



Transportation
Security
Administration

AUG 17 2011

3600.1

FOIA Case Number: TSA10-0780

Ms. Laura Rotolo
ACLU Foundation of Massachusetts
211 Congress Street
Boston, MA 02110

Dear Ms. Rotolo:

This is in response to your Freedom of Information Act (FOIA) request dated March 25, 2010, on behalf of the American Civil Liberties Union of Massachusetts (ACLU). In our acknowledgement letter to you dated September 1, 2010, we informed you that due to the size and depth of your request, we have found it necessary to divide your request into five requests. This letter addresses the portion of your request in which you seek "(a)ny reports addressing the effectiveness or performance of ETP. Documents addressing performance issues that have led to ETPs being removed from some airports."

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

A search within the TSA was conducted and documents (75 pages) responsive to your request were located. Portions of 13 pages are being withheld under Exemptions (b)(3) and (b)(6). A more complete explanation of these exemptions is provided below.

Exemption (b)(3)

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

Exemption (b)(6)

Exemption 6 permits the government to withhold all identifying information that applies to a particular individual when the disclosure of such information “would constitute a clearly unwarranted invasion of personal privacy.” This requires a balancing of the public’s right to disclosure against the individual’s right to privacy. After performing this analysis, I 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.

Fees

TSA is waiving any applicable fees associated with the processing of your request.

Administrative Appeal

You have a right to appeal the above withholding determination. In the event that you may wish to appeal this determination an administrative appeal may be made in writing to Kimberly Walton, Special Counselor, Office of the Special Counselor, Transportation Security Administration, 601 South 12th Street, East Building, E7-121S, Arlington, VA 20598-6033. Your appeal **must be submitted within 60 days** from the date of this determination. It should contain your FOIA request number and state, to the extent possible, the reasons why you believe the initial determination should be reversed. In addition, the envelope in which the appeal is mailed in should be prominently marked “FOIA Appeal.” Please note the Special Counselor’s determination will be administratively final. Your envelope and letter should be marked “FOIA Appeal.” Copies of the FOIA and DHS regulations are available at www.dhs.gov/foia.

If you have any questions pertaining to your request, please feel free to contact the FOIA Office at 1-866-364-2872 or locally at 571-227-2300.

Sincerely,



Yvonne L. Coates
Director, Freedom of Information Act Office
Office of the Special Counselor
Transportation Security Administration

Enclosure