This report documents the results of an Office of Inspector General (OIG) investigation into allegations that Air and Marine Interdiction Coordination Center (AMICC), Bureau of Immigration and Customs Enforcement (BICE), Department of Homeland Security (DHS) assets were misused in assisting a state law enforcement agency. Specifically, the Texas Department of Public Safety (DPS) requested AMICC to locate an aircraft transporting Texas state legislators from Oklahoma to Texas on May 12, 2003.

On May 15, 2003, Acting Inspector General Clark Kent Ervin received a telephone call from Mark Wallace, Principal Legal Advisor to Michael Garcia, Assistant Secretary Designee for BICE, referring for investigation a matter concerning alleged DHS involvement in a federal effort to find missing Texas state lawmakers. Subsequently, Members of Congress wrote to the OIG requesting an investigation into this matter and requested that several issues described later in this report be addressed by the OIG. The scope of the OIG investigation was limited to the specific issue involving alleged misuse of DHS assets in assisting state law enforcement in locating a reported “missing aircraft.” The OIG investigation did not address the actions of the DPS following their request for AMICC assistance, nor did the OIG assess the propriety of AMICC’s existing guidelines relating to the rendering of assistance to other law enforcement agencies. The alleged destruction of notes by the DPS was referred to the Federal Bureau of Investigation (FBI), San Antonio, Texas, for their consideration.

The OIG investigation found that DPS did contact the AMICC and reported that they “had a problem,” and “could not find this plane” which contained Texas state representatives. The DPS requested DHS to assist them in locating the aircraft. The OIG investigation concluded the assistance rendered by AMICC was limited to not more than forty minutes of telephone calls.
made by an AMICC employee to various Federal Aviation Administration (FAA) and airport representatives in Texas, and a series of conversations with supervisors. The AMICC personnel involved in this incident described this assistance as a typical request from a law enforcement agency, which reportedly occurs at least thirty times a day and is in compliance with their standard operating procedures. At no time did AMICC launch any aircraft or otherwise use DHS resources to assist the DPS. The telephone calls made by AMICC at the request of DPS involved a nominal use of DHS assets.

AMICC's account of these events was documented on audiotape (and transcript), which was reviewed by OIG investigators and found to be consistent with the statements of AMICC employees involved in the incident. There was every indication that the employee rendering assistance to the DPS on the telephone believed he was searching for a missing aircraft.

DPS officials interviewed by the OIG declined to provide any information identifying the person or persons who requested they contact AMICC for assistance. DPS officials claimed they destroyed all notes, memoranda, or other correspondence related to this incident.

This case is closed with the submission of this report.
REPORT OF INVESTIGATION

INTRODUCTION

On May 15, 2003, Acting Inspector General Clark Kent Ervin received a telephone call from Mark Wallace, Principal Legal Advisor to Michael Garcia, Assistant Secretary Designee for BICE, referring for investigation a matter concerning alleged DHS involvement in a federal effort to find missing Texas state lawmakers. At this time Wallace advised that his office was in possession of an audiotape related to this matter. (Exhibit 1)

Subsequently, the OIG received three letters from Members of Congress. The first letter, dated May 15, 2003, was from Representative John Conyers, Jr. and other members. The second letter, dated May 21, 2003, was from Representative Lloyd Doggett and other members. The third letter, dated May 22, 2003, was from Senator Joseph Lieberman. All these letters requested the OIG to investigate this matter to determine if DHS assets were misused in attempting to locate the missing Texas state lawmakers. Senator Lieberman’s letter also requested that the OIG expand its investigation to include the alleged destruction of documents by the DPS. (Exhibit 2)

The scope of the OIG investigation was limited to the actions of AMICC personnel in rendering assistance to DPS in locating a reported “missing aircraft.” This investigation did not address the post incident actions of the DPS or the actions of any other federal agency rendering assistance to DPS. Insofar as the assistance provided by AMICC was de minimis, the OIG did not expand the scope of this investigation or investigate the document destruction by DPS. The conduct of DPS was referred to the FBI for whatever action they deemed appropriate.

DETAILS

Allegation: It was alleged that AMICC misused its resources by providing assistance to track and locate an aircraft transporting State of Texas legislators.

On May 20, 2003, the OIG recovered from General Counsel’s Office, BICE, audiotapes and a videotape (audio only) relating to the recording of the assistance provided by AMICC, on May 12, 2003. (Exhibit 3)

Charles E. Stallworth, Director, Air and Marine Interdiction (A&MI), BICE, DHS, Washington, D.C., was interviewed and stated that Texas Department of Public Safety, Austin, Texas, had requested the assistance of AMICC. AMICC attempted to assist DPS in the

1 On May 16, 2003, Acting Inspector General Clark Kent Ervin recused himself from any participation in this investigation due to his prior employment by the State of Texas, and the possibility he might know one or more of the State of Texas employees involved in this matter. See Exhibit 1.

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location of an aircraft allegedly carrying Texas state lawmakers. According to Stallworth, AMICC
acted appropriately and in accordance with agency guidelines in responding to what AMICC, based
on information available at the time, believed to be a legitimate law enforcement request for
assistance. (Exhibit 4)

Senior Detection Systems Specialist (DSS), AMICC, BICE, DHS, Riverside (all
further references to AMICC are for this site), was interviewed and stated that on May 12, 2003, a
call was received from requesting assistance in determining the location of an aircraft believed
to be overdue. assigned the call to DSS, AMICC, to provide assistance in locating the aircraft.

According to AMICC receives 30 to 40 calls daily requesting assistance as a matter of
public safety from individuals, localities, states, etc. Provided a copy of the “AMICC
Training and Operations Manual,” which states, in part, that when resources allow, support will be
provided to assist federal, state, and local law enforcement agencies for humanitarian efforts.
concurred with the steps took in an attempt to locate the aircraft. (Exhibits 5, 6)

was interviewed and stated that on May 12, 2003, was assigned to assist in locating an
aircraft with Texas officials on board. attempted to locate the aircraft but was unsuccessful.
advised of the results and related could contact the Dallas Fort
Worth Airport to request search and rescue. At that time, declined to offer to be put in
touch with FAA to initiate a search and rescue. However, later called back and requested
the information on how could go about requesting a search and rescue. provided with
the contact information for Ft. Worth Center to initiate the search and rescue. (Exhibits 7, 8)

DSS, AMICC, was interviewed and stated that on May 12, 2003, received a
call from the FAA, as a result of a call placed to them earlier by explaining the FAA had no
contact with the alleged missing aircraft provided the information to (Exhibit 9)

and AMICC, stated that all calls on the operations
floor, incoming and outgoing, are recorded. (Exhibit 10)

AMICC, was on the operations floor at AMICC, on
May 12, 2003, when briefed about the alleged missing aircraft and attempts to
locate the aircraft. concurred with the actions had taken in attempting to locate the
aircraft. AMICC assists in looking for downed aircraft for humanitarian reasons. In this specific
case, AMICC was assisting a law enforcement agency. It is always the policy to assist law
enforcement agencies that are attempting to locate an aircraft. On the average, this type of assistance
occurs “30 to 40 times per day,” according to (Exhibit 11)

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Form OIG-06
Special Crimes Service, Texas Department of Public Safety, Austin, Texas, was interviewed and stated that the U.S. Customs Service (referred to here as AMICC) tracked airplanes, so they made the contact. According to AMICC, AMICC attempted to locate the airplane and ultimately advised that they could not locate it. AMICC believed that the total time the AMICC employee assisted was 15 minutes. (Exhibit 12)

AMICC was interviewed and stated that they began receiving calls from newspapers, news services, and television news programs, on May 13, 2003. Additionally, AMICC received a call from Congressman Ken Calvert’s office which expressed shock that AMICC was involved in looking for the aircraft. AMICC referred the callers to the public affairs office for BICE, DHS, Washington, D.C. AMICC stated that they had not had any requests from Congress or the Administration relating to the aircraft. (Exhibits 13, 14)

The OIG attempted to interview DPS, on May 22, 2003, relating to alleged missing notes prepared by DPS in an attempt to locate the missing aircraft. At that time, DPS stated that he was unavailable for an interview. It was later determined that an interview of DPS was not necessary due to the scope of this investigation. (Exhibit 15)

FBI, San Antonio, Texas, was interviewed and stated that the FBI was not interested in investigating the alleged destruction of notes and documents by the Texas DPS related to the Texas state lawmakers. (Exhibit 16)

Joseph Bendig, Director, AMICC, was interviewed in response to comments attributed to him in an article appearing in the Washington Post newspaper, dated June 7, 2003. According to Bendig, his comments were taken out of context. Bendig stated the reporter asked, “How often does AMICC get calls from law enforcement for this type of assistance?” Bendig construed this to mean requests for assistance to locate a lost aircraft with politicians on board and stated that such calls are unusual. Bendig further clarified that AMICC does get calls from law enforcement, but not necessarily calls to locate aircraft carrying politicians. (Exhibit 17)

AMICC was interviewed to determine if AMICC verifies the identity of callers requesting assistance. According to AMICC, when requests for information are received by AMICC, they call back the requestor to verify their identity. In this instance, when the call for assistance came in on May 12, 2003, a call-back procedure was not deemed necessary. Rather, AMICC noted that the AMICC phone system displayed that the call originated from a “Texas Government” telephone extension. AMICC believed that further verification was unnecessary. (Exhibit 18)
## REPORT OF INVESTIGATION

### EXHIBITS

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<td>Memorandum of Activity, Interview of [redacted], AMICC, dated May 22, 2003.</td>
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<td>Memorandum of Activity, Interview of [redacted] and [redacted], AMICC, dated May 23, 2003.</td>
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REPORT OF INVESTIGATION


15 Memorandum of Activity, Contact with [Redacted], DPS, dated May 22, 2003.


MEMORANDUM

May 16, 2003

To: Deputy Inspector General Richard L. Skinner
General Counsel to the Inspector General Richard N. Reback
Assistant Inspector General for Investigations Elizabeth Redman

Re: Recusal from investigation

On May 15, 2003, at about 10:15 p.m., I received a telephone call from Mark Wallace, Special Counsel to Assistant Secretary for Immigration and Customs Enforcement (ICE) Michael Garcia, referring to me for OIG investigation a matter concerning alleged DHS involvement in a federal effort to find missing Texas lawmakers. I participated in a follow-up telephone call from Mr. Wallace, with all of you, this morning. Additionally, I have received a letter signed by several members of Congress requesting that the OIG conduct an investigation into this matter.

Under present circumstances, including my prior employment by the State of Texas and the possibility that I may know one or more of the Texas state employees involved in this matter, I believe it best that I recuse myself from any involvement in the OIG inquiry. Accordingly, I will respond to the Congressional letter by stating that the OIG will investigate the matter and then will have no further involvement in any aspect of this matter. I am delegating all of my authority with respect to this matter to Deputy Inspector General Skinner. I am to receive no papers or briefings regarding this matter and ask that a notation to that effect be placed in the investigative file.

[Signature]

Clark Kent Ervin
Acting Inspector General
May 15, 2003

Mr. Clark Kent Ervin
Acting Inspector General
Department of Homeland Security
U.S. Department of Homeland Security
Washington, D.C. 20528

Dear Mr. Ervin:

I write to express my alarm at reports that valuable Department of Homeland Security resources, which exist to protect the American people from terrorism, were diverted for partisan political purposes. Specifically, I am concerned about the following report in the Fort Worth Star Telegram that describes the Department’s surveillance powers being used to track down Democratic lawmakers:

"One federal agency that became involved early on was the Air and Marine Interdiction and Coordination Center, based in Riverside, Calif. -- which now falls under the auspices of the Homeland Security Department.

The agency received a call to locate a specific Piper turboprop aircraft. It was determined that the plane belonged to former House Speaker Pete Laney, D-Hale Center.

The location of Laney’s plane proved to be a key piece of information because, (Republican House Speaker Tom) Craddick said, it’s how he determined that the Democrats were in Ardmore.” Jay Root, "Eyes of Texas, U.S. on truant legislators,” May 14, 2003.

If true, this report represents a shameful diversion of taxpayer resources for partisan purposes. I would urge you to immediately investigate this matter and provide a full accounting of the following:
(1) Who requested that the Center locate Mr. Laney's plane?

(2) Who, at the Center or elsewhere in the Department of Homeland Security, or in the Administration, authorized the Center to undertake this surveillance?

(3) Were there any other contacts between Congressional or Administration officials with the Department concerning this matter?

(4) What was the rationale for utilizing federal resources for this undertaking?

(5) What was the cost of this surveillance?

(6) Were employees or resources of the Department diverted from homeland security tasks to conduct this surveillance?

(7) Were legal requirements and internal guidelines for conducting surveillance complied with?

This appears to be just one of many reports of misusing federal resources to investigate Texas Democrats:

- House Majority Whip Tom DeLay told reporters that "bringing in either U.S. Marshals or FBI agents is justified because redistricting is a federal issue, involving congressional seats." *Houston Chronicle*, May 13, 2003

- DeLay said he consulted an attorney in his office who formerly worked with the Justice Department to determine for Texas House Speaker Craddick whether FBI agents and U.S. marshals could be used to arrest the Democrats out of state. AP, Suzanne Gamboa, May 13, 2003


- "A spokeswoman for the U.S. Attorney's office in San Antonio had no official comment, but a source confirmed that an unidentified person had called to inquire about federalizing the arrest warrant." *Fort Worth Star-Telegram*, May 14, 2003

Thank you for your prompt attention to this matter.
Mr. Clark Kent Ervin  
Page 3  
May 15, 2003

Sincerely,

John Conyers, Jr.  
Member of Congress

Howard L. Berman  
Member of Congress

Jerrold Nadler  
Member of Congress

Robert C. Scott  
Member of Congress

Zoe Lofgren  
Member of Congress

Sheila Jackson Lee  
Member of Congress

Maxine Waters  
Member of Congress

Robert Wexler  
Member of Congress

Tammy Baldwin  
Member of Congress

Linda T. Sanchez  
Member of Congress

cc: F. James Sensenbrenner, Jr.  
Chairman, Committee on the Judiciary
May 21, 2003

Lisa Redman
Assistant Inspector General for Investigations
Department of Homeland Security
Washington, DC 20528
Attn: Office of Inspector General

Re: Diverting Federal Resources Against Political Targets

One week ago we requested answers from the Department of Homeland Security (DHS) Secretary Ridge concerning reported diversions of federal resources against Texas State Legislators. (Exhibit 1). DHS has refused to respond.

On May 19, we made a second request to Secretary Ridge for “the audiotapes and transcripts of all conversations or transmissions pertaining to any aspect of the alleged attempts to use any federal resources of any type with regard to any member of the Texas Legislature.” (Exhibit 2) DHS has not responded.

We are also concerned by two reports today: (1) in the Fort Worth Star-Telegram that the Texas Department of Public Safety has ordered the destruction of documents and photos concerning the pursuit of Texas state representatives, and (2) in the Houston Chronicle that you “had no idea how long the investigation would take, or when the tapes might be released.”

Given previous obstruction of our efforts and these reports of state destruction, we write to you with the following requests:

(1) Does any federal statute deny you the discretion to release immediately the documents we have requested?
(2) If you refuse to release immediately all documents, please explain why.
(3) If you refuse to release immediately all documents, when will you release them?
(4) What is the scope of your investigation and what do you consider your specific mandate to be?
(5) What steps have you taken to ensure no further destruction of documents?
(6) Will you attempt to determine if any Members or any person acting in any way on their behalf or at their request contacted any Homeland Security entity or other federal entity (including those under contract) directly or indirectly?
(7) When will your review be complete? In one week? One month? One year?
(8) What steps have you taken to ensure Acting Inspector General Clark Kent Ervin will have no role in this investigation?
(9) Who on your staff will assist you in this investigation?
Confident that you share our view that the Inspector General’s office was created to keep Congress fully and currently informed, we trust you will work with dispatch to find the truth, not bury it.

The banner on the DHS Inspector General website reads: “Ensuring Integrity and Efficiency.” All we ask is merely what the banner proclaims, prompt answers that allay the concerns raised in several published reports.

Sincerely,

[Signatures]

Eddie Bernice Johnson

[Signatures]

[Signatures]

[Signatures]

[Signatures]
Lisa Redman
Acting Assistant Inspector General for Investigations
Department of Homeland Security
1120 Vermont Avenue, N.W.
Washington, D.C. 20005

Dear Ms. Redman:

I am appalled by recent news reports that the Texas Department of Public Safety (DPS) ordered the destruction of all records related to its search for Texas state legislators. I am writing to ask that you investigate DPS’s document destruction as part of your ongoing examination of the use of Department of Homeland Security resources in the search for Texas lawmakers and that you take steps to ensure that additional, federal documents that may be relevant to your investigation are not destroyed.

As you know, last Monday, May 12, 2003, legislative leaders in Texas directed the DPS to round up missing Democratic legislators, and DPS enlisted the assistance of the Air and Marine Interdiction Coordination Center (AMICC), an office within the Department of Homeland Security, in this search. It has since been reported that on Wednesday, May 14, 2003, a DPS commander, in an e-mail message, ordered the destruction of all documents and other materials related to the search; this e-mail was reportedly forwarded to the lieutenant who has been identified as the individual who contacted AMICC. According to news accounts, the documents were destroyed shortly after the first news stories revealed that DPS had contacted the Department of Homeland Security seeking help in finding the lawmakers.

Last week, I wrote to Secretary Ridge urging him to conduct a full investigation into the apparent misuse of scarce Department of Homeland Security resources in the search for Texas state legislators. I understand that you are heading up the Department’s investigation into this matter, and I am very concerned that DPS’s document destruction may hamper your investigation. The evidence contained in the DPS records may well be critical to answering a key question in your investigation: whether the use of federal resources was obtained through misleading or fraudulent means. And the destruction of such records raises troubling questions about whether those ordering the destruction in fact did so with the specific intent to impede inquiries such as yours.
I therefore request that you expand your investigation to encompass this outrageous document destruction and immediately act to secure all federal documents (including e-mails and any audiotapes of conversations between DPS and AMICC), as well as any other materials, that may be relevant to your investigation. I also ask that you examine whether DPS's instructions to destroy documents potentially relevant to a federal investigation may have constituted obstruction of justice or otherwise violated any federal law. If for some reason you conclude that the destruction of documents related to DPS's search for the state legislators is beyond the reach of your office, please advise me of this fact as soon as possible, as well as of the agency to which you intend to refer this matter.

If you have any questions concerning this letter, please contact [name] of my staff at [phone number].

Sincerely,

Joseph I. Lieberman
Ranking Member
EXHIBIT 3
MEMORANDUM OF ACTIVITY

Type of Activity: Other (Describe): Evidence Retrieval

Case Number: CO-03-OIGHQ-029003S
Case Title: AMICC

On May 20, 2003, at 4:20 p.m., [redacted] Office of the Principal Legal Advisor, Bureau of Immigration and Customs Enforcement, 425 I St., SW, Room 6109, Washington, DC 20536 (Ph: [redacted]) turned over the following items relative to Department of Homeland Security (DHS) Office of Inspector General (OIG) Case Number CO03-OIGHQ-029003S, to Supervisory Special Agent (SSA) [redacted] DHS OIG:

1. One (1) Audiotape (marked GMW, 5/20/03, 4:20pm, #1).
2. One (1) Videotape (marked GMW, 5/20/03, 4:20pm, #1A).
3. One (1) Audiotape (marked GMW, 5/20/03, 4:20pm, #2).

The transfer was witnessed by Sarah M. Kendall, Chief of National Security Law Division, Office of the Principal Legal Advisor, Bureau of Immigration and Customs Enforcement, 425 I St., SW, Room 6109, Washington, DC 20536 (Ph: [redacted]). The transfer was logged onto a “Receipt of Property,” dated May 20, 2003, which was generated by Kendall and signed by [redacted] and [redacted]. Attachment #1.

At this writing, the above items (#1-3) remain in the custody of [redacted] DHS OIG HQ.

Attachments

1. “Receipt of Property,” dated May 20, 2003, signed by [redacted] and [redacted].
Receipt of Property

May 20, 2003

On May 20, 2003, delivered to SSA DHS/IG the following items

1. Audiotape: (Marked GMW 520034 4:20 p.m. #1)
2. Videotape: ((Marked GMW 52003 4:20 p.m. #1A)
3. Audiotape: (Marked GMW 52003 4:20 p.m. #2)

All items were transferred from [Redacted] to [Redacted]

[Signature]
Associate General Counsel
NSLD OLA BICE

[Signature]
Supervisory Special Agent
OIG DHS

Witnessed by [Signature]
Sarah M. Kendall

5/20/03
On May 21, 2003, Charles E. Stallworth, Director, Office of Air Marine Interdiction, Immigration and Customs Enforcement, Washington, DC (Ph: [redacted]), was interviewed at his office, Room [redacted], Washington, DC 20029, by Supervisory Special Agent (SSA) [redacted], Department of Homeland Security (DHS) Office of Inspector General (OIG). The purpose of the interview was to determine the appropriateness of actions taken by the Office of Air Marine Interdiction Command Center (AMICC), Riverside, CA, following a call for assistance at 3:20 p.m. on May 12, 2003.

The complaint originated on May 15, 2003, when DHS OIG received a letter from Congressman John Conyers, Jr. et al, alleging a "waste of DHS resources for partisan purposes", by AMICC on May 12, 2003. Attachment #1.

On May 21, 2003, Charles Stallworth was asked to respond to the following questions that were contained in the aforementioned Congressional memorandum.

1. Who requested the Center to locate Mr. Laney’s plane?
   CS: DPS (Texas Dept. of Public Safety) Austin, TX, requested assistance in locating the plane.

2. Who, at the Center or elsewhere in the Department of Homeland Security, or in the Administration, authorized the Center to undertake this surveillance?
   CS: Detection Systems Specialist (DSS), Riverside, CA, (Ph: [redacted]) took the call from DPS [redacted] and responded to the request for assistance. DSS was the supervisor who was aware of the situation.

3. Were there any other contacts between Congressional or Administration officials with the Department concerning this matter?
   CS: None to my knowledge.

4. What was the rationale for utilizing the federal resources for this undertaking?
   CS: We responded to a request for assistance from a law enforcement entity.

5. What was the cost of this surveillance?
   CS: DSS [redacted] and Sr. DDS [redacted] hours.

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6. Were employees or resources of the Department diverted from homeland security tasks to complete this surveillance?

CS: Nothing other than time. There was no reduction in efficiency or service as there were other DSS personnel on duty.

7. Were legal requirements and internal guidelines for conducting surveillance complied with?

CS: Yes

On the same date, Director Stallworth provided the following points of contact for AMICC, Riverside CA:

Surveillance Operations (Ph: ______

AMICC, Riverside, CA (Ph: ______

During the May 21, 2003 interview, Director Stallworth maintained that AMICC acted appropriately and in accordance with agency guidelines in responding to a legitimate "law enforcement request for assistance." In Stallworth's opinion, DSS believed that there was a lost aircraft and emergency assistance was needed. Stallworth cited the Watch Log from AMICC, Riverside, CA, that detailed interaction with DPS on 05/12/03. A review of the Watch Log reveals language consistent with Stallworth's assertion that the aircraft was deemed missing. Specific examples of language (suggesting exigency) includes:

Sentence 1 - "trying to find an aircraft."
Sentence 5 - "they searched the airport with no luck finding the A/C."
Sentence 10 - "to see if they (FAA) could conduct a lost aircraft procedure."

Attachment #2 (Note: the date and time displayed on the Attachment #2 is May 13, 2003, 0240 hours (GMT). In terms of Pacific Standard time, the call from DPS to AMICC actually occurred seven hours earlier, on May 12, 2003 at 1940 hours, or 7:40 p.m.).

Director Stallworth further supported his position by citing statements made by DPS on May 12, 2003, where ... told ... that ... has "got a problem," and that, "It had state representatives in it and we cannot find this plane". A review of the transcript of the (recorded) conversation between and reflects the exact language quoted above.

The interview with Charles Stallworth was concluded at 2:10 p.m. on May 21, 2003.

Attachments:

2. Watch Log from DSS AMICC, dated 05/13/03.
RECEIVED A PHONE CALL FROM A OUT OF ARDMORE OK TRYING TO FIND AN AIRCRAFT N711RD SAID THE A/C WAS CARRYING GOVT PEOPLE FROM ARDMORE OK TO PLAINVIEW TX NO NAMES GIVEN. AMICC CONTACTED FAA A/M AT FT WORTH CENTER THEY HAD CONTACT WITH THE A/C AT 2348Z 40 MILES WEST OF KFTW NEAR MINERAL WELLS TX. AMICC CONTACTED MINERALS WELLS AIRPORT AUTH. AND THEY SEARCHED THE AIRPORT WITH NO LUCK FINDING THE A/C. AMICC CONTACTED THE FBO AT PLAINVIEW TX MILLER FLYING SERVICE THEY HAD NOT SEEN THE A/C BUT THEY GAVE AMICC THE PHONE NUMBER FOR THE FIELD AMICC HAD NO LUCK CONTACTING ANYONE AT THAT NUMBER. AMICC WAS INFORMED ABOUT ALL INFORMATION AND WAS GIVEN THE FAA A/M NUMBER TO CONTACT TO SEE IF THEY COULD CONDUCT A LOST A/C PROCEDURES. AMICC WAS BRIEFED ON ALL.
EXHIBIT 5
MEMORANDUM OF ACTIVITY

Type of Activity: Personal Interview

Case Number: IN03-OIG-LA-0662  Case Title: Air and Marine Interdiction Center

Senior Detection Systems Specialist (SDSS), GS-13, Air and Marine Interdiction Coordination Center (AMICC), Bureau of Immigration and Customs Enforcement, telephone number was interviewed on May 22, 2003, from 10:10 AM to 11:05 AM, at March Air Force Base, Riverside, California. In addition to the reporting agent, Special Agent, Office of Inspector General, Department of Homeland Security (DHS), was present during the interview. Stated substantially as follows.

was the SDSS on duty on May 12, 2003, when a call was received from Texas Department of Public Safety (DPS). answered the call and asked for assistance with locating an aircraft. transferred the call to Detection System Specialist, GS-11, who was controlling the Texas desk. took the call, and then explained to that a particular aircraft was overdue and DPS wanted assistance to locate the aircraft. authorized to proceed and try to find the plane. This was standard procedure when a request for assistance is received. According to AMICC receives 30 to 40 calls per day requesting such assistance. , was in the operations center and present when authorized to assist. nodded in concurrence with the authorization.

There were no other contacts between Congressional and/or Administration officials and AMICC. Subsequent to this call, they were instructed to refer any inquiries to the public affairs office or to Charles Stallworth, Director, AMICC, Washington, D.C. On May 16, 2003, received a call from believed to be from DHS at requesting information about the incident for a briefing to be given to Secretary Ridge, DHS. The request was provided to Stallworth for his return call to made an entry in the watch log for this date (attached).

AMICC assists as a matter of public safety in the location of general aviation aircraft for individuals, localities, states, etc.

has no idea of the specific cost of providing the service to locate the aircraft in question. The cost would include a couple of telephone calls and less than ½ hour of a GS-11 employee’s time who was working on other duties at the same time.

No employees or other DHS resources were diverted from homeland security tasks to assist with the request to locate the aircraft. They were doing their customary duties. One of these duties is providing assistance to locate general aviation aircraft.

Legal requirements and internal guidelines were followed for providing this assistance.

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provided a copy of the computer screen showing there were 9 flight plan entries for the aircraft for May 12, 2003. There was a proposed flight plan from Ardmore, Oklahoma, to Plainview, Texas. explained that it is not possible to determine if the flight actually occurred, because of the area. Not all of the entries are accurately recorded. Additionally, there can possibly be multiple entries or corrections for the same flight. may have retained a detailed copy of the flight plan after completed assisting.

A follow-up call was made on this date at 1:45 PM to request additional information. explained that all calls in and out of the operations center are recorded. This is standard operating procedure. Calls made to private offices and on the secure telephone line within AMICC are not recorded.

Attachments:

1 – Memorandum Prepared by Documenting the Events of 5/12/03;
2 – Watch Log Entry of Call from , and,
3 – Computer Printout of Flight Plan Summary for Aircraft ID N711RD.
On Monday May 12, 2003 at approximately 1800 local I received a phone call from a Texas DPS Officer requesting assistance in locating an aircraft. I transferred the call to DSS (working the Texas position) and instructed to clarify the request and provide assistance if possible.

After talking to DSS, informed me the DPS had requested help in locating a general aviation aircraft (N7111RD) with some state government officials on board. The DPS Officer believed the aircraft had departed Ardmore, OK en route to Plainview, TX. The DPS Officer had indicated concern over their inability to find the aircraft. I instructed DSS to take the appropriate steps to locate the aircraft (contact the FAA Center and FSS, check flight plans, etc).

Several minutes later DSS approached me indicating was unable to confirm the current location of the aircraft. had been able to determine the FAA had talked to the aircraft about an hour before but the remainder of efforts (including contacting the FBO and local authorities) had been negative. I instructed DSS to contact Officer to inform of our inability to confirm the safe arrival and/or location of the aircraft and to provide with the FAA number for filing a lost/overdue aircraft report so a search and rescue (SAR) effort could be mounted. DSS complied.

A few minutes later DSS informed me the DPS Officer had declined the number stating did not wish to go that far as of yet. Approximately ten minutes after the preceding call DSS informed me Officer had called back requesting the FAA SAR number.
<table>
<thead>
<tr>
<th>DATE/TIME</th>
<th>USER</th>
<th>ENTRY</th>
</tr>
</thead>
<tbody>
<tr>
<td>16-May-03 0231</td>
<td>DHS Called requesting information on Mondays incident concerning the Texas DPS for a briefing to be given to Director Ridge. After confirming ID informed (attempted call to acting director, left message) and Director Stallworth. Director Stallworth will contact immediately.</td>
<td></td>
</tr>
</tbody>
</table>
EXHIBIT 6
Type of Activity: Other (Describe): Receipt of Fax from AMICC

Case Number: IN03-OIG-LA-0662  Case Title: Air and Marine Interdiction Center

On May 23, 2003, [Redacted], Senior Detection Systems Specialist, GS-13, Air and Marine Interdiction Coordination Center (AMICC), Bureau of Immigration and Customs Enforcement, Riverside, California, was requested to provide a copy of any policy or regulation that would govern AMICC policy in providing assistance to local law enforcement or other types of assistance related to aircraft.

Faxed the attached pages from the AMICC Training and Operations Manual, chapter 2-page 2, and chapter 22-page 2.
INTRODUCTION

Skylane is a careful, systematic delineation of aircraft, pilot, and flight information leading to the discovery of aircraft suspected of transshipping contraband. Our continuing success in surveillance and interdiction has led to a significant drop in aircraft border penetrations. The majority of the narcotics and contraband transported by aircraft lands in Mexico, Haiti, and the Leeward Islands, or is airdropped to vessels in Puerto Rico and the Bahamas.

Currently, the vast majority of the primary points for initial narcotics deliveries are short of our border. Various non-aviation related conveyances are used to bring the contraband into the U.S. Once inside, aircraft are once again the most efficient and expeditious method of moving the contraband to market. Smugglers constantly change and adapt their tactics and methods to achieve a higher success rate. To counter them, we must do the same.

MANDATE

As contained in the "Aviation Program FiveYear Strategy 1999-2004." The aviation program employs a three-pronged approach. In supporting the enforcement and administration of Customs Laws & Regulations:

1. Maintain border security against the airsmuggling threat;

2. Support the anti-smuggling investigative and enforcement activities of Customs and other federal, state, and local law enforcement agencies that support the Customs mission;

3. Support the President's International Drug Control Strategy;

4. At the discretion of the Commissioner, and when resources allow, Customs aircraft can be used to support federal, state, and local law enforcement and humanitarian efforts.

It is under paragraph number two (2) and four (4) as spelled out above that Operation Skylane is conducted.

Excerpt from DSS position description:

Performs queries, interprets and analyzes data acquired from numerous law enforcement and FAA database systems. ...to determine if law enforcement action should be recommended against a suspect person, aircraft, or vessel.
A. OBJECTIVES & MISSION

Interdiction

Objective: To significantly inhibit the smuggling of contraband by aircraft.

Mission: To detect, identify, intercept, track and apprehend aircraft engaged in the smuggling of contraband.

Support

Objective: To provide flexible and rapid aviation response at selected locations along the borders of the United States.

Mission: To provide assistance to all other elements of Customs requiring aviation support. Air Support also will be provided to assist other federal, state and local agencies as assets permit.

B. ORGANIZATIONAL STRUCTURE

The functions of the various offices involved in the management of the Aviation and Marine Program are discussed below.

Commissioner, U.S. Customs Service - the responsibility and authority for the Aviation Program is vested in the Commissioner.

Deputy Commissioner - has line authority over the Aviation Program and is directly responsible to the Commissioner for the effective conduct of the Aviation Program.

Assistant Commissioner, Office of Investigations (ACI) - has functional responsibility to the Commissioner and Deputy Commissioner of the Aviation Program.

Executive Director, Air Marine Interdiction Division (AMID) - responsible for organizing, directing, and controlling the administration and operation of the programs under his/her tactical interdiction mission. The director is responsible for providing clearly defined national program objectives, strategies for future program development, and operational requirements for program wide implementation. The director participates in coordinated efforts to identify and interdict the attempted smuggling of contraband by private aircraft. He/she is responsible for coordinating with management within Customs, with other agencies, and with Congress to ensure that program objectives are understood, approved, and supported.
EXHIBIT 7
Type of Activity: Personal Interview

Case Number: IN03-OIG-LA-0662
Case Title: Air and Marine Interdiction Center

DSS, Detection Systems Specialist (DSS), GS-12, Air and Marine Interdiction Coordination Center (AMICC), Bureau of Immigration and Customs Enforcement, telephone number was interviewed on May 26, 2003, from 6:05 AM to 7:00 AM, at March Air Force Base, Riverside, California. In addition to the reporting agent, Special Agent, Office of Inspector General, Department of Homeland Security (DHS), was present during the interview. Stated substantially as follows:

was the DSS on duty on May 12, 2003, when a call was received from Texas Department of Public Safety (DPS). The call was initially received by Senior DSS, who transferred the call to as was working the Texas/New Mexico desk on the operations floor. Identified as a contact with DPS from Austin, Texas. was concerned about an aircraft with Texas officials on board that was supposed to go into Georgetown, Texas, from Ardmore, Oklahoma. had spoken with an unknown individual on the flight line, but the individual did not have information about the aircraft. told that had not spoken with anyone from the Federal Aviation Administration (FAA).

asked for the tail number of the aircraft and callback number.

then checked for an active flight plan and there was none. Found a proposed flight plan (attached). Identified the airport codes as a flight proposed from Ardmore to Plainview, Texas (attached). Then called the FAA center for the Fort Worth, Texas, area, and spoke with . According to at 2358 Zulu (time), they had the aircraft located in Mineral Wells, Texas, about 40 miles west of the Dallas Fort Worth Airport (DFW). That was the last contact with the aircraft. asked for the telephone number of the Mineral Wells airport. Provided the telephone number of the airport authority at Mineral Wells.

contacted the airport authority at Mineral Wells and there was no information about the aircraft. asked that they conduct a physical check around the airport for the aircraft, and gave telephone number to call back if there was information.

called and explained that had not found the aircraft and explained to what had already done. told would call back with future updates.

called Miller Flying Service, the fixed base operator at Plainview, Texas, and an answering machine gave the telephone number to reach . called and advised of the aircraft number and that the aircraft, carrying government officials, might be lost. got a bad feeling from when stated thought read or heard about this the prior day in the news or the media. This comment struck as a funny (strange) comment. Sounded reluctant to look for the aircraft. gave the telephone number of knows more of what is occurring at the airport as

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lives in [redacted] and is not normally at the airport. Also gave the telephone number of who handles things at the airport when is not there.

There was no answer at [redacted] telephone number.

At this point, [redacted] received a call from the airport authorities at Mineral Wells. The aircraft could not be located at the airport.

[redacted] then called [redacted] at DFW and was advised that FAA could not find any information on the aircraft. [redacted] asked FAA to try and get information on the aircraft from any of their facilities.

[redacted] called [redacted] and advised [redacted] again that [redacted] was unable to locate the aircraft.

[redacted] took a break. While [redacted] was on break, [redacted] called at DFW and spoke with Detection Systems Specialist. [redacted] had contacted Lubbock approach that had no information on the aircraft for that day. However, Lubbock approach was familiar with the aircraft because they believed they had worked the aircraft the day before. (In the draft transcript of the recordings, this conversation with [redacted] at DFW was shown as occurring with [redacted] Upon review of the transcript, advised that had taken the call. The draft two pages showing [redacted] name are attached.) Upon return from break, [redacted] advised [redacted] of the call.

[redacted] briefed [redacted] and [redacted], of further attempts to locate the aircraft. [redacted] concurred with [redacted] actions and could not think of anything further that could be done to assist.

[redacted] called [redacted] and explained that [redacted] could not find the aircraft. [redacted] gave the telephone numbers for (and explained [redacted] was unable to contact [redacted]). [redacted] advised [redacted] to contact at DFW for a request a search. [redacted] did not want to go that far and stated "they’re Texas legislators and that’s all [redacted] was at liberty to say." [redacted] explained this conversation to [redacted] and [redacted] and they all agreed it sounded "fishy."

Within two or three minutes, [redacted] received a called from [redacted] who asked for the telephone number for [redacted] at DFW. [redacted] said [redacted] would make the contact.

After [redacted] provided the previous information relating to the incident, [redacted] answered some additional questions.

The actions[redacted]ook relating to the aircraft in question were a normal part of duties. When a call comes in, [redacted] does not need specific authorization to begin locating an aircraft. It is standard operating procedure. [redacted] would then later brief the Senior DSS on duty of actions.

The request to help locate the aircraft came from [redacted] never mentioned to whom it belonged. During the call, [redacted] mentioned government officials were on the aircraft and they were concerned because they could not locate it. Later, [redacted] checked out the aircraft based on the tail number; it was registered to JDL Farms at Plainview, Texas.

[redacted] was unaware of any Congressional or Administration contacts relating to the aircraft.
MEMORANDUM OF ACTIVITY

When law enforcement agencies call requesting assistance to locate an aircraft, AMICC assists.

had no idea what the cost of providing this assistance was relating to this specific aircraft. attempts to locate the plane took about 30 to 40 minutes. was a GS-11 at the time.

According to no employees or resources of the Department of Homeland Security were diverted from homeland security tasks in order to assist with this request.

All the actions took were in accordance with their instructions and how they are trained on a routine basis.

According to as it has been explained to all calls to/from the operation floor are recorded. This is from the moment the handset is off the hook.

did not believe that was being deceived by However, after stated was "not at liberty to say more," believed that something did not seem right – that there was more involved in this situation.

reviewed the transcript of the recordings of May 12, 2003, and stated that it is complete.

Attachments:

1. Proposed flight plan from Ardmore, Oklahoma, to Plainview, Texas.
2. Airports/Source Codes for Ardmore, Oklahoma, and Plainview, Texas.
3. Two draft pages of May 12, 2003, transcript, showing as AMICC person receiving incoming call.
1. Just ask for New Mexico position.
2. Yes.
3. That's going to be the New Mexico position?
4. Yes,
5. All right. We'll see what we can find out, I'll call you back here in just a few minutes.
6. Thanks,
7. All right. Bye.

(Call ends).

(Phone busy).

New Mexico desk. Can we help you?

Yes. This is Fort Worth Center calling back about that 711 ROMEO DELTA.

Go ahead,

We talked to the approach control there at Lubbock, Texas, and see if they had worked sometime today either **via fire or I a fire, and they have not been able to locate any records that they talked to them.
They said they're familiar with the aircraft though.

Okay.

But is, I guess, based up there in Plainview.

In Plainview? All right.

Yeah, they said they remembered talking to probably yesterday, but they do not recall talking to today, but they are going to continue their search, and I told them to call us back if they could come up with anything.

Okay. That's great. I appreciate the work there.

That's all we know so far.

All right. Thank you.

Good bye.

(Call ends).

(Phone busy).

(Phone disconnected message).

This is with U.S.
EXHIBIT 8
On May 21, 2003, Air and Marine Interdiction Coordination Center (AMICC), Bureau of Immigration and Customs Enforcement, Riverside, California, provided via fax a copy of the transcript of the recording of the telephone calls Detection Systems Specialist, made in an attempt to locate an alleged missing aircraft, on May 12, 2003. The initial call was received from the Department of Public Safety, Austin, Texas.

The attached is the 29 page fax from ___
Date: 21 MAY 03

To: [Redacted]
Fax number: [Redacted]

Subject: Transcription

Return fax number: [Redacted]
Secure Fax: [Redacted]
24 Hour Numbers for Comm: [Redacted]
24 Hour Number for Operations: [Redacted]
Voice number: [Redacted]

Number of pages including this cover: 29

Remarks: 1. Per phonecon today
2. Directions sent via email from Ops Office.

(P.S. [Redacted])
U.S. CUSTOMS DEPARTMENT OF HOMELAND SECURITY

PHONE ON CONSOLE 07 - 12MAY03

STENOWRITERS
12512 Bryce Circle
Cerritos, California 90703
562.860.8300
how may I help you?

my name is I'm a with DPS in Austin, Texas.

Yes.

Got a problem. Hope you can help me out. We had a plane that was supposedly to be going from Ardmore, Oklahoma to Georgetown, Texas. It had state representatives in it, and we cannot find this plane.

Okay. What's the tail number of the airplane?

NORA-711 ROBERT DAVID.

Robert David.

Now we checked with the Austin flight line, and they had no flight plan for that plane. And you said it was going from -- Ardmore, Oklahoma. -- To Georgetown?

To Georgetown, Texas. And they have supposedly left at 5:00.

Okay. You haven't talked to any of the FAA people or --

No, I have not.

Okay. Can I get a phone number for you?
And my name is Last name is and I'm with DPS.

Okay. I'm going to go ahead and try to contact some FAA people and see if they have any information on this, and we'll check to see if we have any flight plans on it.

Okay.

See if we can find it and give you a call back here, okay?

Okay.

All right.

Bye.

Okay. Bye.

Bye.

(Call ends).

Fort Worth Center Hey, This is with Customs Radar. I'm trying to find an airplane.
Okay.

It's NOV-711 ROMEO DELTA. It was due in to Plainview, Texas.

It was due in to Plainview?

Yeah.

Today?

Yeah, today.

Huh.

And it's saying 00:45 and the people's trying to find it, and I can't see it on the radar or anything, and they don't have an active flight plan on it, but there is a proposal coming out of Ardmore, Oklahoma going down to Plainview.

All right. Hang on a second.

Okay.

At 23:48.


was about 11 miles south of Ardmore, and we show went via far into Mineral Wells.

Mineral Wells?

Yes. MWL.

MWL. All right. And went -- you know what time landed there?

No, I did not.

Okay. You wouldn't happen to have
a phone number for them, would you?

I can find one.

Okay. If you would please.

Okay. Airport 2 you want --

Probably an FBO or manager or somebody there. If it has the tower, that would be
great, but I don't think so.

I don't have a tower.

Okay.

Let's see here. Airport Authority or -- that's about all we got here --

And Mineral Wells exactly where is that?

It melts out via war do you know where that's at?

No.

Well, it's west of Fort Worth about 40 miles.

40 miles west of Fort Worth?

Yeah.

Okay, Appreciate that. Thank
you,

You bet.

All right. Bye.

(Call ends).

(Phone Busy).

Airport.

Yes, My name is I work with U.S. Customs out of Riverside, California.

Yes.

Trying to track down an airplane for some people up in Oklahoma.

Uh-huh.

It's supposed to have some government officials on it.

Okay.

NOV--711 ROMEO DELTA, and I just spoke with Dallas Fort Worth Center, and they said about 23:48 he was 11 miles heading into Mineral Wells, and that was the last thing that they knew about And what time was that? 2348 ZULU. It's about an hour ago. All right. About an hour ago?
50 minutes ago.
Let's see. It's not on the fuel log. I haven't heard that pin number yet. 711 ROMEO Delta?
Right.
No, haven't heard that.
All right. Is there any way we can get somebody to check out the airport see if it is actually there?
Yeah. I can go through all the hangers and everything else.
Okay. You know -- we -- I'm just trying to find it for this guy up in Ardmore, Oklahoma. It was supposed to be going into Plainview, Texas later on but...
was going to make a stop here for fuel or?
I don't know if it was stopping there for fuel or what. But I'm just going by what Dallas Fort Worth gave me.
What kind of plane was it?
PA-2.
PA-2.
Yeah, PAY-2.
Okay.
Okay. Well, I'll go and check all the ramps and drive through all the feed hangers and --
Okay, sir. And my phone number here -- if you give us call back and just ask for the New Mexico desk.
Okay.
Is And what was your name, sir?
This is Yeah.
Okay, sir. I appreciate your help.
Okay.
All right, sir.
All right.
Bye.
Bye.
(Call ends).
This is... Yeah, this is with U.S. Customs out of Riverside.

Yes, What I found out so far, I have not found your airplane yet.

Okay. At 23:48 ZULU Dallas Fort Worth said that they had 11 miles outside of Mineral Wells, Texas going into Mineral Wells.

Okay. I've just spoke with the port authority or the police department there.

Uh-huh. is going out and check the area right now to see if can find the airplane, and give us a call back here.

What time did you say 20 -- 23:48 Zulu which was just about 52 minutes ago.

Okay. That's --

Outside of Mineral Wells?

Outside of Mineral Wells. And I do have the police authority there going out and looking at
the airport to see if we can find the aircraft there.

That's all we want to do is --

Yeah.

No contact being made.

Yeah.

Okay.

No contact at this time, you know, we're just going out there to see. I just want to let you know on the update that we hadn't forgot about you.

Great.

And we'll give you a call as soon as we find out anything, sir.

Okay.

Okay.

Thank you.

Bye.

(Call Ends).

(Phone Recording as Follows): This is Miller Flight Service. We're either out of the office for a few minutes or closed for the day. If you would like to leave a message you may do so at the beep.
(Call ends).

This is [name].

Yes. [name] from (inaudible) Airport.

Yes, [name].

Are you who I spoke with?

Yes, [name], it is.

I checked everywhere, and it's not on the ground here.

It's not on the ground there?

No. What kind of plane was that anyway, twin engine?

PAY-Y2.

Hopper or Navy?

No. It's a Pasan. I'm not for sure. I don't have a picture of it. Okay. But you can't find anything on that airplane, huh?

No. Haven't heard anything.

I appreciate it, [name].

I'll let you know if it does come.

(Phone ends).

Yes, sir, is this Plainview, Texas?

Who are you calling?

I'm trying to get ahold of Plainview, Texas.

Okay. You got Okay. All right. my name is I work with U.S. Customs out of Riverside, California.

Uh-huh.

There was an airplane that was supposed to come in at Plainview there out of Ardmore, Oklahoma a NOV-711 ROMEO DELTA.

Uh-huh.

And the people up in Oklahoma is trying to find the airplane. They have not heard from it in a while. They were just wondering if it made it there?

Well, doesn't base over at our side of the airport.

Okay,
So I don't -- I wouldn't have any way of knowing because I don't have a key to their hanger or anything.

Okay. Who could I contact on the other side to see if over there?

Oh, well, is the owner, but I don't -- lives in and out of town some so I'm not sure whether there would be anybody you could find over there tonight or not.

Okay. Is there any way that I can find out where -- if the airplane is at the airport there? I mean, I don't know how big the airport is. I'm out in California.

Right.

And these people up in Oklahoma they said that these people were like government officials, and they're trying to find them.

Yeah, I'm kind of familiar with that whole -- deal.

Okay.

It made the paper today.

Okay. I don't know what's going on. I'm just trying to find the people that's all.

Yeah, I understand. Yeah, I don't know. Let's see trying to think of somebody. There's no
way I can find out because, like I say, if it's here and in the hanger, I wouldn't have anyway to find out.

Okay.

You have --

Do they just park the airplanes outside or --

No. It's got a hanger it belongs in. It wouldn't be left out here because we have such threat of thunderstorms.

Okay.

But it supposedly left Ardmore is what they're saying?

Yeah. FAA Fort Worth Center last contact they had with the airplane was at 23:48 Zulu which was just a little bit over an hour ago, and it was 11 miles outside of Mineral Wells, Texas, which is probably 40 miles outside of Fort Worth.

Yeah, I know where Mineral Wells is.

An hour ago outside of Mineral Wells?

Yeah.

Huh, let's see, well -- the guy that's kind of in charge over there -- when
Okay, sir,
I don't know. Just a second.
Okay, sir.

Well, supposedly, the phone number is

Uh-huh.

Okay. And you say kind of in charge when the other guys --

When the owner is gone, kind of in charge of the business for --

Okay.

So probably, if anybody, knows probably know.

Okay. All right, I appreciate it very much.

Okay. Thanks.

Bye.

(Call ends).

(Phone call no answer).
Yes, this is with Customs Radar again.

Yes.

I think we spoke with you about 20 minutes ago when a NOV-711 ROMEO DELTA.

Uh-huh.

Okay. I've called over to Mineral Wells. They can't find anything anyone there at the Mineral Wells Airport.

Uh-huh.

I called over, and I talked to the FBO people. They don't know anything about it in the Plainview. Is there any way that you can contact some of the FAA folks that might have talked with anyone its route over to Plainview to see if they have any updates on everything to find out if we can find this airplane?

Yeah. We can call around and see if we can find them somewhere. You say you called some FBOs or --

I called Miller Flying and --

At Mineral Wells?

No. At actually Plainview.

At Plainview?

Yeah. And I called the airport
authority there at Mineral Wells. They did send a car out and called us back and said they couldn't find it laying out there anywhere or, you know, in the area that wasn't locked up or anything.

Right.

So they gave me a name for a there at Plainview. That's on the other side of the flying or the FBO. And I can't get no answer over there. I was going to send out maybe -- maybe call the local police department there and see if they can send a car out and check the airport to just see if it is out there. But they said it's usually inside of a hanger over there.

Yeah, that's probably likely it would be in a hanger already.

Yeah, so, I don't know which -- which of your facilities might have talked to them or?

I'll tell you what, we'll check with Lubbock approach and see if they talked to and --

Okay.

-- and maybe go from there.

Okay. And if you could, if you could, you know, whatever information get me, you know, if you could just give us a call back here at
Just ask for New Mexico position.

Yes, that's going to be the New Mexico position?

All right. We'll see what we can find out, I'll call you back here in just a few minutes.

Thanks, all right. Bye.

Bye.

(Call ends).

(Phone busy).

New Mexico desk. Can we help you?

FAA: Yes. This is Fort Worth Center calling back about that 711 ROMEO DELTA.

Go ahead, FAA: We talked to the approach control there at Lubbock, Texas, and see if they had worked sometime today either (inaudible) via fire or I afire, and they
have not been able to locate any records that they talked
to them. They said they're familiar with the aircraft
though.

Okay.

FAA: But is, I guess, based up there in
Plainview.

In Plainview? All right.

FAA: Yeah, they said they remembered talking to
probably yesterday, but they do not recall talking to
today, but they are going to continue their search,
and I told them to call us back if they could come up
with anything.

Okay. That's great. I
appreciate the work there.

FAA: That's all we know so far.

All right. Thank you.

FAA: Good bye.

(Call ends).

(Phone busy).

(Phone disconnected message).
This is U.S. Customs.

Yes.

I have not found your airplane yet.

Okay.

Tell you what I have done. I have talked to the police authority over there. They could not find it at Mineral Wells. I have talked to the FBO Miller Flying Service out of Plainview. They said they're familiar, but they wouldn't service it. It would be across the field into a hanger over there --

Okay.

-- on the other side. They gave me a phone number Area code is I cannot get anybody to answer that phone number.

Okay.

I've talked to Dallas Fort Worth Center. They talked to Lubbock Approach who handles that area. They remember the airplane from yesterday.

Uh-huh.

But they don't remember it today.

Okay.
I can give you a number to at Forth Worth Center.

I think what we're going to do is we're going to send some people up there to start looking.

Okay. At different places.

Okay. And this was the city of Ardmore --

Yeah.

-- airplane. And did it have -- you said it had have government officials onboard?

Yeah.

Is it just city of Ardmore officials or --

No U.S. -- I mean Texas representatives.

Texas?

Right.

Reps?

Uh-huh. We're trying to locate, you know, I don't know -- well, we're trying to do some checking down here on it. Since there was no flight plan and all that we're -- we're checking some other things. I guess I'm really not at liberty to go too much further.
than that.

Okay.

Okay.

All right. It's no problem. I can given you and they can do a search and rescue for you.

Okay. No, that's okay.

Okay.

Okay. We don't want to go that far.

Okay. All right. All right. No problem. They also had a I think, number that I had in the book here for the airport for the hanger that it should be --

Okay. What's number?

Let me look that up for you real quick, okay? Hang on one second, all right?

(Conversation had by not with Keep trying to call those guys they -- it rolls over to their --

Yeah, all right. Okay. and they say the area manager. And when I talked to the flying service down there, they said when not there, this handles everything.

Okay.
So I tried number, and I didn't try the number because told me wasn't in so...

Okay,

Okay,

I appreciate your help, man.

Okay. No problem. Thank you.

Bye.

Bye.

(Call ends).

Texas.

Is there?

Yes, this is this is Yeah.

Hey, I just talked to the one of the representatives down here.

Okay.

State representative. They want to do a search and rescue.

Okay, sir.

What does it take? Now I told them that we had an individual? Is this
where is ___ out of?

Plainview.

Plainview?

Yeah.

I told ___ about that, and ___ says, no, let's do the search and rescue.

Okay. I can give you the number for ___ at Forth Worth Center.

Okay.

And it's area code ___.

Okay.

And the FAA is usually the ones that's responsible for trying to find an airplane that's flying from Point A to Point B when it's missing.

Okay.

And they'll institute their procedures for going ahead and, you know, going from Point A to Point B and trying to find.

Do I need to explain that I have talked to you and all?

Yeah. You can go ahead and do
that. You can tell I've talked to a couple of times.

The is?

I do not know name. just got a title there for the FAA.

Okay.

And go ahead and talk with you. I'm sure that they'll go ahead and implement whatever needs to be done and everything.

Okay.

Okay, Wil?

Okay. Thank you.

All right. Bye.

(Call ends).

SATO TRAVEL: Thank you for calling Sato Travel. Our office is currently closed. Our office hours are 7:30 a.m. to 5:30 p.m. local time Monday through Friday. We are closed on federal holidays. If this is an emergency, please, call the emergency service center at 1 (800) --

(Call ends).
SATOTRAVEL: Attention Sato Travel customers:

Our menu options have changed. Please listen carefully and thank you for calling Sato Travel. For quality assurance purposes, this call may be monitored or recorded. Please listen to the menu in its entirety as it has changed.

If you're calling for international reservations including Alaska, Hawaii, and the Caribbean please push 1 now. If you're calling for an Amtrak reservation, please press 2 now. If you require a car and/or hotel only reservation please press 3 now. For all other domestic air reservations within the 48 Continental United States, please press 4 now.

(Button pushed).

Thank you calling for Sato Travel. Our office is currently closed. Our office hours are 7:30 a.m. to 5:30 p.m. local time Monday through Friday. We are closed on federal holidays. If this is an emergency, please call the emergency service center at

(Call ends).
SATO TRAVEL: Thank you for calling Sato Travel.

Our office is currently closed. Our office hours are
7:30 a.m. to 5:30 p.m. local time Monday through. We are
closed on federal holidays. If this is an emergency,
please, call --

(Call ends).

SATO TRAVEL: Thank you for calling Sato Travel.

Our office is currently closed. Our office hours are
7:30 a.m. to 5:30 p.m. local time Monday through Friday.
We are closed on federal holidays --

(Call ends).
I, [Redacted], a Shorthand Reporter do hereby state:

That said taped phone conversation transcribed under my direction and supervision, and I hereby state the foregoing taped phone conversation is a full, true, and correct transcript of my shorthand notes so taken.

I further state that I am neither counsel for nor related to any party to said action nor in anyway interested in the outcome thereof.
MEMORANDUM OF ACTIVITY

Type of Activity: Telephone Contact

Case Number: IN03-OIG-LA-0662  
Case Title: Air and Marine Interdiction Center

GS-12, Detection Systems Specialist (DSS), Air and Marine Interdiction Coordination Center (AMICC), Bureau of Immigration and Customs Enforcement (BICE), Telephone number March Air Force Base, Riverside, California, contacted this office by telephone on May 27, 2003, from approximately 10:50 AM to 10:55 AM. In addition to the reporting agent, Office of Inspector General, Department of Homeland Security (DHS), was present and provided the following information, in substance:

said that recalled a May 12, 2002, call for assistance in locating a missing aircraft in Texas. (Attachment pgs 18, 19) was filling in for Detection System Specialist, AMICC, who was on break. said that was a floater that day and function was to give breaks to the other DSS on duty. It is standard operating procedure to assist each other.

An unknown individual for the Federal Aviation Administration (FAA) called and said that they had no contact with the missing aircraft that day. They recalled having contact with the aircraft at other times and knew that it was out of Plainview, Texas. knew that was trying to find a missing aircraft and forwarded this information to when returned from break.

said that when answering the telephone identities as either Customs Radar, or by the name of the desk is working.

had no further contact with anyone concerning the aircraft.

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Just ask for New Mexico position.

Yes,?

That's going to be the New Mexico position?

Yes,

All right. We'll see what we can find out, I'll call you back here in just a few minutes.

Thanks,

All right. Bye.

Bye.

(Call ends).

(Phone busy).

New Mexico desk. Can we help you?

FAA: Yes. This is Fort Worth Center calling back about that 711 ROMEO DELTA.

Go ahead,

FAA: We talked to the approach control there at Lubbock, Texas, and see if they had worked sometime today either (inaudible) via fire or I a fire, and they
have not been able to locate any records that they talked to them. They said they're familiar with the aircraft though.

Okay.

FAA: But I guess, based up there in Plainview.

FAA: Yeah, they said they remembered talking to probably yesterday, but they do not recall talking to today, but they are going to continue their search, and I told them to call us back if they could come up with anything.

Okay. That's great. I appreciate the work there.

FAA: That's all we know so far.

All right. Thank you.

FAA: Good bye.

(Call ends).

(Phone busy).

(Phone disconnected message).
EXHIBIT 10
Type of Activity: Personal Interview

Case Number: IN03-OIG-LA-0662
Case Title: Air and Marine Interdiction Center

On May 23, 2003, from approximately 10:50 AM to 10:55 AM, Senior Detection Systems Specialist (DSS), and Air and Marine Interdiction Coordination Center (AMICC), Bureau of Immigration and Customs Enforcement, telephone number, Riverside, California, were asked to provide specific copies of policies or regulations governing assistance AMICC might provide to law enforcement agencies. Stated would see what could find and provide the information to me.

Additionally and were questioned about how the telephone calls were recorded on the operations floor. They stated that all calls are recorded on the operations floor, both incoming and outgoing. The moment the telephone is off the hook, the recording begins.

There is a button on the telephone handset that must be depressed to enable the outgoing portion of the call (from the DSS) to be heard by the person on the other end of the line. However, this does not affect the recording of the call. Anything the caller states will continue to be recorded. When the button is not depressed, the caller cannot hear confidential information that may be discussed by the DSS, such as TECS information (Treasury Enforcement Communication System). When the button is not depressed, anything the DSS might say is not recorded (nor heard by the caller). When the button is depressed, both sides of the call are recorded.

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EXHIBIT 11
Type of Activity: Personal Interview

**Case Number:** IN03-OIG-LA-0662  
**Case Title:** Air and Marine Interdiction Center

GS-12, Air and Marine Interdiction Coordination Center (AMICC), Bureau of Immigration and Customs Enforcement, was interviewed on May 23, 2003, from 9:40 AM to 10:15 AM, at March Air Force Base, Riverside, California. In addition to the reporting agent, Special Agent, Office of Inspector General, Department of Homeland Security, was present during the interview.

On May 12, 2003, around 1800-1830 hours, was standing by the console on the operations floor when Detection Systems Specialist (DSS), advised Senior DSS, that the Department of Public Safety (DPS) was looking for an aircraft that was missing. According to there was only a proposed flight plan, had checked with the fixed base operator and it was believed the plane was going to Plainview, Texas. The operator had seen the plane before, but not that day. Further, the plane had been on the news.

Concurred with what had done.

According to advised that initially received the telephone call and passed it on to and to follow procedure. agreed with what had done.

did not know who had requested assistance via the telephone call until read the transcript. No one told the name of the DPS official. knew the request was in Texas because of the Plainview airport. Or possibly was told it was in Texas.

There is not a specific authorization to assist when an aircraft is missing. It is the job they do at AMICC. They follow procedure and provide assistance. If any kind of authorization had been required for the plane in question, would have provided it as the team leader for the shift.

has no firsthand knowledge of any requests from Congress or the Bush Administration. was aware of a call from Congressman Ken Calvert’s office. Within the last four days, overheard a conversation between AMICC, talking about the Texas incident. Later, asked for more information. explained that someone from Calvert’s office wanted more information about what AMICC did. The caller explained that Calvert was disappointed because AMICC was following the representatives. According to informed the caller that the matter was under investigation.

AMICC assists in looking for downed aircraft for humanitarian reasons. In this particular case, AMICC was assisting another law enforcement agency. AMICC did not release any classified information.
MEMORANDUM OF ACTIVITY

The total cost of the assistance would include about 15 to 20 minutes of [redacted] time at a GS-11 salary and about 5 to 10 minutes of [redacted] time at a GS-12 salary.

No employees or resources were diverted from homeland security tasks to assist in attempting to locate the plane.

It is always the policy to assist law enforcement agencies that are attempting to locate an aircraft. On the average, this type of assistance occurs 30 to 40 times daily.
EXHIBIT 12
MEMORANDUM OF ACTIVITY

Type of Activity: Personal Interview

Case Number: IN03-OIG-LA-0662  Case Title: Air and Marine Interdiction Center

On May 22, 2003, the Texas Department of Public Safety (DPS), Austin, Texas, was interviewed by the Department of Homeland Security (DHS), Office of Inspector General (OIG) regarding allegations that the Bureau of Immigration and Customs Enforcement (BICE), Air and Marine Interdiction Coordination Center (AMICC), DHS allegedly misused DHS resources in the search of missing Texas state legislators, specifically, by looking for a missing airplane. Others present during this interview were DPS, Austin; DPS, Austin; DPS, Austin. During the questioning of the DPS the DHS-OIG was consistently interrupted and challenged by DPS participants that questions were not within the scope of the DHS-OIG investigation. The DPS asked the OIG if they would be given Miranda warnings. The OIG advised the DPS that would not be given Miranda warnings since was only a witness regarding a DHS-OIG investigation. The DHS-OIG advised that was not under criminal investigation. provided, in substance, the following information:

has worked for the DPS for

said knew that USCS tracked airplanes. said was unaware that this USCS California office was part of the DHS.

said called the USCS about a missing airplane on May 12, 2003, between the hours of 6:45 p.m. and 7:00 p.m. said asked for the “TX Desk” which referred to the Texas area.

was questioned as to who instructed to make an inquiry regarding the missing airplane. said several individuals requested to look for the airplane. At that point in the interview asked and if had to answer the question regarding who requested to look for the airplane. advised that this question was outside the scope of the DHS-OIG investigation. The DHS-OIG informed that this question was pertinent to the investigation; however, the DHS-OIG could not compel to answer. declined to answer the question.

At the direction of unnamed individuals said called the USCS to locate the airplane since it was past its travel time and missing. said identified and told the USCS call center employee that needed to locate a missing airplane. said did not recall speaking with at the USCS. advised that there were legislators on board the aircraft; however, did not know their identity. said provided the USCS with the airplane’s tail number and advised them that did not have the airplane’s flight schedule. said could not remember the exact details of who was contacted to look for the airplane’s tail number asked USCS if they could assist with locating the missing airplane. said the USCS

Special Agent Name, Signature, and Date:

Special Agent

Reviewing Official Name, Title, Signature, and Date:

David B. Smith, Special Agent in Charge

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MEMORANDUM OF ACTIVITY

advised that they would research the matter and call back. was called back by the USCS and advised that the Federal Aviation Administration (FAA) followed the flight plan from Ardmore, Oklahoma, to Mineral Wells, Texas.

said the airplane departed Ardmore, Oklahoma, at 5:00 p.m. and was scheduled to arrive in Georgetown, Texas, at 6:13 p.m. said the airplane’s flight time was approximately one hour and thirteen minutes. said the airplane’s tail number was N711RD, which was registered to Hale Center, Texas. did not know to whom the airplane belonged. checked with Austin Flight to verify if there was a flight plan from Ardmore, Oklahoma, to Georgetown, Texas, prior to calling USCS.

said at approximately 8:00 p.m. spoke with the USCS to check on the status of the missing airplane. The USCS advised that they had been unsuccessful in locating the airplane in Mineral Wells, Texas, and that the next step would be to contact the FAA, Forth Worth, Texas. said the USCS advised the only thing left to do was a search and rescue. said the USCS provided with the telephone number for the FAA Fort Worth tower.

said called the FAA, identified and requested assistance related to some missing legislators. did not recall who spoke with or the time of the call to the FAA. The FAA advised that the missing airplane traveling from Ardmore, Oklahoma, to Georgetown, Texas, went off the FAA radar in Bridgeport, Texas. said was told that the Bridgeport, Texas, and Mineral Wells, Texas, airports would be checking for the missing airplane.

said when contacted the FAA Fort Worth tower for the second time could not recall what it was or who spoke with. said the FAA told that they did not locate the missing airplane and that the next step was to check some more airports in the area for the missing airplane. said the FAA told that Possum Kingdom, Texas, Graham, Texas, and Weatherford, Texas, were in the Bridgeport, Texas, area. asked the FAA how to conduct a search and rescue. said the FAA explained that a search and rescue involved checking airports and looking on the ground for the missing airplane.

said spoke with the FAA three different times with the third discussion informing the FAA that the missing airplane had been located by the DPS in Graham, Texas. did not know who at DPS located the airplane. said had no recollection of the specific times during the night that spoke with the FAA. opined that the calls were made after 8:00 p.m. and prior to midnight on May 1, 2003.

was questioned regarding any notes taken regarding the missing airplane. said notes from conversations regarding the missing airplane with the USCS were shredded. said did not shred the notes. does not recall who gave the notes to for shredding.

opined that the total time utilized by DHS to assist with the missing airplane was fifteen minutes related to some telephone calls made.
MEMORANDUM OF ACTIVITY

Type of Activity: Telephone Contact

Case Number: IN03-OIG-LA-0662  Case Title: Air and Marine Interdiction Center

The Air and Marine Interdiction Coordination Center (AMICC), Bureau of Immigration and Customs Enforcement (BICE), was contacted by telephone on May 27, 2003, from approximately 11:00 AM to 11:20 AM, at telephone number __located at the AMICC facility, March Air Force Base, Riverside, California. In addition to the reporting agent, Office of Inspector General, Department of Homeland Security (DHS), was present during the telephone call. It was advised that the telephone call was regarding an alleged missing aircraft on May 12, 2003. The following information, in substance:

said that was assigned for the AMICC received a telephone call from Jay Root, a newspaper reporter, Fort Worth Star Telegram, the day after the incident occurred. He requested information on the tracking of an aircraft by the AMICC. told Root that knew nothing about the incident. He took the tail number provided and advised they would check into the matter. said that would not normally know about aircraft tracked by the AMICC.

told the Operator, AMICC, that the press contacted them checked with the AMICC Operations Center and asked if there was any contact for assistance on the tail number provided by Root. The AMICC Operations Center informed that there was a request for assistance, they did not locate the aircraft, and referred them to the Federal Aviation Administration (FAA). There was a brief entry in the log and no further action taken by the AMICC.

advised the supervisor that would refer Root to Dean Boyd, BICE, Public Affairs, Washington, D.C. called Root and advised that AMICC was contacted for assistance and referred him to Boyd. would typically call Boyd with this type of matter.

said that reviewed the tape recording of the telephone call for assistance on the aircraft. It was a typical request for assistance from a law enforcement agency. However, after speaking with Boyd, determined that it was more than a routine request. The Dallas Morning News, Reuters News Service, KLBJ-TV, Fox, NBC, CBS, the Los Angeles Times and the Press Enterprise, Riverside, California then contacted BICE Public Affairs provided with a statement to release to the press. (Attachments)

Office of Congressman Ken Calvert, called and expressed their shock that the AMICC was involved in looking for the aircraft. said that referred the call to the BICE Public Affairs office in Washington, D.C., and made no further comment.

There was no contact by anyone from the Bush Administration.

In opinion everything was handled professionally.

Name, Title, \nSignature and Date: \n
5/27/03

Reviewing Official Name, \nTitle, Signature, and Date: \n
5/28/03

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Date: 5/27/03
To: Spec. Agent
Fax number: 
Sender: 
Originating location: 
Subject: STATEMENTS
Return fax number: 
24 Hour Numbers for Comm: 
24 Hour Number for Operations: 
Voice number: 
Number of pages including this cover: 3
Remarks:
STATEMENTS AS REQUESTED.

★ TRADITION ★ SERVICE ★ HONOR
May 14, 2003
Statement from the
Bureau of Immigration and Customs Enforcement (ICE)

"Earlier this week, the ICE Air & Marine Interdiction Coordination Center (AMICC) received a phone call from a Texas law enforcement officer. The Texas law enforcement officer requested assistance from AMICC in finding a missing aircraft. AMICC was unable to locate this aircraft. AMICC advised the officer of this result and provided him with a number for the Federal Aviation Administration in case he wished to have the FAA initiate lost aircraft procedures."
May 15, 2003
Statement from the
Bureau of Immigration and Customs Enforcement (ICE)

On Monday afternoon, an ICE officer working at his desk in Riverside, California at the Air & Marine Interdiction Coordination Center (AMICC) received an urgent phone call from a concerned Texas Department of Public Safety (DPS) officer.

After clearly identifying himself and his rank, the Texas DPS officer stated: “We got a problem and I hope you can help me out. We had a plane that was supposed to be going from Ardmore, Oklahoma to Georgetown, Texas. It had state representatives in it and we cannot find this plane.”

The Texas DPS officer expressed concern that the plane had not arrived at its intended destination, after what was supposed to be an hour and 13 minute flight from Ardmore to Georgetown. He noted again that: “We cannot find this plane.”

The Texas DPS officer provided the tail number of the missing aircraft to AMICC and asked AMICC to help find it.

From all indications, this request from the Texas DPS was an urgent plea for assistance from a law enforcement agency trying to locate a missing, lost, or possibly crashed aircraft. AMICC routinely responds to requests for assistance from law enforcement agencies. In this case, AMICC responded by making the appropriate telephone calls as described below.

Believing the aircraft may have crashed or be lost, the AMICC made phone calls to the FAA’s Fort Worth Center; to the airport authority in Mineral Wells, Texas; and to a fixed base operator in Plainview Texas. During some of these calls, the AMICC officer noted that he was trying to locate a missing/lost plane that may have “government officials” on board.

AMICC was ultimately unable to locate this aircraft. AMICC advised the Texas DPS officer of this result and provided him with a number to call at the FAA in order to initiate lost aircraft procedures.

At no time did AMICC launch or use any Department of Homeland Security aircraft in response to this contact by the Texas DPS.
Type of Activity: Personal Interview

Case Number: IN03-OIG-LA-0662  Case Title: Air and Marine Interdiction Center

Air and Marine Interdiction Coordination Center (AMICC), Bureau of Immigration and Customs Enforcement (BICE), telephone number [REDACTED], was interviewed on May 23, 2003, from approximately 10:30 AM to 10:40 AM, at March Air Force Base, Riverside, California. In addition to the reporting agent, [REDACTED], Special Agent, Office of Inspector General, Department of Homeland Security, was present during the interview. [REDACTED] stated substantially as follows:

Oversees the operations at AMICC. The issue involving the alleged missing aircraft on May 12, 2003, was not a major issue at the time of occurrence. It was a routine request for assistance.

Has not had any contacts with anyone from Congress or the Bush administration regarding this issue.

AMICC, Riverside, California, advised [REDACTED] that someone from Congressman Ken Calvert’s office had called for information. [REDACTED] referred the caller to the public affairs office for BICE, Washington, D.C. A referral to the public affairs office is standard operating procedure for inquiries received at AMICC.

With respect to the alleged missing aircraft on May 12, 2003, headquarters, through the chain of command, specifically directed that inquiries be referred to the national public affairs office. [REDACTED] cannot now remember if this direction came to [REDACTED] via telephone or an e-mail. The directive was probably received on May 13, 2003, or May 14, 2003. The information had been passed down to [REDACTED] from [REDACTED] AMICC, Washington, D.C.

The inquiry from Calvert’s office was the only contact of which [REDACTED] is aware.
MEMORANDUM OF ACTIVITY

Type of Activity: Personal Interview

| Case Number: IN03-OIG-LA-0662 | Case Title: Air and Marine Interdiction Center |

On May 22, 2003, the Department of Homeland Security (DHS), Office of Inspector General (OIG) attempted to interview [redacted], Special Crimes Service, Texas Department of Public Safety, Austin, Texas, telephone number [redacted] regarding allegations that the Bureau of Immigration and Customs Enforcement, Air and Marine Interdiction Coordination Center, DHS, Riverside, California, allegedly misused DHS resources in the search of missing Texas state legislators, specifically, by looking for a missing airplane. [redacted] advised the DHS-OIG that [redacted] had been summoned and was currently unavailable for an interview.

It was later determined that the DHS-OIG did not have a need to interview Marshall due to the scope of the investigation.
EXHIBIT 16
On May 28, 2003, the Department of Homeland Security (DHS), Office of Inspector General (OIG), Houston, Texas, conducted a telephonic interview with Federal Bureau of Investigation (FBI), San Antonio, Texas, regarding any involvement by the FBI into the alleged destruction of documents by the Texas Department of Public Safety (DPS) provided, in substance, the following information:

was advised that a DHS, OIG incident report, dated May 22, 2003, indicated that Senior Special Agent (SSA) FBI, Austin, Texas, received a duty agent telephone call from Lon Aurman, Texas State Legislator, Austin, Texas. According to the incident report, Aurman wanted to complain about the use of federal government assets in last weeks search for the Democratic Texas State Legislators. stated that

stated that the FBI had passed on the complaint from Aurman to Senior Special Agent, Bureau of Immigration and Customs Enforcement (BICE), Headquarters, Washington, D.C. stated that the FBI was not involved and had no intent to be involved in any aspect of Aurman’s complaint, nor was the FBI involved in the alleged destruction of notes and documents by the Texas DPS related to the Democratic Texas State Legislators.
EXHIBIT 17
MEMORANDUM OF ACTIVITY

Type of Activity: Telephone Contact

Case Number: IN03-OIGLA-0662S  Case Title: AMICC

On June 9, 2003, at 4:30 p.m., Joseph Bendig, Director Air Marine Interdiction Coordination Center (AMICC), Riverside, CA (Ph: ________) was telephonically interviewed by Supervisory Special Agent (SSA) ________ Department of Homeland Security (DHS) Office of Inspector General (OIG). The interview was conducted in response to comments made by Bendig to Washington Post reporter Jeffrey Smith.

According to Bendig, on or about May 29, 2003, while on duty at AMICC, ________, Riverside, summoned him to ________ office ________ was engaged in a telephone conversation with Washington Post reporter Jeffrey Smith, who was inquiring about AMICC’s activities and operations. Smith’s questions pertained to an incident on May 12, 2003 in which AMICC received a call for assistance from the Texas Department of Public Safety (DPS) to locate a private plane belonging to Texas Representative James E. Laney. When Bendig arrived at ________ office on May 29, ________ turned the phone call over to him because Smith was “very persistent” and would not direct questions to BICE Headquarters in Washington (as ________ suggested). According to Bendig, Smith asked “How often does AMICC get calls from law enforcement for this type of assistance?” Bendig said that he construed the last part of Smith’s question to mean, assistance to find a lost plane with politicians aboard. Bendig explained that Smith’s (two-part) question was somewhat confusing because: AMICC does get calls from law enforcement, but not necessarily to locate a plane carrying politicians. As such, Bendig’s answer (“Usually that doesn’t happen”) related more to the latter part of Smith’s question (i.e., for this type of assistance).

During the June 9, 2003 interview, Bendig continued to assert that he was correct in saying “this type of assistance” for this (specific) purpose is not common at AMICC. Bendig expressed dismay with the entire situation and recalled that his conversation with Smith lasted less than five minutes. Although Bendig repeatedly instructed him to direct his questions to BICE Headquarters, Smith persisted. Bendig said that, eventually he relented and answered Smith’s questions. Bendig stated that his comments to Smith were “taken totally out of context” and that his quote was a “half truth.” Bendig openly expressed regret for speaking to Smith and commented that, “I should have kept my mouth shut.” When asked about his photograph appearing along with the article in the newspaper, Bendig said that he does not know how they (the Post) obtained his picture.

The interview with Joseph Bendig on June 9, 2003 lasted approximately 20 minutes.

Attachments:

In Texas Feud, a Plane Tale of Intrigue

U.S. Role in GOP Hunt for Democratic Lawmakers Is Still Murky

By R. Jeffrey Smith
Washington Post Staff Writer

Texas Rep. James E. "Pete" Laney thought he was taking a secret trip to Oklahoma on the morning of May 12. He flew on a private plane from his northwest Texas home to Ardmore, where he joined 30 other state Democratic legislators at a Holiday Inn. It was a mass boycott designed to prevent a quorum in the Texas House, where the GOP majority was poised to enact a congressional redistricting plan certain to send more Republicans to Congress.

By the day's end, however, officials in at least three federal agencies had been pressed, under murky circumstances, into helping track Laney's plane, checking on the lawmakers' whereabouts or giving legal advice to Republicans. The goal was to help Texas police who, acting on orders from state GOP leaders, were trying to locate, arrest and forcibly return the Democratic legislators to Austin for a vote.

The police efforts were lawful under Texas rules, but Republicans have denounced the Democrats for defying a state with a Democratic governor to ensure they would be beyond the reach of the police. Both parties, in Texas and other states, regularly try to redraw congressional boundaries to concentrate or dilute blocs of voters to favor their own candidates.

See: TEXAS, A10, Col. 1
But several Democrats, editorialists and privacy experts have said that in the Texas episode, federal agencies were improperly drawn into what should have remained a purely partisan spat in the Lone Star State. Citing roles played by House Majority Leader Tom DeLay (R-Tex.) and the three U.S. agencies, they argue that federal officials with wide-ranging capabilities to track and monitor the movement of private citizens abused their authority for political purposes.

"I was shocked when we learned the feds might be involved, because this is a state matter," said Texas Rep. Kevin Bailey (D), chairman of the General Investigating Committee. "But what is really troubling to me is the use of the Homeland Security Department, which is supposed to be fighting terrorism, in a domestic political dispute. . . . It's a real serious abuse of government power."

The saga of the Republican search for the missing Democrats remains clouded by unanswered questions, tight-lipped government officials and unfinished federal investigations. But U.S. and Texas officials have acknowledged that an "air interdiction" center, based in Riverside, Calif.—responsible for tracking down potential terrorists and drug traffickers—used its anti-smuggling powers to try to locate Laney's plane.

The center's search was triggered by Republican suspicions that the plane was on its way from Oklahoma to pick up more Democrats seeking to escape Texas on the evening of May 12. In fact, it fell below the radar when the pilot made a detour to visit his mother in Graham, Tex., west of Fort Worth, according to Laney.

Justice Department spokeswoman Barbara Comstock said in a statement last week that "we did not deploy our federal law enforcement resources" in the dispute. But the FBI acknowledged this week that an agent in Corpus Christi—David Troutman—tried to help Texas police track down several lawmakers on May 12 and 13.

"There was no . . . official case or request made of us in any way," said FBI spokesman Robert Duguid in Houston. He described Troutman's role as the act of a lone agent trying to help his friends in the Texas police.
The U.S. Department of Transportation and DeLay have confirmed that the Federal Aviation Administration gave DeLay's staff information about the past movements of Laney's plane. Officials have said the information was available to the public, but according to two industry experts, the only data the public can get concerns the location of planes in mid-flight.

The U.S. attorney in San Antonio—acting at the request of DeLay and other Texas Republicans—examined whether Justice had the authority to order the FBI or U.S. marshals to join the search for the missing legislators, according to Texas officials. A DeLay aide asked a similar question of the Justice Department's legislative office in Washington.

In Texas, the Department of Public Safety ordered the destruction of documents related to the hunt on the day the federal officials' involvement was first disclosed, citing a reluctance to retain data unrelated to a criminal probe. U.S. House Democrats have cited the shredding as evidence of a possible coverup and demanded access to federal records in the case.

In a brief statement, the Bureau of Immigration and Customs Enforcement—an arm of Homeland Security—said the air interdiction center was motivated by safety concerns. "From all indications, this request . . . [from Texas was related to] a missing, lost or possibly crashed aircraft," the statement said. But at least three officials involved in the May 12 search said safety issues were not raised by the air interdiction center, which has no safety-related responsibilities.

"There was never any inference that the plane might be down, or something like that," said Marvin Miller, an airport official in Plainview, Tex.—near Laney's home—who said he was contacted by an "air interdiction" official on the evening of May 12. "There was never any safety concern, or indication that it was missing or overdue," Miller said. "The guy said at the end, 'This is just somebody looking for politicians they can't find.'"

**Rallying for a Roundup**

The Republican plan for redistricting Texas was hatched in the offices of DeLay's political action committee, Americans for a Republican Majority, and DeLay traveled to Austin May 8 to kick off the legislative drive. But that same week, Texas Democrats devised a plan to block its passage by staying away from the capital in sufficient numbers to prevent a 101-person House quorum, which is required in order to conduct business.

On May 11, a Sunday, 47 Democratic legislators boarded buses in
Austin bound for Ardmore, 35 miles north of the Texas border. Four more arrived separately by Monday morning, including Laney on his plane, and they issued a collective statement of defiance.

Texas House Speaker Tom Craddick, a Republican closely allied with DeLay, rapidly organized a crisis center in his conference room in Austin. He ordered the House chambers locked and summoned state troopers, Texas Rangers and members of the state special crime squad to enforce his quorum call by dragooneing lawmakers into returning to work.

The effort eventually involved more than 300 police from the state Department of Public Safety (DPS), Texas police Lt. A. William Crais said in a deposition taken Monday as part of a probe into the destroyed documents. Crais was one of several Texas officers who spent the day in the crisis center.

Files released this week under the Texas open records act show that police were pulled off criminal and narcotics probes to participate in the search. They also show that Texas Gov. Rick Perry (R) ordered surveillance of some lawmakers' homes and instructed police to try to find one lawmaker at a hospital where his newborn twins were being treated.

"FAA involved," said a diary of crisis center activities made by Texas Ranger Howard D. Henderson and released Tuesday. The DPS "is attempting to effect arrests via federal authorities, if possible."

By late afternoon on May 12, however, the Republicans were desperate: The dragnet had snagged only one Democratic lawmaker, who had remained in Austin. In his deposition, Crais said that at one point, Perry chewed him out and urged a more aggressive search. A spokeswoman for the governor, Kathy Walt, confirmed that Perry "did urge the DPS to follow the speaker's call and round up the missing Democrats."

State Rep. Juan M. Escobar (D), a former member of a federal crime task force who was elected to the House this year in a special election, said FBI agent Troutman called him twice—on May 12 and 13—to learn whether he and Rep. Gabi Canales (D) were in Oklahoma. Escobar said he admitted they were. He said Troutman responded, "Good. We can call surveillance off and stop spending money" on it.
Reached by phone, Troutman declined to comment on Escobar’s account.

Meanwhile, in Washington, DeLay was trying to help. He spoke by phone with Craddick, who had contacted the U.S. attorney in San Antonio, seeking federal help.

A DeLay aide—whom his office declined to name—contacted the Justice Department’s legislative office to discuss “the appropriate role of the federal government” in helping the Texas Republicans, DeLay later told reporters. An aide—also unnamed—called the FAA, read out the tail number of Laney’s Piper Cheyenne II—N711RD—and learned where the plane had taken off and landed that day, DeLay said.

“I was told at the time that that plane was in the air coming from Ardmore . . . back to Georgetown, Texas, and I relayed that information to Tom Craddick,” DeLay said. Craddick later said this was how state officials learned where the Democrats were hiding. The police dispatched narcotics officers in four unmarked cars to Ardmore in an unsuccessful bid to persuade the lawmakers to return.

Laney’s plane dropped off the radar screen west of Fort Worth, and Republican leaders suspected it was trying to rendezvous with more Democratic legislators. “We started wondering what happened to it,” Republican House member Mike Krusee, who was in Craddick’s crisis center, said in an interview. “I was asking DPS [police] over and over again, where is that plane?”
by phone, Troutman declined to comment on Escobar's account.

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A Delay aide—whom his office declined to name—contacted the Department's legislative office to discuss "the appropriate role of federal government" in helping Texas Republicans. DeLay called reporters. An aide—also called the FAA, read tail number of Laney's Piper Cheyenne II—N711RD—and where the plane had taken off and landed that day, DeLay said. He was told at the time that the plane was in the air coming from... back to Georgetown, and I relayed that information to Craddick," DeLay said. Craddick later said this was how officials learned where the Democrats were hiding. The police had narcotics officers in marked cars to Ardmore in an unsuccessful bid to persuade the lawmakers to return.

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Crais, a former counter-narcotics agent who specialized in apprehending fugitives, telephoned the Texas desk at the Homeland Security Department's Air and Marine Interdiction Coordination Center, according to his deposition. In a written statement, the department said Crais told the center: "We got a problem, and I hope you can help me out. We had a plane that was supposed to be going from Ardmore ... to Georgetown, Texas. It had state representatives in it, and we cannot find this plane."

**Tailor-Made to Track Planes**

Opened in 1988, the interdiction center is the place to go for tracking private planes. It has the nation's "most modern air surveillance system," capable of watching 12,000 targets, according to a fact sheet posted on the Internet. Information from 88 radar sites, including special aerial balloons, is fed into a command post with large screens displaying digitized topographical maps.

Its computers have access to "detailed information on the movement, registration and criminal histories of aircraft, vessels, vehicles and individuals," enabling the staff to identify and track "high-priority
targets around-the-clock, the center's fact sheet says. One of its jobs is to help coordinate anti-terrorist air patrols over the Washington area, but mostly it looks for suspected drug-smuggling flights.

The Department of Homeland Security statement said the center "routinely responds to requests for assistance from law enforcement agencies." But Joseph A. Bendig, the center's director for the past two years, in a phone interview could not recall other instances in which a state law enforcement official had made a request like the one from Texas.

"Usually that doesn't happen," Bendig said. "Normally we call them to request help in inspecting suspicious planes once they land. Bendig said he could not talk about the call from Austin without approval from Homeland Security headquarters in Washington. Press officials in Washington declined further comment and said a reporter could not visit the California facility.

Asked if the Homeland Security Department had ways of ensuring that requests for information were not politically motivated, spokesman Dean Boyd said, "When law enforcement calls us asking us to find a missing plane, we take their statements at face value."

The department's written statement said: "Believing that the aircraft may have crashed or be lost," one of its officials made multiple phone calls to Texas to help find the plane. He called the FAA's district office in Fort Worth as well as airport officials in Mineral Wells and Plainview, asking them to check on whether the plane had landed nearby, the statement said.

The California-based federal official also requested the intervention of local police in both jurisdictions, asking them to check the airports, according to the policemen who received the calls.

Crais, reached at home, declined to comment. But in his deposition, he said he remembered telling the interdiction center only that the plane was missing, not that it might have crashed. Anthony Todd Hopkins, an airport manager in Mineral Wells—near where the plane dropped off the radar—said the "customs" official who called him that evening never raised any safety concerns.

"They just said some government officials were on the plane," Hopkins said in an interview. The Homeland Security Department has declined to give a full account of its official's conversations.

Crais testified that he obtained new details of the plane's movement from the interdiction center, which he said had in turn obtained the data from the FAA. But the center's official eventually suggested that Crais pursue the matter directly with the FAA, which urged a more thorough search of airports. Texas police subsequently located the plane in Graham, where the pilot's mother lives, and ordered around-the-clock surveillance of it.

Extraordinary' Actions

Privacy experts have questioned the federal agency's involvement in the search. "I think it's extraordinary," said Mark Rotenberg, executive director of the Electronic Privacy Information Center. "This tracking ability was established to protect the country from terrorists, not to put political opponents under a microscope. We've kind of anticipated that this kind of abuse would arise, but it's remarkable in the sense that it's so blatant."

Like the search itself, the state and federal inquiries into its legality hinge on surveillance methods. Information about who was present in Craddock's crisis center has come mostly from tapes made by a surveillance camera outside his office, which Bailey obtained a week ago. Audiotapes were also made of relevant calls to and from the interdiction center totaling at least 20 minutes, according to Boyd, of Homeland Security. Those tapes were given to the department's Office of Inspector General.

"This is now potentially a criminal investigation," Homeland Security Secretary Tom Ridge told a U.S. House hearing May 22. "The tapes are part of the evidentiary chain.... Who knows what the outcome will be? But it's just not appropriate to be passing that information out right now."

Staff researcher Alice Crites contributed to this report.
Texas Rep. James E. "Pete" Laney was one of the 51 state Democratic legislators who left for Oklahoma.

Laney's private plane was a focal point for the combined state and federal search for the Texas Democrats.

Joseph A. Bendig, director of the federal air interdiction center in California.
MEMORANDUM OF ACTIVITY

Type of Activity: Telephone Contact

**Case Number:** IN03-OIGLA-0662S  **Case Title:** AMICC

On June 9, 2003, at 5:30 p.m., [redacted] Senior Detection Systems Specialist (DDS) Air Marine Interdiction Coordination Center (AMICC), Riverside, CA (Ph. [redacted]) was telephonically interviewed by Supervisory Special Agent (SSA) [redacted], Department of Homeland Security (DHS) Office of Inspector General (OIG). The purpose of the interview was to clarify AMICC verification procedures for incoming telephone calls, and to determine if such procedures were followed on May 12, 2003.

SSA [redacted] informed [redacted] that the June 9, 2003 inquiry pertained to the incident on May 12, 2003, in which AMICC received a call for assistance from the Texas Department of Public Safety (DPS) to locate a private plane belonging to Texas Representative James E. Laney. SSA [redacted] said that procedures are in place at AMICC where the origin of (most) incoming calls is verified. However, verification is contingent upon the type of inquiry being made. When AMICC is requested to release proprietary information (e.g., NCIC, or TECS), the caller is always verified through a call back procedure. If AMICC receives a call for general information, no verification is done.

With respect to verification procedures that were (or were not) in place when DPS contacted AMICC on May 12, 2003, SSA [redacted] said that they were not necessary. The justification was that the caller (DPS) was simply requesting general information, so verification was not necessary. Further, SSA [redacted] noted that the AMICC phone system display showed that the call on May 12, 2003 (purporting to be from DPS) originated from a “Texas Government” phone extension. SSA [redacted] believed that the above circumstances made verification unnecessary.

The telephone interview with [redacted] on June 9, 2003 lasted approximately 10 minutes.

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