

# 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

Page 2

- 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,



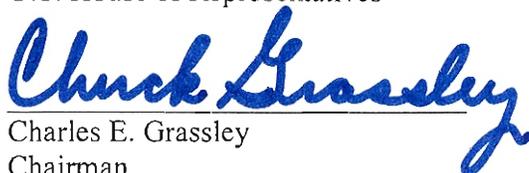
Jason Chaffetz  
Chairman  
Committee on Oversight and Government Reform  
U.S. House of Representatives



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



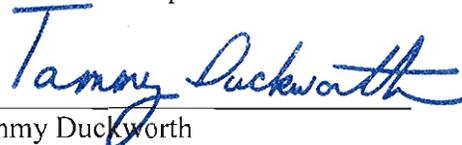
Mark Meadows  
Chairman  
Subcommittee on Government Operations  
U.S. House of Representatives



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