



**Transportation
Security
Administration**

FOIA Case Number: TSA06-0854

SEP 25 2006
8

Mr. Edward Hasbrouck
1130 Treat Avenue
San Francisco, CA 94110

Dear Mr. Hasbrouck:

This letter is in response to your Freedom of Information Act (FOIA) request dated July 28, 2006, in which you requested any and all documentation pertaining to Mr. Edward Hasbrouck, specifically:

1. Any and all documents pertaining to and/or resulting from an incident at Dulles International Airport (IAD) on or about May 14, 2006,
2. Any and all documents pertaining to and/or resulting from correspondence between Mr. Edward Hasbrouck and Mr. Peter Pietra in the TSA Privacy Act Office and Mr. Nico Melendez in the TSA Public Affairs Office,
3. Any and all policy discussions pertaining to and/or resulting from the incident at Dulles International Airport on or about May 14, 2006 and correspondence with Mr. Edward Hasbrouck maintained by the TSA Privacy Office, Public Affairs Office and Dulles International Airport, and
4. Any and all video recordings of the incident at Dulles International Airport on or about May 14, 2006.

We have processed your request under the FOIA, 5 U.S.C. § 552. A search within the Transportation Security Administration's (TSA) Office of Privacy Policy and Compliance, Office of Strategic Communications and Public Affairs, Office of Chief Counsel and the Offices of the Federal Security Director and Local Counsel at IAD was conducted and 44 pages responsive to your request were found. The documents have been reviewed and 11 pages constituting an incident report and shift log are being withheld in part pursuant to Exemptions 2, 3, 6, 7(C) and 7(F) of the FOIA. In response to item 2 of your request, 5 pages of emails are being released in their entirety. 33 pages of emails responsive to item 2 of your request are being withheld in full pursuant to Exemption 5 of the FOIA. A detailed explanation of all applicable exemptions is provided below.

Exemption 2 of the FOIA exempts from mandatory disclosure records that are "related solely to the internal personnel rules and practices of an agency." The courts have interpreted the exemption to encompass two distinct categories of information:

- (1) internal matters of a relatively trivial nature -- often referred to as "low 2" information; and
- (2) more substantial internal matters, the disclosure of which would risk circumvention of a legal requirement -- often referred to as "high 2" information.

We have determined that certain portions of the requested records are properly withheld from disclosure as "high" (b)(2) information, in that they contain internal administrative and/or personnel matters to the extent that disclosure would risk circumvention of a regulation or statute or impede the effectiveness of law enforcement activities. A more detailed explanation follows.

Sensitive materials are exempt from disclosure under "high" 2 when the requested document is predominantly internal, and disclosure significantly risks circumvention of a regulation or statute, including civil enforcement and regulatory matters. Whether there is any public interest in disclosure is legally irrelevant. Rather, the concern under "high" 2 is that a FOIA disclosure should not benefit those attempting to violate the law and avoid detection.

Portions of the requested records are considered Sensitive Security Information (SSI) and are exempt from disclosure under Exemption 3 of the FOIA. Exemption 3 permits the withholding of records specifically exempted from disclosure by another Federal statute. Section 114(s) of title 49, United States Code, exempts from disclosure of Sensitive Security Information that "would be detrimental to the security of transportation" if disclosed. The TSA regulations implementing Section 114(s) are found in 49 CFR Part 1520.

Pursuant to Section 1520.5(b)(6)(i), details of any security inspection or investigation of an alleged violation of aviation or maritime transportation security requirements of Federal law that would reveal a security vulnerability, including the identity of the Federal special agent or other Federal employee who conducted the inspection or audit constitute SSI and is exempt from disclosure.

Pursuant to Section 1520.5(b)(8)(i), specific details of aviation or maritime transportation security measures, both operational and technical, whether applied directly by the Federal government or another person, including security measures or protocols recommended by the Federal government constitutes SSI and is exempt from disclosure.

Exemption 5 of the FOIA protects from disclosure those inter- or intra-agency documents are normally privileged in the civil discovery context. The three most frequently invoked privileges are the deliberative process privilege, the attorney work-product privilege, and the attorney-client privilege. Of those, we have determined that some of the documents responsive to your request are appropriately withheld under the deliberative process privilege and the attorney-client privilege. Under the deliberative process privilege, disclosure of those records would injure the quality of future agency decisions by creating public confusion resulting from disclosure of reasons and rationales that were not in fact ultimately the grounds for agency action. Secondly, this information is also being withheld under the attorney-client privilege. This privilege protects the communications between an attorney and his/her client relating to a matter for which the client has sought legal advice, as well as to protect facts divulged by client to attorney and any opinions given by an attorney based on these facts.

Exemption 6 of the FOIA permits the government to withhold all identifying information that applies to a particular individual when the disclosure of such information "would constitute a clearly unwarranted invasion of personal privacy." This requires a balancing of the public's right to disclosure against the individual's right to privacy. After performing this analysis, we have determined that the privacy interest in the identities of individuals in the records you have requested

outweigh any minimal public interest in disclosure of the information. Please note that any private interest you may have in that information does not factor into the aforementioned balancing test.

Exemption 7(C) of the FOIA permits the government to withhold all law enforcement information the disclosure of which "could reasonably be expected to constitute an unwarranted invasion of personal privacy." Based upon the traditional recognition of strong privacy interests in law enforcement records, categorical withholding of information that identifies third parties in law enforcement records is ordinarily appropriate. As such, we have determined that the privacy interest in the identities of individuals in the records you have requested clearly outweigh any minimal public interest in disclosure of the information. Please note that any private interest you may have in that information does not factor into this determination.

In reviewing the requested records, we have determined that certain information is law enforcement information about a person properly withheld under Exemption 7(F) of the FOIA, in that disclosure of information about the individual could reasonably be expected to endanger his or her life or physical safety. Please note that, unlike the personal privacy protection afforded by other exemptions of the FOIA, no public interest balancing test is required under Exemption 7(F). Indeed, information is properly withheld whenever there is a reasonable likelihood of its disclosure risking physical harm to someone.

No records responsive to items 3 or 4 of your request were found.

There is no charge associated with processing this request.

Administrative appeal from this determination may be made in writing to Tamara L. Miller, Special Counselor, Office of the Special Counselor, Transportation Security Administration, 601 South 12th Street, East Building, E7-121S, Arlington, VA 22202-4220. Your appeal **must be submitted within 60 days** from the date of this determination. It should contain your FOIA request number and state, to the extent possible, the reasons why you believe the initial determination should be reversed. In addition, the envelope in which the appeal is mailed in should be prominently marked "FOIA Appeal." The Special Counselor's determination will be administratively final. If you have any questions pertaining to your request, please feel free to contact the FOIA Office at 1-866-364-2872 or locally at 571-227-2300.

Sincerely,



Katrina M. Pavlik
FOIA Officer
Freedom of Information Act Office

Enclosure

16:30

16:30

17:30

17:45

18:00

18:30

19:00 [redacted] MWAA responded. Pax refused to show ID to AirServe and demanded to see federal regulations. Pax had previous arrest records for similar incidents. Once the police gave him a warning he proceeded through the checkpoint without further incident. #0516-05-06.

19:30

b2, b3
1520.5(b)(6)
1520.5(b)(8)

Non-responsive

[redacted]

[redacted]

[redacted]

[redacted]

Printed: 5/14/2006

Print Incident

General Information

Tracking Number INC2006IAD0476
Incident Date 05/14/2006
Incident Time 1900
Incident Type Unruly Passenger
Port IAD-Washington-Dulles International
Occurred At Checkpoint Yes
Checkpoint East Checkpoint
Location Passenger and Carry-on Screening Location
TSO Watch Notified? No

Individuals Notified	Date Notified	Time Notified	Delivery Method
MWAA Police dispatch	05/14/2006	1908	Telephone
TSA Dulles ICC	05/14/2006	1908	Telephone

Recorded By [REDACTED]
Reported By [REDACTED] } b2, b7F

Additional Information

Primary Carrier Involved United Airlines, Inc.

Secondary Carrier Involved

Indirect Carrier Involved

Flight Delay No

of Flights

Length of Delay
(Cumulative)

Terminal Evacuated No

Media Attention No

Canine Team Utilized No

Specify Department

Direct/Connect Flight Direct

On Board Location

FAM Intervention No

Passenger Traveling Alone Yes

Number of Unruly
Passengers 1

Time Passenger has been
Traveling 0

Flight Status

Flight Type Domestic
Originating Port IAD-Washington-Dulles International
Scheduled Destination TPA-Tampa International
Actual Destination TPA-Tampa International

Subject Information

Subject Name	Arrested	Cause Of Arrest	Charges Files
Hasbrouck, Edward John	No		No

Narrative Information

Incident Details

Edward J. Hasbrouck, Male, DOB [REDACTED] attempted to bypass the airport security ID check and enter the TSA checkpoint for screening. [REDACTED] stopped HASBROUCK and explained the process of comparing the boarding pass with the passengers ID prior to his entering the TSA checkpoint. HASBROUCK ignored [REDACTED] and attempted to enter the checkpoint again. LEO's responded and questioned HASBROUCK who said he questioned the airport representatives authority to compare his ID and boarding pass. HASBROUCK allowed his boarding pass and ID to be compared and was then allowed to enter the checkpoint without any further incidents. An NCIC report was conducted and it was found that HASBROUCK had been arrested for a similar incident. No flight delays were incurred.

Disposition

HASBROUCK did allow his ID and boarding pass to be compared, and was then allowed to continue on to his flight without any further incidents.

b2,
b7F

Status

Current State

Submitted For Review

Created By

[REDACTED] 05/14/2006 2103

Last Modified By

[REDACTED] 05/14/2006 2103

Status: Submitted For Review

Name: [REDACTED] **Date:** 05/14/2006 2103

~~WARNING: THIS DOCUMENT CONTAINS SENSITIVE SECURITY INFORMATION THAT IS CONTROLLED UNDER THE PROVISIONS OF 49 CFR PART 1520. NO PART OF THIS DOCUMENT MAY BE RELEASED WITHOUT THE WRITTEN PERMISSION OF THE UNDER SECRETARY OF TRANSPORTATION FOR SECURITY, WASHINGTON, DC 20591. UNAUTHORIZED RELEASE MAY RESULT IN CIVIL PENALTY OR OTHER ACTION. FOR U.S. GOVERNMENT AGENCIES, PUBLIC AVAILABILITY TO BE DETERMINED UNDER 5 U.S.C. 552.~~

Shift Supervisor Incident Report Package Checklist

1. Required documentation for a complete Incident Report Package:

- Incident Report
- Copy of Page with journal entries involving incident
- Notification Checklist
- Skytel Pager receipt
- 2 Copies of PARIS report (One of which will be attached to the ASI Report)
- Shift Supervisor Incident Report Package Checklist

2. Review the package for the following:

- PARIS Report is in the proper format
- Incident Report is complete with statements
- Notification Checklist is utilized and complete
- Grammatical / Spelling errors
- TSOC notified within the 10-15 minute time limit
- WebEOC language guide utilized
- AVO 400.18.1-1B was followed
- PARIS Report # INC 2006 FAD 0476

3. The Shift Supervisor is responsible for following up to ensure that all required documentation is included in the package prior to being filed.

4. Supervisor's Comments: _____

5. I have reviewed this Incident Report Package and certify that the package is complete and correct to the best of my knowledge.

Watch Officer:



5-14-06

Supervisor:

5/18/06

Signature & Date

b2,
b7F



INCIDENT REPORT

PAGE 1

Washington Dulles International Airport

1. Incident Code/Description: **Code 3- Unruly/Disorderly Passenger** 2. Report Number (Call ICC for R#): **INC 20062411470**
0616-05-06

3. Date Occurred: **05/14/2006** 5. Date/Time Reported (if Different): **Same**
 4. Time Incident Occurred: (24 Hour time only) **Start: 1900 End: 1920**

6. Location of Incident: **Lane 22**

Victim (V) / Complainant (C) / Subject (S) Information (Check category)
*** Submit additional pages to complete items 7 thru 18 for each individual reported.**

7. V/C/S Name: **Hasbrouck, Edward J.** 9. Selected Y/N? **[Redacted]**
 8. V/C/S Type (PAX, Employee, etc.): **PAX**

10. V/C/S Address (Street, City, State, Zip): **1130 Treat Ave San Francisco, CA 94110**

11. Home Phone: **415-824-8562** 14. Gender (M or F): **Male**
 12. Work Phone: **N/A** 13. Cell Phone: **N/A**

15. V/C/S ID type: **Tourist Passport** 16. V/C/S Date/Place of Birth: **1/11/1960**
 15a. V/C/S ID Number: **[Redacted]** 15b. ID Issuing state/country: **United States of America**

17. Flight Information:

Carrier	Flight #	Dest Code	Dep. Time	Arriv. Time	18. Comments:
United	223	San Francisco	1945	N/A	Seat # 14F

19. ASI Name: **[Redacted]** 21. Fire/Rescue Name: *Other responding- Use second page
N/A
 20. M/WAA Officer Name: **Officer [Redacted] and Officer [Redacted]**

22. Brief Description of Incident **NOTE: If description of incident exceeds space below continue on second page.**

On 05/14/2006 at approximately 1900 on Lane 22, I responded to a supervisor call on the public side of the checkpoint. United Passenger Edward J. Hasbrouck was questioning AirServe's authority to check his boarding pass and ID. I explained to the passenger that AirServe was contracted through the airline to perform this function and if he refused to allow them to verify his boarding pass and his ID I would not be able to allow him to enter the checkpoint. The passenger became increasingly upset and kept attempting to bypass AirServe and to begin diversing. I called Screening Manager [Redacted] at approximately 1905. When [Redacted] arrived he spoke to the passenger about the process and the passenger continued to question the authority of AirServe verifying his information. [Redacted] called ICC to report the [Redacted] and requested MWAA at 1908. The passenger did finally allow AirServe to verify his information. MWAA Officers [Redacted] and [Redacted] arrived on the Lane at approximately 1912. They questioned the passenger and ran an NCIC report. The NCIC report reflected that the passenger had been arrested previously for similar reasons. The passenger was issued a verbal warning and allowed to proceed.

b2, b3 1520.5(b)(6)
1520.5(b)(8)
1520.5(b)(9)

b2,
b7F
b6,
b7C

*** Do NOT type beyond what the above cell will hold! If needed continue on second page.**

Time	Action
1900	I respond to a supervisor call on the public side of Lane 22.
1901	I speak to passenger who refuses to allow AirServe to verify his boarding pass and ID.
1905	I call screening Manager [Redacted] to the Lane.
1908	[Redacted] calls ICC to report [Redacted] and request MWAA.
1912	MWAA Officers [Redacted] and [Redacted] arrive on the lane. NCIC report is run.
1916	Passenger enters the checkpoint and [Redacted]
1918	[Redacted] and [Redacted] conduct the additional screening of the individual and his property.
1919	Passenger is cleared for travel.
1920	I call ICC to report the [Redacted] is not [Redacted]

*** If further explanation is necessary please note the item field # and continue on second page.**

24. Name of Supervisor Completing Report: **[Redacted]** 25. Signature & Date: **[Redacted] 05/14/2006**

26. Name of Manager Reviewing Report: **[Redacted]** **05/14/2006**



Transportation Security Administration

INCIDENT REPORT

PAGE 2

Item #

Upon entering the checkpoint, the passenger [REDACTED]

22

[REDACTED] TSO [REDACTED] and TSO [REDACTED] conducted the screening of the passenger and his accessible property. Once the passenger and his items were cleared, the passenger was free to travel. I called ICC at 1920 to report the [REDACTED] is now [REDACTED]

b2, b7F

b3,
1520.5(b)(6)
1520.5(b)(8)
1520.5(b)(9)

REPORT # 0516-05-016

Item #

Item #

Item #

Direct copies to respective field of office required.

STAPLE
HERE

INSERT
HERE

UNITED
HASBROUCK/EDWARD

UA 223 HAY 14
FROM WASH/DULLES
TO SAN FRANCISCO

GATE C17
BOARDS AT 7:15 PM

SEAT 14F

IDENTIFIER TEMPE BOOKING CODE U
016 2140284839 CPN 2
ISSUED BY KINKIDIS BY DODDGE TACIS

BOARDING PASS
UA 00168716753

SEATING

2

ETKT

HASBROUCK/EDWARD

UA 00168716753

UA 223 HAY 14
FROM WASH/DULLES
TO SAN FRANCISCO

GATE C17
DEPARTS AT 7:45 PM

BOARDS AT 7:15 PM

SEAT 14F

Y-CABIN
016 2140284839 CPN 2



Le Service des Passagers des Etats-Unis d'Amérique
 ne peut pas garantir la délivrance d'un passeport américain.
 Le Service des Passagers des Etats-Unis d'Amérique
 ne peut pas garantir la délivrance d'un passeport américain.
 Le Service des Passagers des Etats-Unis d'Amérique
 ne peut pas garantir la délivrance d'un passeport américain.
 Le Service des Passagers des Etats-Unis d'Amérique
 ne peut pas garantir la délivrance d'un passeport américain.

NOT VALID UNTIL SIGNED

UNITED STATES OF AMERICA
 DEPARTMENT OF STATE
 OFFICE OF THE ASSISTANT SECRETARY FOR CONSULAR AFFAIRS
 WASHINGTON, D.C. 20520-5001

EDWARD JOHN
 UNITED STATES OF AMERICA

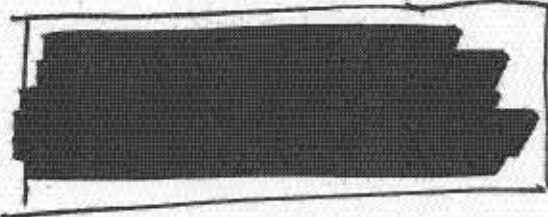
MADE IN THE UNITED STATES OF AMERICA

See Page 48

3M 1502235

Date:	05/14/06	Time:	1900-1920	Case #:	0516-05-06
Incident Type, Code/Tier level:	[REDACTED] - Unruly Passenger				
Where:	Lane 22				
Passenger Involved:	Edward J. Hasbrouck, Male, DOB [REDACTED] Home Phone 415-824-8562, US Passport [REDACTED], 1130 Treat Ave. San Francisco, CA 94110 Flight Information: United Airlines UA223 IAD to SAN scheduled to depart at 1945 hours.				
TSA Involved:	SM [REDACTED] TSA/IAD SPOT Team, STSO [REDACTED]				
Description of Incident:	Time	Watch Officer	Caller - In	Caller - Out	Narrative
	1900	[REDACTED]	SM [REDACTED]		Reported a [REDACTED] - Unruly Passenger in the queue outside of Lane 22 and requested MAAA PD.
	1901	[REDACTED]		MAAA PD Dispatcher [REDACTED]	Requested an officer respond to the queue outside of Lane 22 for an unruly passenger.
	1903	[REDACTED]		Page	TSA/IAD Senior Staff re: Notification Page for [REDACTED] Unruly Passenger outside of Lane 22.
	1908	[REDACTED]	STSO [REDACTED]		Reported that the [REDACTED] Unruly Passenger is now [REDACTED] the passenger was screened [REDACTED] and then allowed to continue on his flight.
	1912	[REDACTED]		Page	TSA/IAD Senior Staff re: [REDACTED] Unruly Passenger is now [REDACTED] the passenger was screened [REDACTED] and then allowed to continue on his flight.
Notifications:	MAAA PD Dispatch [REDACTED] TSA/IAD Senior Staff				
How resolved?	Passenger screened [REDACTED] and then cleared to continue on their flight.				
Report Status:	Received	PARIS Report No: INC2006IAD0476			
ICC Officer:	[REDACTED]				

b2, b7F b6, b7C
b3, 1520.5(b)(6)
1520.5(b)(8)
1520.5(b)(9)



CONFIDENTIAL

(Unruly/Disorderly Passenger)

DATE: 05/14/2006

INCIDENT #: 0516-05-06

PARIS #: INC2006IAD0476

		Time	Watch Officer
• MWAA PD.....2	[redacted]	19:01	[redacted]
• AFSD-LE.....202-306-	[redacted]		
• SKYTEL Page.....	[redacted] Addressees	19:03	[redacted]
• TSA IAD Compliance.....	ASI on Duty		
WHEN INCIDENT IS CLOSED			
• Send SKYTEL page to	[redacted] Addressees giving resolution	19:27	[redacted]

b2

b2,
b7F

b2, b3
1520.5(b)(6)
1520.5(b)(8)

Icc, Dulles

From: [REDACTED] b2
Sent: Sunday, May 14, 2006 7:27 PM
To: Icc, Dulles
Subject: Skytel Personal Messaging email Message

[REDACTED] Unruly passenger is now a [REDACTED], Passenger was allowed to continue to fly. [REDACTED] handled the screening of the passenger. ICC [REDACTED]

b2, b7F

b2, b3

1520.5(b)(6i)

1520.5(b)(8i)

icc, Dulles

From: [REDACTED] b2
Sent: Sunday, May 14, 2006 7:03 PM
To: icc, Dulles
Subject: Skytel Personal Messaging email Message

[REDACTED] - Unruly Passenger: SM [REDACTED] reports an unruly passenger in the queue outside of lane 22. MWAAPD responding. ICC [REDACTED]

b2,
b7F

b2, b3

1520.5(b)(6i)

1520.5(b)(8i)

Pietra, Peter <TSA OCC>

From: Pietra, Peter <TSA OCC>
Sent: Friday, June 09, 2006 4:33 PM
To: 'Edward Hasbrouck'
Subject: RE: follow-up to our conversation in S.F.

Ed-

I will look into the matter you raise in your blog. I will be out of the office for the next two weeks beginning Monday for Reserve duty, so you should not expect any response during that time.

With respect to your request for the content of any TSA report on the incident, please clarify whether you are seeking documents under the Freedom of Information Act (FOIA) so I can forward your request to that office for processing. You should direct a request for the content of any police report to the police.

The TSA Office of Inspections investigates allegations of criminal misconduct within the agency, or you may take your claim to a law enforcement agency. You should expect to file an affidavit under penalty of perjury attesting to the facts allegedly constituting the crime.

Peter A. Pietra
Director, Privacy Policy & Compliance
Transportation Security Administration
peter.pietra@dhs.gov
571.227.3654

-----Original Message-----

From: Edward Hasbrouck [mailto:edward@hasbrouck.org]
Sent: Friday, June 09, 2006 1:00 PM
To: Pietra, Peter
Subject: follow-up to our conversation in S.F.

Dear Mr. Pietra:

Thank you for your offer to look into the events I reported in my article, "Unanswered questions at Dulles Airport", at:

<http://hasbrouck.org/blog/archives/001065.html>

The topic is an ongoing focus of my reporting, and I would welcome any information you can provide for follow-up articles. I and other journalists have described some of the privacy threats in having any unverified or unknown person (who might be a stalker, identity thief, etc.) obtain information from one's ticket, boarding pass, or credentials (such as one's surname and record locator or airline and flight number, which could in many cases be memorized at a glance), in articles at:

<http://hasbrouck.org/articles/watching.html>
<http://hasbrouck.org/blog/archives/001056.html>

I would be particularly interested in knowing (1) the contents of the police and/or TSA reports, including what papers and documents of mine they copied and whether they noted in their report(s) my *criminal* complaint that one

of the Airserv personnel misrepresented himself as a TSA employee, and (2) what, if any, action has been, is being, or will be taken by your office and/or others concerning this.

I'd also be interested in your comments, as the TSA's Director of Privacy Compliance, concerning compliance programs for privacy-related *criminal* laws. I've been unable to find any designated point of contact on the TSA or DHS Web sites for complaints of criminal violations of the Privacy Act (or other pravacy-related criminal laws) by TSA or DHS employees or agents, or any report on the numbers or nature of privacy-related criminal investigations or enforcement actions. I never received any acknowledgement or response to my previous such complaint, as attached, which is also available in the DHS docket where it was submitted and on my Web site at:

http://hasbrouck.org/articles/Hasbrouck_TSA_OMB_comments-25OCT2004.pdf

Again, thank you for your offer to assist in clarifying this for me and, more importantly, for my readers.

Sincerely,

Edward Hasbrouck

Edward Hasbrouck
edward@hasbrouck.org
<http://hasbrouck.org>
+1-415-824-0214

"The Practical Nomad: How to Travel Around the World"
(3rd edition, 2004)
"The Practical Nomad Guide to the Online Travel
Marketplace"
<http://www.practicalnomad.com>

Pietra, Peter <TSA OCC>

From: Pietra, Peter <TSA OCC>
Sent: Friday, June 09, 2006 6:29 PM
To: 'Edward Hasbrouck'
Subject: RE: follow-up to our conversation in S.F.

Ed-

Do not put words in my mouth. I asked for clarification of whether you wanted it treated as a FOIA so I could forward it to that office as a courtesy to you. I did not require you to submit a separate request to the FOIA office, though you are free to do so. I also told you I had not yet investigated the matter, so why would you attribute anything to me about any purported police report? I tried to address each of your points in good faith. I will look into the matter you have complained of in your blog, and will let you know what I find. I will also forward to our FOIA office your request for records associated with the alleged incident so that they may process the request.

-----Original Message-----

From: Edward Hasbrouck [mailto:edward@hasbrouck.org]
Sent: Friday, June 09, 2006 5:39 PM
To: Pietra, Peter <TSA OCC>
Subject: Re: follow-up to our conversation in S.F.

On Fri, 9 Jun 2006 16:32:35 -0400

"Pietra, Peter <TSA OCC>" <Peter.Pietra@dhs.gov> wrote:

> With respect to your request for the content of any
> TSA report on the incident, please clarify whether
> you are seeking documents under the Freedom of
> Information Act (FOIA) so I can forward your request
> to that office for processing.

To clarify, I believe that I would be entitled to these documents under both the Privacy Act and FOIA. In addition to any "TSA Report", I am interested in *all* documents or papers of mine which were copied by the TSA (or others to whom they may have given them when they took them away out of my sight), whether or not they were included in a "TSA report", and any documents or records related to these events or any follow-up TSA discussion or action related to them, including e-mail messages, photos, and video and audio recordings. If you are unwilling to provide these without a formal request under the Privacy Act and/or FOIA, please let me know.

> You should direct a request for the content of
> any police report to the police.

For the record, are you claiming that the TSA did not receive a copy of any police report?

> The TSA Office of Inspections investigates allegations
> of criminal misconduct within the agency.

Thank you. Do you know if my 2 complaints (my complaint to the Privacy Office of a criminal violation of the Privacy Act in the creation of the Secure Flight Testing database without proper notice, and my complaint to Mr. Graham of the TSA regarding the false claim by an Airserv employee to be a TSA employee) have been forwarded to that office? If not, please forward them to that office, as I am unable to find a listing or point of contact for

that office on the TSA.gov Web site.

> or you may take your claim to a law enforcement agency.

I have been trying -- unsuccessfully -- to find out which law enforcement agency is responsible for enforcement of the criminal provisions of the Privacy Act.

I had thought that law enforcement, particularly with regard to privacy-related laws such as the Privacy Act and to compliance by or related to the TSA, *might* be encompassed within your responsibility for "Privacy Compliance".

Just to be clear, are you saying that your office takes no role in ensuring or monitoring compliance by the TSA with the criminal provisions of the Privacy Act, and takes no action when you receive allegations of criminal violations of the Privacy Act? Or of invasions of privacy by persons criminally misrepresenting themselves as TSA employees?

And as Director of Privacy Policy and Compliance, would you care to comment on what, if any, procedures TSA employees are instructed or trained to follow when they receive complaints of criminal violations of the Privacy Act, or other privacy-related complaints related to the TSA? It would be helpful to my reporting to receive copies of any relevant TSA policies you can provide.

Thank you very much for your prompt reply, and for your offer to look into this. I look forward to hearing from you after you return to your TSA duties.

Sincerely,

Edward Hasbrouck

Edward Hasbrouck
edward@hasbrouck.org
<http://hasbrouck.org>
+1-415-824-0214

"The Practical Nomad: How to Travel Around the World"
(3rd edition, 2004)

"The Practical Nomad Guide to the Online Travel
Marketplace"
<http://www.practicalnomad.com>

Pietra, Peter <TSA OCC>

From: Pietra, Peter <TSA OCC>
Sent: Monday, July 10, 2006 2:32 PM
To: 'Edward Hasbrouck'
Subject: Follow-up to our conversation in San Francisco

Ed-

As promised, I've looked into the incident you mentioned to me. I don't find any matters that would constitute a violation of the Privacy Act or that may otherwise be of concern from a broader privacy viewpoint. In general you appear to have mistakenly attributed all actions at the airport to TSA, when in fact there are several organizations responsible for security functions.

Your blog implies that you were accosted by an Airserv employee while walking to the checkpoint. Based on my own experience flying out of Dulles Airport, and confirmed by my discussions with TSA personnel at Dulles, that is clearly not accurate. Airserv employees are stationed at the lines leading to the TSA screening checkpoint. As you well know from your own research linked to your blog, Airserv is a contractor to the airlines that checks the boarding pass against the passengers' identification to ensure that they are a ticketed passenger permitted to enter the screening checkpoint. As you state in your blog, they carry badges that identify them as Airserv employees and wear Airserv uniforms that are distinct from TSA uniforms. Either you had reached the head of the line to enter the screening checkpoint, or were standing in the line to enter the screening checkpoint when the Airserv employee asked for your identification as part of their official duties as a contractor to the airlines ensuring that only ticketed passengers were entering the TSA screening checkpoint. In either event, the request was entirely appropriate, and your professed concern that this was an individual seeking to engage in identity theft is unreasonable.

TSA requires airlines to request identification to confirm that the individual holding a boarding pass is the same individual issued the boarding pass. It does not require airlines to prohibit entry to individuals who do not show identification but airline security plans may be more rigorous than TSA requirements. I find no privacy issues in your version of events. You had already shown identification at the ticket counter so you cannot have an objection to showing identification, and you were asked for identification by authorized and uniformed Airserv personnel so I see no issue there. It is not possible for me to evaluate your demeanor during the incident, but your demeanor may have played a role in the request for police intervention which resulted in more extensive questioning by the airport authority police than would have been the case in routine screening by TSA.

You mention that you were repeatedly told that if you entered screening, you could not withdraw. That instruction is correct. Once you enter TSA screening checkpoints, you may not withdraw. You may choose, prior to entering the checkpoint, to show identification, submit to additional screening, or decline both and leave. Those are the same choices expressly discussed by the court in the Gilmore decision that you note in your blog.

The only documents photocopied by TSA were the boarding pass and the identification that you presented. Copying those documents assists in avoiding disputes over identity during civil or criminal enforcement proceedings. Your claim that TSA copied other documents is incorrect.

Your request for records associated with the incident is being processed under the FOIA and Privacy Act in order to provide you with the greatest access possible. You should expect a response directly from the FOIA office. I note for you that TSA does not have a copy of the airport police report and you will have to request that from them.