

# Exhibit 10



Type of Activity: Personal Interview

Case Number: IN03-OIG-LA-0662	Case Title: Air and Marine Interdiction Center
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On May 23, 2003, from approximately 10:50 AM to 10:55 AM, [REDACTED] Senior Detection Systems Specialist (DSS), and [REDACTED], Air and Marine Interdiction Coordination Center (AMICC), Bureau of Immigration and Customs Enforcement, telephone number [REDACTED], Riverside, California, were asked to provide specific copies of policies or regulations governing assistance AMICC might provide to law enforcement agencies. [REDACTED] stated [REDACTED] would see what [REDACTED] could find and provide the information to me.

Additionally, [REDACTED] and [REDACTED] 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.

Case, Title, Nature, and Date: [REDACTED] 5/28/03	Reviewing Official Name, Title, Signature and Date: [Signature] 6/3/03	Joe Artes, Special Agent in Charge	Item #:
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# Exhibit 11



Type of Activity: Personal Interview

Case Number: IN03-OIG-LA-0662	Case Title: Air and Marine Interdiction Center
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[REDACTED] 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, [REDACTED] Special Agent, Office of Inspector General, Department of Homeland Security, was present during the interview. [REDACTED] stated substantially as follows.

On May 12, 2003, around 1800-1830 hours [REDACTED] was standing by the console on the operations floor when [REDACTED] Detection Systems Specialist (DSS), advised [REDACTED] Senior DSS, that the Department of Public Safety (DPS) was looking for an aircraft that was missing. According to [REDACTED] there was only a proposed flight plan. [REDACTED] 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.

[REDACTED] concurred with what [REDACTED] had done.

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

[REDACTED] did not know who had requested assistance via the telephone call until [REDACTED] read the transcript. No one told [REDACTED] the name of the DPS official. [REDACTED] knew the request was in Texas because of the Plainview airport. Or possibly [REDACTED] 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, [REDACTED] would have provided it as the team leader for the shift.

[REDACTED] has no firsthand knowledge of any requests from Congress or the Bush Administration. [REDACTED] was aware of a call from Congressman Ken Calvert's office. Within the last four days, [REDACTED] overheard a conversation between [REDACTED] and [REDACTED], AMICC, talking about the Texas incident. Later, [REDACTED] asked [REDACTED] for more information. [REDACTED] 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 [REDACTED], [REDACTED] 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.

Name, Title, Signature, and Date: [REDACTED] 5/28/03	Reviewing Official Name, Title, Signature, and Date: Joe Artes, Special Agent in Charge <i>Joe Artes, SAG, 6/3/03</i>	Item #:
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## 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.

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# Exhibit 12



ype of Activity: Personal Interview

Case Number: IN03-OIG-LA-0662

Case Title: Air and Marine Interdiction Center

On May 22, 2003, [REDACTED] Texas Department of Public Safety (DPS), Austin, Texas, [REDACTED] or [REDACTED], 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 [REDACTED], DPS, Austin; [REDACTED], DPS, Austin; and [REDACTED], DPS, Austin. During the questioning of [REDACTED] 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 [REDACTED] would be given Miranda warnings. The OIG advised the DPS that [REDACTED] would not be given Miranda warnings since [REDACTED] was only a witness regarding a DHS-OIG investigation. The DHS-OIG advised that [REDACTED] was not under criminal investigation. [REDACTED] provided, in substance, the following information:

[REDACTED] has worked for the DPS for [REDACTED]. [REDACTED] said [REDACTED] knew that USCS tracked airplanes. [REDACTED] said [REDACTED] was aware that this USCS California office was part of the DHS.

[REDACTED] said [REDACTED] called the USCS about a missing airplane on May 12, 2003, between the hours of 6:45 p.m. and 10:00 p.m. [REDACTED] said [REDACTED] asked for the "TX Desk" which [REDACTED] said referred to the Texas area.

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

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

Agent Name, Title, Signature, and Date: [REDACTED] Special Agent	Reviewing Official Name, Title, Signature, and Date: [REDACTED] David B. Smith, Special Agent in Charge	Item #:
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## MEMORANDUM OF ACTIVITY

advised that they would research the matter and call [REDACTED] back. [REDACTED] said [REDACTED] 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.

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

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

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

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

[REDACTED] said [REDACTED] 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. [REDACTED] said [REDACTED] did not know who at DPS located the airplane. [REDACTED] said [REDACTED] had no recollection of the specific times during the night that [REDACTED] spoke with the FAA. [REDACTED] opined that the calls were made after 8:00 p.m. and prior to midnight on May 12, 2003.

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

[REDACTED] opined that the total time utilized by DHS to assist [REDACTED] with the missing airplane was fifteen minutes related to some telephone calls made.

**Exhibit 13**



Type of Activity: Telephone Contact

Case Number: IN03-OIG-LA-0662	Case Title: Air and Marine Interdiction Center
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[REDACTED], 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 [REDACTED] located at the AMICC facility, March Air Force Base, Riverside, California. In addition to the reporting agent, [REDACTED], Office of Inspector General, Department of Homeland Security (DHS), was present during the telephone call. [REDACTED] was advised that the telephone call was regarding an alleged missing aircraft on May 12, 2003. [REDACTED] provided the following information, in substance:

[REDACTED] said that [REDACTED] was assigned [REDACTED] for the AMICC. [REDACTED] 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. [REDACTED] told Root that [REDACTED] knew nothing about the incident. [REDACTED] took the tail number [REDACTED] he provided and advised him [REDACTED] would check into the matter. [REDACTED] said that [REDACTED] would not normally know about aircraft tracked by the AMICC.

[REDACTED] told [REDACTED] and [REDACTED] AMICC, that the press contacted [REDACTED] checked with the AMICC Operations Center and asked if there was any contact for assistance on the tail number provided to [REDACTED] by Root. The AMICC Operations Center informed [REDACTED] 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.

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

[REDACTED] said that [REDACTED] 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, [REDACTED] 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 [REDACTED] ICE Public Affairs provided [REDACTED] with a statement to release to the press. (Attachments)

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

There was no contact by anyone from the Bush Administration.

[REDACTED] opinion everything was handled professionally.

Special Agent [REDACTED] 5/27/03	Reviewing Official Name, Title, Signature, and Date [REDACTED], 5/28/03	Item #:
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DEPARTMENT  
OF  
HOMELAND SECURITY  
Bureau of Immigration and Customs Enforcement  
FACSIMILE TRANSMITTAL

Date: 5/27/03

To: SPEC. AGENT [REDACTED]

Org: DHS

Fax number: [REDACTED]

Sender: [REDACTED]

Air and Marine Interdiction  
Coordination Center  
PO Box 6363  
March ARB, CA 92518-6363

Originating location:

Subject: STATEMENTS

Return fax number: [REDACTED] Secure Fax: [REDACTED]

1 Hour Numbers for Comm: [REDACTED]

1 Hour Number for Operations: [REDACTED]

Page number: [REDACTED] of [REDACTED]

Number of pages including this cover: 3

Remarks:

STATEMENTS AS REQUESTED.

[REDACTED]

TRADITION

★ SERVICE

★ HONOR

Control Number: \_\_\_\_\_

Air Marine Interdiction Coordination Center

Statement (1)

you  
see  
for  
info

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."

[Redacted]

5/15 -

FAX'D TO: / EMAILED TO:

- Louis Sobogon - "LA Times" - [Redacted] ✓
- Melrose Churchill - "Press Enterprise" - [Redacted] ✓
- Shane Costello - KLB5 Austin TX - [Redacted] ✓
- email - [Redacted]
- Shane Kalkow - CBS Washington - [Redacted] ✓
- email - [Redacted]

- Guy Millett for 4 dolls ✓ Press Enterprise  
Melrose Churchill
- Bryan Hall for Reuters, ~~Houston~~ Houston

Statement (2)

from H/P/A

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.

**Exhibit 14**



pe of Activity: Personal Interview

<b>Case Number:</b> IN03-OIG-LA-0662	<b>Case Title:</b> Air and Marine Interdiction Center
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[REDACTED] 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:

[REDACTED] 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.

[REDACTED] has not had any contacts with anyone from Congress or the Bush administration regarding this issue. [REDACTED] 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.

Title, Signature, and Date: [REDACTED] 5/28/03	Reviewing Official Name, Title, Signature, and Date: Joe Artes, Special Agent in Charge [Signature] SAA 6/3/03	Item #:
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**Exhibit 15**



U.S. Department of Homeland Security  
Office of Inspector General – Investigations

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.

Name, Title, Signature, and Date: [redacted] Special Agent SSA 5-28-03	Reviewing Official Name, Title, Signature, and Date: David E. Smith, Special Agent in Charge [Signature], SAC, 5/28/03	Item #:
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**Exhibit 16**



pe of Activity: Telephone Contact

Case Number: IN03-OIG-LA-0662	Case Title: Air and Marine Interdiction Center
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On May 28, 2003, the Department of Homeland Security (DHS), Office of Inspector General (OIG), Houston, Texas, conducted a telephonic interview with [REDACTED] 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). [REDACTED] provided, in substance, the following information:

[REDACTED] was advised that a DHS, OIG incident report, dated May 22, 2003, indicated that Senior Special Agent (SSA) [REDACTED] 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. [REDACTED] stated that [REDACTED] reported to [REDACTED]

[REDACTED] stated that the FBI had passed on the complaint from Aurman to [REDACTED] Senior Special Agent, Bureau of Immigration and Customs Enforcement (BICE), Headquarters, Washington, D.C. [REDACTED] 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.

Off Agent Name, Title, Signature, and Date: [REDACTED] 5/28/03	Reviewing Official Name, Title, Signature, and Date: David B. Smith, Special Agent in Charge [REDACTED] 5.29.03	Item #:
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**Exhibit 17**



pe 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: [REDACTED]) was telephonically interviewed by Supervisory Special Agent (SSA) [REDACTED] 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, [REDACTED] AMICC, Riverside, summoned him to [REDACTED] office. [REDACTED] 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. Boney. When Bendig arrived at [REDACTED] office on May 29, [REDACTED] turned the phone call over to him because Smith was "very persistent" and would not direct questions to BICE Headquarters in Washington (as [REDACTED] 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 private 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:

1. Copy of Washington Post article, dated June 7, 2003.

Agent Name, [REDACTED] Supervisory Special Agent Date, and Date: June 10, 2003	Reviewing Official Name: Gerald Coffman Title, Signature, and Date: Acting SAC, June 10, 2003	Item #: 3
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# 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 50 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, and Republicans have denounced the Democrats for fleeing to 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.

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See TEXAS, A10; Col. 1

# Federal I

TEXAS, *From A1*

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 Doguin 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 Cradick, 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 dragooning 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?"

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**

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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

# 1 Involvement Questioned in



BY GILBERT FERRAZ—SAN ANTONIO EXP

Texas Rep. James E. "Pete" Laney was one of the 51 state Democratic legislators who left for Oklahoma.



COURTESY OF TEXAS REP. JAMES E. LANEY

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



BY JONATHAN T. DWYER FOR THE PRESS-ENTERPRISE

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

**Exhibit 18**



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. [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, [redacted] said that they were not. [redacted] justification was that the caller (DPS) was simply requesting general information, so verification was not necessary. Further, [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. [redacted] believed that the above circumstances made verification unnecessary.

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

Special Agent Name, [redacted], Supervisory Special Agent  
Signature, and Date: June 10, 2003

Reviewing Official Name, Gerald Coffman  
Title, Signature, and Date: Acting SAC, June 10, 2003

Item #: 4

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