sec.*, 489 F.3d 1173, 1191 (11th Cir. 2007) (quoting *U.S. Dep’t of Def.*, 510 U.S. at 495 (1994)). Absent a particular need for individuals’ names contained in records covered by a plaintiff’s FOIA request, disclosure of the names to third parties “would constitute a clearly unwarranted invasion” of those individuals’ personal privacy. *News-Press*, 489 F.3d at 1205 (quoting 5 U.S.C. § 552a(b)(6)); *see also Ray*, 502 U.S. at 175 (holding that names and addresses were properly withheld).

Indeed, the protection of Exemption 6 applies with full force to information that is available through other means, including information that has previously been publicly

disclosed. For example, in *United States Department of Justice v. Reporters Committee for Freedom of Press*, the Supreme Court held that even though criminal-conviction information was publicly available in individual court records, individuals still maintained a privacy interest in compilations of such information that would otherwise be difficult to assemble. 489 U.S. 749, 762–63 (1989). As the Court explained, “the fact that an event is not wholly private does not mean that an individual has no interest in limiting disclosure or dissemination of the information.” *Id.* at 770 (quotations omitted). Further, Exemption 6 applies regardless of the sensitivity of the information withheld; biographical data included in personnel records that is “not normally regarded as highly personal” is afforded the same protection as “intimate” information.” *Washington Post Co.*, 456 U.S. at 600-02. Thus, the mere fact that a requester may have been aware of an individual’s name at one point – by virtue of having encountered that individual in person, perhaps while that individual was wearing a name badge, for example – does not undermine the applicability of Exemption 6. Nor does an individual’s status as a federal employee “render his privacy interest . . . nonexistent or unimportant.” *Bonilla v. U.S. Dep’t of Justice*, 798 F. Supp. 2d 1325, 1331 (S. D. Fla. 2011). In short, Exemption 6 operates to limit the disclosure of individuals’ names as part of an otherwise required production under FOIA.

Here, there is no public interest in disclosure that would overcome the privacy interest the individuals in question have in keeping their names from being disclosed in this matter. Dec 2 at ¶¶ 26-28. Regarding the privacy interest at stake here, courts have recognized a basic privacy interest in an individual’s identity. That interest is augmented when there is a likelihood that the individual may be stigmatized as a result of the disclosure. Here, plaintiff has accused a number of individuals of violating his constitutional rights, and maintains a blog that is sharply

critical of TSA and its employees. *See* Doc. 20; <http://tsaoutofourpants.wordpress.com> (grouping posts into categories such as “TSA – Lawsuit” and “TSA – Video Journalism” and “TSA – Assorted Assholery”). Given plaintiff’s propensity to publicly detail his encounters with TSA and its employees (or members of other law enforcement agencies, such as the New York Police Department) – and the fact that he has already publicized on his blog the name of the *Bivens* defendant in this matter⁶ – there is a real and substantial potential that any disclosure of individuals’ identities could result in an association with this case that could endure indefinitely. *See* Doc. 81 (plaintiff’s renewed motion for entry of judgment on dismissed claims in order to expedite appeal); *see also Showing Animals Respect & Kindness v. U.S. Dep’t of Interior*, 730 F. Supp. 2d 180, 197 (D.D.C. 2010) (noting that, in the internet age, “pictures and personal information can cascade through networks to millions of people based on a single disclosure.”).

In contrast, plaintiff’s presumed interest in this information is inconsistent with FOIA’s purpose. As one court noted, “[t]he public interest at issue in FOIA cases is ‘the basic purpose of the Freedom of Information Act to open *agency* action to the light of public scrutiny.’” *Bonilla*, 798 F. Supp. 2d at 1332 (quoting *Reporters Committee*, 489 U.S. at 772) (emphasis added). Here, however, withholding identifying information about particular individuals would not shed light about an agency’s actions or operation, particularly where the balance of the record provided to plaintiff already sheds substantial light on what occurred during the underlying incident in this case. Indeed, disclosure of the various names that were withheld from TSA’s records about the incident would “reveal[] little or nothing” about TSA’s own conduct, *Reporters Committee*, 489 U.S. at 773, and their revelation would thus “constitute an invasion

⁶ <http://tsaoutofourpants.wordpress.com/2011/09/09/well-we-can-either-do-this-here-or-at-the-broward-sheriffs-office/>

of . . . privacy that is excessively disproportionate to the public interest at stake and is therefore clearly unwarranted.” *Bonilla*, 798 F. Supp. 2d at 1332 (quoting *Office of Capital Collateral Counsel v. Dep’t of Justice*, 331 F.3d 799, 804 (11th Cir. 2003)).

Moreover, while the particular purpose of a FOIA request is often irrelevant, when a requester seeks records in order to show impropriety by government officials,⁷ “the requester must produce evidence that would warrant belief that the alleged Government impropriety might have occurred.” *Nat’l Archives & Records Admin. v. Favish*, 541 U.S. 157, 174 (2004). Here, plaintiff’s contention that his treatment during the course of the underlying incident gave rise to constitutional injury has already been determined to be without merit. Doc. 69. As such, plaintiff can demonstrate no public interest sufficient to trump the privacy interest of the identification information withheld pursuant to Exemption 6.

These principles apply with equal force to the video footage of the screening that was eventually provided to plaintiff with somewhat reduced resolution. For example, in *American Civil Liberties Union v. Department of Defense*, the government sought to withhold photographs related to the issue of detainee abuse at government controlled facilities in Iraq and Guantanamo Bay, Cuba. 389 F. Supp. 2d 547, 568 (S.D.N.Y. 2005) (“*ACLU*”). The court ruled that the government should release versions of the photographs that had been redacted under Exemption 6 (or 7(C), discussed *infra*) because “all identifying characteristics of the persons in the photographs” had been eliminated by the redactions, and therefore their publication would not constitute an unwarranted “invasion of personal privacy.” *Id.* at 571. Indeed, the court conducted an *in camera* review of the photographs in question in both redacted and unredacted form and,

⁷ That this is the purpose of plaintiff’s FOIA request is demonstrated in his FOIA request letter itself, which indicates that it is “a formal FOIA records request for, as well as a demand to preserve, the *following evidence*” related to the incident prompting his request and this litigation.

where it believed “the government could better mask identifying features,” it ordered further redactions. *Id.* at 572.

Here, consistent with *ACLU*, TSA redacted the video footage in question because individuals faces (besides the plaintiff’s) were visible, thereby implicating the privacy interest in their identity. Dec. 2 at ¶ 29. Because the government is not free to waive an individual’s privacy interest, *Sherman*, 244 F.3d at 364 & n.12, it is required to take whatever steps are necessary to preserve that interest. The need to do so is all the more acute in the internet age, when pictures and personal information can pass through networks to millions of people based on one disclosure. *See Showing Animals Respect & Kindness*, 730 F. Supp. 2d at 197.

Given these precepts, TSA properly redacted visual records deemed to be responsive to plaintiff’s FOIA request. Thus, this Court should grant TSA’s motion for summary judgment as to the Exemption 6 redactions.

c. TSA properly withheld law enforcement information under Exemption 7(C)

Finally, TSA withheld the names of Broward County law enforcement pursuant to Exemption 7. Under 5 U.S.C. § 552(b)(7), an agency may withhold “records or information compiled for law enforcement purposes” provided that information also meets one of six enumerated criteria. Of relevance here is the criterion of 5 U.S.C. § 552(b)(7)(C), which permits the application of the law enforcement exception “to the extent that the production of such law enforcement records or information . . . (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy.”

This criterion closely tracks Exemption 6, *Office of Capital Collateral Counsel, N. Region of Fla. ex rel. Mordenti v. Dep’t of Justice*, 331 F.3d 799, 803 n.5, 6 (11th Cir. 2003), although Exemption 6 has been deemed to pose a higher standard for withholding records or

information because it requires that disclosure “would” constitute a “clearly unwarranted” invasion, whereas Exemption 7(C) allows for the withholding of records or information that “could reasonably be expected” to constitute an “unwarranted” invasion. *ACLU*, 389 F. Supp. 2d at 569 (citing *Reporters Committee*, 489 U.S. at 756); *see also Davin v. U.S. Dep’t of Justice*, 60 F.3d 1043, 1058 (3d Cir. 1995) (noting “the standard for evaluating privacy interests pursuant to Exemption 7(C) is somewhat broader than the standard for Exemption 6”); *FLRA v. Dep’t of Veterans Affairs*, 958 F.2d 503, 510 (2d Cir. 1992) (“And though *Reporters Committee* involved Exemption 7(C), its discussion governs Exemption 6, for the noted differences bear only on the type of information sought and the degree of invasion to a privacy interest that will be tolerated.”).

Here, TSA redacted the names of Broward County law enforcement who were involved in the incident (although the badge numbers associated with those names were not redacted). Dec. 2 at ¶¶ 31-33. As was the case with Exemption 6, the disclosure of the individuals’ names would amount to the “disclosure of information about private citizens that is accumulated in various government files, but that reveals little or nothing about an agency’s own conduct.” *Reporters Committee*, 489 U.S. at 773. And the government has a heightened interest protecting the privacy of law enforcement officers. As a result, the Exemption 7(C) redactions were wholly appropriate, and TSA is entitled to summary judgment.

CONCLUSION

For the reasons stated above, TSA’s motion for summary judgment on Count 17 should be granted.

Dated: February 13, 2013

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on February 13, 2013, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

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**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

JONATHAN CORBETT,

Plaintiff,

v.

TRANSPORTATION SECURITY
ADMINISTRATION, et al.

Defendants.

No. 1:12-cv-20863-JAL

[PROPOSED] ORDER

Upon consideration of the TSA's Motion for Summary Judgment, this Court finds that the motion is due to be **GRANTED**.

Dated this ____ day of _____, 2013.

Joan A. Lenard
United States District Judge

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

JONATHAN CORBETT,

Plaintiff,

v.

No. 1:12-cv-20863-JAL

TRANSPORTATION SECURITY
ADMINISTRATION, et al.

Defendants.

STATEMENT OF UNDISPUTED MATERIAL FACTS

Pursuant to Local Rule 7.5(c), Defendant TSA submits this statement of material facts in conjunction with its Motion for Summary Judgment.

1. On August 28, 2011, the plaintiff made a request pursuant to FOIA for records and information related to an incident that occurred on August 27, 2011, while he was in a security checkpoint line at the Fort Lauderdale-Hollywood International Airport.

Specifically, the plaintiff's letter requested:

- Any notes taken by any employees of [TSA]¹ relating to this incident;
- Any incident reports, e-mails, or other documentation created as a result of this incident;
- Any correspondence between your organization and any other party as a result of this incident;
- Any audio, video, and or[sic] photographic records taken on August 27th between 3:45 AM and 5:15 AM at or around the TSA checkpoint in front of the FLL "E gates" (US Airways). This must include all camera views that contain any part of this checkpoint, as well as the camera that monitors the sterile area's exit (adjacent to the checkpoint).

¹ Plaintiff's letter – addressed solely to two offices within TSA – requests notes taken by "your organizations." It is presumed that this reference amounts to a typographical error, and that plaintiff simply meant TSA.

Am. Compl. at ¶¶ 74-75; *See* Exhibit A.

2. Thereafter, the plaintiff filed a lawsuit and included a claim challenging TSA's failure to respond to his FOIA request. *See* Am. Compl., Count 17, Doc. 20.
3. In support of his FOIA claim, the plaintiff specifically alleged that he served TSA with a FOIA request for various documents and specified video footage in August, 2011, but had yet to receive a response to that request. *Id.* ¶¶ 74-76, 135-137.
4. TSA responded to the plaintiff's FOIA request by letter dated June 25, 2012, which stated that TSA had located 32 pages of records and video footage responsive his FOIA request. *See* Exhibit B.
5. Of that material, TSA withheld three pages in full, produced twenty-nine pages from which certain information had been redacted in part, and initially withheld the video footage in full on the basis that TSA's FOIA Office lacked the resources required in order to apply the necessary privacy-necessitated redactions. *See* Exhibit F.
6. The plaintiff filed an administrative appeal on July 4, 2012, objecting to the agency's decision to withhold
 - "[t]he names of TSA employees with [whom] I interacted with" during the incident in question (pursuant to FOIA Exemption 6);
 - "[t]he names of police officers" present during the incident in question (pursuant to Exemption 7(C));
 - information from a box on a standard incident report form indicating how to characterize the "Verbal Report From Image Operator (IO) to Screening Operator (SO)" (pursuant to Exemption 3);
 - a passage in a typewritten description of the incident by a Supervisory Transportation Security Officer (STSO) indicating why the STSO "decided that additional attention was needed" during the incident (pursuant to Exemption 3);
 - information in a box labeled "Report from IO" in Section XII of a TSA Incident Report form (pursuant to Exemption 3);
 - an annotation next to plaintiff's name in a hand-written report about the incident (pursuant to Exemption 3);

- from a different hand-written report about the incident an annotation about the kind of pat-down that was offered to plaintiff (and which plaintiff declined) (pursuant to Exemption 3);
- video footage of the incident in its entirety (because TSA's FOIA Office lacked the technological capacity to apply the necessary privacy redactions pursuant to Exemption 6).

See Exhibit C.

7. On July 23, 2012, TSA sent the plaintiff an amended final response letter indicating that because TSA's FOIA Office had obtained a redacted version of the video footage in question through other channels, it was providing the plaintiff with a copy of that edited footage in fulfillment of that portion of his FOIA request. *See* Exhibit D.
8. On November 20, 2012, TSA denied plaintiff's administrative appeal. *See* Exhibit E.

Dated: February 13, 2013

Respectfully submitted,

STUART F. DELREY
Principal Acting Deputy Assistant Attorney
General

RUPA BHATTACHARYYA
Director, Torts Branch

ANDREA W. McCARTHY
Senior Trial Counsel, Torts Branch

/s/ Laura G. Lothman
LAURA G. LOTHMAN
Trial Attorney, Torts Branch
CIVIL DIVISION
UNITED STATES DEPARTMENT OF JUSTICE
Torts Branch, Civil Division
P. O. Box 7146, Ben Franklin Sta.
Washington, D.C. 20044
(202) 616-4326 (voice)
Counsel for TSA

CERTIFICATE OF SERVICE

I hereby certify that on February 13, 2013, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Jonathan Corbett
Plaintiff, *Pro Se*
382 NE 191st Street #86952
Miami, FL 33179

Robert Lon Teitler
Attorney for Defendant Broward County
Broward County Attorney's Office
11 S. Andrews Avenue
Suite 423
Fort. Lauderdale, FL 33301

/s/ Laura G. Lothman
LAURA G. LOTHMAN
Counsel for TSA

DECLARATION

1

3. The purpose of this Declaration is to set forth the chronology of correspondence relating to plaintiffs' FOIA request (the Request) and to identify the basis for TSA's decision to withhold certain records responsive to plaintiff's Request pursuant to Exemptions 3, 5, 6, and 7 of FOIA.

PLAINTIFF'S FOIA REQUEST CHRONOLOGY

4. By letter dated August 28, 2011, plaintiff Jonathan Corbett submitted "a formal FOIA records request for, as well as a demand to preserve, the following evidence":

1. Any notes taken by any employees of your organizations relating to this incident;
2. Any incident reports, e-mails, or other documentation created as a result of this incident;
3. Any correspondence between your organization and any other party as a result of this incident;
4. Any audio, video, and or[sic] photographic records taken on August 27th between 3:45 AM and 5:15 AM at or around the TSA checkpoint in front of the FLL "E gates" (US Airways). This must include all camera views that contain any part of this checkpoint, as well as the camera that monitors the sterile area's exit (adjacent to the checkpoint).

Exhibit A.

5. By letter dated June 25, 2012, TSA's FOIA Office provided response to plaintiff's FOIA request, which is attached as Exhibit B. That letter informed plaintiff that this Office had conducted a search for the records he had specified "relating to an incident at Fort Lauderdale-Hollywood International Airport (FLL) on August 27, 2011, between 4 AM and 5 AM," and that thirty-two (32) pages of records were located, of which twenty-nine (29) were provided in full or in part, and three (3) were withheld in

full. The twenty-nine pages provided to plaintiff with redactions had information withheld pursuant to Exemption (b)(2), Exemption (b)(3), Exemption (b)(6), and Exemption (b)(7)(C). The three pages that were withheld in full were withheld pursuant to Exemption (b)(5). This letter explained the operation of each Exemption, and each redaction in the materials produced to plaintiff was labeled with the applicable Exemption. The letter also informed plaintiff of his administrative appeal rights.

6. At that time, the FOIA Office lacked the technological capacity to apply redactions to video records that it believed to be required by Exemption (b)(6). As a result, the letter of June 25, 2012 indicated that video footage located in response to Item 4 of his request would have to be withheld in full. At the time TSA responded to plaintiff's FOIA request, the FOIA Office had a backlog of requests for video records that it could not release due to this shortcoming.

7. By letter dated July 4, 2012, plaintiff submitted an administrative appeal of TSA's June 25th response to his Request, which is attached as Exhibit C. In that letter, plaintiff indicated that he was contesting:

- a. all redactions marked (b)(6);
- b. all redactions marked (b)(7);
- c. a redaction applied to the "Verbal Report from Image Operator (IO) to Screening Operator (SO)";
- d. multiple redactions to a passage in one or more incident reports indicating why a checkpoint screener "decided that additional attention was needed";
- e. a Sensitive Security Information (SSI) redaction to a box labeled "Report from IO";
- f. a redaction to "an adjective describing me" that was deemed to be SSI;

g. a SSI redaction regarding a statement that plaintiff was “offer[ed] the [redacted] pat-down”;

h. the decision to withhold the video records.

8. By letter dated July 23, 2012, which is attached as Exhibit D, the FOIA Office notified plaintiff that it was able to obtain a copy of the video records in question that were sufficiently obscured so as to alleviate any privacy concerns under Exemption (b)(6). The privacy-protected copies of those videos were provided to plaintiff with that letter, along with an explanation of that exemption and plaintiff’s administrative appeal rights regarding this decision.

9. By letter dated November 20, 2012, TSA informed plaintiff that it was denying his administrative appeal. That letter is attached as Exhibit E.

10. As of the date of this Declaration, TSA has provided plaintiff with twenty-nine pages of records in whole or in part, and withheld three pages in full. A true and correct copy of the records produced to plaintiff, which have since been Bates stamped for ease of reference, are attached as Exhibit F.

SEARCH METHODOLOGY

11. Following the FOIA Office’s receipt of plaintiff’s Request relating to his screening experience at FLL on August 27, 2011, the FOIA Office initiated a search for responsive documents. Because the Request relates to a particular incident at FLL, a request for records was sent to Mr. Larry Burns and Ms. Kelly M. LaCourse at that airport, which included both plaintiff’s name and a copy of his request. The airport performed a manual search for records that were generated as a result of the incident. The airport returned twenty-nine pages of records, which were eventually released to plaintiff in whole or in part.

12. Some of the documents responsive to the plaintiff's Request contained Sensitive Security Information (SSI) and so the FOIA office submitted those documents to the SSI Branch for its review. As required by 49 C.F.R. § 1520.15(b), TSA released non-exempted portions of the documents containing SSI, with the SSI redacted.

13. An attorney with TSA's Office of Chief Counsel assigned to handle plaintiff's prior litigation against TSA was also tasked with providing responsive records to plaintiff's Request. The attorney conducted a search of electronic records and returned three pages of email generated in connection with the incident (which were withheld in full).

14. All of the information at issue was properly withheld because it is exempt from disclosure pursuant to FOIA. I have reviewed the documents and video that TSA released in response to plaintiff's Request and determined that they are responsive. I have reviewed the documents line-by-line, to identify any information exempt from disclosure or for which a discretionary waiver of exemption could apply, and I am satisfied that all reasonably segregable portions of the relevant records have been release to the plaintiff. In my determination, any further release of the exempted materials could reasonably lead to the identification of individuals or to the release of SSI and are properly protected by the asserted exemptions.

EXEMPTIONS

15. The following paragraphs describe the records or information withheld by TSA pursuant to the FOIA exemptions identified in its final response letter to plaintiff. Although plaintiff's administrative appeal did not contest either the search for records or

every redaction or withholding beyond the eight items specifically set forth in his letter of July 4, 2011, this declaration covers each redaction or withholding.¹

Exemption 3

16. Under 5 U.S.C. § 552(b)(3) (“Exemption 3”), information that is “specifically exempted from disclosure by statute” is not subject to the FOIA’s mandatory disclosure provisions, provided that information is covered by a statute that “requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue,” and the statute “establishes the particular types of matters to be withheld.”

17. The statutes and regulations governing the designation, handling, and control of SSI place mandatory and non-discretionary restrictions on its public dissemination. Pursuant to 49 U.S.C. § 114(r)(1), SSI is explicitly exempt from disclosure pursuant to FOIA if TSA determines that its disclosure would “(A) be an unwarranted invasion of personal privacy; (B) reveal a trade secret or privileged or confidential commercial or financial information; or (C) be detrimental to the security of transportation.” The regulations at 49 C.F.R. part 1520, which are promulgated pursuant to 49 U.S.C. § 114(r), also impose a mandatory obligation to protect SSI from public disclosure. Specifically, under 49 C.F.R. § 1520.9, a person entrusted with SSI may not “[d]isclose, or otherwise provide access to” SSI to anyone who is not authorized to receive SSI. The list of “covered persons” authorized to receive SSI is set forth in 49 C.F.R. § 1520.7, and is limited to those with a direct role in transportation security or

¹ Although certain redactions were made under exemption (b)(2) as well as under exemption (b)(6), TSA is no longer asserting exemption (b)(2) as to that information. Accordingly, exemption (b)(2) is not addressed separately herein.

those assisting such individuals. Furthermore, 49 C.F.R. § 1520.15(a) specifically prohibits the disclosure of SSI pursuant to FOIA by stating that “[e]xcept as otherwise provided in this section and notwithstanding the Freedom of Information Act (5 U.S.C. 552), the Privacy Act (5 U.S.C. 552a), and other laws, records containing SSI are not available for public inspection or copying, nor does TSA or the Coast Guard release such records to persons without a need to know.”²

18. When TSA’s FOIA Office receives a request for records that may contain SSI, the FOIA Office submits those records to the SSI Program for review in order to determine whether the records contain SSI and, if so, what specific portions constitute SSI. Under 49 C.F.R. § 1520.15(b), TSA may release records that contain both SSI and information that is not SSI provided that the SSI in that record has been redacted and the record is not otherwise exempt from disclosure under FOIA.

19. The responsive records to the Request were submitted to TSA’s SSI Program for its review. In response, the SSI Program provided copies of the records in which the SSI it had identified was marked for redaction. The information marked by the SSI Program for redaction appears on pages 03, 05, 07, 08, 10, 11, 13, 14, 15, 17, 23, and 29. Because the SSI Program is responsible for identifying SSI, and SSI must be withheld from any FOIA production, the portions of the records that the SSI Program marked for redaction as SSI were redacted pursuant to Exemption 3.

² While 49 C.F.R. § 1520.15(e) allows for a conditional disclosure of specific records or information, such a release essentially requires a finding that the information is no longer SSI (e.g., that its release “would not be detrimental to transportation security”), and such a conditional release “is not a public release of information under the Freedom of Information Act,” 49 C.F.R. § 1520.15(g).

Exemption 5

20. Under Exemption 5, FOIA's disclosure requirements do not apply to "inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency." 5 U.S.C. § 552(b)(5). The exemption has been interpreted to include the deliberative process privilege, the attorney-client privilege, and attorney work product. TSA has asserted Exemption 5 to withhold information protected under all three of these categories.

21. The attorney-client privilege applies to confidential communications between an attorney and his client relating to a legal matter for which the client seeks or requires professional advice. Although the privilege applies to facts divulged by a client to his attorney, it also encompasses any opinions given by an attorney to his client based upon, and thus reflecting, those facts. In applying the attorney-client privilege to documents responsive to the Request, a determination was made that the three pages of records withheld from production in June 2012 were records that contained legal analysis and/or advice offered by and between attorneys regarding plaintiff's stated indication – to attorneys at the Department of Justice – that he intended to pursue litigation regarding the underlying event. Those records also reflect the attorneys' efforts to explore and develop the underlying facts, and thereby reflect the matters and means they considered most important in preparing a defense to the prospective litigation. Because these emails were exchanged between an attorney at the Department of Justice and an attorney with TSA's Office of Chief Counsel, and later between attorneys with TSA's Office of Chief Counsel, a determination was made as to each record in question that it independently

constituted an attorney-client privileged communication that is protected from disclosure under Exemption 5.

22. The records were also deemed to constitute attorney work-product that is likewise insulated from disclosure under Exemption 5. The attorney work-product privilege protects documents and other memoranda prepared by an attorney in contemplation of litigation. Its purpose is to protect the adversarial trial process by insulating the attorney's preparations from scrutiny. This privilege extends to administrative proceedings and covers documents prepared in anticipation of foreseeable litigation, including factual materials. In applying the attorney work-product privilege to records acquired from TSA's Office of Chief Counsel, a determination was made for each record that it was prepared in anticipation of plaintiff's promised federal court lawsuit and reflected the attorneys' fact-gathering and/or opinion-formulating processes regarding the prospective litigation with plaintiff. As such, each record was independently deemed to also be protected from disclosure as attorney work-product under Exemption 5.

23. The deliberative process privilege protects three primary concerns: (1) to encourage open and frank discussion of policy matters between subordinates and supervisors; (2) to protect against the premature disclosure of proposed policies before they become final; and (3) to protect against public confusion that might result from the disclosure of reasons and rationales that were not, in fact, the ultimate grounds for the agency's action. In applying the deliberative process privilege to the records from TSA's Office of Chief Counsel that were deemed responsive to the Request, a determination was made as to each record that it was both predecisional and deliberative. By predecisional,

I mean that the document was generated before the adoption of a final agency policy. By deliberative, I mean that the document reflects the give-and-take of the consultative process, particularly between attorneys charged with defending the government and its employees against a threatened lawsuit. As such, each record was independently deemed to also be deliberative process material that is protected from disclosure under FOIA Exemption 5.

Exemption 6

24. Under Exemption 6 of FOIA, agencies are permitted to withhold “personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” 5 U.S.C. § 552(b)(6). This protection is afforded to information that would infringe on the personal privacy of individuals about whom it pertains. Moreover, the term “similar files” has been broadly interpreted to include any record that contains the type of information that might be found in a personnel or medical file, and thus all information that applies to a particular individual meets the threshold requirement for Exemption 6 protection.

25. Once that threshold requirement has been met, the focus of the inquiry as to whether to redact the information in question turns to whether disclosure of that information would constitute a clearly unwarranted invasion of personal privacy. That assessment requires a balancing of the privacy interest that would be compromised by disclosure against the public interest in the requested information.

26. Here, it is generally accepted that Exemption 6 protects personal information, to include the person’s name, address, and phone number, regardless of whether that person is a federal employee or a third party who interacts with a federal

employee. Individuals are deemed to have a protectable privacy interest in that type of information because its disclosure could expose them to unnecessary unofficial questioning, harassment, and stigmatization. The concern about such harassment is reasonable, as the personal identifying information in these records would necessarily identify the individual as working at a particular location, having played a particular role in plaintiff's incident, and thereby make them particularly accessible to those who share plaintiff's belief that they were participants in the infringement of his (any by extension other passengers') constitutional rights. The need to preserve personally identifying information from unnecessary disclosure is amplified by the fact that the internet allows a single disclosure to potentially be broadcast far and wide, and once disclosed and placed on the internet can be disseminated widely and without any meaningful limitation on inappropriate instances thereof.

27. Against this privacy interest is the consideration that none of the individuals' personal information would shed light on how TSA performs its statutory duties generally or in the particular instance at issue in this litigation. It is well understood that the purpose of the FOIA is to allow the public greater understanding in to the operations of the federal government. An individual's personal identifying information, however, does not contribute to that understanding.

28. Information was redacted pursuant to Exemption 6 on pages 01-05, 10-25, and 27-29. In each instance where such a redaction appears, the FOIA Office made the determination that the name, phone number, or other identifying information in question implicated the individual's privacy interest in that information, and that the public interest in having that information disclosed was insufficient to merit its disclosure.

Accordingly, TSA's FOIA Office made an determination to withhold all such information under Exemption 6.

29. The same considerations at issue apply with equal force to the video records that are the subject of plaintiff's Request. The FOIA Office reviewed the video footage in question and determined that individuals faces were plainly visible and distinct, so as to allow a viewer to identify a particular individual by face. That information, if disclosed, would be the equivalent of disclosing an individual's name or other identifying information, as a viewer of the video would then be able to go to an individual's place of work in order to look for that person, with the attendant possibility of unnecessary or unwarranted and unofficial questioning, harassment, and stigmatization. Moreover, the videos in question showed numerous other passengers proceeding through the checkpoint at approximately the same time as plaintiff who possess the same privacy rights as the employees whose names have been redacted. In contrast, the visual identifying information regarding the federal employees and third parties who nearby during the incident would not further an understanding of TSA's operations. Accordingly, the FOIA Office made the determination that Exemption 6 required that the video footage be sufficiently obscured in order to preserve the privacy of the individuals portrayed therein.

Exemption 7(C)

30. Under 5 U.S.C. § 522(b)(7)(C), the FOIA's disclosure provisions do not apply to "records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information . . . (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy." Here,

TSA's security checkpoint activities are not conducted for generalized law enforcement objectives. However, airport security screening has resulted in the discovery of items that must be referred to law enforcement since it first began in the late 1960s, and therefore records regarding their discovery would be made and preserved for subsequent use by law enforcement personnel and entities. Further, the consideration that the records or information be "compiled for law enforcement purposes," has been broadly understood to include both civil and criminal enforcement actions. In that respect, TSA has extensive statutory and regulatory enforcement authority, in both the civil and criminal spheres, regarding incidents arising at its security checkpoints. As such, records memorializing an incident that might give rise to a civil or criminal enforcement action – even if no prohibited item is found – fall within the meaning of a record "compiled for law enforcement purposes."

31. Here, the TSA FOIA Office made determined that the records generated as a result of plaintiff's refusal of all offered forms of screening were created as a result of TSA policy to document unusual events at the checkpoint, as those incidents might ultimately result in the institution of a criminal or civil enforcement proceeding. As such, the records that plaintiff seeks were "compiled for law enforcement purposes."

32. Because these records meet the threshold requirement for the application of Exemption 7(C), TSA's FOIA Office redacted the names of the law enforcement officers that appeared therein, on the basis that the disclosure of those individuals' identifying information "could reasonably be expected to constitute an unwarranted invasion" of their personal privacy. TSA's FOIA Office reached that conclusion for the same reasons set forth above in connection with Exemption 6: that the disclosure of

personally identifying information carries an attendant concern regarding the possibility that it will be used to harass or stigmatize that individual, or expose them to unwarranted unofficial questioning regarding this incident. Against this legitimate privacy interest is the lower threshold in Exemption 7(C) for withholding such information, as it need only be “reasonably expected to constitute an unwarranted invasion” of an individual’s privacy (in contrast to “the clearly unwarranted” invasion protected by Exemption 6).

33. Here, because the disclosure of these officers’ names was deemed to be justifiable under Exemption 6, the second criteria for withholding those names pursuant to Exemption 7(C) was necessarily met as well. Nevertheless, TSA’s FOIA Office made a separate determination that the disclosure of the officer’s identifying information could reasonably be expected to expose the particular officer to unwarranted contact regarding this incident, and therefore to constitute an unwarranted invasion of their personal privacy.³ For these reasons, TSA’s FOIA Office redacted the officers’ names – which appear on pages 03, 05-06, 10, 14, 25, and 27-29 – under Exemption 7(C) as well as Exemption 6.

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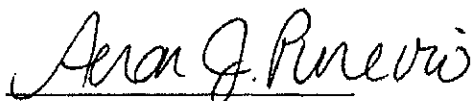
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³ TSA’s FOIA Office did not redact the officers badge number, as that information alone would not easily allow the individual officer to be identified, yet would allow plaintiff to distinguish more easily between the different officers mentioned in the records that were disclosed to him.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 12, 2013.

A handwritten signature in black ink that reads "Aeron J. Pineiro". The signature is written in a cursive style with a horizontal line underneath the name.

Aeron J. Pineiro, Operations Manager
Freedom of Information Act Office
Office of Civil Rights & Liberties, Ombudsman &
Traveler Engagement
Transportation Security Administration
U.S. Department of Homeland Security

DECLARATION

2

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

JONATHAN CORBETT,)	
)	
Plaintiff,)	
)	
v.)	No. 1:12-cv-20863-JAL
)	
TRANSPORTATION SECURITY)	
ADMINISTRATION, <i>et al.</i> ,)	
)	
Defendants.)	
_____)	

DECLARATION OF DAVID E. HOFFMAN

I, DAVID E. HOFFMAN, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am the Chief of the Sensitive Security Information (SSI) Program of the Transportation Security Administration, which is a component of the Department of Homeland Security. I have held this position since November 2011. This Declaration is based on personal knowledge and information made available to me in the performance of my official duties, my personal review of the records in question, and conclusions reached in accordance therewith. My position as Chief of the SSI Program places me in a position to determine the potential harm of releasing records containing SSI.

2. Pursuant to 49 U.S.C. § 114(r) and 49 C.F.R. part 1520, the Administrator of TSA is vested with the authority to determine what information constitutes SSI.¹ That

¹ 49 U.S.C. 114(r) refers to TSA's Administrator as "the Under Secretary of Transportation for Security" because TSA was originally a part of the Department of Transportation. TSA's functions, as well as the Under Secretary's, were transferred to DHS pursuant to section 403(2) of the Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (codified at 6 U.S.C. 203(2)). The Under Secretary is now known as the Administrator of TSA. See 49 C.F.R. 1500.3.

authority is delegated from the TSA Administrator to the Chief of the SSI Program pursuant to a Management Directive signed by the Administrator on April 23, 2012. The SSI Program serves as the primary point of contact (POC) for the DHS Office of Security, other DHS Components, transportation security stakeholders, and TSA as a whole on issues involving SSI in accordance with 49 C.F.R. part 1520.

3. The SSI Program conducts assessments and reviews of TSA records in order to determine whether information in those records constitutes SSI. The SSI Program thereafter ensures that the appropriate SSI designations and protections are made in accordance with 49 C.F.R. part 1520. The prohibition on public release of SSI is not discretionary but is mandatory in accordance with 49 C.F.R. § 1520.15(a). The SSI Program also determines whether specific information should no longer be protected as SSI in accordance with 49 C.F.R. § 1520.5(c) and whether information previously not deemed SSI should be so designated.

4. The SSI Program makes such designations on factors that include the analysts' training and consultation with subject-matter experts who provide expertise on the threats posed by those seeking to do harm to transportation security. This expertise permits the SSI Program to understand how different terms, phrases, and concepts could be used by terrorists to undermine security systems in their attempt to harm transportation security.

5. Exemption 3 of the Freedom of Information Act (FOIA) allows the withholding of information "specifically exempted from disclosure by statute...if that statute '(A)(i) requires that the matters be withheld from the public in such a manner as to

leave no discretion on the issue; or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld...”

6. Pursuant to 49 U.S.C. § 114(r) and implementing regulations at 49 C.F.R. part 1520, information designated as SSI is exempt from disclosure notwithstanding the Freedom of Information Act, 5 U.S.C. § 552, the Privacy Act of 1974, 5 U.S.C. § 552(a), or any other laws if TSA determines disclosure would “(1) be an unwarranted invasion of personal privacy . . . ; (2) reveal a trade secret or privileged or confidential commercial or financial information obtained from any person; or (3) be detrimental to the security of transportation.” 49 C.F.R. part 1520.5(a). TSA’s determinations as to what constitutes SSI are exclusively reviewable by the United States Courts of Appeals. 49 U.S.C. § 46110.

7. It is my understanding that on August 28, 2011, Mr. Jonathan Corbett, the plaintiff in the above-captioned litigation, filed a request for information pursuant to FOIA.

8. Consistent with 49 U.S.C. § 114(r) and 49 C.F.R. part 1520, the SSI Program, under my supervision, has reviewed the documents that were identified as being responsive to the plaintiff’s request. I have determined that the documents identified with Bates numbers 03, 05, 07, 08, 10, 11, 13, 14, 15, 16, 17, 23, and 29 contained some information that constitutes SSI.

9. The page Bates numbered 03 contains – in the second to last line of the narrative description of the event – a short statement addressing whether Mr. Corbett met a particular selection criteria for enhanced passenger screening. The same information appears – and was redacted –

- a. on the fourth to last line of the page Bates numbered 05;
- b. in the block of information redacted on the page Bates numbered 07;
- c. twice on the page Bates numbered 10 (on the first line and next to the notation "Number of passengers –");
- d. on the first line of the page Bates numbered 13;
- e. on the thirteenth line of the page Bates numbered 14;
- f. on the fourth line of the page Bates numbered 15;
- g. on the last line of the page Bates numbered 23; and
- h. on the second line of the page Bates numbered 29.

Because this designation if publicly disclosed would reveal to passengers whether or not they can expect enhanced screening – and if they elected to proceed what that enhanced screening entails – this designation constitutes a selection criteria for aviation screening that is SSI pursuant to 49 C.F.R. § 1520.5(b)(9)(i) and (b)(9)(ii).

10. The pages Bates numbered 06 through 12 are part of a standard TSA Incident Report Form, which prompts the employee completing it to provide particular types of information about the screening process that gave rise to an incident necessitating a report. Of necessity, this form requests information related to the types of screening procedures used and the selection criteria by which certain individuals may be designated for additional screening. In addition to the designations discussed above (which appear on the pages Bates numbered 07 and 10 of this document), several pages of this document contain SSI.

11. Specifically, the pages Bates numbered 08 and 11 contain redactions in blocks intended to record the "Verbal Report from Image Operator (IO) to Screening

Operator (SO)” or the “Report from IO,” respectively. The information in these blocks reflects the set of pre-established criteria by which the IO identifies to the SO the reasons for a particular search following an Advanced Imaging Technology (AIT) scan, and thus both the level of detail in the communication between the IO and SO and the criteria that can trigger additional screening by the SO.² The block on the page Bates numbered 08 also contains a notation why a passenger might have been “required to undergo the Resolution Pat-Down (RPD),” a particular form of enhanced screening. Lower down on the page Bates numbered 08 is a diagram intended to be used to indicate the “location where items are found” in the course of a screening, the disclosure of which would reveal the granularity of TSA’s search efforts and facilitate efforts to circumvent them. Each of these redactions covers descriptions of why additional screening was needed based on an AIT scan and would impart information about the criteria giving rise to forms of enhanced screening, thereby providing insight to those interested in circumventing TSA’s checkpoint screening procedures. As such, the information constitutes SSI pursuant to 49 C.F.R. § 1520.5 (b)(9)(i).

12. The page of this form that is Bates numbered 10 also contains a longer redaction of the reporting screener’s reasoning for deciding “that additional attention was needed” for the plaintiff during this incident. The same information was also redacted on the page Bates numbered 13. Disclosure of this information publicly would afford undue insight into the criteria that can trigger additional screening, and would serve as an indication to those seeking to circumvent TSA screening procedures about what kinds of

² Although Mr. Corbett states that he opted out of AIT screening, the information in the blank template that was redacted sheds light on the procedures with which the IO and SO note where to look and what to look for during AIT screening.

actions or behaviors to avoid. In both instances, this information was determined to constitute SSI pursuant to 49 C.F.R. § 1520.5(b)(9)(i).

13. The twenty-sixth line of the page Bates numbered 10 also contains a notation about the type of "ETD" (Explosives Trace Detection) conducted on plaintiff's accessible property, and the same information was also redacted on the first line of the final paragraph on the page Bates numbered 13 and the eleventh line of the page Bates numbered 16. Further disclosure of the redacted information on these pages would provide insight into the extent of screening required in this context, and therefore provide undue insight into TSA's screening policies and procedures. As such, this information was deemed to constitute SSI in accordance with 49 C.F.R. § 1520.5(b) (9)(ii).

14. The last line in the narrative on the page Bates numbered 17 contains a similar procedural redaction to the description of a pat-down procedure offered to plaintiff during this incident. Disclosure of this information could be used in combination with the description of other events to determine and predict the type of screening procedures that would be used in a particular context or sequence of events. As a result, the public disclosure of this information would provide undue insight regarding TSA's screening policies and procedures to those seeking to circumvent those procedures. Accordingly, this information was deemed to constitute SSI in accordance with 49 C.F.R. § 1520.5(b) (9)(i).

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I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 12, 2013.

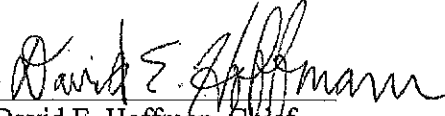

David E. Hoffman, Chief
Sensitive Security Information Program
Office of Law Enforcement/
Federal Air Marshal Service
Transportation Security Administration
U.S. Department of Homeland Security

EXHIBIT A

From: Jonathan Corbett
407 Lincoln Road, #11A
Miami Beach, FL 33139
August 28th, 2011

To: TSA Claims Management Branch
601 South 12th St.
TSA-9
Arlington, VA 20598-6009

✓To: Transportation Security Administration
Office of the Special Counselor
Attn: Freedom of Information Act Office
601 South 12th Street
Arlington, VA 20598-6033

Re: FTCA Claim, FOIA Request, and Demand to Preserve Evidence

To Whom It May Concern:

On August 27th, 2011, between approximately 4 AM and 5 AM, I was unlawfully searched and detained by members of the Transportation Security Administration at FLL airport. After opting out of your nude body scanners, I was then asked to undergo a physical "pat-down" search. I stated that this was consented to so long the searcher would not be touching my genitals or buttocks. I was informed that this touching would be necessary.

A Transportation Security Manager named Alejandro Chamizo was called over to talk to me, and again explained that touching these "sensitive areas" would be necessary, to which I repeated that I did not consent to such touching. I was then informed by the TSM that I would be searched regardless of consent, whether I wanted it "here or at the BSO" (Broward Sheriff's Office). A reasonable person in my situation would have gathered that I was not free to leave at this point. As your TSM had no legal right to detain me, this may constitute, and I hereby make a Federal Tort Claims Act claim for: state law false arrest, state law false imprisonment, and state law negligence relating to failure to train employees. This is additionally an unreasonable seizure of my person in violation of the fourth amendment to the US Constitution.

Additionally, during a search of my belongings, the TSA exceeded its statutory boundaries on three occasions. First, the TSA screener decided to read each of the cards (credit cards, IDs, *etc.*) that I had been carrying in my pants. This search could not have turned up

evidence of weapons, explosives, or incendiary items, and therefore was unlawful. Second, the TSA screener decided to flip through and examine pages of a book that I was carrying. This search could not have turned up evidence of weapons, explosives, or incendiary items, and therefore was unlawful. Finally, the general extent of the bag search performed by the TSA, which took over 30 minutes to examine one carry-on and one personal item, was retaliatory, as explained by a TSA screener who noted that declining a search gave them additional suspicion and therefore justified this search. This search went beyond what was necessary to turn up evidence of weapons, explosives, or incendiary items, and therefore was unlawful, and my honest personal opinion was that the screeners desired to turn up evidence of anything unlawful as "payback" for declining their search. Each of these three searches was objected to by me at the time, and each of the three searches continued despite my objections. This may constitute, and I hereby make a Federal Tort Claims Act claim for: state law negligence relating to failure to train employees, and other related state laws. This is also an unreasonable search of my property in violation of the fourth amendment to the US Constitution.

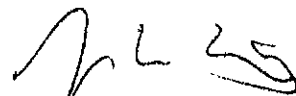
The total amount claimed is US\$1,000,000.00 (one million United States Dollars).

Please also accept this as a formal FOIA records request for, as well as a demand to preserve, the following evidence:

1. Any notes taken by any employees of your organizations relating to this incident
2. Any incident reports, e-mails, or other documentation created as a result of this incident
3. Any correspondence between your organization and any other party as a result of this incident
4. Any audio, video, and or photographic records taken on August 27th between 3:45 AM and 5:15 AM at or around the TSA checkpoint in front of the FLL "E gates" (US Airways). This must include all camera views that contain any part of this checkpoint, as well as the camera that monitors the sterile area's exit (adjacent to the checkpoint).

I may be contacted at the address at the top of this letter.

Thank you,



Jonathan Corbett

Jonathan Corbett
 407 Linda Ave., #11A
 Miami Beach, FL 33139

C-1 **C**

6033
 Delivery Point
 W-3
 FOIA

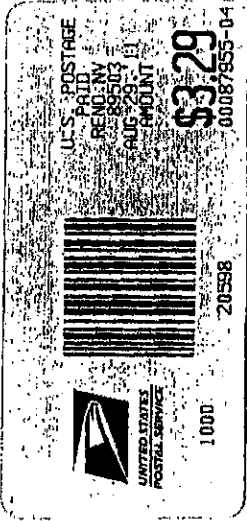
Processed By: DSS-WITS-19
 9/6/2011 10:33:20 AM

7011157000204566636

CERTIFIED MAIL™

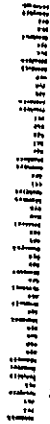


7011 1570 0002 0456 6636



TSA
 Office of the Special Counsel
 Attn: PERS OFFICE
 601 S. 17th St.
 Arlington, VA 20548-6033

20558880033



SEP 06 2011

~~Original~~ ~~ASSIGNED~~
CRDS MAIL #1

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT

EXHIBIT B

U.S. Department of Homeland Security

Freedom of Information Act Office
601 South 12th Street
Arlington, VA 20598-6020



Transportation
Security
Administration

JUN 25 2012

3600.1

FOIA Case Number: TSA11-0859

Mr. Jonathan Corbett
2885 Sanford Ave., SW #16511
Grandville, MI 49418-1342

Dear Mr. Corbett:

This letter is in response to your Freedom of Information Act (FOIA) request dated August 28, 2011, in which you requested the following records relating to an incident at Fort Lauderdale-Hollywood International Airport (FLL) on August 27, 2011, between 4 AM and 5 AM at the security checkpoint.

1. Any notes taken by any employees of your organizations relating to this incident.
2. Any incident reports, emails, or other documentation created as a result of this incident.
3. Any correspondence between your organization and any other party as a result of this incident.
4. Any audio, video, and or photographic records taken on August 27th between 3:45 AM and 5:15 AM at or around the Transportation Security Administration (TSA) checkpoint in front of the FLL "E gates" (US Airways). This must include all camera views that contain any part of this checkpoint, as well as the camera that monitors the sterile area's exit (adjacent to the checkpoint).

Your request has been processed under the FOIA, 5 U.S.C. § 552 and the Privacy Act, 5 U.S.C § 552a, respectively.

A reasonable search within TSA was conducted and 32 pages responsive to items 1 – 3 of your request were located. These pages have been reviewed and portions are being withheld pursuant to Exemptions (b)(2), (b)(3), (b)(6) and (b)(7)(C). Please note that regarding item 4 of your request, the surveillance video from FLL was located; however, this video includes images that require protection under Exemption (b)(6) of the FOIA and the TSA FOIA Office does not have the in-house capability to obscure or omit those images from the video. Therefore, the video you have requested is being withheld in full. In addition, three pages are being withheld in their

entirety pursuant to Exemption (b)(5). A more detailed explanation of these exemptions is outlined below.

Exemption (b)(2)

Exemption (b)(2) exempts from mandatory disclosure records that are "related solely to the internal personnel rules and practices of an agency." We have determined that certain portions of the requested records contain personnel rules and/or internal practices of the TSA and are thus properly withheld from disclosure under this exemption.

Exemption (b)(3)

This information reveals Sensitive Security Information (SSI) and is exempt from disclosure under Exemption (b)(3), which permits the withholding of records specifically exempted from disclosure by another Federal statute. Title 49 U.S.C. Section 114(r) exempts from disclosure SSI that "would be detrimental to the security of transportation" if disclosed. The TSA regulations implementing Section 114(r) are found in 49 CFR Part 1520.

Exemption (b)(5)

Exemption (b)(5) protects from disclosure those inter- or intra-agency documents that are normally privileged in the civil discovery context. The three most frequently invoked privileges are the deliberative process privilege, the attorney work-product privilege, and the attorney-client privilege. Of those, we have determined that information in the documents you have requested is appropriately withheld under the attorney work-product privilege which protects the adversarial trial process by insulating the attorney's preparation from scrutiny.

Exemption (b)(6)

Exemption (b)(6) permits the government to withhold all identifying information that applies to a particular individual when the disclosure of such information "would constitute a clearly unwarranted invasion of personal privacy." This requires the balancing of the public's right to disclosure against the individual's right to privacy. After performing this analysis, we have determined that the privacy interest in the identities of the individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Please note that any personal interest you may have in that information does not factor into the aforementioned balancing test.

Exemption (b)(7)(C)

Exemption (b)(7)(C) permits the government to withhold all law enforcement information when disclosure "could reasonably be expected to constitute an unwarranted invasion of personal privacy" based upon the traditional recognition of strong privacy interests ordinarily appropriated in law enforcement records. As such, we have determined that the privacy interest in the identities of individuals in the records you have requested clearly outweighed any minimal public interest in disclosure of the information. Please note that any personal interest you may have in that information does not factor into this determination.

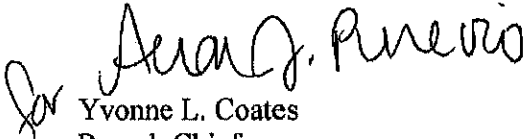
Fees

The fees incurred to process this request do not exceed the minimum threshold necessary for charge and, therefore, there is no fee associated with the processing of your request.

Administrative Appeal

You may appeal the determination outlined in this response within 60 days of this letter. Failure to appeal this response within 60 days of the date of this letter may result in dismissal of your appeal as untimely. Any appeal should contain your FOIA request number and state, to the extent possible, the reasons why you believe the initial determination should be reversed. In addition, the envelope in which the appeal is mailed in should be prominently marked "FOIA" appeal. Any administrative appeal of this determination may be made in writing to Kimberly Walton, Assistant Administrator, Office of Civil Rights & Liberties, Ombudsman and Traveler Engagement (CRL/OTE), Transportation Security Administration, 601 South 12th Street, East Building, E7-121S, Arlington, VA 20598-6033. The Assistant Administrator's determination will be administratively final. If you have any questions pertaining to your request, please feel free to contact the FOIA Office at 1-866-364-2872 or locally at 571-227-2300.

Sincerely,

 Yvonne L. Coates

Branch Chief
Freedom of Information Act Office
Office of Civil Rights & Liberties,
Ombudsman and Traveler Engagement
Transportation Security Administration

Enclosure

EXHIBIT C

From: Jonathan Corbett
2885 Sanford Ave. SW #16511
Miami Beach, FL 33139
July 4th, 2012

To: Transportation Security Administration
Attn: Freedom of Information Act Office
601 South 12th Street
Arlington, VA 20598-6033

Re: FOIA Appeal, TSA11-0859

To Whom It May Concern:

I have received your correspondence fulfilling in part and denying in part my FOIA request submitted to your office nearly one year ago. As this issue is already in litigation (*Corbett v. TSA et. al*, 12-CV-20863, SDFL) due to the government's failure to timely reply, I do believe that the government has forfeited its right to administratively hear this issue. However, in the event that the Court decides otherwise, I hereby appeal as follows:

1. The names of TSA employees with which I interacted with on August 27th, 2011 have all been redacted noting exemption (b)(6) (privacy of individuals). These individuals are all public servants who are required to wear identification tags in the course of their duties. There is therefore no reasonable expectation of privacy in regards to their names. BTW, you missed one ("STSO English," on the 15th page sent to me)... you really should be more careful. ☺ This appeal applies to all redactions marked (b)(6).
2. The names of police officers are redacted noting (b)(7)(C) exemption (privacy of law enforcement officers). For the same reasons listed above for (b)(6), all redactions marked (b)(7)(C) are thusly appealed.
3. The "Verbal Report from Image Operator (IO) to Screening Operator (SO)" has been redacted in its entirety noting exemption due to constituting SSI. It seems extraordinarily unlikely that each word of this report constitutes SSI. Further, there should be no report from the IO to the SO, since I did not go through an imaging device. Please explain and un-redact appropriately.

4. There are multiple copies of an incident report by a redacted STSO that contains the sentence, "During the interview, STSO [redacted] decided that additional attention was needed [long redacted text here]," noting again SSI as the reason for exemption. The "long redacted text" would seem to me to be a sentence that would convey the TSA's retaliatory purpose for intensifying the search against me. Hiding behind SSI to avoid embarrassment is barred by federal law. Please explain and un-redact appropriately.
5. There is a page that is largely blank except for seven (b)(6) redactions and one SSI redaction in a box labeled "Report from IO;" For the same reasons as described above in paragraph 3, please explain and un-redact appropriately.
6. There is a hand-written report by a redacted STSO (the one in which you forgot to redact the name of STSO English) that redacts an adjective describing me on the fourth line noting the SSI exemption. It seems highly unlikely that a word used to describe me could possibly be SSI. Please explain and un-redact appropriately.
7. There is a hand-written report by a redacted LTSO that says I was "offer[ed] the [redacted] pat-down," with the redaction noting SSI. If I was offered it, how can it be SSI? Please explain and un-redact appropriately.
8. Last and most importantly, your letter notes that the \$8 billion dollar per year, 60,000 employee large Transportation Security Administration does not have the ability to partially redact a video, presumably to block out the screens of baggage x-rays. Do you *really* want to go in front of a federal judge with that argument? Video editing software is available on the Internet for free. I highly suggest that you save yourselves significant embarrassment in court and fulfill this request. So appealed.

Please correct the above at your earliest convenience. While I don't believe this appeal is necessary, you may wish to take this opportunity to provide the requested documents to avoid unnecessarily putting these issues in front of a judge who will surely not be amused. I may be contacted at the address at the top of this letter.

Thank you,


Jonathan Corbett

EXHIBIT D

U.S. Department of Homeland Security

JUL 23 2012

Freedom of Information Act Office
601 South 12th Street
Arlington, VA 20598-6020



**Transportation
Security
Administration**

3600.1

FOIA Case Number: TSA11-0859

Mr. Jonathan Corbett
2885 Sanford Ave., SW #16511
Grandville, MI 49418-1342

Dear Mr. Corbett:

This letter is a final amended response to your Freedom of Information Act (FOIA) request dated August 28, 2011 for the following records relating to an incident at Fort Lauderdale-Hollywood International Airport (FLL) on August 27, 2011, between 4:00 a.m. and 5:00 a.m. at the security checkpoint:

1. Any notes taken by any employees of your organization relating to this incident.
2. Any incident reports, emails, or other documentation created as a result of this incident.
3. Any correspondence between your organization and any other party as a result of this incident.
4. Any audio, video, and or photographic records taken on August 27, 2011 between 3:45 a.m. and 5:15 a.m. at or around the Transportation Security Administration (TSA) checkpoint in front of the FLL "E gates" (US Airways). This must include all camera views that contain any part of this checkpoint, as well as the camera that monitors the sterile area's exit (adjacent to the checkpoint).

Your request has been processed under the FOIA, 5 U.S.C. § 552 and the Privacy Act, 5 U.S.C § 552a.

A reasonable search within TSA was conducted and 32 pages responsive to Items 1 – 3 of your request were located and provided to you on June 25, 2012, with three pages withheld in their entirety under FOIA Exemption (b)(5) and portions of the remaining pages withheld pursuant to FOIA Exemptions (b)(2), (b)(3), (b)(6) and (b)(7)(C).

At that time, the TSA FOIA Office informed you that it did not have the in-house capability to obscure or omit images from the videos responsive to Item 4 of your request, and thus withheld those videos in full under FOIA Exemption (b)(6). Subsequent to our response to you, obscured copies of these videos were obtained through other channels, and the TSA FOIA Office is releasing them to you at this time.

Images in these videos have been obscured under FOIA Exemption (b)(6). A more complete explanation of this exemption follows.

Exemption (b)(6)

Exemption (b)(6) permits the government to withhold all identifying information that applies to a particular individual when the disclosure of such information "would constitute a clearly unwarranted invasion of personal privacy." This requires the balancing of the public's right to disclosure against the individual's right to privacy. After performing this analysis, we have determined that the privacy interest in the identities of the individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Please note that any personal interest you may have in that information does not factor into the aforementioned balancing test.

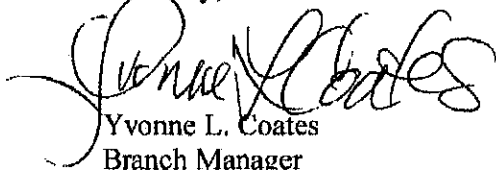
Fees

The fees incurred to process this request do not exceed the minimum threshold necessary for charge and, therefore, there is no fee associated with the processing of your request.

Administrative Appeal

In the event that you wish to appeal this determination, an administrative appeal may be made in writing to Kimberly Walton, Assistant Administrator, Office of Civil Rights & Liberties, Ombudsman and Traveler Engagement (CRL/OTE), Transportation Security Administration, 601 South 12th Street, East Building, E7-121S, Arlington, VA 20598-6033. Your appeal **must be submitted within 60 days** from the date of this determination. It should contain your FOIA request number and state, to the extent possible, the reasons why you believe the initial determination should be reversed. In addition, the envelope in which the appeal is mailed in should be prominently marked "FOIA Appeal." Please note that the Assistant Administrator's determination of the appeal will be administratively final. If you have any questions pertaining to your request, please feel free to contact the FOIA Office at 1-866-364-2872 or locally at 571-227-2300.

Sincerely,



Yvonne L. Coates
Branch Manager
Freedom of Information Act Office
Office of Civil Rights & Liberties,
Ombudsman and Traveler Engagement
Transportation Security Administration

Enclosure

EXHIBIT E

U.S. Department of Homeland Security
601 South 12th Street
Arlington, VA 20598-6020



Transportation
Security
Administration

NOV 20 2012

3600.2

FOIA Case Number: TSA11-0859A

Mr. Jonathan Corbett
2885 Sanford Ave, SW #16511
Grandville, MI 49418-1342

Dear Mr. Corbett:

This letter is in response to your Freedom of Information Act (FOIA) appeal received on July 18, 2012. Your original request was assigned FOIA Case Number TSA11-0859 in which you requested records relating to an incident at Fort Lauderdale-Hollywood International Airport on August 27, 2011, between 4:00 a.m. and 5:00 a.m. at the security checkpoint.

Your request was processed under the FOIA, 5 U.S.C. § 552. The Transportation Security Administration (TSA) responded on June 25, 2012, withholding portions of the responsive records pursuant to FOIA Exemptions (b)(2), (b)(3), (b)(6), and (b)(7)(C). Subsequently, the TSA issued an amended response on July 23, 2012, to include video footage of the incident, portions of which were withheld pursuant to FOIA Exemption (b)(6). You filed an administrative appeal requesting that we release and/or explain the information being withheld.

I have reviewed the documents and the redactions applied and I concur with original assessment as presented to you. Therefore, I am denying your appeal.

Fees

The fees incurred to process your request do not exceed the minimum threshold necessary for charge and, therefore, there are no fees associated with processing this request.

Judicial Review

This is the final decision on your appeal. Should you choose to do so, you may seek judicial review of this decision pursuant to the provisions of 5 U.S.C. §552(a)(4)(B) in the United States District Court in the district in which you reside, or in which the agency records are situated, or in the District of Columbia.

Sincerely,

A handwritten signature in black ink, appearing to read "Kimberly Walton".

Kimberly Walton
Assistant Administrator for Civil Rights & Liberties,
Ombudsman and Traveler Engagement

EXHIBIT F

~~Sensitive Security Information~~

View Incident: Summary Information

General Information

Tracking Number: INC2011FLL3616
Mode: Air
Incident Date: 08/27/2011
Incident Time: 0410
Incident Type: Other
Port/ Responsibility Center: FLL-Ft. Lauderdale-Hollywood International
Occurred At Checkpoint: Yes
Checkpoint: FLL E
Location: Passenger and Carry-on Screening Location
TSOC Watch Notified? No

Individuals Notified: (b)(6) AFSD
Date Notified: 08/27/2011
Time Notified: 0431
Notified Method: Telephone

Individuals Notified: FLL Coordination Center
Date Notified: 08/27/2011
Time Notified: 0415
Notified Method: Telephone

Individuals Notified: (b)(6) TSI
Date Notified: 08/27/2011
Time Notified: 0730
Notified Method: Conversation

Lead Agent*: (b)(6)
Agent Hours**: 3 Travel Hours**: 0.5
Recorded By: (b)(6)
Reported By: (b)(6) STSO

Additional Information

X
WARNING: THIS RECORD CONTAINS SENSITIVE SECURITY INFORMATION THAT IS CONTROLLED UNDER 49 CFR PARTS 15 AND 1520. NO PART OF THIS RECORD MAY BE DISCLOSED TO PERSONS WITHOUT A "NEED TO KNOW," AS DEFINED IN 49 CFR PARTS 15 AND 1520, EXCEPT WITH THE WRITTEN PERMISSION OF THE ADMINISTRATOR OF THE TRANSPORTATION SECURITY ADMINISTRATION OR THE SECRETARY OF TRANSPORTATION. UNAUTHORIZED RELEASE MAY RESULT IN CIVIL PENALTY OR OTHER ACTION. FOR U.S. GOVERNMENT AGENCIES, PUBLIC DISCLOSURE IS GOVERNED BY 5 U.S.C. 552 AND 49 CFR PARTS 15 AND 1520.

~~Sensitive Security Information~~

BDO Referral to LEO? No

TDC Referral to LEO? No

Person Arrested/Cited: * No

Did this incident occur during or as a result of a Playbook activity? * No

If Yes to the above question, select the Play number from the drop down list:

Primary Carrier Involved: US Airways, Inc.

Secondary Carrier Involved:

Indirect Carrier Involved:

Flight Delay: No

of Flights:

Length of Delay (Cumulative):

Terminal Evacuated: No

Media Attention: No

Canine Team Utilized: No

Specify Department:

Subject Information

Subject Name: Corbett, Jonathan W

Arrested: No

Alleged Crime: N/A

Supplemental Subject: No

Narrative Information

Incident Details: On August 27, 2011, at 0730 hours; I, Transportation Security Inspector (TSI) (b)(6), was notified by FLL (b)(6) regarding an incident at FLL Terminal 3 Echo Checkpoint. According to (b)(6), a passenger refused to be screened and was escorted out of the checkpoint at approximately 0502 hours. At approximately 0410 hours, passenger Jonathan CORBETT traveling on US Airways (USAA) flight number 1982, presented himself and two (2) carryon bags to the Terminal 3, Passenger Screening Checkpoint-E, Lane 3. Upon entering the Walk Thru Metal Detector (WTMD) CORBETT informed Transportation Security Officer (TSO) (b)(6) (WTMD operator), that he would like to OPT OUT of Advanced Imaging Technology (AIT) screening. TSO (b)(6) complied with CORBETT's request and requested an officer to assist in the screening process. Lead Transportation Security Officer (LTSO) (b)(6) assisted and

~~Sensitive Security Information~~

informed CORBETT that the screening process consists of patting down the entire body, as well as the groin and buttocks area. CORBETT stated No one is touching my balls and buttocks. LTSO (b)(6) requested supervisor assistance. Supervisory Transportation Security Officer (STSO) (b)(6) responded and explained the process again to passenger CORBETT. CORBETT responded by saying, I am not comfortable with someone touching my genitals and buttocks. STSO (b)(6) then explained that if the screening procedures are not conducted, the passenger would not be cleared to leave the checkpoint. CORBETT was content with missing his flight, as long as he was not touched in his sensitive areas. STSO (b)(6) elected to inform Broward Sheriff's Office (BSO) (b)(6), (b)(7)(C) and to inform the FLL Coordination Center of the necessity to run a background check, which all results came back clear. STSO (b)(6) assisted (b)(6) throughout the process and requested Behavior Detection Officer (BDO) (b)(6) to speak with CORBETT. According to (b)(6) and (b)(6), CORBETT was very well versed in his knowledge of the screening procedures and his general knowledge of TSA. According to (b)(6) and (b)(6), CORBETT knew acronyms such as TSM (Transportation Security Manager), BDO, and LEO (Law Enforcement Officer). CORBETT did not check in any bags and his 2 carryon bags were screened as necessary. At approximately 0502 hours, CORBETT was escorted out of the screening checkpoint by BSO (b)(6), (b)(7)(C). (b)(3); 49 USC 114(r) There was no delay due to this incident. No media attention. An EIR will be initiated.

Attachments

Attachment: Incident Report-08-27-2011.doc

Description: Checkpoint Incident Report

File Size: 589 KB

Upload Date: 08/28/2011

Attachment: J. Corbett Refused Screening.doc

Description: Inspector Statement

File Size: 115 KB

Upload Date: 08/28/2011

Status

Current State: Approved

Supplement: No

Created By: (b)(6) 08/27/2011 1158

WARNING: THIS RECORD CONTAINS SENSITIVE SECURITY INFORMATION THAT IS CONTROLLED UNDER 49 CFR PARTS 15 AND 1530. NO PART OF THIS RECORD MAY BE DISCLOSED TO PERSONS WITHOUT A "NEED TO KNOW," AS DEFINED IN 49 CFR PARTS 15 AND 1530, EXCEPT WITH THE WRITTEN PERMISSION OF THE ADMINISTRATOR OF THE TRANSPORTATION SECURITY ADMINISTRATION OR THE SECRETARY OF TRANSPORTATION. UNAUTHORIZED RELEASE MAY RESULT IN CIVIL PENALTY OR OTHER ACTION, FOR U.S. GOVERNMENT AGENCIES. PUBLIC DISCLOSURE IS GOVERNED BY 5 U.S.C. 552 AND 49 CFR PARTS 15 AND 1530.

~~Sensitive Security Information~~

Last Modified By: (b)(6) 08/30/2011 1034

Status: Draft - Name: (b)(6) - Date: 08/27/2011 1158

Status: Submitted - Name: (b)(6) - Date: 08/28/2011 0743

Status: Approved - Name: (b)(6) - Date: 08/30/2011 1034

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FLL-EYW Coordination Center

Call Log

ID# 138624 for Sat 08/27/11

ID#: 138624 User: (b)(6)

Responding LEO: (b)(6), (b)(7)(C):13107

Call Date/Time: 08/27/11 04:15

Incident Time: 04:10

Cleared Date/Time: 08/27/11 05:02

Incident Type: SCREENING REFUSAL

Description: PAX REFUSED PAT DOWN, ESCORTED OUT OF CHECKPOINT.

Location 3E Checkpoint US Airways

Caller: STSO (b)(6)

Notifications: D416 BSO Dispatch

0423 (VIA STSO (b)(6)) DFSD (b)(6)

0430 DM (b)(6)

0430 (VIA DM (b)(6)) AFSD-S (b)(6)

0503 TISS

Comments: At 0415, the Coordination Center was called by STSO (b)(6) requesting a LEO for a PAX. STSO (b)(6) in response to ECCO (b)(6) question, stated that there was no incident. ECCO (b)(6) contacted BSO and requested a LEO to ECHO checkpoint.

At 0418, STSO (b)(6) followed up with another request for a LEO. He was advised that a LEO was enroute. The Coordination Center reviewed the ECHO CCTV and identified STSO (b)(6) standing by a PAX seated quietly within stanchions. BDC (b)(6) was also in attendance. ECCO (b)(6) identified the arrival of a LEO, subsequently joined by another LEO.

At 0440, the Coordination Center was again called by STSO (b)(6) who requested a TISS check be run on the PAX. The Coordination Center was then advised that the PAX had refused to be patted down.

At 0503, the Coordination Center completed the TISS check, called the ECHO checkpoint and advised STSO (b)(6) that the check came back negative. STSO (b)(6) advised that the LEOs had just escorted the PAX out of the checkpoint. PAX had no checked bags, and (2) carry-on bags. His airline, U.S. Airways was notified at 0455 that PAX would not be on his flight.

It was later learned that the PAX had opted out of AIT screening.

Flight info:

U.S. Airways

Flt: 1982

Dest: CLT

Gate: E1

Dep: 0500

Seat: 15C

Connecting flt:

U.S. Airways

Flt: 1483

Dest: SFO

Dep: 0733

Gate: B13

Seat: 25F

(b)(3); 49 USC 114(r)

Pax info: Jonathan Corbett

DOB: 06-01-84

FL/DL#: C613-439-41-201-0

end report

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Sun 08/28/11 00:05

Page 1 of 1

Revised: 2011-05-26

05



**Transportation
Security
Administration**

Incident Report

Type/Location of Incident		Date Occurred: 08/27/2011		Time Occurred: 0410	Incident type: Passenger refusing screening	Terminal: 3 Concourse: ECHO	DCL Number (provided by the CO) or SPOT Referral
Incident Type: Tier if known: <input type="checkbox"/> Tier 1 <input type="checkbox"/> Tier 2 <input type="checkbox"/> Tier 3 <input type="checkbox"/> Other (ex. SPOT Referral, Playbook) CC USE ONLY.		OP/ CB/Recheck/RBS: Lane/ Pod/Exit: 3		Passenger refusal of Screening? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Media Attention? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Terminal Evacuated? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	If Yes for, Ordered by Whom? n/a		Checkpoint Closure? <input type="checkbox"/> Yes <input type="checkbox"/> No		If Yes, Ordered by Whom? n/a		Time Checkpoint closed? n/a
						Time Checkpoint opened?	
Section II: Notifications and Personnel Involvement							
Part A: TSA Notifications							
TSOC Notification Required? <input type="checkbox"/> Yes <input type="checkbox"/> No CC USE ONLY.	TSOC Notified by: CC USE ONLY.		Name of TSOC REP: CC USE ONLY.		Date: CC USE ONLY.	Time: CC USE ONLY.	
Was BDO Notified? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Time Notified:	Notified by:		BDO Name:			
Was TSS-E Notified? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Time Notified:	Notified by:		TSS-E Name:			
Was TSI Notified? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Time Notified:	Notified by:		TSI Name:			
Was Canine Team Notified? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Time Notified:	Notified by:		Canine Team Lead Name:			
Was FSD Notified? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No CC USE ONLY.	Time Notified:	Notified by:		FSD Name:			
Name/Title: ECCO (b)(6)	Time Notified: 0415	Notified by: STSO (b)(6)					
Name/Title: SM (b)(6)	Time Notified: 0419	Notified by: STSO (b)(6)					
Name/Title: BDO (b)(6)	Time Notified: 0423	Notified by: STSO (b)(6)					
Name/Title: (b)(6)	Time Notified: 0433	Notified by: SM (b)(6)					
Part B: Non-TSA Notifications							
LEO Notified? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Date Notified: 08 / 27 / 2011	Time Notified: 0416	Notified by: OC	LEO Responded: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	If Responded, Time: 0419	If Yes, Name and Badge #: (b)(6), (b)(7)(C) Badge # 13197	
Agency: n/a	Date Notified: / /		Time Notified:	Notified by:			
Agency:	Date Notified: / /		Time Notified:	Notified by:			
Part C: TSA Employees Involved							
Position (select one): <input checked="" type="checkbox"/> TSOLTSO <input type="checkbox"/> STSO <input type="checkbox"/> TSM <input type="checkbox"/> Other:		Last Name: (b)(6)		First Name: (b)(6)		Assigned Terminal/Shift: 3E/ 0330-1200	
Position (select one): <input checked="" type="checkbox"/> TSOLTSO <input type="checkbox"/> STSO <input type="checkbox"/> TSM <input type="checkbox"/> Other:		Last Name: (b)(6)		First Name: (b)(6)		Assigned Terminal/Shift: 3 E/ 0330-1200	
Position (select one): <input checked="" type="checkbox"/> TSOLTSO <input type="checkbox"/> STSO <input type="checkbox"/> TSM <input type="checkbox"/> Other:		Last Name: (b)(6)		First Name: (b)(6)		Assigned Terminal/Shift: 3 E/ 0330-1200	

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Part D: Non-TSA Witnesses Whose Information is Not Recorded Elsewhere			
Name:	Address:	Phone: (Cell or Home)	Email:
Name:	Address:	Phone: (Cell or Home)	Email:
Name:	Address:	Phone: (Cell or Home)	Email:

Section III: Individual(s) Involved. If More Than One Individual Use Additional Pages							
Last Name: Corbett		First Name: Jonathan		Middle Name: W		Alias/Nickname:	
Street Address: 1410 Ocean Drive		Apartment / Unit Number: #202		City: Miami Beach		State/Province: FL	
Alternate Address:		Apartment / Unit Number:		City:		State/Province: Zip Code/Postal Code: 33138	
Country, if outside of the U.S.:				Primary Telephone: (Cell or Home) n/a		Alternate Telephone (or email address): n/a	
BDO Description of Individual, if applicable:							
Gender: <input checked="" type="checkbox"/> M <input type="checkbox"/> F	Driver's License Number: C-813-439-84-201-0	Issuing State: FL	Passport Number:	Passport Country of Issue:	Expiration Date: 06 / 01 / 2020	Date of Birth: 06 / 01 / 1984	
Other ID (Type):	Other ID Number:	IVCC Number: n/a	(b)(3); 49 USC 114(r)			Is the individual a Passenger? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Detained By LEO? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		If Yes, by Whom? Name and Badge # of Officer		Summons Issued By LEO? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		If Yes, by Whom? Name and Badge # of Officer	
Arrested By LEO? Physical or Notice to Appear <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		If Yes, by Whom? Name and Badge # of Officer		Charge(s) Filed? <input type="checkbox"/> Local <input type="checkbox"/> State <input type="checkbox"/> Federal		List Charge(s), if known:	
Active Military? If Yes, What Branch? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Traveling on Orders? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Cleared to Fly? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		If Yes, by Whom and Time:	
Boarding Pass and ID returned to passenger? If No, Describe in Narrative If Yes, by Whom: <input checked="" type="checkbox"/> TSA <input type="checkbox"/> LEO <input type="checkbox"/> Other (Describe in Narrative)		NCIC/PCIC conducted? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		ICE Check Conducted? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Field Test? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Air Carrier(s): US Airways		Flight Number(s): 1982		Gate: E-1		Connecting Flight(s) and/or Destination: 1483 / San Francisco	
# of Carry-on: 2		# of Checked Bags: 0		Bag Tag #s: 0		Passenger cooperative: yes	
Flight(s) Delayed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, How Long?		If Flight delayed: # of PAX: # of Crew: # of Selected(s):		Passenger Missed Flight? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Scheduled Departure Time: 0600 Actual Departure Time: 0600	
Was Checked Baggage removed from Flight? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No							

Section IV: Items Discovered			
Part A: Type of Items (Provide brief description of item below)			
<input type="checkbox"/> Ammunition/Gunpowder	<input type="checkbox"/> Firearms (complete firearms information below)	<input type="checkbox"/> Flammable/Litents (Tear Gas)	<input type="checkbox"/> Contraband
<input type="checkbox"/> Bludgeons	<input type="checkbox"/> Firearms parts	<input type="checkbox"/> Tools	<input type="checkbox"/> Replica Weapons
<input type="checkbox"/> Box Cutters	<input type="checkbox"/> Explosives/Fireworks (Airbags)	<input type="checkbox"/> Knives/Blades ($\leq 3"$)	<input type="checkbox"/> Sharp Objects
<input type="checkbox"/> Dangerous Objects	<input type="checkbox"/> HAZMAT	<input type="checkbox"/> Knives/Blades ($> 3"$)	<input type="checkbox"/> Other:
Artfully Concealed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	If Yes, how was it Concealed?		Item Description/Additional Information:
Detection Method: <input type="checkbox"/> Bag Search <input type="checkbox"/> Body Search <input type="checkbox"/> EDS <input type="checkbox"/> ETD <input type="checkbox"/> H-MD <input type="checkbox"/> WTMD <input type="checkbox"/> X-Ray <input type="checkbox"/> AIT <input type="checkbox"/> Other (specify):		Photo Taken? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Part B: Firearms Information			
Firearm Loaded? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Make:	Model:	Caliber:
Chambered Round? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Location Discovered?	Firearm Discharged? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, By Whom?	# of Rounds Expended?
Injuries? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		(Select as Appropriate) <input type="checkbox"/> Checked <input type="checkbox"/> Carry-on Bag	
Passenger has Firearms Permit? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, Issued by:		Permit #:	Additional Information:

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SENSITIVE SECURITY INFORMATION

Section IV: Motor Vehicle Information				
Type:	Make:	Model:	Color:	Year:
License State:	License Number:		Photo Taken? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Section V: Passenger Complaint/Injury/Physical Damage to Passenger/Property				
Description of Alleged Incident: (Provide detailed description in Narrative)				
<input type="checkbox"/> Lost or Damaged Personal Property <input type="checkbox"/> Physical Injury <input type="checkbox"/> Complaint About Screening Process <input type="checkbox"/> Death <input type="checkbox"/> Other				
CCTV Copied? <input type="checkbox"/> Yes <input type="checkbox"/> No	If No, describe in Narrative	EMS Notified? <input type="checkbox"/> Yes <input type="checkbox"/> No	EMS Responded? <input type="checkbox"/> Yes <input type="checkbox"/> No	Treatment Refused? <input type="checkbox"/> Yes <input type="checkbox"/> No
Checkpoint Condition Normal? (wet floor, etc.) <input type="checkbox"/> Yes <input type="checkbox"/> No If no, describe in Narrative		Immediate Configuration Changes Required? If yes, describe in Narrative: <input type="checkbox"/> Yes <input type="checkbox"/> No		
Type: <input type="checkbox"/> L3 <input type="checkbox"/> Rapiscan <input type="checkbox"/> Other (specify):		Did Individual Request Private Screening? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Verbal Report from Image Operator (IO) to Screening Operator (SO):				
(b)(3) 49 USC 114(r)				
If the individual was required to undergo the Resolution Pat-Down (RPD), was the RPD required because of an: (b)(3) 49 USC 114(r)				
*If no anomalies/threat, describe reason for Additional Screening.				
Location where items are found should be shown on diagram below. Be sure items found/detection method is described in Section IV.				
(b)(3) 49 USC 114(r)				

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SENSITIVE SECURITY INFORMATION

<p>Section VIII: Reporting Officer's Summary of Incident</p> <p>In addition to this Summary/Narrative attach separate Witness Statement from each TSA Employee who witnessed the incident. Reporting Officer must review all Statements.</p>		
Your Physical Position at Time of Incident:		Timing and description of LEO response, if applicable:
Location of Incident:	Date of Incident:	Date/Time of Statement:
Name of Individual and any other identifying information:		
Who else witnessed the incident?		

X
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SENSITIVE SECURITY INFORMATION

What happened? Write in chronological order. Provide facts, not opinions and conclusions. Did the individual say anything during the incident? If yes, quote their actual words to the best of your ability. Include only what you know first-hand. Write clearly or type. If additional room is required attach additional sheets.

ECHO Passenger Incident 8-27-2011

On August 27, 2011 at approximately 0413 US Airways flight 1982 passenger Jonathan Corbett, a United States citizen traveling to San Francisco through Charlotte on flight 1982, entered Echo checkpoint and submitted his carry-on bags through Lane #3 for screening.

LTSC (b)(6) was working in the Dismantling Officer position on Advanced Imaging Technology (AIT) 1 when passenger Jonathan Corbett, informed LTSC (b)(6) he is going to "Opt-Out" of AIT screening. LTSC (b)(6) explained that the alternative screening procedure would include the placing of one hand on the inner thigh, the other hand on his hip and sliding up until resistance is met. The passenger acknowledged that would be fine, "as long as you don't touch my junk." I asked LTSC (b)(6) if this statement was spoken in a derogatory manner. The answer was no, he did not speak in that manner.

Walk Through Metal Detector officer, STSC (b)(6) took control of the male passenger until LTSC (b)(6) assumed control of passenger Corbett from the WTMDO and identified his property. Passenger Corbett and his bags were taken to the screening area behind lanes 5/6 for reason number one. This area kept passenger Corbett away from the mainstream area of the operational footprint of the checkpoint and second, the secondary screening locations in the general vicinity of lane 2/3 and the AIT 1 were occupied. LTSC (b)(6) began the advisements and passenger Corbett was attentive and compliant until LTSC (b)(6) advised he would be placing one hand on the inner thigh, the other hand on his hip and sliding up until resistance is met. LTSC (b)(6) also explained that he will use the back of his hands to clear his buttocks. Passenger Corbett refused to allow his inner thigh and buttocks area searched. It was at that time passenger Corbett said to LTSC (b)(6) "No one is touching my balls and buttocks." At that time I, STSC (b)(6) was asked by LTSC (b)(6) for assistance. I again explained to passenger Corbett the screening procedure, as well as defining to him what was meant by sliding up the inner thigh until there is resistance, then sliding down the entire leg and again he told me he refused to have anyone pat down his groin or buttock areas. I then informed passenger Corbett if we could not complete this search using the Standard Pat Down procedure he will not be cleared to leave the checkpoint. While speaking with the passenger I asked if he would feel more comfortable in a private screening room. The passenger refused, still stating he did not want anyone to pat down his groin or buttocks area.

At 0416 STSC (b)(6) called the Coordination Center and requested a Law Enforcement Officer. In assistance, Supervisory Transportation Security Officer (STSO) (b)(6) inquired about his departure time and explained that if he does not comply the screening process he will possibly miss his flight. STSC (b)(6) interviewed the passenger who stated that he was not comfortable with someone touching his genitals and his buttocks. To ensure passenger Corbett completed the screening process she offered private screening again and explained that officer (b)(6) can do a step forward method sliding his hand up the inner thigh until he meets resistance and explained that the buttocks will be cleared using a sliding motion. Passenger Corbett still declined and stated he understood the process and objects to anyone touching him in those areas. His statements were not spoken in a derogatory manner and he maintained his composure during this incident.

STSC (b)(6) instructed LTSC (b)(6) to conduct (b)(6) ETD on all of his accessible property and continued interviewing the passenger. During the interview STSC (b)(6) decided that additional attention was needed (b)(3); 49 USC 114(r)

STSC (b)(6) notified BDO (b)(6) for assistance at 0423 and DFD (b)(6) with the appropriate information at 0431. Manager (b)(6) arrived on scene at 0419 and contacted Duty Manager (b)(6) with the appropriate information at 0433. STSC (b)(6) asked the BSC (b)(6), (b)(7)(C) #13197 to conduct an NCIC which was clear at 0437. At 0444 I requested Coordination Center to run a T.I.S.S. which was negative.

During this same time, both the BSC (b)(6) and BDO (b)(6) explained to passenger Corbett by not complying with the Standard Pat Down procedure he would not be allowed access into the sterile area of the concourse. The passenger insisted he did not wish to be searched, and understood the consequences. At approximately 0502 the Coordination Center notified me the T.I.S.S. was negative. Passenger Corbett was escorted off the checkpoint at 0502 and was not allowed access to the sterile area.

Notifications were made to US Airways that passenger Corbett would not be on Flight 1982 to gate agent (b)(6) at 0455.

US Airways Flight 1982 departed on time at 0500.

Passenger Corbett had 2 carry-on bags with no checked bags.

Number of passengers - 68 (b)(3); 49 USC 114(r)

The following notifications were made:

0415 - CC called (b)(6) speaking with (b)(6)

0419 - Contacted Delta manager (b)(6) she was on site at that time;

0423 - BDO manager (b)(6) notified by STSC (b)(6)

0431 (b)(6) notified by STSC (b)(6)

0433 (b)(6) notified by (b)(6)

0444 - CC requested to run a T.I.S.S. by STSC (b)(6)

0502 - CC called the checkpoint to inform the T.I.S.S. search was negative.

0502 - Passenger Corbett, along with his carry on items were escorted from the checkpoint by BSC (b)(6), (b)(7)(C) (Badge 13197)

The above information is true and factual to best of my knowledge

STSC (b)(6)
T3-Echo (0330-1200)
08/27/2011

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SENSITIVE SECURITY INFORMATION

Section IV: Reporting Officer (TSO)		
Position (select one): <input type="checkbox"/> TSO/LTSO <input type="checkbox"/> STSO <input type="checkbox"/> TSM <input type="checkbox"/> BDO/TSV <input type="checkbox"/> Other:		Duty Assignment:
Last Name:		Duty Telephone:
First Name:		Shift:
Signature: /s/:		Date:
Section V: Reporting Officer (TSM)		
Position:		Duty Telephone:
Last Name:		First Name:
Signature: /s/:		Date:
Section VI: Attachments (mark all that apply)		
<input type="checkbox"/> None <input type="checkbox"/> Statements: _____ (Qty) <input type="checkbox"/> Photographs: _____ (Qty) <input type="checkbox"/> PARIS Report <input type="checkbox"/> CCTV <input type="checkbox"/> LEO/EMS Report <input type="checkbox"/> NCC Report <input type="checkbox"/> Other:		
*Ensure attachments are marked SSI as appropriate.		

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Section VII: TSA Employee Statement (completed by those who witnessed or participated in reportable incident and reviewed by reporting officer)			
Your Name: (b)(6)		Title: STSO	Position at Time of Incident: Performing a calibration on an ETD behind Lanes 3 & 4
Location of Incident: Lane 3 WTMD and Screening area behind Lanes 5 & 6		Date of Incident: 08-27-2011	Date/Time of Statement: 08/27/2011 1340
Name of Individual and any other identifying information:			
Who else witnessed the incident? LTSO (b)(6) LTSO (b)(6) STSO (b)(6) BDO (b)(6) SM (b)(6)			
Boarding Pass and ID returned? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable		If Yes, By Whom? STSO (b)(6) If No, Explain	
Artfully Concealed? If yes, explain. n/a <input type="checkbox"/> Yes <input type="checkbox"/> No			
Timing and description of LEO response, if applicable: n/a			
AIT Type: <input type="checkbox"/> L3 <input type="checkbox"/> Replican <input type="checkbox"/> Other (specify):		AIT Pat-down conducted by: n/a	
Report from ID: (if no anomalies observed, record the ID. Describe reason for not doing so in narrative.)			
(b)(3) - 49 USC 114(r)			

X
SENSITIVE SECURITY INFORMATION

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Printed Name _____

(b)(6)

15

55

(b)(6)

5.

1

08/27/2014

WARNING: THIS RECORD CONTAINS SENSITIVE SECURITY INFORMATION THAT IS CONTROLLED UNDER 49 C.F.R. PARTS 15 AND 1520. NO PART OF THIS RECORD MAY BE DISCLOSED TO PERSONS WITHOUT A "NEED TO KNOW," AS DEFINED IN 49 C.F.R. PARTS 15 AND 1520, EXCEPT WITH THE WRITTEN PERMISSION OF THE ADMINISTRATOR OF THE TRANSPORTATION SECURITY ADMINISTRATION OR THE SECRETARY OF TRANSPORTATION. UNAUTHORIZED RELEASE MAY RESULT IN CIVIL PENALTIES OR OTHER ACTION. FOR U.S. GOVERNMENT AGENCIES, PUBLIC DISCLOSURE GOVERNED BY 5 U.S.C. 552 AND 49 C.F.R. PARTS 15 AND 1520.

ECHO Passenger Incident 8-27-2011

On August 27, 2011 at approximately 0413 US Airways (b)(3); 49 USC 114(r) passenger Jonathan Corbett, a United States citizen traveling to San Francisco through Charlotte on flight 1982, entered Echo Checkpoint and submitted his carry-on bags through Lane #3 for screening.

LTSO (b)(6) was working in the Divesting Officer position on Advanced Imaging Technology (AIT) 1 when passenger Jonathan Corbett, informed LTSO (b)(6) he is going to "Opt-Out" of AIT screening. LTSO (b)(6) explained that the alternative screening procedure would include the placing of one hand on the inner thigh, the other hand on his hip and sliding up until resistance is met. The passenger acknowledged that would be fine, "as long as you don't touch my junk." (I asked LTSO (b)(6) if this statement was spoken in a derogatory manner. The answer was no, he did not speak in that manner.

Walk Through Metal Detector officer, TSO (b)(6) took control of the male passenger until LTSO (b)(6) assumed control of passenger Corbett from the WTMD and identified his property. Passenger Corbett and his bags were taken to the screening area behind lanes 5/ 6 for reason number one this area kept passenger Corbett away from the mainstream area of the operational footprint of the checkpoint and second, the secondary screening locations in the general vicinity of lane 2/3 and the AIT 1 were occupied. LTSO (b)(6) began the advisements and passenger Corbett was attentive and compliant until LTSO (b)(6) advised he would be placing one hand on the inner thigh, the other hand on his hip and sliding up until resistance is met. LTSO (b)(6) also explained that he will use the back of his hands to clear his buttocks. Passenger Corbett refused to allow his inner thigh and buttocks area searched. It was at that time passenger Corbett said to LTSO (b)(6), "No one is touching my balls and buttocks." At that time I, STSO (b)(6) was asked by LTSO (b)(6) for assistance. I again explained to passenger Corbett the screening procedure, as well as defining to him what was meant by sliding up the inner thigh until there is resistance, then sliding down the entire leg and again he told me he refused to have anyone pat down his groin or buttock areas. I then informed passenger Corbett if we could not complete this search using the Standard Pat Down procedure he will not be cleared to leave the checkpoint. While speaking with the passenger I asked if he would feel more comfortable in a private screening room. The passenger refused, still stating he did not want anyone to pat down his groin or buttocks area.

At 0416 STSO (b)(6) called the Coordination Center and requested a Law Enforcement Officer. In assistance, Supervisory Transportation Security Officer (STSO) (b)(6) inquired about his departure time and explained that if he does not comply the screening process he will possibly miss his flight. STSO (b)(6) interviewed the passenger who stated that he was not comfortable with someone touching his genitals and his buttocks. To ensure passenger Corbett completed the screening process she offered private screening again and explained that officer (b)(6) can do a step forward method sliding his hand up the inner thigh until he meets resistance and explained that the buttocks will be cleared using a sliding motion. Passenger Corbett still declined and stated he understood the process and objects to anyone touching him in those areas. His statements were not spoken in a derogatory manner and he maintained his composure during this incident.

STSO (b)(6) instructed LTSO (b)(6) to conduct (b)(3); 49 USC 114(r) ETD on all of his accessible property and continued interviewing the passenger. During the interview STSO (b)(6) decided that additional attention was needed (b)(3); 49 USC 114(r)

STSO (b)(6) notified BDO (b)(6) for assistance at 0423 and DFO (b)(6) with the appropriate information at 0431. Manager (b)(6) arrived on scene at 0419 and contacted (b)(6) with the appropriate information at 0433. STSO (b)(6) asked the BSO (b)(6)

(b)(6), (b)(7)(C) #13197 to conduct an NCIC which was clear at 0437. At 0444 I requested Coordination Center to run a TIS which was negative.

During this same time, both the BSO (b)(6), (b)(7)(C) and BDO (b)(6) explained to passenger Corbett by not complying with the Standard Pat Down procedure he would not be allowed access into the sterile area of the concourse. The passenger insisted he did not wish to be searched, and understood the consequences. At approximately 0502 the Coordination Center notified me the T.I.S.S. was negative. Passenger Corbett was escorted off the checkpoint at 0502 and was not allowed access to the sterile area.

Notifications were made to US Airways that passenger Corbett would not be on Flight 1982 to gate agent (b)(6) at 0455.

US Airways Flight 1982 departed on time at 0500.

Passenger Corbett had 2 carry-on bags with no checked bags

Number of passengers - 88 / (b)(6), 49 USC 114(f)

The following notifications were made;

0415- CC called (b)(6), speaking with (b)(6)

0419- Contacted Delta manager (b)(6) (she was on site at that time)

0423 - BDO (b)(6) notified by STSO (b)(6)

0431 - (b)(6) notified by STSO (b)(6)

0433 - (b)(6) notified by (b)(6)

0444 - CC requested to run a T.I.S.S. by STSO (b)(6)

0502 - CC called the checkpoint to inform the T.I.S.S. search was negative,

0502 - Passenger Corbett, along with his carry on items were escorted from the checkpoint by BSO

(b)(6), (b)(7)(C) (Badge 13197)

The above information is true and factual to best of my knowledge

STSO (b)(6)

T3-Echo 0330-1200

08/27/2011.



Transportation Security Administration
Employee Statement
(For Informational Purposes)



Date: 8/27/11 Terminal: 3 Concourse: E Supervisor: (b)(6)
Employee Name: (b)(6) Position: STSO Manager: _____

On August 27, 2011, I Supervisory Transportation Security Officer (b)(6) assisted STSO English with the screening of a (b)(3); 49 USC 114(r) male passenger who opted out of Advanced Image Technology (AIT) screen although he understood that a pat down was required to complete the screening process, the passenger explained that he did not want to be touched. I asked the passenger about his departure time and explained to him that if he does not comply with the screening he will not be able to continue to his gate. The male passenger explained that he did not want anyone touching his

Employee Name Printed: (b)(6) Date: 8/27/11
Employee Signature: (b)(6) Date: 8/27/11

Confidential



Transportation Security Administration
Employee Statement
(For Informational Purposes)



his genitals or his buttocks. In order to reassure the passenger that we will not touch him inappropriately, I explained that we can use a step forward method sliding up the inner thigh until resistance is met and clearing his buttocks using the backs of the hands. The passenger declined and understood that the offer to screen him was the final opportunity. Therefore I asked Lead Transportation Security Officer (LTSO) (b)(6) to conduct (b)(3); 49 USC 114(r) ETD on his accessible property as I continued to interview the passenger. Based on our conversation I decided to notify BDO (b)(6) and explained my concerns regarding his behaviors. I also notified DFSD (b)(6) with the appropriate information.

Employee Name Printed: (b)(6)

Date: 8/27/11

Employee Signature: (b)(6)

Date: 8/27/11

Confidential

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Transportation Security Administration
Employee Statement
 (For Informational Purposes)

Date: 8/27/11 Terminal: 3 Concourse: E Supervisor: (b)(6)
 Employee Name: (b)(6) Position: LTSO Manager: _____

Approximately 0414, I (b)(6) approached the WTMI between lanes 2 and 3 in Terminal 3E to screen a male passenger who opted out from the AIT. Once I took possession of his property, I directed him towards the screening area at the end of lane 5 and 6. I explained the standard pat-down to the male passenger. When I demonstrated that the private areas will be padded with a sliding motion with the back of my hands, like the groin and buttocks area. The male passenger said to me, "No one is touching my balls and buttocks. I quickly called for a Supervisor. Supervisor (b)(6) came to the screening area, also Supervisor (b)(6) arrived at the screening area. Both Supervisors explained the procedure. Supervisor (b)(6) offer the male passenger private screening and also offer the (b)(6) pat-down which would be a more comfortable

Employee Name Printed: _____

Employee Signature: _____

(b)(6)

Date: 8/27/11

Date: 8/27/11

Confidential



Transportation Security Administration
Employee Statement
(For Informational Purposes)

procedure for the male passenger. Supervisor
(b)(6) directed me to screen the
male passenger's carry-on bags according to the
SOP.

Employee Name Printed:

(b)(6)

Date: 8/27/11

Employee Signature:

(b)(6)

Date: 8/27/11

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Transportation Security Administration
Employee Statement
(For Informational Purposes)

Date: 27 Aug 11 Terminal: 3 Concourse: E Supervisor: _____

Employee Name: (b)(6) Position: TSO Manager: _____

On August 27 2011 at approx 0415 a male
passenger chose to opt out of the AIT Screening.
After LTSD (b)(6) gave the advisements
I took positive control until LTSD (b)(6)
escorted him to the screening area.

Employee Name Printed: (b)(6) Date: 27 Aug 11

Employee Signature: (b)(6) Date: 27 Aug 11

Confidential



Transportation Security Administration
Employee Statement
(For Informational Purposes)

Date: 8/27/11 Terminal: 3 Concourse: E Supervisor: (b)(6)

Employee Name: (b)(6) Position: D.O on A.I.T Manager: _____

At approximately 0413, A male passenger was in the line for the A.I.T. machine. The male passenger decided to become an opt-out. I read and explain to the passenger that he will be going for an standard pat down. At that point the male passenger stated "as long as you don't touch my junk". I then told the passenger to please step through the WTMID, where TSO. (b)(6) took positive control of the passenger.

(b)(6)

Employee Name Printed: (b)(6)

Date: 08/27/2011

Employee Signature: (b)(6)

Date: _____

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Page 1



Transportation Security Administration
Employee Statement
 (For Informational Purposes)



Date: 09/08/2011 Terminal: 2 Concourse: D Supervisor: _____

Employee Name: (b)(6) Position: STSO Manager: (b)(6)

On August 27, 2011 at approximately 0409 I received a phone call from Supervisory Transportation Security Officer (STSO) (b)(6) at Terminal 3 Echo in reference to a passenger that was refusing screening and he asked me to be present. I arrived at Echo checkpoint at approximately 0415 and approached STSO (b)(6) to find out what happened. As STSO (b)(6) began to explain to me what had occurred I observed the passenger sitting down by the back of the checkpoint behind lanes 5 & 6. He mentioned that he was approaching the AIT when he notified an officer that he did not want to go through the machine. I observed two Broward Sherriff officers talk to the passenger, and I also observed Behavior Detection Officer (b)(6) explain to the passenger that he would only be allowed to board his flight once an officer patted him down and still he continued to refuse screening. I observed two Behavior Detection Officers conduct a search on two of his carry-on bags while he awaited sitting down observing the searches. Once the searches were complete, he tried to take a picture of BDO (b)(6) and then stated "I shouldn't take a picture cause that is SSI right?". I then observed the passenger being escorted out.

Employee Name Printed: (b)(6) Date: 09/08/2011
 Employee Signature: (b)(6) Date: 09/08/2011

at approx 0415

Passenger Jonathan Corbett entered the E-cho checkpoint and approached the agent Lane #2 with the ATTT. The (b)(6) was CTSO (b)(6) the mag (W TMD) was (b)(6)

(4:15 AM)

CTSO (b)(6) was the Diversion Officer on the ATTT when passenger Corbett cleared the ATTT of a T screening. He was given the advisement on regard to secondary screening procedure, and he agreed.

As he passed through the W TMD, manned by TSO (b)(6) the passenger was cooperative and ~~politely~~ wanted to be ~~for~~ passed as a TSO (b)(6) for be screened via Standard Put Down, according to SOP ⁰⁴¹⁸ TSO (b)(6) escorted passenger Corbett to a "screening" area behind Lane 5 & 6 ~~was~~ because both screening pens ~~was~~ behind Lane 2 & 3 were occupied. The Screening area behind Lane 5 & 6 are located ~~are~~ far enough from Lane 2 & 3 where we did not have to suspend or move our screening ~~during this~~ based on this incident

412

LTSO (b)(6) informed passenger Corbett about the Standard Put Down procedure. Passenger Corbett refused the physically put down, specifically about the putting of his ~~to the~~ and inner thigh. At that time I (b)(6) was called to intervene ~~into~~

After ~~attempt to~~ ^{to} explain the procedure again of the SPD, the passenger still refused to submit to the pat of his inner thigh & buttock area.

After the passenger's refusal, I contacted the
 Resolution Center again @ 0418.

TSO (b)(6) had contacted a LEO ~~person~~ who was
 available on the checkpoint @ 0416.

I contacted (b)(6) manager on site to
 inform him of the situation @ 0419.

BDO (b)(6) (BDO) was notified by
 (b)(6) @ 0423.

Further information was as follows.

(b)(6)

@ 0431

@ 0433

I contacted CC to run a TIS report @ 0444.

Upon further interview of Passenger Corbett
 with (b)(6) and BDO.

The passenger agreed he was aware he would not
 be able to fly without submitting to the SPD.

TIS find CC came back negative.

Passenger was escorted from the checkpoint
 by TSA & LEO's @ 0502.

US Airways was contacted that passenger
 Corbett was not flying on FLT 1982 by TSO.

(b)(6) speaking to US Airways got up.

(b)(6) @ 0450.

FLT 1982 had

(b)(3); 49 USC 114(r)

88 passengers

U.S. AIRWAYS

CORBETT/JONATHAN

US FLIGHT: 1982 27AUG

FORT LAUDERDALE

CHARLOTTE

API OK E-TICKET

ZONE 5

SEAT: 15C

BR2075/US

SEQ 74

U.S. AIRWAYS

CORBETT/JONATHAN

US FLIGHT: 1483 27AUG

CHARLOTTE

SAN FRANCISCO

API OK E-TICKET

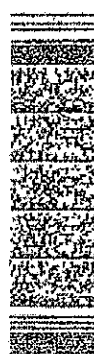
ZONE 3

SEAT: 25F

BR2075/US

SEQ 49

U.S. AIRWAYS



CORBETT/JONATHAN
CONF: BR2075/US ZONE 5

FFO: 3006045745

FORT LAUDERDALE
CHARLOTTE

FLIGHT DEPARTS DATE
1982 500A 27AUG

GATE BOARD TIME SEAT
E1V 430A 15C

181

U.S. AIRWAYS



CORBETT/JONATHAN
CONF: BR2075/US ZONE 3

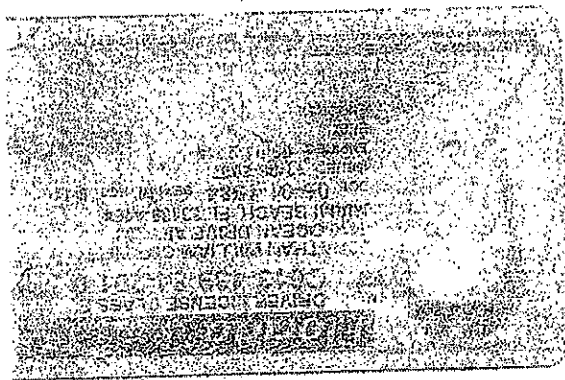
FFO: 3006045745

CHARLOTTE
SAN FRANCISCO

FLIGHT DEPARTS DATE
1483 733A 27AUG

GATE BOARD TIME SEAT
B13 703A 25F

62



(b)(6)

WTMB
D/O
Sard
STSO

(b)(6)

(b)(6)

Called (b)(6)

4:15

OK - called @ 4:15

Less modified 4:16

(b)(6) - @ 4:19

(b)(6) - @ 4:22

called @ 4:23

(b)(6) @ 4:31

(b)(6) called (b)(6)

@ 0433 0443

Called for TIS Report

@ 0444

CC called back @ 5:17

Cannot run TIS report
at this time

Escorted from

dept @ 0502

OK with @ 0502

CC @ 504-TIS

Negative

(b)(6)

(b)(6)

(b)(6)

(b)(2), (b)(6)

(b)(6), (b)(7)(C)

Badge # 13197

Jonathan Carlett
F-24-1982-70
Sed. 15C Charlotte
Charlotte 1483
San Francisco
Charlotte 1483
Charlotte 0733
Charlotte 0500
Charlotte 0733

TIS# not entered
NO numbers

1 spid @ 4/16 1 spid @ 4/16
1 spid @ 4/16 = (b)(6), (b)(7)(C)

(b)(6)

only one with [unclear]

Jonathan Corbett approx 0450

NCIC - Pot [unclear]
just entered and [unclear]
0502

Don
(b)(6)

U.S. Department of Homeland Security
Regulatory Inspection Division
Ft. Lauderdale/Hollywood International
& Key West International (FLL/EYW)
1050 Lee Wagener Blvd. Ste #302
Ft. Lauderdale, FL 33315



Transportation
Security
Administration

Inspector's Statement

(b)(6) Transportation Security Inspector (TSI-A), Transportation Security Administration, Fort Lauderdale-Hollywood International Airport (FLL), 1050 Lee Wagener Blvd., Suite 302, Fort Lauderdale, FL 33315. Phone (b)(2), (b)(6)

On August 27, 2011, at 0730 hours; I, Transportation Security Inspector (TSI) (b)(6), was notified by FLL Master Coordination Center Officer (MCCO) (b)(6), regarding an incident at FLL Terminal 3 Echo Checkpoint. According to (b)(6), a passenger refused to be screened and was escorted out of the checkpoint at approximately 0502 hours.

At approximately 0410 hours, passenger Jonathan CORBETT traveling on US Airways (USAA) flight number 1982, presented himself and two (2) carryon bags to the Terminal 3, Passenger Screening Checkpoint-E, Lane 3. Upon entering the Walk Thru Metal Detector (WTMD) CORBETT informed Transportation Security Officer (TSO) (b)(6) (WTMD operator), that he would like to "OPT OUT" of Advanced Imaging Technology (AIT) screening. TSO (b)(6) complied with CORBETT's request and requested an officer to assist in the screening process. Lead Transportation Security Officer (LTSO) (b)(6) assisted and informed CORBETT that the screening process consists of patting down the entire body, as well as the groin and buttocks area. CORBETT stated "No one is touching my balls and buttocks." LTSO (b)(6) requested supervisor assistance. Supervisory Transportation Security Officer (STSO) (b)(6) responded and explained the process again to passenger CORBETT. CORBETT responded by saying, "I am not comfortable with someone touching my genitals and buttocks. STSO (b)(6) then explained that if the screening procedures are not conducted, the passenger would not be cleared to leave the checkpoint. CORBETT was content with missing his flight, as long as he was not touched in his sensitive areas. STSO (b)(6) elected to inform Broward Sheriff's Office (BSO) (b)(6), (b)(7)(C) (b)(6), (b)(7)(C) and to inform the FLL Coordination Center of the necessity to run a background check, which all results came back clear. STSO (b)(6) assisted (b)(6) throughout the process and requested Behavior Detection Officer (BDO) (b)(6) to speak with CORBETT. According to (b)(6) and (b)(6) CORBETT was very well versed in his knowledge of the screening procedures and his general knowledge of TSA. According to (b)(6) and (b)(6) CORBETT knew acronyms such as TSM (Transportation Security Manager), BDO, and LEO (Law Enforcement Officer). CORBETT did not check in any bags and his 2 carryon bags were screened as necessary.

Date Reported By	August 27, 2011 TSI (b)(6)	Location	TSA/FLL/EYW
		File No.	INC2011FLL3616

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U.S. Department of Homeland Security
Regulatory Inspection Division
Ft. Lauderdale/Hollywood International
& Key West International (FLL/EYW)
1050 Lee Wagener Blvd. Ste #302
Ft. Lauderdale, FL 33315



Transportation
Security
Administration

At approximately 0502 hours, CORBETT was escorted out of the screening checkpoint by BSO (b)(6), (b)(7)(C). (b)(3); 49 USC 114(r) There was no delay due to this incident. No media attention. An EIR will be initiated.

Possible violations of Transportation Security Regulations are:

49 CFR § 1540.109 Prohibition against interference with screening personnel.
NOV/CP \$500-\$1500.

Passenger Information:

Jonathan William Corbett
U.S. Citizen
1410 Ocean Drive APT #203, Miami Beach, FL, 33139

Date Reported By	August 27, 2011 TSI(b)(6)	Location	TSA/FLL/EYW
		File No.	INC2011FLL3616

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