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## Exclusive: Ferguson no-fly zone aimed at media reporting

By Jack Gillum and Joan Lowy

WASHINGTON (AP) - The U.S. government agreed to a police request to restrict more than 37 square miles (96 square kilometers) of airspace surrounding Ferguson, Missouri, for 12 days in August for safety, but audio recordings show that local authorities privately acknowledged the purpose was to keep away news helicopters during street protests over the shooting of an unarmed black man by a white police officer.

On Aug. 12, the morning after the Federal Aviation Administration imposed the first flight restriction, FAA air traffic managers struggled to redefine the flight ban to let commercial flights operate at nearby Lambert-St. Louis International Airport and police helicopters fly through the area - but ban others.

"They finally admitted it really was to keep the media out," said one FAA manager about the St. Louis County Police in a series of recorded telephone conversations obtained by The Associated Press. "But they were a little concerned of, obviously, anything else that could be going on."

At another point, a manager at the FAA's Kansas City center said police "did not care if you ran commercial traffic through this TFR (temporary flight restriction) all day long. They didn't want media in there."

FAA procedures for defining a no-fly area did not have an option that would accommodate that.

"There is really ... no option for a TFR that says, you know, 'OK, everybody but the media is OK,'" he said. The managers then worked out wording they felt would keep news helicopters out of the controlled zone but not impede other air traffic.

The conversations contradict claims by the St. Louis County Police Department, which responded to demonstrations following the shooting death of 18-year-old Michael Brown, that the restriction was solely for safety and had nothing to do with preventing media from witnessing the violence or the police response.

Police said at the time, and again as recently as late Friday to the AP, that they requested the flight restriction in response to shots fired at a police helicopter.

But police officials confirmed there was no damage to their helicopter and were unable to provide an incident report on the shooting. On the tapes, an FAA manager described the helicopter shooting as unconfirmed "rumors."

The AP obtained the recordings under the U.S. Freedom of Information Act. They raise serious questions about whether police were trying to suppress aerial images of the demonstrations and the police response by violating the constitutional rights of journalists with tacit assistance by federal officials.

Such images would have offered an unvarnished view of one of the most serious episodes of civil violence in recent memory.

"Any evidence that a no-fly zone was put in place as a pretext to exclude the media from covering events in Ferguson is extraordinarily troubling and a blatant violation of the press's First Amendment rights," said Lee Rowland, an American Civil Liberties Union staff attorney specializing in First Amendment issues. The first amendment of the U.S. Constitution guarantees such basic rights as freedom of the press.

FAA Administrator Michael Huerta said in a statement Sunday his agency will always err on the side of safety. "FAA cannot and will never exclusively ban media from covering an event of national significance, and media was never banned from covering the ongoing events in Ferguson in this case."

Huerta also said that, to the best of the FAA's knowledge, "no media outlets objected to any of the restrictions" during the time they were in effect.

In the recordings, an FAA manager urged modifying the flight restriction so that planes landing at Lambert still could enter the airspace around Ferguson.

The less-restrictive change practically served the authorities' intended goal, an FAA official said: "A lot of the time the (lesser restriction) just keeps the press out, anyways. They don't understand the difference."

The Kansas City FAA manager then asked a St. Louis County police official if the restrictions could be lessened so nearby commercial flights wouldn't be affected. The new order allows "aircraft on final (approach) there at St. Louis. It will still keep news people out. ... The only way people will get in there is if they give them permission in there anyway so they, with the (lesser restriction), it still keeps all of them out."

"Yeah," replied the police official. "I have no problem with that whatsoever."

KMOV-TV News Director Brian Thouvenot told the AP that his station was prepared at first to legally challenge the flight restrictions, but was later advised that its pilot could fly over the area as long as the helicopter stayed above 3,000 feet (900 meters). That kept the helicopter and its mounted camera outside the restricted zone, although filming from such a distance, he said, was "less than ideal."

None of the St. Louis stations was advised that media helicopters could enter the airspace even under the lesser restrictions, which under federal rules should not have applied to aircraft "carrying properly accredited news representatives." The FAA's no-fly notice indicated the area was closed to all aircraft except police and planes coming to and from the airport.

"Only relief aircraft operations under direction of St. Louis County Police Department are authorized in the airspace," it said. "Aircraft landing and departing St. Louis Lambert Airport are exempt."

The same day that notice was issued, a county police spokesman publicly denied the no-fly zone was to prevent news helicopters from covering the events. "We understand that that's the perception that's out there, but it truly is for the safety of pilots," Sgt. Brian Schellman told NBC News.

Ferguson police were widely criticized for their response following the death of Brown, who was shot by a city police officer, Darren Wilson, on Aug. 9. Later, under county police command, several reporters were arrested, a TV news crew was tear gassed and some demonstrators were told they weren't allowed to film officers. In early October, a federal judge said the police violated demonstrators' and news crews' constitutional rights.



NCCU GETS READY FOR HOMECOMING - NCCU will celebrate with Homecoming Nov. 8. Miss NCCU is Tania Irwin and Mr. NCCU is Demarre Richmond. (NCCU Photo)

## New emails show White House role in Sherrod ouster

By Mary Clare Jalonick

WASHINGTON (AP) - A 2010 email from Agriculture Secretary Tom Vilsack says his department was "waiting for the go-ahead" from the White House before accepting the resignation of employee Shirley Sherrod, according to newly released documents, despite Obama administration assertions that her ouster was Vilsack's decision alone.

The email, which was made public Friday in an ongoing federal court case over the matter, shed more light in the evening of July 19, 2010, when the USDA hastily asked Sherrod to resign after a video showing her making supposed racist remarks surfaced on a conservative website. Her dismissal turned into a racial firestorm after it became clear that the video had been edited and her remarks were meant to tell a story of reconciliation.

Both the White House and Vilsack have repeatedly said the agriculture secretary made the decision to ask for Sherrod's resignation without White House input. The emails, along with earlier emails obtained by The Associated Press under the Freedom of Information Act in 2010 and 2012, make it apparent that Vilsack wanted Sherrod to leave the department and ordered her resignation. But a newly-released email sent by Vilsack himself suggests he was awaiting a decision from White House officials on how to proceed.

"She has offered her resignation which is appropriate," reads an email from the initials "TJV" to Dallas Tonsager, then the USDA undersecretary of rural development and Sherrod's boss. "The WH is involved and we are waiting for the go-ahead to accept her resignation. I suspect some direction from WH soon."

The USDA would not comment on the email and a spokesman, when asked, did not dispute that Vilsack wrote it. The email, sent at 5:37 p.m. on July 19, is in reply to an earlier email from Tonsager addressed to "Mr. Secretary." Vilsack's middle name is James.

The correspondence is evidence in a federal defamation case that Sherrod filed in 2011 against the late blogger Andrew Breitbart, who posted the video, and his colleague Larry O'Connor. The Justice Department has been pushing to keep the emails sealed, but lost Friday afternoon when U.S. District Judge Richard J. Leon ruled they did not have to be kept private.

Vilsack's email was brought up at a court status hearing earlier last week. According to a transcript, a lawyer for Breitbart's wife, who was substituted as defendant after the blogger died unexpectedly in 2012, said the email was "extremely telling" and "contains a statement that is



MRS. SHIRLEY SHERROD

arguably inconsistent with the public statements."

Justice Department lawyer David Glass replied to the judge that "when there is a reference to the White House was involved, what it means is the White House liaison was involved."

USDA's White House liaison, Kevin Washo, was in touch with the White House through the night, according to the documents. In another newly released email, a White House aide writes to Valerie Green of the White House presidential personnel office, saying "USDA is looking for direction - can someone contact Washo?" Green replies that she is "reaching out now."

Green writes Washo asking him to loop her in, "Please. Please. Please." (Continued On Page 3)