



U.S. Department of Justice

*United States Attorney
District of Massachusetts*

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1 Courthouse Way
Suite 9200
Boston, Massachusetts 02210*

April 12, 2002

BY FAX (202) 493-1266
AND OVERNIGHT MAIL

Carla Martin, Esq.
Office of Chief Counsel
Transportation Security Administration
GSA Building
7th & D Streets, SW
Room 5002
Washington, DC 20407

Re: United States v. Richard Colvin Reid,
Criminal No. 02-10013-WGY

Dear Ms. Martin:

Thank you for taking the time to speak with me yesterday.

I have enclosed for your review a copy of a February 14, 2000 memorandum issued by the U.S. Attorney's Office for the District of Massachusetts pursuant to L.R. 116.8. As you will note, a copy of the Local Rules for the District of Massachusetts is attached to the memorandum.

In particular, it should be emphasized that L.R. 116.8 requires that:

The attorney for the government shall inform all federal, state, and local law enforcement agencies formally participating in the criminal investigation that resulted in the case of the discovery obligations set forth in these Local Rules and obtain any information subject to disclosure from each such agency.

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In light of the potentially far-reaching implications of this rule in this case, and given the broad intelligence and criminal investigative activities that are being performed by various components of your agency, the Transportation Security Administration ("TSA"), and related agencies, such as the Federal Aviation Administration, around the world in this matter, please ensure that all persons within the scope of L.R. 116.8 who fall within the oversight responsibility of TSA receive a copy of the attached memorandum and Local Rules.

As you will note from the Indictment in this case, a copy of which is enclosed for your review, the majority of the above-referenced criminal case as currently charged is relatively narrow in scope at the present time. However, there exists the possibility that current intelligence information could ripen into a criminal investigation with additional charges, particularly in light of some of the language in the present indictment that leaves open the possibility for a broader case. Accordingly, any present intelligence-related documents would then become materials discoverable in this criminal case, per L.R. 116.9.

In addition, as noted in the attached memorandum and copy of the Local Rules, L.R. 116.9 specifically requires:

All contemporaneous notes, memoranda, statements, reports, surveillance logs, tape recordings, and other documents memorializing matters relevant to the charges contained in the indictment made by or in the custody of any law enforcement officer whose agency at the time was formally participating in an investigation intended, in whole or in part, to result in a federal indictment shall be preserved until the entry of judgment unless otherwise ordered by the Court.

When L.R. 116.9 is read in combination with L.R. 116.8, you can readily appreciate the importance of notifying all such persons of their obligations in this regard, and the possible impact on the litigation of doing so. As previously stated, in light of the various investigative and intelligence-related activities performed by TSA, it is imperative that you ensure that all personnel within the scope of L.R. 116.8 and 116.9 receive the

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attached memorandum and copy of the Local Rules, and comply accordingly.

With respect to the status of discovery in this case, please note that L.R. 116.1 effectively serves as a standing discovery order for cases such as this one, in which a defendant has elected to proceed by "automatic discovery." At his arraignment on January 18, 2002, Reid, through counsel, elected automatic discovery. L.R. 116.1(C)'s requirements, including its requirements for production of specifically enumerated information within 28 days of arraignment, is accordingly in effect. I am also enclosing for your review a copy of Chief Judge Young's January 18, 2002 Initial Scheduling Order which formally imposes the requirements of L.R. 116.1(C) in this case.

Accordingly, please provide copies of the following documents:

1. Any recordings, writings or notes relating to any conversation involving pilots, flight attendants or crew members of American Airlines Flight 63 on December 22, 2001 ("Flight 63"), including without limitation those between or among American Airlines dispatch, the FAA, ATC, FBI and NORAD. Inasmuch as any such recordings or writings have been destroyed, please provide a statement describing when and why such destruction took place. I understand that recordings from the cockpit voice recorder are not within the control of TSA.
2. Any documents, recordings, notes, other paperwork or records maintained on any medium, completed, adopted, approved, or signed by any of the pilots, flight attendants or other crew members on Flight 63, including without limitation the information related to Flight 63 contained on the ACARS system, the flight plan, travel log, weather report, or other such record which contains information regarding Flight 63's flight route, the surrounding weather conditions, or Flight 63's speed or altitude at any point in its flight between takeoff from Paris, France and landing in Boston, Massachusetts.
3. Any documents, writings or records for any pilot, flight attendant or other crew member on Flight 63 or information otherwise related to Flight 63, including without limitation information related to Flight 63 that is contained on the SABRE system, or that may reasonably be identified in whole or in part as: (a) "Base Incident Reports"; (b) "AMR Event Reports"; (c) "PFA" records or corresponding reports; (d) HI-3 Reports; and (e)

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the "American Airlines FA Report" that apparently concerned use of emergency materials on the flight, was apparently completed by Flight 63 Purser Carole Nelson or another, and apparently submitted to American Airlines corporate headquarters.

5. Any written documents, notes or reports relating to any statement of any Flight 63 pilot, flight attendant or crew member.

6. An index which identifies by author, date of creation, and subject matter all other documents, notes, reports, paperwork or other records maintained in any form or on any medium, related to Flight 63.

Because I am uncertain of the precise scope of TSA's responsibilities, the foregoing requests are not necessarily exhaustive. In some instances, they may call for information which TSA does not possess. Once you have reviewed this letter, please telephone me so we can talk further.

Finally, I enclose for your review a copy of the Court's Order to Preserve Physical Evidence and for Retention of Notes.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

MICHAEL J. SULLIVAN
United States Attorney

By:


COLIN OWYANG
Assistant U.S. Attorney

enclosures