

Office of the Inspector General  
United States Department of Justice

REDACTED REPORT

**REPORT OF INVESTIGATION**

Case Number: 2008-000954

Date: January 9, 2009

Report Provided to:

United States Marshals Service



<b>SUBJECT</b> Joseph Band et al. Attorney Office of General Counsel United States Marshals Service		<b>CASE NUMBER</b>  2008000954
<b>OFFICE CONDUCTING INVESTIGATION</b> Boston Area Office		<b>DOJ COMPONENT</b> United States Marshals Service
<b>DISTRIBUTION</b>  <input checked="" type="checkbox"/> Field Office  <input checked="" type="checkbox"/> AIGINV  <input checked="" type="checkbox"/> Component USMS  <input checked="" type="checkbox"/> USA BOSTON EDVA  <input checked="" type="checkbox"/> Other DOJ/OPR  <input checked="" type="checkbox"/> Other DAG	<b>STATUS</b> <input type="checkbox"/> OPEN <input type="checkbox"/> OPEN PENDING PROSECUTION <input checked="" type="checkbox"/> CLOSED	
	<b>PREVIOUS REPORT SUBMITTED:</b> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
	<b>Date of Previous Report:</b>	

**Report of Investigation of Alleged Misuse of  
United States Marshals Service Resources by Joseph Band**

**SYNOPSIS**

This investigation was initiated upon the receipt of an anonymous complaint that United States Marshals Service (USMS) employee Joseph Band, an attorney in the USMS Office of General Counsel (OGC) who also worked part-time as a statistician for sports events, arranged for transportation of Fox Sports personnel in a USMS vehicle, with the approval of District of Massachusetts Acting United States Marshal (USM) Yvonne Bonner, for purposes not connected to USMS business. Specifically, the complaint alleged that Deputy U.S. Marshals (DUSM) drove Fox Sports broadcasters Tim McCarver and Joe Buck in an official government vehicle (OGV) to two World Series baseball games at Fenway Park in October 2007, pursuant to arrangements made by Band.

The Office of the Inspector General (OIG) investigated these and other allegations related to Band's use of USMS transport for his personal work as a statistician. Our investigation revealed that Band attended the 2007 World Series games as a paid, part-time sports statistician for Fox Sports, and arranged transportation from both games in an USMS vehicle for himself and for a Fox Sports colleague from one game. In addition, the OIG determined that Band arranged a USMS motorcade escort for the broadcasters' private limousines from Fenway Park following both games. We concluded that Band's conduct violated the standards of ethical conduct for federal employees and USMS policy governing the use of government vehicles.

In addition, our investigation determined that Acting USM Bonner also violated the same standards

DATE	January 9, 2009	SIGNATURE	[Redacted]
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and policy by authorizing four DUSMs to attend the World Series games, two at each of the two games, in an official capacity as Band's escort.

We also concluded that Band falsely told the OIG that he had not requested that Acting USM Bonner provide an escort for the broadcasters, but merely offered Bonner passes to the games for her to distribute to her Deputy Marshals. In fact, we concluded that Band asked Bonner for assistance and that Bonner assigned Deputy Marshals to assist Band at the games.

Moreover, the OIG's investigation identified additional instances in which Band sought to obtain transportation for himself and others in USMS vehicles when he attended various sports events as a paid statistician. Band's conduct in additional instances also violated applicable standards and policy. In three of these instances, we found that the U.S. Marshals inappropriately approved the use of USMS resources to escort Band to the sports events.

For example, we determined that in January 2008 Band requested and received transportation from a Deputy Marshal in a USMS vehicle from the Tampa airport to a National Football League playoff game in Tampa at which Band was working as a paid statistician for Fox Sports. Band also received transportation from the Deputy Marshal to the airport following this game in a USMS vehicle, which was the lead vehicle in a motorcade that included the limousines of Fox broadcasters Troy Aikman and Joe Buck. The OIG's investigation also determined that the U.S. Marshal in Tampa, Thomas Hurlburt, authorized a Deputy Marshal to facilitate Band's departure from the stadium area with local police, even though Band was not on USMS business.

Our investigation found that on two other occasions Band solicited and received USMS assistance in Phoenix, Arizona, when working there as a paid statistician for Fox Sports. First, in connection with the January 2007 NCAA national championship football game in Phoenix, Band was driven by Deputy Marshals in a USMS vehicle from the Phoenix airport and to and from the stadium while working as a sports statistician. Second, in connection with the February 2008 Super Bowl in Phoenix, Band received transportation for himself and broadcasters in a USMS vehicle, driven by a Deputy Marshal, to and from the airport, hotels, and the football stadium. Our investigation also determined that U.S. Marshal David Gonzales authorized the transportation of Band in USMS vehicles even though Band was not attending the events on USMS business. We concluded that Band's conduct and Gonzales's authorization of the use of USMS resources violated the ethical standards and USMS policies.

In another instance, in July 2007, Band attempted to obtain transportation assistance from the U.S. Marshal in San Francisco in connection with Band's work as a statistician at Major League Baseball's All Star game. Unlike the other Marshals discussed above, who directed Deputy Marshals to assist Band on his personal business, U.S. Marshal Federico Rocha declined to provide any assistance in response to Band's request and instead told Band he could take a taxi or trolley to the ballpark. Rocha advised his staff that Band could not be transported in a USMS vehicle while conducting personal business.

The OIG did not conduct an exhaustive survey of all the instances where Band may have requested and received transportation assistance from various USMS offices while he was traveling to

sporting events during his frequent work as a paid statistician for Fox Sports. However, we believe that the instances discussed above demonstrate that Band committed ethical violations in requesting and receiving USMS resources for personal business, and that he lacked candor when we interviewed him about these instances. Moreover, we believe that the U.S. Marshals who provided USMS resources to assist Band misused government resources and violated USMS ethical rules.

We discussed this matter with the U.S. Attorney' s Offices in Boston and the Eastern District of Virginia, which declined criminal prosecution. We are providing this report to the USMS for appropriate action.

## DETAILS OF INVESTIGATION

### Predication

An anonymous complainant alleged to the OIG that on October 24 and 25, 2007, four Deputy United States Marshals (DUSMs) transported Fox Sports broadcasters Tim McCarver and Joe Buck, in government vehicles, to two Major League Baseball (MLB) World Series games held at Fenway Park, in Boston, Massachusetts. The complainant identified the DUSMs involved as [REDACTED] and advised that the event was not connected to any USMS mission, although the DUSMs involved were armed, wore badges, and used official vehicles. The complainant alleged that the action was arranged by USMS employee Joseph Band, an attorney in the OGC, who works part-time as a Fox Sports statistician, and that the action was approved by Acting United States Marshal, Yvonne Bonner, District of Massachusetts.

We also investigated several other instances where Band solicited or received USMS assistance in connection with his personal statistician work.

### Investigative Process

The OIG investigation included document reviews and interviews of 30 individuals:

#### *Interviews of USMS Boston District Personnel*

- Acting USM Yvonne Bonner
- Chief DUSM [REDACTED]
- Supervisory DUSM (SDUSM) [REDACTED]
- SDUSM [REDACTED]
- DUSM [REDACTED]
- DUSM [REDACTED]
- DUSM [REDACTED]
- DUSM [REDACTED]

#### *Interviews of USMS Office of General Counsel Personnel*

- Attorney Joseph Band
- General Counsel Gerald Auerbach
- Principal Deputy General Counsel [REDACTED]
- Deputy General Counsel [REDACTED]
- Management and Program Analyst [REDACTED]
- Management Analyst [REDACTED]

*Interviews of USMS Middle District of Florida Personnel*

- USM Thomas Hurlburt
- CDUSM [REDACTED]
- Assistant CDUSM [REDACTED]
- DUSM [REDACTED]

*Interviews of USMS District of Arizona Personnel*

- USM David Gonzales
- CDUSM [REDACTED]
- CDUSM [REDACTED]
- Assistant CDUSM [REDACTED]
- DUSM [REDACTED]
- DUSM [REDACTED]

*Interviews of USMS Northern District of California Personnel*

- USM Federico Rocha

*Interviews of Fox Sports Witnesses*

- Graphics Manager [REDACTED]
- Payroll Officer [REDACTED]
- Broadcast Associate [REDACTED]
- [REDACTED], Vice President, Business and Legal Affairs, Fox Sports

*Interviews of CBS Sports Witness*

- Production Manager [REDACTED]

*Document Review*

- Review of USMS time and attendance records
- Review of USMS vehicle logs
- Review of JTTF (Joint Terrorism Task Force) Intelligence Bulletins
- Review of USMS background and personnel files
- Review of USMS telephone records pertaining to Joseph Band
- Review of USMS e-mail communications pertaining to Joseph Band
- Review of cellular telephone records pertaining to Joseph Band
- Review of USMS Code of Professional Responsibility
- Review of USMS Integrity and Ethics policy

- Review of Department of Justice Office of Ethics information
- Review of Code of Federal Regulations
- Review of media reports
- Review of Boston, Tampa, Phoenix maps
- Review of MLB, National Football League and College Football game data

## **Joseph Band's Work History**

Our reviews of USMS official personnel and background files showed that Band is a Senior Attorney, Grade GS-15, and has worked for the USMS Office of General Counsel since 1992. Band's federal employment began in 1965 with the United States Courts, and has included periods of employment with various federal agencies, including the former Bureau of Narcotics and Dangerous Drugs, the Department of Justice Criminal Division, and the United States Park Police.

### ***Part-Time Work as a Sports Statistician***

Our review of these files show that Band has worked part time as a sports statistician for Washington Redskins football games since approximately the early 1970s. Band also told the OIG that he has been doing such work for approximately 30 years. In addition, publicly available information indicates Band has worked part-time for the Redskins for over 37 years.

Band told the OIG that in addition to his work for the Redskins, he has worked as a statistician on other sports assignments for professional football and baseball, and college basketball games, for various networks, including Fox Sports, CBS, and ESPN. Band said that his work involves watching the game while seated near the official scorer, keeping track of statistics as the game progresses, and relaying the statistics through a headset to production and distribution personnel. Examples of such events he has worked in this capacity include the World Series, the Super Bowl, professional football and baseball playoff and regular season games, and college basketball tournament games. Band said he works about 20 to 30 sports events per year and receives compensation of between \$35 and \$125 per event.

Fox Sports and CBS officials confirmed to the OIG that Band has worked as a paid statistician at those networks for several years. A Fox Sports official said Band typically is paid between \$150 and \$250 per game.

Our file reviews revealed that Band has also held a part-time adjunct faculty position at the American University and was a paid part-time youth softball umpire. Band told the OIG that he no longer holds an adjunct faculty position but that he still works as an umpire, making about \$20 per game.

### ***No Record of Outside Employment Authorization***

Our file reviews found no documentary record that the USMS officially authorized Band's paid outside activities. Band did not include his paid statistician job on the Standard Form SF-86 (Questionnaire for

National Security Positions). In a 1997 interview with a background investigator, Band stated that he omitted his statistician job from the Standard Form SF-86 because he did not consider that work as "outside employment," because he does it "just for fun."

Band told the OIG that he obtained written authorization from a USMS OGC supervisor for outside employment as a sports statistician, a teacher, and an umpire "perhaps 10 or 15 years ago," whom Band identified as former Acting General Counsel [REDACTED]. However, the OIG found no evidence of such authorization in his personnel files, and Band could not supply a copy of any such authorizing document.

The current USMS General Counsel, Gerald Auerbach, told the OIG that it was common knowledge that Band has been a part-time statistician since before Band's employment with the OGC and that there has never been a question as to whether such activity was authorized. General Counsel Auerbach also said that USMS OGC attorneys are not required to obtain written authorization for outside employment if it presents no potential conflict of interest. He said that he was also aware of Band's former employment at the American University, but it was "news" to him that Band was paid as a youth softball umpire.

Although the focus of this investigation was not whether Band required or had obtained authorization for his outside employment as a sports statistician, this investigation disclosed weaknesses in the USMS's internal controls regarding authorization for such outside employment. We recommend that the USMS determine whether its policies concerning outside employment clearly articulate when outside employment is permissible and under what circumstances written approval is required. We also recommend that the USMS policy ensure that employees engaged in outside employment, whether or not written approval is required, are expressly advised about restrictions on the use of USMS resources while engaged in such outside employment. We also recommend that authorization for outside employment be subject to annual or periodic renewal.

### *Complaints About Band's Statistician Work*

Our file review revealed that Band's supervisors and co-workers have complained that Band was mixing his statistician activities with his official duties, including using government telephones to conduct statistician business while on government time. For example, one former supervisor told a background investigator that Band had been counseled on six separate occasions for conducting football business while on government duty, for having football players come to the government office, and for obtaining football tickets for office employees. One former colleague alleged that Band was spending a considerable amount of his time working on personal matters and conducting business for the Washington Redskins.

## **Government and USMS Standards of Conduct**

### *Misuse of Position*

The Standards of Ethical Conduct for Employees of the Executive Branch, contained in part in the Code



of Federal Regulations (5 C.F.R. § 2635), state that “public service is a public trust” and that:

- Employees shall not use public office for private gain.
- Employees shall protect and conserve Federal property and shall not use it for other than authorized activities.
- Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this part.

Regarding “Misuse of Position,” the standards further state:

- An employee shall not use his public office for private gain . . . or for the private gain of friends . . . or persons with whom the employee is affiliated in a nongovernmental capacity, including . . . persons with whom the employee has or seeks employment or business relations.
- An employee shall not use or permit the use of his Government position or title or any authority associated with his public office in a manner that is intended to coerce or induce another person, including a subordinate, to provide any benefit, financial or otherwise, to himself or to friends, relatives or persons with whom the employee is affiliated in a nongovernmental capacity.
- An employee has a duty to protect and conserve Government property and shall not use such property, or allow its use, for other than authorized purposes.
- . . . an employee shall use official time in an honest effort to perform official duties.

### *Government Vehicles*

USMS policy directives regarding the use of Official Government Vehicles (OGV), which were promulgated by the USMS OGC, limit the use of an OGV to official purposes only and specifically prohibit the use of an OGV:

- while engaging in any personal business or activity;
- while on a non-duty status;
- for transporting any person not engaged in official government business or not otherwise being transported in the “interest of the government;” or
- for any purpose that would violate law, regulation or policy.

These directives warn that any employee who uses an official government vehicle for unauthorized purposes may be subject to disciplinary action.

### *Ethics Team*

Our review of USMS OGC documents and our interview of General Counsel Auerbach also revealed that Band was formerly assigned to the OGC “Ethics Team,” which administers the USMS ethics

program and is responsible for providing guidance to USMS personnel on matters of “ethics and integrity” with respect to their official duties.

### **World Series Game 1 in Boston, October 24, 2007**

On the evenings of Wednesday, October 24, and Thursday, October 25, 2007, Major League Baseball (MLB) World Series games 1 and 2 were played at Fenway Park in Boston, between the Boston Red Sox and the Colorado Rockies. The games were broadcast by Fox Sports, and Tim McCarver and Joe Buck were the Fox broadcasters for the games. Fox Sports Production Assistant ██████████ told the OIG that Band worked the Boston World Series games as a paid statistician for Fox Sports.

#### ***Band's Request for USMS Assistance***

We investigated whether Acting USM Yvonne Bonner, District of Massachusetts, approved Band's use of USMS resources for transportation to and from these World Series games.

Bonner began service with the USMS in January 1984 as a DUSM. In 1997 she became an Inspector in the USMS Office of Internal Affairs (OIA). In 2002, she was appointed as Acting Chief and then Chief of OIA. In 2004, she was appointed as Acting Chief and then Chief of the newly-created USMS Inspection Division, which combined OIA and the USMS Office of Internal Audit. In December 2006, Bonner was appointed the Acting U.S. Marshal for the District of Massachusetts, after the removal of the former U.S. Marshal Anthony Dichio, for time and attendance abuse and also for misusing his USMS vehicle for personal errands.

Acting USM Bonner told the OIG that she received a telephone call at her office from Band late in the afternoon on Wednesday, October 24, 2007, several hours prior to the start of World Series game 1. Bonner knew Band and was aware that he worked part-time as sports statistician. Bonner said that in the telephone call, Band advised her that he was “working the ball game” and asked her for a DUSM escort out of the area of the ballpark after the game, stating, “We need to get to some interviews after the ball game.” Bonner told the OIG that she did not know what such interviews entailed or who was to be present. Bonner said that she did not ask Band about the interviews and he did not volunteer anything further. Bonner said Band told her in the telephone call, “I'm here. Your guys can win; I can win.” Bonner said she did not know the number or identity of the others in Band's party and that she did not inquire further on that or as to any additional information on the nature of Band's purposes.

Bonner said Band advised her that he would provide identification cards to the event for the DUSMs. Bonner also said that she assumed that Band would be at the World Series in his capacity as a statistician, not in an official USMS capacity.

Bonner told the OIG that Band's request for a DUSM escort from the game struck her as an ideal opportunity to supplement the lone DUSM, ██████████, who Bonner believed was working at both Boston World Series games with the Boston Joint Terrorism Task Force (JTTF). Bonner stated that she

had been made aware, through JTTF briefings, of intelligence concerning the potential for terrorist activity at the World Series, and she thought that it would be beneficial to have additional DUSMs at the game as backup. Bonner said she also considered the opportunity for DUSMs to attend the game as beneficial for office morale.

However, Bonner acknowledged to the OIG that, prior to Band's call, she had no plans to supplement the USMS presence at the event. Bonner further acknowledged that she could have supplemented USMS presence at the event through other means. Moreover, we determined that Bonner made no effort to notify the JTTF or DUSM [REDACTED] of her decision to have DUSMs escort Band from the game.

### *Bonner Assigns Two Deputy Marshals to Assist Band*

Chief DUSM [REDACTED] told the OIG that late in the afternoon of Wednesday, October 24, 2007, Bonner asked him if they could get a couple of people to do a "detail" at Fenway Park for the World Series game that evening. [REDACTED] said Bonner told him the detail was going to involve getting Band out of Fenway Park at the close of the ballgame, that the DUSMs were to meet with Band at Fenway Park prior to the game, and that Band would have passes to the ballpark for them. [REDACTED] said that Bonner also told him that there was going to be one DUSM at the World Series working with the JTTF and that it seemed like a good idea to have two more DUSMs at the ballpark in case a situation arose where they could be of assistance.

[REDACTED] said that Supervisory DUSM [REDACTED] and DUSM [REDACTED] were among the few deputies still in the office that afternoon and that Bonner assigned them to the detail, giving Band's cell telephone number to DUSM [REDACTED]. [REDACTED] said he did not remember whether Bonner told [REDACTED] to advise the JTTF DUSM, [REDACTED] that DUSMs [REDACTED] and [REDACTED] were going to be at the game that evening but that he, Bonner, and DUSM [REDACTED] had all attended a management meeting earlier that day in which Supervisory DUSM [REDACTED] had announced that JTTF DUSM [REDACTED] would be at the game.

DUSM [REDACTED] said he had no objection to the detail because there was concern for security and possible terrorist activity at such an event, and he did not know at that time what Band would be doing at Fenway Park, only that Band was from the OGC at USMS Headquarters. DUSM [REDACTED] said he concluded that the detail was authorized, especially since the OGC is the office one would call with any questions or concerns regarding such activity. He said his understanding of the detail at the time, from speaking with Bonner, was that the DUSMs were to transport Band in a USMS vehicle and that he saw no problem with that because Band was a USMS employee. He said he only learned later that evening, when speaking with Bonner, that Band had something to do with professional baseball as a sports statistician.

Bonner told the OIG that she assigned DUSMs [REDACTED] and [REDACTED], who happened to be nearby when Band called Bonner, with assisting Band. Bonner said she instructed the DUSMs that they were to meet Band at Fenway Park and that they were to help get Band and his party out of the immediate area of Fenway Park following the game to get to some interviews. Bonner said she authorized them to use a

USMS government vehicle, that they would be on official duty, and that she expected they would be armed.

Bonner told the OIG that she advised DUSMs [REDACTED] and [REDACTED] that DUSM [REDACTED] would be present at the event and expected that they would seek her out and advise her of their presence there. Bonner said she then telephoned Band, provided Band with DUSM [REDACTED] telephone number, and requested that Band talk directly with DUSM [REDACTED] to provide him with any additional necessary information.

Bonner said that in assigning the two DUSMs to the Boston World Series games she expected no excess cost to the government and anticipated that the DUSMs would charge their time to LEAP (Law Enforcement Availability Pay), not overtime, although she said she provided no instructions in that regard. Bonner said that because Fenway Park is only approximately 4 or 5 miles from the USMS Boston office, she expected no large expenditure in gas or cost for usage of a government vehicle and further assumed that Band's request for escort was limited to a brief escort from the immediate area of Fenway Park.

Bonner said that she did not authorize the DUSMs to pick up Band and his party at a hotel prior to the game and drive them to Fenway Park in a government vehicle and that, to her knowledge, they did not do so. Bonner said that it was her understanding that, following the games, the DUSMs had escorted Band and his party, who were traveling in a separate vehicle, out of Fenway Park to a main road or highway.

Bonner said that it had occurred to her that escorting Band and his party might be viewed as an activity lacking in any official purpose but that she was unconcerned by that because of the need to have DUSMs in the area in case of emergency to aid DUSM [REDACTED].

#### ***Deputy U.S. Marshals Assist Band***

DUSMs [REDACTED] and [REDACTED] told the OIG that late in the afternoon on Wednesday, October 24, 2007, Bonner spoke with them separately and tasked them with an "assignment" to assist in safely getting some sports broadcasters back to their hotels after the game. DUSM [REDACTED] said he asked Bonner whether he was "o.k. doing this" and that Bonner told him that he would be acting under her authority and that he would be "perfectly fine." He said Bonner explained that Band was an attorney with the USMS OGC. He said he asked Bonner what Band was doing at the World Series and Bonner responded that Band had something to do with Fox Sports.

DUSM [REDACTED] told the OIG that Bonner gave him no instructions to contact DUSM [REDACTED] at the ballpark to advise her of his presence there as backup and that he did not see nor speak with DUSM [REDACTED] while at the ballpark.

DUSM [REDACTED] told the OIG, "the whole thing seemed weird to me . . . [but] knowing that [Bonner] had been the Chief of the USMS Internal Affairs Division for about 10 years, that she was very attentive to

detail, and that she knew USMS policy very well and knowing also that Band is from the OGC, I figured that I would be alright working the detail.”

DUSM ██████ said that after speaking with Bonner, he spoke over the telephone with Band, told Band that Bonner had directed him to escort the broadcasters to their hotel after the game, and discussed where they should meet.

DUSMs ██████ and ██████ said they then went to Fenway Park in a USMS vehicle and met Band at the back gate to the ballpark. Band obtained a parking space for them and took them into the press box area, where Band introduced them to Fox broadcasters Tim McCarver and Joe Buck. DUSM ██████ said Band then directed them to the booth where the sportswriters were and told them they could remain there for the game. However, a Red Sox official came to the area and told DUSMs ██████ and ██████ they had to leave. They remained in an area outside the press box for most of the game.

At the end of the game, DUSMs ██████ and ██████ met Band. Band got into the USMS vehicle with them and told them to “get going.” They then led McCarver’s limousine out of the Fenway Park area in a two-car motorcade. DUSMs ██████ and ██████ said that they had their emergency lights on as they were attempting to work their way out of the immediate area of Fenway Park. They said that McCarver’s limousine broke away at a nearby Four Seasons hotel and that Band then directed them to drive him back to Fenway Park, where they dropped Band off and returned to the USMS office.

DUSM ██████ said that he did not understand why Bonner had sent them to the game and that he had never done a detail like this in 23 years as a DUSM. DUSM ██████ said he charged no time to the assignment. DUSM ██████ said he charged 5 hours LEAP for working the assignment.

DUSM ██████ told the OIG that she had advised her USMS supervisor, ██████, that the JTTF would be present for both World Series games. However, DUSM ██████ said she was not assigned to work the first World Series game that took place on Wednesday, October 24, 2007, and that she was not present at Fenway Park that evening. Supervisory DUSM ██████ told us that it was his understanding that DUSM ██████ was assigned to work both games and that he announced at a manager’s meeting held on the morning of World Series game 1 that ██████ would be working the game that evening.

DUSM ██████ said she worked the second game, on Thursday, October 25, 2007, but she was never told by Bonner or anyone that the two additional deputies would be at the game. She said she learned at the second game that other DUSMs were also attending when her FBI JTTF supervisor told her he had seen two DUSMs and asked whether they were providing security to dignitaries at the game or were attending for some other reason that he should know about for purposes of doing his job as the on-scene JTTF supervisor. DUSM ██████ said she was embarrassed that she did not know why the other DUSMs were attending the game.

## Second World Series Game 2 in Boston, October 25, 2007

### *Band's Request for USMS Assistance at the Second World Series Game*

DUSM ██████ said that on the following day, October 25, 2007, Band telephoned him in the early afternoon asking whether he could expect him again that evening. He said he told Band to call Bonner.

Bonner told the OIG that on the afternoon of Thursday, October 25, 2007, she received a call from Band, who requested another DUSM escort out from the ballpark following the second World Series game that evening. Bonner told the OIG that she saw Band's request as an opportunity to once again supplement a lone DUSM who she believed was working the event with the JTTF. Bonner said that it was her understanding that the DUSMs who would get to see the game with Band would facilitate Band's party's exit from the Fenway Park area at the conclusion of the game but would not transport Band or anyone else in a USMS vehicle. Bonner said she was not aware that Band had been transported in a USMS vehicle on the previous night.

### *Bonner Assigns Two Deputy U.S. Marshals to Assist Band*

Bonner said that she tasked DUSMs ██████ and ██████ with the assignment, expected they would be armed, and authorized them to use a USMS vehicle to provide Band and his party an escort, as on the previous night. Bonner said she also advised DUSMs ██████ and ██████ that DUSM ██████ would be present at the event and expected that they would seek her out and advise her of their presence there.

DUSM ██████ described for the OIG his assignment to World Series game 2. He said that sometime late in the afternoon on Thursday, October 25, 2007, he spoke with Bonner and Chief DUSM ██████. DUSM ██████ said they tasked him with making sure that Band, who was attending the World Series, got safely out of the ballpark and to a hotel, without incident, because of the crowds. DUSM ██████ said Bonner explained that Band was involved with Fox and was a statistician. DUSM ██████ said Chief DUSM ██████ told him to find a second DUSM to work with him. DUSM ██████ said he found DUSM ██████ for the task.

DUSM ██████ told us that he had not been told by Bonner or anyone else that DUSM ██████ or any other DUSM would be at the game or that he should make contact with any other DUSM.

Chief DUSM ██████ told us that Bonner directed him to get two DUSMs to work the detail for the Thursday game. ██████ said he found DUSMs ██████ and ██████ both present in the USMS office and told them that they were to go to Fenway Park and meet up with Band and to get Band's telephone number from DUSM ██████. ██████ said he told them that there would be a DUSM there relative to the JTTF detail. ██████ said he had spoken with DUSMs ██████ and ██████ regarding the previous night's detail and had learned from them that Band had been transported in their OGV. However, ██████ said he did not see a problem with that because Band was a USMS employee.

DUSM ██████ said he spoke with DUSM ██████, who had gone to the game the previous night to escort Band, and DUSM ██████ developed the understanding that Band was to be transported from the ballpark in the USMS vehicle.

DUSM ██████ told the OIG that he was in the gym in the USMS office when Chief DUSM ██████ came in and told him there was a detail at Fenway Park that night and asked him if he wanted to work it. DUSM ██████ said ██████ explained that he would have to get Band and some others out of Fenway Park after the game. DUSM ██████ agreed to go and proceeded with DUSM ██████ to Fenway Park in DUSM ██████ USMS vehicle. DUSM ██████ said he was not told by anyone to expect that DUSM ██████ or any other DUSM would be at the ballpark.

### *Deputy U.S. Marshals Assist Band*

DUSMs ██████ and ██████ went to Fenway Park where Band met them, admitted them to a secure parking area, obtained event passes for them, walked them into the press box, and introduced them to Fox broadcasters Tim McCarver and Joe Buck.

DUSM ██████ said that while in the press box prior to the start of the game at Band's direction, he made several telephone calls to obtain the weather conditions at the ballpark that evening and passed the information on to Band. He said that at about that same time, Band handed DUSM ██████ and him note pads, telling them in effect that he wanted them to take statistics. ██████ said that in handing him the note pads, Band indicated the statistics he wanted him to record. DUSM ██████ said he recalled the statistics might have been on-base percentage.

DUSM ██████ told the OIG that in handing the paper to him and DUSM ██████, Band told them to make it look like they were busy so that they would not be asked to leave the press area. DUSM ██████ said that shortly thereafter, however, he and DUSM ██████ were asked by a Fox Sports official to leave the press box. DUSM ██████ said that he and ██████ then walked around Fenway Park for the duration of the ballgame.

DUSMs ██████ and ██████ said that sometime after leaving the press box, they encountered DUSM ██████ in another area of the ballpark. DUSMs ██████ and ██████ both said they were unaware that DUSM ██████ was working the event and, as discussed above, said they had not been told by Bonner or anyone else that she would be there or that they should make contact with her. DUSMs ██████ and ██████ said that DUSM ██████ asked them what they were doing there, and they explained to her their assignment involving Band.

DUSM ██████ told the OIG that the presence of her USMS colleagues at the game came as a surprise to her and to her JTTF colleagues and that she was disappointed that she had not been notified to anticipate their presence. She said ██████ seemed nervous about the detail and said, "this is all f\*\*\*\*d up; something's not right here." She said DUSM ██████ told her that Band had directed him to make telephone calls to find out about weather conditions, such as humidity levels, at Fenway Park and that he and DUSM ██████ were told to leave the press box. She said DUSM ██████ shook his head as

DUSM [REDACTED] spoke.

DUSMs [REDACTED] and [REDACTED] told us that near the end of the game when they returned to the parking area, they discovered that their USMS vehicle had been moved from the place that Band had told them to park to another place in the parking area. DUSM [REDACTED] believed that they had left the keys with the vehicle. He said an irate event supervisor demanded they get it out of the area or it would be towed. He said that DUSM [REDACTED] then moved the USMS vehicle out onto the street.

DUSMs [REDACTED] and [REDACTED] said that there was a Boston Police Department motorcycle escort of about four to six bikes staged in the parking area near the limousines for McCarver and Buck. They said that after the game, Band and another unknown individual who had been assisting Band with statistics got into their USMS vehicle and that the motorcade then departed the ballpark area, with the Boston Police motorcycles in the lead. DUSM [REDACTED] said their USMS vehicle fell in behind McCarver's and Buck's limousines, followed by additional police motorcycles. DUSMs [REDACTED] and [REDACTED] said that the police motorcycles employed emergency lights and sirens, and that they also activated the emergency lights on their USMS vehicle as well. DUSM [REDACTED] said that the motorcade proceeded to the Four Seasons Hotel, where McCarver's limousine broke off and then to a hotel on Tremont Street, where Buck's limousine and the police motorcycles departed the motorcade, leaving only the USMS vehicle. He said that he and DUSM [REDACTED] then drove Band and his unidentified assistant to the Hyatt Regency Hotel in Cambridge, after which he and DUSM [REDACTED] drove back to the USMS office.

DUSMs [REDACTED] and [REDACTED] said they did not charge any time for this work.

### *OIG Interview of Band*

Band asserted in his OIG interview that he never asked Bonner for a USMS escort for the Fox broadcasters. Band said that he called Bonner sometime prior to the World Series, "perhaps" in September or October, with an offer of several passes to the event. Band said he had been in the Boston USMS office earlier in the year on a case that he was working on. He said he had spoken at that time with some DUSMs who knew he was a statistician and who asked that he get them into a game sometime in the future. Band told the OIG that he could not identify the DUSMs who asked him this.

Band said that the World Series passes he offered to Bonner were for Bonner to dispose of as she saw fit, possibly to pass to her DUSMs to improve morale. Band said the passes did not entitle the holder to a specific seat, but allowed the holder access to the stadium and press box. Band stated that apparently Bonner found some DUSMs who wanted to go to the games and put the DUSMs in touch with him so that he could get them the passes by meeting them at Fenway Park. Band said that when the DUSMs came to Fenway Park on the evenings of the World Series games, they were not there to escort the broadcasters or transport him to his hotel. Band said that they were there to see the game and "perhaps" help him with some of his tasks, such as to "carry boxes" or "stat sheets up to the booth," if necessary. Band said that the DUSMs remained with him in the press area for a while, until they were asked to leave. Band said that the DUSMs were free to move about the stadium and leave if they wanted, and that they came back to the press area at the end of the game for reasons unknown to him.



Band said that it was only at the end of each of the two games that he asked the DUSMs for a ride. Band said that he and the DUSMs simply joined up their USMS vehicle with a motorcade that had already been arranged by somebody else. Band said he did not know who had set up the motorcade. Band claimed that no colleague of his was transported in the USMS vehicle after the second game.

Band said he knew that the DUSMs, whom he considered to be off-duty, had used USMS vehicles to attend the games and transport him but he said that he saw nothing improper about such activity.

### ***OIG Conclusions Regarding Use of USMS Resources at World Series Games***

We concluded that Band and Bonner both committed misconduct by using DUSMs and USMS resources to assist Band on his personal business at the World Series games.

We believe it was misconduct for Band to request DUSMs assist him at the games and escort him from the games, and that Band knew his actions constituted misconduct and an ethics violation, particularly given his position at the USMS. We also concluded that Band was not truthful in his statements to the OIG.

We also believe that Bonner committed misconduct by assigning DUSMs to assist Band on his personal business as a statistician. We did not find her argument persuasive that it was appropriate to assign the deputies to the game partly in an effort to assist the DUSM working on the JTTF at the game. No DUSM was at the first game. Although Chief DUSM ██████ said he told DUSM ██████ that a JTTF DUSM would be at the game, neither Bonner nor any other USMS personnel notified the DUSM on the JTTF that other DUSMs would be attending the games, and none of the DUSMs tasked with escorting Band said that Bonner or anyone else told them to contact the DUSM on the JTTF at the game. Moreover, Bonner admitted that before Band's request, she had no plans to have additional DUSMs attend the games. We believe that Bonner's actions were inappropriate, and that her assignment of DUSMs to escort Band on personal business was a misuse of government resources.

### **Band Solicited USMS Assistance for Other Sporting Events**

We also determined that Band regularly solicited U.S. Marshals around the country to provide him assistance and escorts when he worked at other sporting events as a statistician. As discussed in this section of the report, on several occasions at Band's request, other U.S. Marshals provided Band transportation, in USMS vehicles and on government time, in connection with sporting events. While we did not conduct an exhaustive survey of all the times that Band worked at sporting events as a statistician or solicited USMS support for these events, we investigated several such incidents that came to our attention during the course of our investigation. We concluded that Band regularly and inappropriately solicited and received assistance of USMS resources for his personal activities, in violation of government ethical rules.

## NFL Playoff Game in Tampa, January 6, 2008

On Sunday, January 6, 2008, a National Football League (NFL) playoff game between the Tampa Bay Buccaneers and the New York Giants took place at Raymond James Stadium in Tampa, Florida. The game was broadcast by Fox Sports. [REDACTED], Vice President, Business and Legal Affairs, Fox Sports, confirmed for the OIG that Band worked at the game in Tampa as a paid statistician for Fox Sports.

### *Band's Request for USMS Assistance*

Thomas Hurlburt, the U.S. Marshal for the Middle District of Florida, told the OIG that Band telephoned him sometime prior to the NFL playoff game that took place in Tampa in January 2008. Hurlburt said Band told him he was working the game and asked Hurlburt if he would like to attend the game. Hurlburt said he declined Band's offer. Hurlburt said he knew Band was a part-time sports statistician and was attending the game in that capacity, not on behalf of the USMS. Hurlburt said Band also asked for USMS assistance in getting out of the stadium after the football game, saying "we need to get to the airport." Hurlburt said he did not know who would be with Band.

Hurlburt said he referred Band to Chief DUSM [REDACTED] and instructed him to assist Band. Hurlburt said [REDACTED] reported back to him that he tasked DUSM [REDACTED] with assisting Band. Hurlburt said he did not envision that Band would be transported in a USMS vehicle, only that the USMS would facilitate with Tampa police authorities Band's vehicle exiting from the stadium area. Hurlburt also said that if Band had specifically requested transportation from the airport to the hotel, he would not have authorized such activity.

Chief DUSM [REDACTED] told the OIG that Hurlburt said Band had contacted him and needed some assistance in Tampa having to do with a football game. [REDACTED] said Hurlburt told him to contact Band to find out what he wanted, and Hurlburt instructed [REDACTED] to help Band if he was able to do so.

Chief DUSM [REDACTED] said he telephoned Band, who told him he had a "job" or "gig" as a statistician for Fox Sports and was coming to Tampa with some Fox broadcasters for the NFL playoff game. He said Band told him that he needed someone to help facilitate him and the broadcasters getting past the crowds when the game was over. He said he asked Band to be more specific about what he wanted and whether he might be asking for a police motorcycle escort. Chief DUSM [REDACTED] said Band told him he was not asking for a motorcycle escort but that he needed help facilitating his departure from the stadium area following the football game to beat the traffic. He said he tasked DUSM [REDACTED], who had contacts with Tampa police personnel, with handling the matter.

Chief DUSM [REDACTED] said when he called Band to inform him that he had assigned DUSM [REDACTED] to assist him, Band seemed to expect that the DUSM would be going out to the stadium. Band told [REDACTED] that he would get DUSM [REDACTED] into the broadcast booth. [REDACTED] said he told DUSM [REDACTED] to contact Band, expecting that he would facilitate Band's exit from the stadium with Tampa police authorities and that he might get to watch the game from the broadcast booth. [REDACTED] said that in his

contacts with Band, Band never asked him for a ride from the airport and told him he did not need transportation. He said his understanding of the mission was that DUSM [REDACTED] was to meet Band at the football game and introduce him to a Tampa police contact, who would facilitate Band's egress from the stadium area.

DUSM [REDACTED] told the OIG that Chief DUSM [REDACTED] tasked him with facilitating the departure of Band and some broadcasters from the stadium following the football game by coordinating with the Tampa police department. He said that when he telephoned Band after speaking with [REDACTED], however, Band spoke as if it were implied that he was to pick Band up at the airport and take him to the stadium. Band told DUSM [REDACTED] what he was wearing and provided his flight and gate information. DUSM [REDACTED] said that because Band was with the USMS OGC, and "was the guy who advises us on ethics" he concluded that there was no problem in doing as Band asked. He said he did not consult with Chief DUSM [REDACTED] after speaking with Band to determine whether he was authorized to pick Band up from the airport.

#### ***Deputy U.S. Marshal Assists Band***

DUSM [REDACTED] said he met Band at the Tampa airport on the day of the football game and transported Band in his USMS OGV from the airport to the stadium. He said he remained with Band in the press area for the duration of the game and coordinated with Tampa police personnel to get Band and the broadcasters, Troy Aikman and Joe Buck, out of the stadium area at the end of the game.

DUSM [REDACTED] said that when the game ended, he transported Band in his OGV, leading Aikman and Buck in separate limousines, out of the stadium area and back to the airport. He said he used emergency lights briefly, but no siren, and that a marked Tampa police vehicle assisted by blocking off an intersection until the three vehicles passed through it.

DUSM [REDACTED] said he did not charge any time to the matter because he did not know what to charge it to and had received no instruction from anyone on whether or how to charge time for the event. He said that months later, following news coverage from Boston about Band's use of USMS at the World Series, Chief DUSM [REDACTED] asked him whether Band or anyone else had been in his OGV and he told [REDACTED] that Band had.

Band was interviewed by the OIG prior to the development of information concerning the Tampa football event and was not questioned by the OIG concerning it. However, when the OIG asked Band whether he previously provided or made available passes to DUSMs for any football games, Band said that he did not remember. We also asked Band if there were any other sporting events where he solicited USMS assistance, and Band stated he did not remember.

#### **College Football National Championship Game in Phoenix, January 8, 2007**

On Monday, January 8, 2007, the National Collegiate Athletic Association National Championship Game between Ohio State University and the University of Miami took place at University of Phoenix

Stadium, Phoenix, Arizona. The game was broadcast on television by Fox Sports. [REDACTED] Vice President, Business and Legal Affairs, Fox Sports, confirmed for the OIG that Band worked the college football championship game in Phoenix as a paid statistician for Fox Sports.

### ***Band's Request for USMS Assistance***

David Gonzales, the U.S. Marshal for the District of Arizona, told the OIG that sometime prior to the 2007 college national championship football game in Phoenix, Band called him and told him he was coming to Phoenix with some broadcasters to work the game as a statistician. Gonzales said Band asked for assistance getting from the hotel to the game and then back to the hotel after the game. Gonzales said he referred the matter either to Chief DUSM [REDACTED] or Assistant Chief DUSM [REDACTED] to assist Band, with the understanding that DUSMs would transport Band and the broadcasters in a USMS vehicle and that Band specifically asked for this transportation. Gonzales said that many "VIPs" were coming to the event and that his office was part of a law enforcement committee, the Joint Operations Center (JOC), involved in facilitating the event, including "VIP" movements. Gonzales also said that when the USMS OGC calls and asks for assistance, if he can help them he would. Gonzales said he felt comfortable with his actions. He said that he was extending "a courtesy" to Band, an OGC official making the request, and also that it was standard procedure for the JOC to be involved in escorting VIPs.

Chief DUSM [REDACTED], who is now retired, told the OIG that he had no recollection of the request to assist Band.

Assistant Chief DUSM [REDACTED] told the OIG that in approximately mid- to late-December 2006, Chief DUSM [REDACTED] told him that they had been asked by Band, "a headquarters guy who also works as a statistician for Fox Sports," to transport Band from his hotel to the football game and back again. Assistant Chief DUSM [REDACTED] said that [REDACTED] told him to get two DUSMs to take care of it.

Assistant Chief DUSM [REDACTED] said he selected DUSMs [REDACTED] and [REDACTED] to handle the matter. [REDACTED] said he did not understand what the precise role of the DUSMs would be or whether they would be attending the game. He said he recalled no particular instructions he might have given to the DUSMs. However, [REDACTED] said he assumed that the DUSMs would use a USMS vehicle. [REDACTED] also said he believed Band would be the sole passenger in the USMS vehicle.

### ***Deputy U.S. Marshals Assist Band***

DUSMs [REDACTED] and [REDACTED] told the OIG that they were asked to work a detail involving an individual from the USMS OGC. They said they were told to pick up Band at the Phoenix airport and bring him to his hotel and then to the football game.

DUSM [REDACTED] said he and DUSM [REDACTED] picked up Band at the Phoenix airport on the day prior to the football game and drove Band in a USMS vehicle to his hotel in Scottsdale, Arizona. He said that another individual, a former Assistant United States Attorney (AUSA) named [REDACTED] was traveling with Band and that they also drove [REDACTED] in the USMS vehicle. DUSM [REDACTED] recalled that at

Band's direction they first drove Band and former AUSA ██████ to a function at a resort hotel, possibly the "Phoenician," in East Phoenix. DUSM ██████ said that he and DUSM ██████ remained in the vehicle while Band and former AUSA ██████ attended the event.

DUSMs ██████ and ██████ said that on the following day, they picked up Band and former AUSA ██████ at their hotel and drove them to the football game in a USMS vehicle. DUSM ██████ said that after they arrived at the stadium, he had to drive either Band or former AUSA ██████ back to the hotel to retrieve a forgotten item. DUSM ██████ then returned the passenger to the stadium. DUSMs ██████ and ██████ said that they accompanied Band to the press booth. DUSM ██████ said Band told them to do as they pleased, but to remain available.

DUSMs ██████ and ██████ said that at some point, Band asked DUSM ██████ to look up some statistics in a newspaper Band handed to him. DUSM ██████ said Band also handed him some paper and told him to make a grid or chart for Band's use in tracking statistics during the game. DUSM ██████ said he and DUSM ██████ then began to wonder what this was all about. DUSM ██████ said to the OIG, "It was very strange."

DUSMs ██████ and ██████ said that when the game ended they drove Band and former AUSA ██████, whom DUSM ██████ called Band's "sidekick," back to their hotel in Scottsdale. DUSM ██████ said they did not use emergency lights or sirens and had no police escort.

DUSMs ██████ and ██████ said that they charged overtime to the event because, at the time, they were not eligible for LEAP.

When contacted by the OIG, ██████ confirmed that he was a former Assistant United States Attorney. He acknowledged only that he assisted Band as a sports statistician, but he declined to be interviewed by the OIG, stating, "I don't choose to answer any questions."

Because Band was interviewed by the OIG prior to the development of information concerning the college football championship game, he was not questioned by the OIG concerning it. When the OIG asked Band whether he previously provided or made available passes to DUSMs for any football games, Band said that he did not remember. We also asked Band if there were any other sporting events where he solicited USMS assistance, and Band stated he did not remember.

### **Super Bowl in Phoenix, February 3, 2008**

On Sunday, February 3, 2008, the 2008 NFL Super Bowl game was held at the University of Phoenix Stadium in Phoenix Arizona. The game was broadcast on television by Fox Sports, with Joe Buck and Troy Aikman as announcers. ██████, Vice President, Business and Legal Affairs, Fox Sports, confirmed for the OIG that Band worked at the 2008 Super Bowl in Phoenix as a paid statistician for Fox Sports.

### *Band's Request for USMS Assistance*

Arizona U.S. Marshal Gonzales told the OIG that Band telephoned him sometime prior to the 2008 NFL Super Bowl and said that he was coming out to work the game as a statistician with Joe Buck and Troy Aikman and again needed assistance. Gonzales said that Band also contacted Chief DUSM [REDACTED] regarding the Super Bowl. Gonzales said Chief DUSM [REDACTED] assigned DUSM [REDACTED] to transport Band and the broadcasters between their hotel and the stadium. Gonzales said that he understood that Band and the broadcasters would be transported in a USMS vehicle. Gonzales said that, as with the college football national championship game in 2007, many "VIPs" were coming to the event and the USMS was again part of the JOC. Gonzales also said DUSMs were assigned to transport Band as a courtesy to Band, a USMS OGC official.

Chief DUSM [REDACTED] told the OIG that sometime in approximately January 2008, he received a telephone call from Band, who said he was having a difficult time getting his telephone calls returned from individuals in the District of Arizona, including U.S. Marshal Gonzales. Band told [REDACTED] that he needed support for a Fox Sports crew coming with him to the Super Bowl in Phoenix. Band explained that he needed someone to drive him to the event.

Chief DUSM [REDACTED] told the OIG that he spoke about Band's request with Assistant Chief DUSM [REDACTED], who had been serving as acting Chief DUSM from about October 2007. [REDACTED] said that [REDACTED] told him that DUSMs [REDACTED] and [REDACTED] had assisted Band a year earlier when Band attended the college football national championship game. [REDACTED] said [REDACTED] said that he "had it covered" and that he would take care of it again for the Super Bowl.

Assistant Chief DUSM [REDACTED] told the OIG that during the weeks leading up to the 2008 Super Bowl, he was the Acting Chief DUSM and that sometime in the beginning of January 2008, USM Gonzales told him, "remember Joe Band . . . he's coming out and wants us to get him to the [Super Bowl] game." [REDACTED] said he understood it would be as it had been a year ago for the college football national championship game – that is, the USMS would provide transportation for Band from his hotel to the game and then back to the hotel. [REDACTED] said he tasked DUSM [REDACTED] with the matter again, this time to work alone, because DUSM [REDACTED] was assigned as a canine officer and was unavailable.

Chief DUSM [REDACTED] said Band telephoned him again a few weeks later and said he was having a hard time getting in touch with DUSM [REDACTED]. [REDACTED] said he contacted DUSM [REDACTED] and told him to contact Band regarding Band's request for assistance. He said DUSM [REDACTED] responded that he had handled a similar matter last year and agreed to call Band, although DUSM [REDACTED] also said he was not enthusiastic about doing it again. [REDACTED] said DUSM [REDACTED] told him that he had "just stood around" at the 2007 game with Band.

DUSM [REDACTED] told the OIG that DUSM [REDACTED] informed him that Band had called DUSM [REDACTED] and asked him if we [DUSMs [REDACTED] and [REDACTED]] could repeat our services for Band in connection with the Super Bowl. DUSM [REDACTED] said DUSM [REDACTED] told him that he was not going to do it. DUSM [REDACTED] said that he did not want to do such a detail again either and did not think the assignment was

“detail worthy.” DUSM ██████ said that he was then approached by Assistant Chief DUSM ██████ or another supervisor and told to contact Band and work out the details, which he did.

### *Deputy Marshal Assists Band*

DUSM ██████ said that a day before the Super Bowl game, he picked up Band and former AUSA ██████ at the Phoenix airport in a USMS vehicle and drove them to the stadium, where DUSM ██████ had to pick up his law enforcement credential to gain access to the football game on the following day. DUSM ██████ then drove Band and ██████ to their hotel in Scottsdale.

On the day of the Super Bowl, DUSM ██████ picked up Band at the hotel in a USMS vehicle. He said Band got into the vehicle and told him that they were also going to pick up Fox broadcasters Troy Aikman and Joe Buck. DUSM ██████ said Band directed him to drive to a resort hotel in Phoenix, possibly Camelback, where he picked up Aikman and Buck as well as another individual apparently with Fox Sports.

DUSM ██████ said he drove the passengers to the stadium and had to park in a general parking lot. He accompanied the broadcast team to the broadcast booth, where he remained until near the end of the game, when he left to make arrangements to get the vehicle staged for the passengers.

DUSM ██████ said that because the vehicle was in the general parking lot, he worked with stadium security to secure golf carts to ride Aikman, Buck, and the others when the game was over through the general parking lot to the USMS vehicle. DUSM ██████ said he did not want to have to walk them through the crowded parking lot and risk their personal safety.

DUSM ██████ said that when the game ended, Buck was not with Aikman and Band. DUSM ██████ said he walked with Aikman and Band to the parking lot and got them onto the golf carts, and he directed the stadium personnel operating the carts toward the USMS vehicle. He said there were fans in the parking lot who observed Aikman and began calling to him and moving towards the USMS vehicle. DUSM ██████ said that Aikman called Fox Sports personnel and requested a separate vehicle (an SUV) for himself, and that Aikman told DUSM ██████ that he wanted DUSM ██████ to drive the SUV. DUSM ██████ responded to Aikman that he could not do so and persuaded Aikman to proceed to the USMS vehicle. DUSM ██████, Aikman, and Band got into the USMS vehicle and drove from the lot, followed by a vehicle carrying Joe Buck. DUSM ██████ said that upon exiting the stadium, he briefly activated his emergency lights and led Buck’s vehicle to the Phoenix airport. DUSM ██████ said he then drove Band and Aikman to Aikman’s hotel, where Aikman got out of the vehicle.

DUSM ██████ said Band then told him he had someone from Fox that he needed to speak with and directed DUSM ██████ to drive him to a hotel in Phoenix where there was a gathering in progress for Fox staff. DUSM ██████ waited for about ten minutes while Band spoke with some individuals there. DUSM ██████ said he then drove Band to his hotel.

DUSM ██████ said he believed he charged several hours to LEAP in connection with this work. He

said that afterwards he told [REDACTED] he thought “the whole thing was silly” and believed the detail was “an inappropriate use of his time.”

Assistant Chief DUSM [REDACTED] said that several days following the Super Bowl game, DUSM [REDACTED] told him that two broadcasters, Troy Aikman and Joe Buck, had been in the USMS vehicle with Band after Band had declared, “these guys are coming with us – they need a ride.” He said he assumed that DUSM [REDACTED] transported them, with Band, between the hotel and the stadium. He said he did not report the details given to him by DUSM [REDACTED] to Gonzales or to Chief DUSM [REDACTED]. [REDACTED] said he believed that the information might have already been known to them.

### *Band's interview*

When the OIG asked Band whether he had received a USMS escort at the 2008 Super Bowl in Phoenix, Band responded, “I don’t remember.” When asked by the OIG whether he received a ride from the USMS at the Super Bowl, Band replied, “I don’t remember.” When asked by the OIG whether Troy Aikman received a USMS escort at the Super Bowl, Band responded, “I don’t remember.”

We also asked Band if there were any other sporting events where he solicited USMS assistance. Band stated he did not remember.

### **Major League Baseball All Star Game in San Francisco, July 10, 2007**

Band also worked at the July 2007 Major League Baseball (MLB) All Star game in San Francisco as a paid statistician for Fox Sports.

### *Band's Request for USMS Assistance*

U.S. Marshal Federico Rocha from the Northern District of California told the OIG that sometime prior to the 2007 MLB All Star game in San Francisco at AT&T Park, Band telephoned Chief DUSM [REDACTED] seeking a USMS ride to the game, where Band would be working as a statistician.

Rocha learned from Chief DUSM [REDACTED] that Band was offering access to the game and the opportunity to meet Fox broadcaster Joe Buck and others to DUSMs who would drive him to the game. Rocha said he told [REDACTED] that if Band was on personal business, which apparently he was, “we cannot get involved . . . we can’t do that.”

Rocha said Band then called him directly, telling Rocha that he was coming to San Francisco to attend the All Star game and asking for Rocha’s recommendation as to how best to get to the baseball game. Rocha said he told Band to take the trolley or a cab to the game.

Rocha said that in the same conversation he asked Band whether, while he was in San Francisco, he could come to the USMS office to make a presentation to Rocha’s staff about USMS Headquarters or OGC matters. Rocha said he made the request because the personnel in his office saw little of USMS



Headquarters officials. Rocha said he offered Band transportation from his hotel to the USMS office for this official purpose, but that Band declined the invitation to make a presentation.

## **Declination of Prosecution**

Assistant United States Attorney [REDACTED] District of Massachusetts, declined prosecution of Band for wire fraud and theft of honest services fraud under 18 U.S.C. §§ 1343 and 1346. In addition, Assistant United States Attorney [REDACTED] Eastern District of Virginia, declined prosecution of Band for false statements under 18 U.S.C. § 1001.

## **Responses to Report**

On November 17, 2008, the OIG provided a draft of this report to the USMS for its comments, and for comments from the USMS personnel who the report concluded had committed misconduct.

We received responses from the USMS, Band, Bonner, Hurlburt, and Gonzales, and their responses are included in the Appendix to this report. This section summarizes those comments and responds briefly to each of them.

In its December 5, 2008, response, the USMS agreed with the OIG's recommendation and stated that additional steps would be taken "to ensure all [USMS] employees are aware of the need for formal authorization of outside employment or activities." The USMS also stated that it recognized that the USMS needed to place greater emphasis on the periodic review and update of such authorizations so that it can maintain more comprehensive oversight of outside activities by its employees. The USMS's response stated that it expected to implement policy changes by the end of January 2009 to strengthen its procedure and oversight on these issues.

After three extensions of time to comment on this report, Joseph Band provided his response in a January 5, 2009, letter from his attorney. In general, his comments do not address the specifics of his conduct, or the detailed factual statements about his conduct, that are described in this report. Rather, his comments provide his own character reference, provide his assessment of the value of his outside activities, deny that he had control over any government vehicles, and complain that he was not able to examine witnesses against him. However, Band's response offers nothing specific or persuasive to rebut the report's findings and conclusions.

For example, in his response Band mischaracterizes the misuse of government resources that were the subject of this investigation. Band also complains that he was not given statements of persons interviewed and was not advised of interviews that corroborate his "assertions and conduct." In addition, he asserts that he "does not know if witnesses were intimidated or threatened or just suffered from a bad memory." However, Band had more than a month to review this report and the detailed evidence set forth in it. The evidence gathered from the U.S. Marshals and deputy U.S. Marshals interviewed by the OIG, and detailed in the report, showed Band's consistent pattern of misconduct in misusing USMS

resources while working as a sports statistician. Band's response does not address any of that evidence. There is also no basis for Band's comment that he "does not know if witnesses were intimidated or threatened or just suffered from a bad memory." Moreover, Band does not offer any specifics about what he believes the witnesses stated inaccurately. In short, we do not believe that Band's response warrants any changes to the findings in this report.

The comments of Yvonne Bonner, the former Acting U.S. Marshal in Massachusetts, are also included in the Appendix. She stated in her response that her decision to assign DUSMs to assist Band at the World Series "was reasonable under the circumstances then extant and was within the purview of my authority as Acting U.S. Marshal." However, notwithstanding her response, which was similar to the statements she made in her OIG interviews, we were not persuaded that Bonner's assignment of DUSMs to escort Band on his personal business was an appropriate use of government resources, even if the World Series games presented a potential terrorist target. As noted in the report, prior to Band's request Bonner had not suggested that additional DUSMs should be assigned to the event, and the DUSMs who escorted Band did not even make contact with the DUSM assigned to the game as part of the Joint Terrorism Task Force. As discussed in the report, we did not find convincing Bonner's attempt to justify assigning DUSMs to escort Band on his personal business.

In his response, Thomas Hurlburt, the U.S. Marshal from the Middle District of Florida, stated that he received Band's "request for assistance in exiting the stadium to avoid traffic," and had asked his chief deputy if there was a way "anyone with Tampa P[olice] D[epartment]" could help Band get out of the stadium after the game. Hurlburt stated that he did not direct, authorize, order, or suggest that anyone transport or escort Band or anyone else. However, Hurlburt's response acknowledged that the use of USMS resources to take Band to and from the airport was improper. He stated "what I regret most is a deputy marshal was put in a circumstance where he was take advantage of by Mr. Band." Hurlburt's response stated "For that I must accept full responsibility," and he stated that Band caused him and the USMS "great embarrassment."

As discussed in the report, however, we believe that Hurlburt shares responsibility for this misuse of government resources. Band asked Hurlburt for help getting from the stadium after the game, stating "we need to get to the airport." We believe that Hurlburt should not have made efforts to accommodate Band in conducting his personal business, and that his instruction to his subordinate to assist Band led to the misuse of USMS resources.

We also received a response from the U.S. Marshal for Arizona, David Gonzales. His letter asserted that he did not do anything improper and that he was shocked and outraged that the OIG report "misrepresent[s] the facts and draw[s] conclusions that are targeted at making me appear to have done something improper rather than looking at Joseph Band, an attorney with the USMS Office of General Counsel, who acted inappropriately and misused his position to secure benefits he knew were improper." For example, Gonzales wrote that he did not at any time authorize the transportation of Band, and he also argued that "dignitary protection" was a core function of the "Joint Operation Center" (JOC) in connection with large scale events such as the Super Bowl and the NCAA championship football game. Gonzales stated that when asked by Band to assist with moving on-air television personalities in and out

of the venue, the USMS supervisors reacted in accordance with their roles and responsibilities under the JOC.

In an attempt to support this argument, Gonzales provided to us various briefing documents about the JOC's dignitary protection function. The documents appear to have been prepared in connection with the 2008 Super Bowl game in Phoenix. However, after review of Gonzales's response and these documents, we did not find his argument persuasive.

We agree with Gonzales's statement that Band was primarily responsible for the misuse of government resources, but we believe that Gonzales and the other U.S. Marshals also committed misconduct by facilitating this inappropriate use of USMS resources to assist Band in his private work as a sports statistician.

We do not believe the documents provided by Gonzales support his claim that Band or the television broadcasters were "dignitaries" eligible for JOC services. Nothing in the documents suggested that these type of individuals were "dignitaries" entitled to JOC protection in connection with such events. Moreover, according to the documents Gonzales provided, a centralized process was established by the law enforcement agencies on the JOC to address requests for "dignitary protection," and the decision as to what protective services were to be provided, and by what agency, was to be made by a subcommittee of the JOC. Yet, neither the television network, Gonzales, nor the USMS ever made a request to the JOC for dignitary protection for Band or the television broadcasters, as the JOC documents submitted to us by Gonzales required.

In addition, in his OIG interview Gonzales acknowledged if he had to do this over again, he would have had the television network make an official request, either to the USMS or the JOC, for an escort for the broadcasters to and from the game for security reasons so that the transportation of the broadcasters would be covered under the JOC.

Gonzales's response also stated that he "did not authorize, approve, plan, or direct any Deputy Marshals to assist Mr. Band[]" in connection with either the college championship game or the Super Bowl. However, his statements are contradicted by what he told the OIG when we interviewed him about his assistance to Band in connection with those events. During his OIG interview, Gonzales acknowledged understanding that Band's request for the 2007 college championship game "would entail, you know, having a Deputy pick up [Band] and the two VIP type dignitaries, taking them to the game, and after the game taking them back to the hotel." As noted in the report, with this knowledge Gonzales said he referred the matter either to his chief deputy or the assistant chief deputy to assist Band.

With respect to the 2008 Super Bowl, Gonzales also stated that he did not direct anyone to assist Band and that he "was not aware that Mr. Band had used his position and relationship with the USMS to secure transportation from the District of Arizona until after the fact." However, when interviewed by the OIG Gonzales acknowledged that Band had contacted him about a month to a month and a half before the Super Bowl, told Gonzales he was coming to the game with the television broadcasters, and requested help. Gonzales said he told Band, "let me know what's going on with this thing." Gonzales

also said that while he did not hear from Band again, his chief deputy told him several weeks later, before the game, that Band had called the chief deputy requesting assistance at the Super Bowl. Gonzales said the chief deputy assigned a deputy Marshal to assist Band, and Gonzales said in the interview he learned later what that assistance entailed.

Finally, Gonzales stated that it is well known that Band frequently used his position and connections to secure assistance from numerous USMS districts and other USMS personnel, and Gonzales stated that he and the other districts examined in our report were “singled out” in the OIG investigation. As we acknowledged in the report, the OIG did not conduct an exhaustive investigation of all instances where Band may have requested and received USMS transportation assistance while attending sporting events as a paid statistician. Initially, the OIG received allegations about Band’s misuse of USMS resources in connection with the 2007 World Series in Boston. We investigated those allegations and in the course of doing so learned of similar allegations in other specific districts. We pursued these other alleged incidents, as described in this report. We followed the evidence where it lead, and we reported the results of our investigation. Contrary to Gonzales’s assertion, no district or U.S. Marshal was “singled out” for investigation.

In sum, we believe that the findings in our report are fully supported, and we are not persuaded by the responses we received from Band and the U.S. Marshals to revise our report and our findings.

## SUMMARY

The OIG's investigation found that Band repeatedly solicited and received USMS assistance in connection with his off-duty, personal work as a statistician at sporting events.

We concluded that Band and Bonner used DUSMs and USMS resources to transport Band and others from two 2007 World Series games in Boston. We concluded that Band and Bonner committed misconduct in requesting and permitting the use of USMS resources for Band's personal business. We also found that Band was not credible or truthful when explaining his actions.

The use of USMS resources violated government ethics standards regarding the misuse of position, as well as USMS policies that specifically prohibit the use of an OGV while engaging in any personal business or activity while on a non-duty status; for transporting any person not engaged in official government business or not otherwise being transported in the "interest of the government"; or for any purpose that would violate law, regulation or policy. These policies were promulgated by USMS OGC, the office where Band worked. Band was responsible for advising USMS personnel on ethics issues, yet he repeatedly and clearly committed ethics violations in his use of USMS resources for his personal work.

The OIG also identified other instances in which Band obtained escorts and transportation for himself, broadcasters, and others in USMS vehicles while working as a paid sports statistician. These additional instances also violated the standards of ethical conduct regarding the misuse of position and USMS policy directives regarding the use of OGVs.

In only one case that we investigated did a U.S. Marshal decline Band's improper request for assistance. In that case, U.S. Marshal Rocha rejected Band's request to assign DUSMs to provide him transportation for his personal business as a sports statistician, telling Band to take a taxi or a trolley to the game. Rocha should be commended for his adherence to the high ethical standards required of USMS and DOJ employees. By contrast, other U.S. Marshals and Chief Deputy Marshals allowed the use of DUSMs and USMS resources to assist Band on his personal business, which we believe was improper.

Finally, while the focus of this investigation was not whether Band required or had obtained authorization for his outside employment as a sports statistician, we were concerned about what appeared to us to be the USMS's lax attitude about authorization for outside activities, and its failure to ensure that Band was not misusing government resources for his extensive outside activities. The OIG recommends that the USMS determine whether its policies concerning outside employment clearly articulate when outside employment is permissible and under what circumstances written approval is required. We recommend further that USMS policies ensure that employees engaged in outside employment, whether or not written approval is required, are expressly advised that they are not permitted to use USMS resources while engaged in such outside employment. We also recommend that USMS authorization for outside employment be subject to annual or periodic renewal.

The OIG has completed its investigation and is providing this report to the USMS for appropriate action.

# **APPENDIX**



U.S. Department of Justice

United States Marshals Service

*Office of the Director*

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Washington, DC 20530-1000

December 5, 2008

The Honorable Glenn A. Fine  
Inspector General  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530

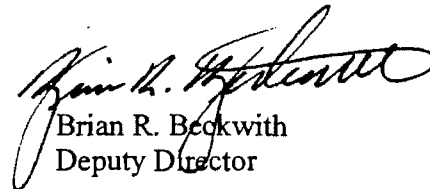
Dear Mr. Fine:

The U.S. Marshals Service (USMS) has reviewed the Synopsis and Summary of Investigation for Case No. 2008000954, particularly as it relates to the concerns by the Office of the Inspector General regarding the USMS' procedures for authorization and oversight of employees' outside employment or activities.

The USMS agrees additional steps should be taken to ensure all employees are aware of the need for formal authorization of outside employment or activities. In addition, we recognize greater emphasis is needed on the periodic review and update of such authorization so the USMS can maintain more comprehensive oversight of outside activities by its employees. The Human Resources Division and the Office of General Counsel will work together to promulgate policy changes that will strengthen our procedure and oversight. We expect such changes will be completed by the end of January 2009.

If you have any questions, please feel free to contact me.

Sincerely,

  
Brian R. Beckwith  
Deputy Director



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January 5, 2009

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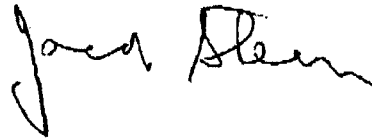
Glenn A. Fine, Esq.  
Inspector General  
United States Department of Justice  
950 Pennsylvania Avenue, N.W., Room 4712  
Washington, DC 20530

Re: Case No. 2008000954

Dear Mr. Fine:

I enclose the Comment of Joseph Band in the above matter. This replaces the initial submission.

Sincerely,



JAS/rf  
Enclosure

**Comment of Joseph Band on the  
U.S. Department of Justice's Office of the  
Inspector General's Report of Investigation  
Dated November 13, 2008 and Received by  
Joseph Band on November 25, 2008  
Case No. 2008000954**

1. Joseph Band commenced employment with the United States Government on April 28, 1967. During his tenure he received the following awards: The Attorney General's Award, the President's Award of Outstanding Service, and Awards from state, local and federal agencies. Mr. Band, at all times during his career, has been advised that his work was exemplary. During his career he has been chosen to carry out sensitive assignments that require judgment, discretion, and maturity.

In 2007, Mr. Band received a cash award for exemplary service.

Any derogatory comments that may have been placed in his personnel file were without his knowledge. If such a comment has been placed in his file, he was not given an opportunity to challenge it. He should be able to respond to such statements.

2. Mr. Band, over the years, has worked many hours on matters for which he made no claim. Mr. Band, at all times, advanced the reputation and standing of the United States Marshals Service in the community. Throughout the United States Marshals Service, it was common knowledge that district offices assist with sporting events, television shows, and other activities, as do other Department of Justice components. The Combined Federal Campaign and other events benefited from Mr. Band's efforts. This included his arranging for the personal appearances of well known athletes. Mr. Band, on his own time, assisted for the benefit of the United States Marshals Service, public activities helpful to the community reputation of the Service.

3. Mr. Band, in his personal life, and on his own time, developed as a hobby an expertise in sports statistics. This expertise became known to the media and the United States Marshals Service and throughout the Department of Justice. He was invited to serve as a statistician at media events. In many instances, his expenses exceeded his compensation but this was not a matter of concern. He had a passion for sports, and in addition to his media work, he umpired and coached softball and basketball games of the young and the elderly.

4. He was granted permission by the United States Marshals Services for Government Personnel to take time off for the events he covered. The alleged misuse of resources consisted of telephone calls, e-mails and other such incidentals, and are of no moment in an investigation in which employees spent time. These incidentals frequently occurred in the offices throughout the United States Marshals Service.

5. Mr. Band had no control, knowledge, or decision making discretion with respect to the use of any Government vehicle or Government personnel. In fact, he was not assigned, nor did he use, a Government vehicle.

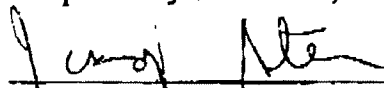
6. The morale in the United States Marshals Service has, from time to time, suffered because of frequent changes in leadership and management. Mr. Band was aware of this and he sought to be helpful in working with the various districts, to encourage a positive feeling among the people he personally befriended and with whom he worked.

7. The evidence and the record of investigation clarify and demonstrate that there is no basis for an allegation of a conflict.

8. Although this investigation took seven months, with at least two investigators, Mr. Band has been given none of the interviews and statements of the persons interviewed. He was not advised of the interviews that corroborate Mr. Band's assertions and conduct. Mr. Band does not know if witnesses were intimidated or threatened or just suffered from a bad memory. In fairness, he should have been given the relevant firsthand evidence.

9. Due process requires that the accused person be given an opportunity to confront witnesses and be given an opportunity to conduct an examination of the witnesses. The burden of proof remains with the Inspector General. In this case, it must fail because of what has been withheld.

Respectfully submitted,



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Jacob A. Stein, D.C. Bar No. 052233  
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(202) 737-7777 \* Fax (202) 296-8312  
E-Mail: [jstein@steinmitchell.com](mailto:jstein@steinmitchell.com)  
Counsel for Joseph Band

January 5, 2009

**OIG REPORT OF INVESTIGATION**  
**CASE NO. 2008000954**

With regard to OIG Report of Investigation, Case No. 2008000954, I would respectfully like to respond to the conclusion drawn by the investigator authoring said report that my decision to assign DUSMs to Mr. Band at the World Series games taking place at Fenway Park was inappropriate.

I have devoted many loyal and hard working years to the United States Marshals Service and I can say without doubt that each and every action and decision during my career has been taken/made in order to advance the goals of the USMS. Certainly, at any point in time, my decisions may be subject to disagreement and may eventually be determined by the Agency to have been incorrect or injudicious. While my decision to assign DUSMs to Mr. Band is, of course, as with any other management decision, subject to 20/20 hindsight, I would respectfully suggest that this decision was reasonable under the circumstances then extant and was within the purview of my authority as Acting U.S. Marshal.

My decision to agree to Mr. Band's request for deputies to get him to and from the World Series games at issue herein was certainly at least partially, if not mostly, motivated by two considerations which I made more than plain during my OIG interview.

First, I had learned and believed that only one USMS representative was officially assigned to duty at the games as a result of her status with the Joint Terrorism Task Force. Being able to assign two more deputies to be present at the games would, in my mind, attain positive notoriety for the USMS with other law enforcement organizations which would certainly have a presence at the events.

Second, it is indisputable that I, as well as my Chief Deputy, [REDACTED] and at least one of the deputies assigned to escort Mr. Band, were present at a security briefing given concerning potential terrorist activity at the games and in the Boston area. Aware that DUSM [REDACTED] would be the lone USMS employee at the World Series games, I saw a way to provide her with USMS support, at minimal cost to the Agency, in the event of any untoward incident at the games.

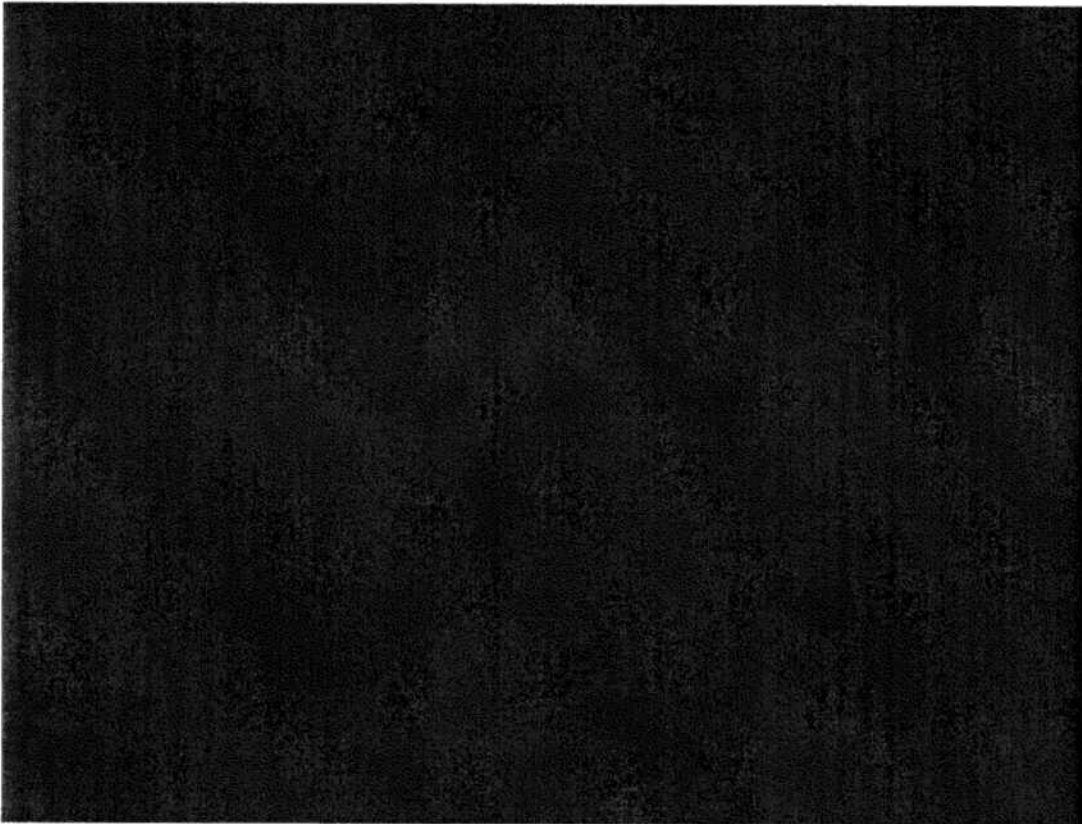
While my decision to provide the four deputies to Mr. Band can certainly be second guessed by the USMS, under the circumstances then and there existing I do not believe my actions were inappropriate..

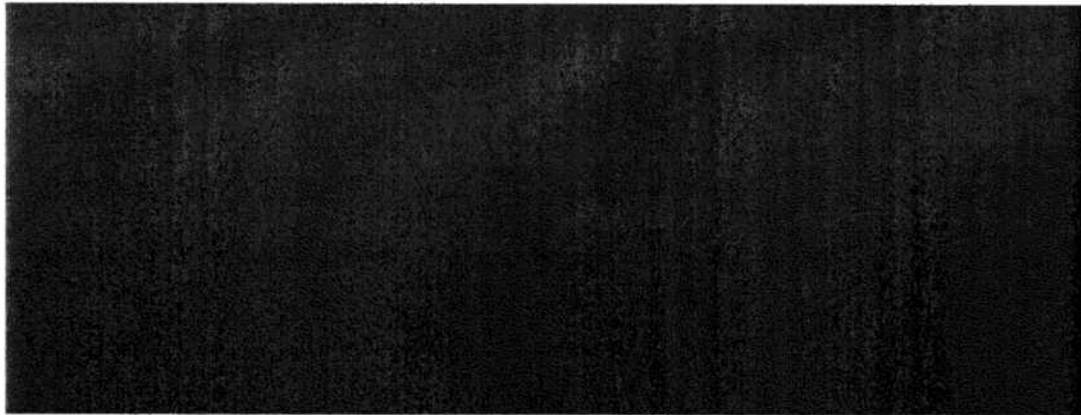
My reasoning with regard to having a visible presence at the World Series games was mentioned no less than five times during my interview. I testified that I saw an "ideal" or "unique" opportunity to give the USMS visible presence at an important event. (See pages 18, 19, 43, 53 and 57 of my OIG interview transcript.) I never wavered during the entire interview in expressing this motive for my decision.

Nor did I waver at any point in my interview in expressing my concern for having only one USMS deputy present at the World Series games and my intent to have some USMS assistance available should the need arise. (See pages 16-18 of my interview transcript concerning the security briefing I attended. See also pages 62-63 of my interview transcript concerning my concern for DUSM [REDACTED] being the lone USMS employee at the games.)

During the OIG investigation my Chief Deputy, [REDACTED] corroborated my concern when he told OIG investigators, "that Bonner also told him that there was going to be one DUSM at the World Series working with the JTTF and that it seemed like a good idea to have two more DUSMs at the ballpark in case a situation arose where they could be of assistance." (See page 10 of the OIG Report of Investigation - Synopsis.)

In reviewing the FBI's "MLB World Series 2007 Threat Assessment" one can see that, though no specific credible threat had been uncovered as of October 24, 2007, the nature of the event itself provided an attractive potential target for terrorist activity. The Threat Assessment contains language which gave me pause and which contributed to my decision to provide for the presence of additional deputies, once given the opportunity, after the phone call from Mr. Band. The Threat Assessment included language such as the following:



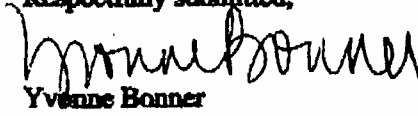


in consideration of the information obtained by myself and my Chief Deputy at the security briefing and through a review of the Threat Assessment, is it any wonder that I had some concern for the prospect of only one deputy representing the USMS at the World Series games at issue herein?

In conclusion, I have always been and continue to be proud of my employment and accomplishments with the USMS. I would respectfully suggest that I have, over many years of service demonstrated myself to be an exemplary and trustworthy employee. As with any of my previous and subsequent actions as an employee of the USMS, my motivation on this occasion was to advance the interests of and the mission of the USMS. Faced with the information I had at my disposal at the time, I would respectfully suggest that my actions were reasonable, justified and of benefit to the interests of the USMS, notwithstanding any possible misconduct or nefarious motive on the part of another employee (Mr. Band).

I thank you for the opportunity to respond to the OIG Report of Investigation herein. Please feel free to contact the undersigned with any questions or for further information.

Respectfully submitted,

  
Yvonne Bonner



U.S. Department of Justice  
United States Marshals Service  
*Middle District of Florida*

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THOMAS D. HURLBURT, JR.  
U.S. MARSHAL

401 W. Central Blvd. #2300  
Orlando, Florida 32801

December 1, 2008

Glenn A. Fine, Inspector General  
US Department of Justice  
950 Pennsylvania Avenue, N.W., Suite 4706  
Washington, D.C. 20530-0001

Reference: OIG Case 2008000954

Sir: The following is my response in regard to the above referenced case.

Sometime in early December or late November 2007 I received a phone call from Joe Band, a senior lawyer in the Office of General Counsel United States Marshals Service.

My association with Mr. Band is totally professional having met him since I became a United States Marshal. In six years I may have had two or three business conversations with him and on one occasion sat with him and other Marshals during lunch at our headquarters in Arlington, Virginia.

Mr. Band asked if I could provide assistance to him in exiting the Raymond James Football Stadium after a playoff National Football League game. He stated he was going to be "working the game." I was not sure as to his actual employment but I thought that he was working in some capacity with the Washington Redskins organization or the National Football League.

As per his request for assistance in exiting the stadium to avoid traffic so that he might immediately return to Washington, I did the following:

I asked Assistant Chief [REDACTED] if there was a way to assist Joe Band. Chief [REDACTED] told me he did not see a problem and he thought we could liaison with the Tampa Police Department to make it happen.

At no time did I direct, authorize, order or suggest that anyone transport or escort Mr. Band and certainly no one else.

It was only after the fact that I learned that Joe Band was a paid employee for Fox Sports and that he had requested to be picked up at the airport and transported back to the same after the game.

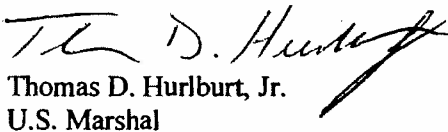
Until I read your agent's report (Agent [REDACTED]) I had no idea that we facilitated Mr. Aikman and Mr. Buck's limousines in returning to the airport. Clearly that was improper.

In conclusion, what I regret the most is a deputy marshal was put in a circumstance where he was taken advantage of by Mr. Band. For that I must accept full responsibility.

My intention in regard to this event was simple: To be helpful to a senior USMS employee by assisting him in exiting a football game to avoid traffic. It had absolutely nothing to do with supporting his off duty employment.

I would never knowingly do anything that would question my integrity or ethical conduct. Mr. Band has caused me and the United States Marshals Service great embarrassment. For that I am sincerely regretful.

Respectfully submitted,

  
Thomas D. Hurlburt, Jr.  
U.S. Marshal



December 1, 2008

Mr. Glen A. Fine  
Inspector General  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Suite 4706  
Washington, D.C. 20530-0001

RE: OIG Investigation #2008000954-Joseph Band et al

Dear Mr. Fine:

As the U.S. Marshal for the District of Arizona, I have become a subject of the above referenced OIG investigation. My involvement is directly related to receipt by your office of information that Joseph Band, requested and received assistance from various U.S. Marshal Service district offices while he was working outside his scope of employment with the USMS ("off duty jobs").

I have reviewed my transcript and the synopsis of the investigative report. I am shocked and outraged by the conclusions. By this letter I hereby request that this letter be made part of the investigative report.

This letter is my response to the synopsis and conclusions of the investigative report for the above investigation. The synopsis and conclusions misrepresent the facts and draw conclusions that are targeted at making me appear to have done something improper rather than looking at Joseph Band, an attorney with the USMS Office of General Counsel, who acted inappropriately and misused his position to secure benefits he knew were improper. It is disingenuous of the investigators to assert I acted improperly when Mr. Band, a long time employee of the Office of General Counsel, has taken advantage of his position for many years to secure "perks". At no time did I make any decision to offer the assistance to Mr. Band.

**Investigative Report #1:**

**Our investigation also determined that U.S. Marshal David Gonzales authorized the transportation of Band in USMS vehicles, even though Gonzales knew that Band was not attending the event on USMS business. We concluded that Band's conduct and Gonzales's authorization of the use of USMS resources violated USMS ethical standards and policy.**

I demand that this statement be taken out of the official report because it simply is neither factually correct nor true. **I did not at any time authorize the transportation of Band and his co-workers.**

The following are facts previously given to the investigators (by myself and the Deputies they interviewed) relating to my involvement in the Band abuses of his apparent authority. These facts were either overlooked or ignored by the investigators in their rush to find a US Marshal to blame:

**1. Band Requests for District of Arizona assistance.**

The District of Arizona assisted Mr. Band twice: (1) the January 2007 BCS Championship football game, and (2) the February 2008 Super Bowl. I did not authorize, approve, plan, or direct any Deputy Marshals to assist Mr. Band. At no time was I a personal friend or acquaintance of Mr. Band. I only know him professionally as an attorney with our General Counsel office. In both cases, the District of Arizona was part of an interagency Joint Operation Center (see below).

In Mr. Band's January 2007 abuse of authority, Mr. Band called me and stated he needed assistance with security issues at the game in his assignment in working with "on air talent". I simply forwarded the message to Chief Deputy [REDACTED] (he has since retired). I relied on a seasoned Chief to work out the details of Mr. Band's request. I did not know anything further about Mr. Band's request; I assumed the Chief has taken care of the request.

In the 2008 Super Bowl matter, Mr. Band called me approximately a month before the game and stated he needed security assistance with "on air" personalities Joe Buck and Troy Aikman. I told Mr. Band we would determine our response and to call me back. I never heard or talked Mr. Band after that call. I later learned that Mr. Band called Chief Deputy [REDACTED] and that the Chief Deputy made arrangements to have a Deputy drive Messr. Band, Buck, and Aikman to and from the game.

Once again, I did not approve, plan, or direct anyone to assist Mr. Band. In this case I was not even aware that Mr. Band had used his position and relationship with the USMS to secure transportation from the District of Arizona until after the fact. In both Arizona District cases, the determination to provide transportation to Mr. Band and his guests was under the direction and control of seasoned Chief Deputies who were well known to Mr. Band.

At no time did I give the Chief Deputies instructions, orders, directives or authorizations regarding the handling of Mr. Band's requests. My interview, along with the interviews of the supervisors and deputies involved make that quite clear. The Chiefs were acting on the request of a senior USMS attorney who they had dealt with for years when seeking legal or ethics advice. Mr. Band took advantage of his General Counsel position for his personal gain.

## 2. Joint Operation Center

From reading the transcript and synopsis of the investigative report it is painfully clear that the investigators did not understand the nature of a Joint Operations Center (“JOC”) or the responsibilities of the law enforcement agencies participating in a JOC.

For both of these large scale Level 1 Security Events the District of Arizona was an active member of the Joint Operation Center (JOC) established by a Public Safety Committee consisting of local, state, and federal agencies. For JOC activities all law enforcement resources are consolidated and centralized to deal with large scale events. Dignitary protection and escorts are a necessary part of the JOC responsibilities. JOC (through its agency members) provides escorts and protection details to assure the safety of high profile individuals who could become targets for criminals or may cause a disturbance.

At both events all agencies, including the USMS, provide the law enforcement security necessary to provide a safe and secure event. When asked by Mr. Band to assist with moving on-air personalities in and out of the venue, the USMS supervisors reacted in accordance with the roles and responsibilities under the interagency JOC. Because of the purpose of a JOC and their overriding responsibilities for safety and security, any of the law enforcement agencies participating in the JOC would have given Joe Buck and Troy Aikman an escort to and from the venue. For the OIG to assert that USMS cannot escort such individuals when the USMS is a part of a JOC evidences a fundamental lack of understanding of law enforcement interagency activities and a failure to actually read and understand my lengthy explanation of the JOC in my interview.

For you information I am attaching the January 5, 2007 FBI press release describing the JOC activities, responsibilities, and member organization. Note that “dignitary protection” is a core function. Please also note that USMS is a participating agency.

### **Investigative Report #2:**

**“The OIG did not conduct an exhaustive survey of all the instances where Band may have requested and received transportation assistance from various USMS offices...”**

Since this investigation came to light, it has become well known that Mr. Band frequently used his position and connections to secure assistance from numerous USMS Districts and other USMS personnel. He did so openly (from his office) and I later learned had been admonished for his actions by his supervisors. I do not object to being the subject of an investigation when warranted, but when the District of Arizona and one or two other districts are “singled out” for investigation but other USMS districts and personnel who assisted Band are passed over, it is neither fair nor impartial and certainly is not an objective investigation.

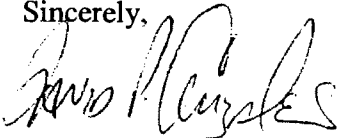
It is a sloppy investigation that avoids looking at all of the instances where Band may have requested and received transportation assistance. Instead the District of Arizona was selected as one of the investigative leads even when the facts don't support it. For some reason there is a disinclination to really look at the problem – Joe Band and his office.

My reputation is of the utmost importance to me. This effort to paint me as the problem when I never did anything improper, rather than to focus on the systemic problems in Joe Band's office is unacceptable. I have worked very closely with your office in Arizona for years and have a high regard for the work they do. But in this case, Mr. Fine, the facts simply do not support the investigator's conclusions in regard to my involvement and the circumstances surrounding the District of Arizona's involvement with Mr. Band.

Simply put, Mr. Band abused his position as a "headquarters" Office of General Counsel attorney for his private gain and took advantage of anybody he could. I am not aware of the entire situations with the other USMS involved, but in the District of Arizona, my supervisors were acting on good faith in responding to the request of Mr. Band, an ethics attorney. They did so in accordance with their responsibilities both to the USMS and responsibilities under the interagency Joint Operations Center.

I look forward to hearing from you in response to this letter.

Sincerely,



David P. Gonzales  
U.S. Marshal  
District of Arizona

cc: Director John Clark, Director  
Deputy Director Brian Beckwith