

# Congress of the United States

Washington, DC 20515

August 12, 2016

The Honorable Peter V. Neffenger  
Administrator  
Transportation Security Administration  
601 South 12th Street  
Arlington, VA 20598-6020

Dear Administrator Neffenger:

On June 10, 2016, the Committee received the Transportation Security Administration's response to Chairman Meadows' inquiry regarding whistleblower retaliation against Federal Air Marshal (FAM) Robert J. MacLean during the May 12, 2016, House Committee on Oversight and Government Reform hearing.<sup>1</sup>

Pursuant to a ruling by the Merit Systems Protection Board finding that TSA retaliated against Mr. MacLean when he was removed from the agency in 2006, TSA is required to "retroactively restore [Mr. MacLean] effective April 11, 2006."<sup>2</sup> In June 2015, TSA reinstated Mr. MacLean to the position that he had at the time of his removal in April 2006. In its response to the Committee, TSA suggests that it need not restore Mr. MacLean to a supervisory position because he did not occupy one at the time of his removal in 2006 and TSA's pay system did not include automatic promotions or step increases.

In addition, Mr. MacLean asserts that he has not received an annual TSA Core Compensation within band "In-Position Increase" (IPI) since 2002 despite his supervisor's testimony that his performance had been exemplary. Mr. MacLean reports that TSA has assigned him to an empty room with no duties since February 26, 2016. Before that, TSA had assigned Mr. MacLean, a publicly identifiable individual, to covert flying missions in the Middle East.

To help the Committee understand how TSA responds to cases of whistleblower retaliation, please provide documents and communications with the following information as soon as possible, but no later than 5:00 p.m. on August 26, 2016:

1. For each FAM who has worked for the agency since 2005, the number and percentage who have not received a promotion;
2. For each FAM who was working in the Los Angeles Field office in 2005, the number and percentage who have not received a promotion;
3. For each FAM who has worked for the agency since 2005:
  - a. the number and percentage who have received a promotion; and
  - b. the number and percentage who have received more than one promotion, along with the number of promotions that FAM has received;
4. For each FAM who was working in the Los Angeles Field office in 2005:
  - a. the number and percentage who have received a promotion; and

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<sup>1</sup> *Examining Management Practices and Misconduct at TSA: Part II: Hearing Before the H. Comm. On Oversight and Gov't Reform*, 114<sup>th</sup> Cong., at 110-114 (May 12, 2016) (question and answer with Hon. Mark Meadows).

<sup>2</sup> Response from Transportation Security Administration, to Mark Meadows, H. Comm. on Oversight & Gov't Reform (June 10, 2016).

The Honorable Peter V. Neffenger

August 12, 2016

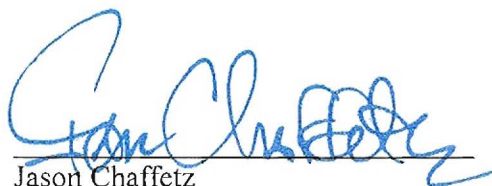
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- b. the number and percentage who have received more than one promotion, along with the number of promotions that FAM has received;
5. The number and percentage of FAMs who have received an In-Position Increase since 2002; and
6. TSA's justification for assigning Mr. MacLean to an empty room with no duties.

Please produce all documents in electronic format and deliver your responses to the House Committee on Oversight and Government Reform Majority Staff in Room 2157 Rayburn House Office Building and the Minority Staff in Room 2471 Rayburn House Office Building, and to the Senate Committee on the Judiciary Majority Staff in Room 224 Dirksen Senate Office Building and the Minority Staff in Room 152 Dirksen Senate Office Building.

Please contact Michael Ding of the House Oversight Committee's Majority staff at (202) 225-5074, Courtney French of the House Oversight Committee's Minority staff at (202) 225-5051, or DeLisa Lay of the Senate Judiciary Committee staff at (202) 224-5225. Thank you for your prompt attention to this matter.

Sincerely,



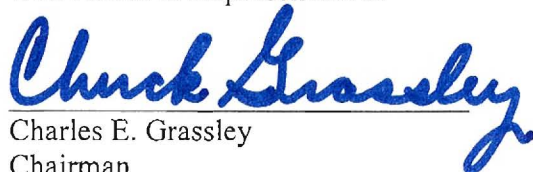
Jason Chaffetz  
Chairman  
Committee on Oversight and Government Reform  
U.S. House of Representatives



John L. Mica  
Chairman  
Subcommittee on Transportation  
and Public Assets  
U.S. House of Representatives



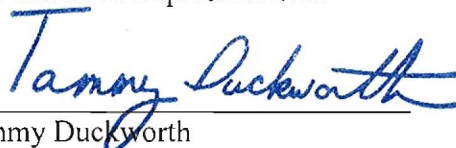
Mark Meadows  
Chairman  
Subcommittee on Government Operations  
U.S. House of Representatives




Charles E. Grassley  
Chairman  
Committee on the Judiciary  
United States Senate



Elijah E. Cummings  
Ranking Member  
Committee on Oversight and Government Reform  
U.S. House of Representatives



Tammy Duckworth  
Ranking Member  
Subcommittee on Transportation  
and Public Assets  
U.S. House of Representatives



Gerald E. Connolly  
Ranking Member  
Subcommittee on Government Operations  
U.S. House of Representatives

## VIPR office assignment

MacLean, Robert

**Sent:**Friday, June 24, 2016 7:13 AM

**To:** Wright, Roy L.; Hudren, Matthew D. (SFAM); Schumacher, Todd E. [Todd.E.Schumacher@ole.tsa.dhs.gov]

**Cc:** Tristan Leavitt (OGR Majority) [tristan.leavitt@mail.house.gov]; Krista Boyd (OGR Minority) [Krista.Boyd@mail.house.gov]

Dear Supervisory Federal Air Marshals (SFAM) Roy Wright, Todd Schumacher, and Matthew Hudren, and Program Analyst Jack Bleiberg:

The U.S. House Committee on Oversight and Government Reform is preparing a reply to Administrator Peter Neffenger's June 10, 2016 response to its May 12, 2016 inquiry [ <https://youtu.be/ZNLuwKggYP8> ]. The Committee's professional staff (Cc:ed Tristan Leavitt and Krista Boyd) needed written verification of what my current duties are in the TSA Visible Intermodal Prevention and Response (VIPR) Washington Field Office in Chantilly, Virginia.

It has been explained to the Committee that since I was reassigned from the Emergency Response Section in Herdon, Virginia to VIPR on April 26, 2016, my only assignment is to arrive at 0900 and leave the VIPR office at 1730 — I have absolutely no operational or administrative VIPR duties.

In my first meeting with my assigned supervisor in the VIPR office, SFAM Wright, he stated he was in the process of obtaining for me body armor, uniforms, and duty belt until one of his superiors stopped him and told him I would be on "restricted duty" to only perform administrative tasks. SFAM Wright was incredulous as there are no administrative tasks to be performed in the VIPR office. The one civilian in the VIPR office, Jack Bleiberg, also told me there is nothing for me to do.

My rating supervisor, SFAM Schumacher, has given me the option to leave the VIPR office to attend unscheduled training—a block away at the Federal Air Marshal Service Washington Field Office—whenever I feel the need to.

Aside from my constant concern that my Top Secret security clearance renewal application could be denied and/or getting fired again, all of you and your VIPR Federal Air Marshals, Transportation Security Officers, and Behavioral Detection Officers have treated me with the **utmost dignity and respect**. I am truly grateful to you for making the very best of my situation!

If there are any discrepancies in the aforementioned, these are the contacts for the Committee:

Tristan Leavitt, Majority, Main: 202-225-5074

Discreet contact:

<https://oversight.house.gov/whistle/>

Krista Boyd, Minority, Main: 202-225-5051

Discreet contact:

<http://democrats.oversight.house.gov/contact/tip-line>

Very appreciatively,

Robert MacLean  
Federal Air Marshal  
Personal cell/text: 949-344-5222  
Government cell/text: 210-840-6001  
Robert.J.MacLean@ole.tsa.dhs.gov  
Washington Field Office  
Transportation Security Administration  
Department of Homeland Security

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**From:** Schumacher, Todd E.  
**Sent:** Thursday, April 21, 2016 3:19 PM  
**To:** MacLean, Robert  
**Cc:** Wright, Roy L.  
**Subject:** RE: Reassignment

VIPR is off for the next two days. Please attend your scheduled training tomorrow, RDO on Sat / Sun, and report to SFAM Wright at the VIPR building at 0700 on Monday, 4/25/16.

Thanks,  
Todd

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**From:** Schumacher, Todd E.  
**Sent:** Thursday, April 21, 2016 3:10 PM  
**To:** MacLean, Robert (Robert.J.MacLean@ole.tsa.dhs.gov)  
**Subject:** Reassignment

Bob,

Effective immediately, you are transferred to Roy Wright's VIPR Team A. Please contact SFAM Wright for reporting instructions. Please let him know that you are scheduled for make-up training with Squad 3 tomorrow.

Thanks,

Todd

Todd Schumacher

SFAM Squad 11

571-216-5264

[Todd.Schumacher@dhs.gov](mailto:Todd.Schumacher@dhs.gov)



**Correction RE: My 45-day EPS detail**

MacLean, Robert

**Sent:** Friday, June 24, 2016 11:16 AM**To:** Krista Boyd (OGR Minority) [Krista.Boyd@mail.house.gov]; Tristan Leavitt (OGR Majority) [tristan.leavitt@mail.house.gov]**Cc:** Schumacher, Todd E. [Todd.E.Schumacher@ole.tsa.dhs.gov]; Tancredi, Rose

Mr. Leavitt and Ms. Boyd,

My April 13, 2016 request for assignment to the Federal Air Marshal Service Law Enforcement Information Coordination Section (Herndon, Virginia)—that was subsequently rejected—was submitted on the same day that my Emergency Preparedness Section (Herndon, Virginia) (ICS) 45-day detail ended. The rejection to be assigned to ICS happened before my current assignment at the TSA Visible Intermodal Prevention and Response (VIPR).

I apologize for any confusion.

Respectfully submitted,

Robert MacLean  
Federal Air Marshal  
Personal cell/text: 949-344-5222  
Government cell/text: 210-840-6001  
Robert.J.MacLean@ole.tsa.dhs.gov  
Washington Field Office  
Transportation Security Administration  
Department of Homeland Security

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**From:** MacLean, Robert**Sent:** Friday, June 24, 2016 8:40 AM**To:** Krista Boyd (OGR Minority); Tristan Leavitt (OGR Majority)**Cc:** Schumacher, Todd E.; Tancredi, Rose**Subject:** My 45-day EPS detail

Good morning Mr. Leavitt and Ms. Boyd,

This is in response to the members of the U.S. House Committee on Oversight and Government Reform who are preparing a reply to Administrator Peter Neffenger's June 10, 2016 response to the Committee's May 12, 2016 hearing inquiry [ <https://youtu.be/ZNLuwKggYP8> ]. I understand that your leadership needs written verification of what my duties were after my April 13, 2016 reassignment request was rejected — below is my emailed request to work in the significantly understaffed Federal Air Marshal Service (FAMS) Law Enforcement Information Coordination Section located in the Freedom Center, Herndon, Virginia. Instead I was detailed to the Emergency

Preparedness Section (EPS) from February 26, 2016 until April 13, 2016. EPS is also located in the Freedom Center.

I performed the following EPS related tasks:

- Attended two meetings that lasted from 30 to 60 minutes.
- Made copies for my detail supervisor, Supervisory Federal Air Marshal Rose Tancredi (Cc:ed)
- Searched for typos in a ten-page document; two hours of duty to perform
- Edited a power-point file; one duty day to perform

About 10% of my detail was spent meeting my TSA Online Learning Center and FAMS Washington Field Office training requirements. The approximate remainder 85%, I did much of nothing.

I believe my most interesting experience occurred on the first day: I asked SFAM Tancredi about the secret Radio Technical Commission for Aeronautics (RTCA) study she was a part of from 2010 to 2011. SFAM Tancredi was one of five TSA representatives, mostly managerial, who participated in the RTCA study on how effective a team of Federal Air Marshals (FAM) were in stopping a suicidal attacker from diving into the flight deck without an Installed Physical Secondary Barrier being deployed before a pilot opens the flight deck door in flight. The public \$300-a-copy fee for redacted RTCA study report came to a disturbing conclusion:

Appendix B: The implications of our work were significant — the result of this analysis has the potential to significantly impact commercial aviation security. In addition, some of what we learned was going to be classified as sensitive security information (SSI).

SFAM Tancredi's sole response was her concern of how I came to know about the RTCA study.

As I have detailed in my April 18, 2016 disclosures to your Committee, it took me two months to finally get access to the un-redacted RTCA study report. Initially my requests were denied (initial January 7, 2016 email below) by TSA until I began pressing the Department of Transportation / Federal Aviation Administration's (FAA) headquarters. Now flying FAMs, FAMS aircraft tactics instructors, and FAMS training supervisors have access to the un-redacted RTCA study. To date, I have yet to learn of a single FAMS employee who had knowledge of the RTCA study's results until last March.

SFAM Tancredi is Cc:ed in this message and can be contacted at her desk: 703-563-3425

I greatly appreciate your time and effort.