

My reply to the U.S. Department of Homeland Security (DHS) / Transportation Security Administration's (TSA) multiple response reports to the U.S. Office of Special Counsel's (OSC) 5 U.S.C. § 1213 December 18, 2018 referral (OSC File No. DI-19-0778) to the Office of the DHS Secretary concerning—

TSA's unwritten policy preventing law enforcement random inspections of airline food catering trucks after they've entered commercial airports' secured areas and disregarding the potential "insider-threat"; such searches are the least disruptive and most cost-effective method to stop stowaways—who can dangerously damage aircrafts, airline workers who smuggle dangerous contraband (e.g., fentanyl), and aviation terrorism

Submitted by U.S. Federal Air Marshal (former/twice-fired) Robert J. MacLean

TSA's unpublished warning memorandum—marked as *Sensitive Security Information* (SSI), therefore exempt from public *Freedom of Information Act* (FOIA) requests—issued 22 months after my September 26, 2017 food catering trucks disclosure to my TSA Federal Air Marshal Service supervisor:

"During this [Compliance Security Enhancement Through Testing (COMSETT) inspection], [TSA Transportation Security] Inspectors [(TSI)] raised numerous catering security questions, identified catering transportation and inspection scenarios, and discovered potential security vulnerabilities. ... In addition, it was determined that Full All-Cargo Standard Security Program (FACAOSSP) and All-Cargo International Security Program (ACISP) [REDACTED]

[REDACTED] In addition, discussions with the Cargo Compliance Branch revealed that [REDACTED]

[REDACTED] ... An analysis of the [the Special Emphasis Assessment (SEA)] 2019-002 entries revealed that some items, such as ice, magazines, food, and blankets, were being delivered to the cabin of the aircraft without being searched or screened, or that have otherwise been secured and protected. [REDACTED]

[REDACTED] Furthermore, current security programs may not be addressing security

procedures or required measures for some of the deliveries being made. [REDACTED]

."

June 1, 2018 sworn testimony by TSA Washington Field Office Visible Intermodal Prevention and Response Supervisory Federal Air Marshal (SFAM) [REDACTED]:

SFAM [REDACTED]: *"In fact, I don't bring Robert [MacLean] to [the Dulles International Airport catering and] cargo [area]."*

TSA investigator (laughing): *"Probably a good thing."*

...

SFAM [REDACTED]: *"[The Dulles non-passenger security problem] has got to be the ugliest thing I've ever seen in my life and we hold a blind-eye to it. But then if Robert was privy to this, he'd lose his mind—that would be his new endeavor in life, and it would be on Twitter, Facebook, Capitol Hill [Congress], you name it."*

...

"Robert is not loved. I don't know if you two know that. You know, a lot of [TSA Federal Air Marshals] don't like him because they think he's trying to destroy the agency, and that's their livelihood, so he's not loved by that many."

October 8, 2016 The Associated Press article by Erika Kinetz And Maria Danilova titled, "Lethal chemical now used as a drug haunts theater hostages":

"Russian special forces...pumped an aerosol containing potent forms of the synthetic opioid fentanyl into the theater before storming it. ...more than 120 hostages died from the effects of the chemicals. Many survivors suffered lasting health effects....The Russian government acknowledged that the aerosol contained fentanyl-related compounds"

June 21, 2018—4 months after I emailed TSA Special Agents that bad-actors could weaponize fentanyl and incapacitate the pilots when they need to unlock the flightdeck ("cockpit")—The New York Times article by Elaine Glusac titled, "T.S.A. Expands International Carry-On Limits to Powder":

"[The TSA's spokesperson] wrote in an email...He identified powders including fentanyl...that could be used to irritate or harm aircraft passengers and aircrew if released during flight"

November 21, 2022 U.S. Department of Justice / Drug Enforcement Administration's (DEA) press release titled, "DEA Laboratory Testing Reveals that 6 out of 10 Fentanyl-Laced Fake Prescription Pills Now Contain a Potentially Lethal Dose of Fentanyl":

"This is an increase from DEA's previous announcement in 2021 that four out of ten fentanyl-laced fake prescription pills were found to contain a potentially lethal dose."

November 4, 2022 The San Diego Union-Tribune article by Alex Riggins titled, "Flight attendant accused of trying to board San Diego plane strapped with fentanyl":

"An off-duty flight attendant tried to smuggle more than 3 pounds of fentanyl onto a plane last month in San Diego...she was trying to board a plane while off duty by going through a [TSA] 'known crew member' line that allows pilots and flight attendants to bypass normal security screening"

April 17, 2019 U.S. Department of Justice press release titled, "Defendant Placed Packages on Flights from JFK Airport to Beijing at the Direction of Military Officers Assigned to the Chinese Mission to the United Nations":

"An agent for China's military pled guilty to the U.S. Department of Justice's charges with regards to bypassing TSA security in order to smuggle contraband outside of the U.S.: '[Since 2002, Ying] Lin, a former manager with an international air carrier headquartered in the [The People's Republic of China (PRC)] (the Air Carrier), abused her privileges to transport packages from John F. Kennedy International Airport (JFK Airport) to the PRC aboard Air Carrier flights at the behest of the PRC military officers and in violation of Transportation Security Administration (TSA) regulations.'"

Bad-actors don't need to be "terrorists", they can be mentally ill: November 9, 2018 The Seattle Times article by Lewis Kamb titled, "Richard Russell, who stole plane from Sea-Tac, acted alone, crashed on purpose; motive a mystery":

"The Horizon Air baggage handler who stole a commercial [76 passenger seats] airplane from Sea-Tac Airport and took it for a 73-minute joy ride over Puget Sound in August acted alone and intentionally crashed the plane"

March 3, 2022 Chicago Tribune article by Kori Rumore and Jonathon Berlin titled, “Serial stowaway: 22 airport incidents involving [70-year-old] Marilyn Hartman”:

“Hartman makes it past two Transportation Security Administration officers by hiding her face with her hair, then tries unsuccessfully to board a plane to Connecticut. She then boards a shuttle bus to the international terminal and sleeps there overnight before sneaking onto a plane and flying to London.”

In April 2006, TSA first fired me after I warned the public, in July 2003, of another Al Qaeda terrorist suicidal hijacking plot to again rush cockpits when pilots unlock them in order to conduct ad hoc wing-surface inspections, sleep (cross-ocean flights), get food-trays, or use the lavatory. I continued to engage in protected activity and make protected “danger to public” disclosures from 2004 to 2005. My warning was 4 months after the largest pilots union publicly complained to *The Associated Press* about the vulnerability of routinely unlocked cockpits; the April 4, 2003 article, still today on *CBS News’s* website, is titled, “*Bulletproof Cockpit Doors A Reality*”. A year after our warnings, pages 5, 158, and 245 of the 2004 9/11 Commission report confirmed what the pilots union and I warned of: the hijackers simply waited for the pilots to routinely unlock the cockpit.

In May 2015, TSA reinstated me after DHS Deputy Secretary / now current DHS Secretary Alejandro Mayorkas’s and DHS et al.’s—appeal to the U.S. Supreme Court, No. 13-894. In March 2019, TSA waited to fire me a second time days after the Washington, D.C. U.S. Merit Systems Protection (MSPB) full three-member board became empty and powerless to stop my second employment termination for exposing more public safety lapses. 8 months after TSA reneged on its April 2019 written agreement with OSC to voluntarily reinstate me, I filed another whistleblower retaliation complaint with the U.S. Merit Systems Protection (MSPB) in December 2019. MSPB Arlington, Virginia Washington Regional Office Administrative Judge (AJ) Melissa Mehring was assigned to my 2019 MSPB appeal. MSPB AJ Mehring is a former General Scale 15 (GS-15) DHS attorney who represented the Federal Air Marshal Service from 2003 to 2005 and while assigned to its Washington, D.C. headquarters in the Chester A. Arthur Building.

As of today, MSPB AJ Mehring has yet to rule on my 2019 whistleblower retaliation complaint. I remain unemployed, have been deemed indigent by the Commonwealth of Virginia and the U.S. Internal Revenue Service, and my family and I risk homelessness for my inability to afford over 3 years of unpaid mortgage payments for our house.

I’m also a decorated and honorably discharged military veteran, and a former U.S. Border Patrol Agent.

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Narrative

I. Law enforcement random inspections are the least disruptive to airport/airline operations and most cost-effective way to conduct oversight of the billions of tons of airline food catering, cargo, and airport shops and restaurants material that airport workers bring into secured areas inside airports

Each day thousands of tons of material gets transported from outside airports and into secured air operations areas (AOA) and the areas where passengers wait to board their flights. Such material is mostly in packages and can be:

- alcoholic beverages locked inside of aircraft service trolleys (i.e., “drink-cart”)¹
- food and soft-drinks;
- eating utensils, i.e., plastic-wear, napkins, cups, plates, and condiments;
- restroom cleaning supplies, paper towels, and toilet paper;
- books, magazines, and souvenirs; and
- blankets and pillows.

It would clearly be cost-prohibited to have government and non-government employees search every vehicle that enters the AOAs every day, for that reason, *U.S. Department of Homeland Security (DHS) / Transportation Security Administration (TSA) Visible Intermodal Prevention and Response (VIPR) Federal Air Marshals (FAM), Metropolitan Washington Airport Authority (MWAA) and several other local law enforcement departments collectively conduct surprise Operation Guardian activities at Reagan National Airport (DCA) and at Dulles International Airport (IAD); from page 12 of MWAA’s 2017 Annual Report (see*

¹ Aircraft service trolleys (“drink-carts”) with alcoholic beverages are locked because of concern that people will attempt to pilfer them. U.S. Department of Homeland Security / Transportation Security Administration (TSA) Transportation Security Inspectors (TSI) are tasked with conducting random inspections on alcoholic drink-carts. TSIs are exceptionally reluctant to conduct searches on alcoholic drink-carts due to the fact that TSA managers are pressured by the airlines to not tamper with them because of late departure concerns.

footnote No. 35 for link to view Report), its last Annual Report citing it conducting Operation Guardian with TSA VIPR FAMs:

“Examples of our jurisdictional partners who participate include Virginia State Police, Loudoun County Sheriff’s Office, Fairfax County Police Department, Metro Transit Police Department, Arlington County Police Department, TSA and Federal Air Marshals.”

24/7 searches of all vehicles entering the AOA would require an insurmountable amount of time and money. Even conducting searches of a third of trucks, during regular business hours, would still result in inspectors being subjected to monotony. Law enforcement random inspections, such as Operation Guardian, would be the most effective in conducting counter-terrorism searches of cargo.

II. After my 2017 airline food catering trucks “substantial and specific danger to public health [and] safety” disclosure to TSA leadership—pursuant to 5 U.S.C. § 2302(A)(2)(d)(ii)—I was ordered to undergo a mental health examination and secretly banned from performing any activities within the IAD cargo area; TSA stonewalls media requests about past insider-threat incidents

TSA’s response to the U.S. Office of Special Counsel (OSC) is incomplete, takes my disclosures out of context, conflates different arguments, deflects, and does not address the dangers associated not conducting law enforcement random inspections on airline food catering trucks. In 2019, TSA’s own compliance branches repeatedly documented their complaints and warnings in memorandums marked as “SENSITIVE SECURITY INFORMATION” (SSI), an unclassified information designation.

TSA asserted that it “has found no intelligence supporting the idea that terrorists are considering food [catering] trucks as a method of attack”. Days after the 9/11 hijackings, the most senior U.S. government officials admitted that no one thought that suicidal terrorists would simply wait for pilots to routinely unlock

flightdecks (“cockpits”)—in order to get food or use the lavatory—and fly jets into major buildings.^{2 3}

TSA offered no evidence that any of its Office of Inspection (TSA-OOI) or DHS Office of Inspection “Red Teams” tested food catering trucks for vulnerabilities. TSA-OOI is too busy retaliating against whistleblowers: in order to sustain TSA’s off-duty/personal computer use charges against me, 5 (five) TSA-OOI agents spent 6 (six) months dragging in 21 (twenty-one) witnesses in order to fire me again in March 2019.

TSA’s response completely glossed over that the **unscheduled** September 26, 2017 *Metropolitan Washington Airports Authority’s (MWAA) Operation Guardian* was in fact a law enforcement **random** inspection mission. From MWAA’s 2016 and 2017 Annual Reports:

“Operation Guardian is designed to achieve and maintain a high level of intense proactive law enforcement activity for the entire detail. The overarching objectives of this initiative are to create counter-terrorist and criminal suppression measures through overt enforcement and presence coupled **with covert and undisclosed activities**.

[. . .]

Examples of our jurisdictional partners who participate [in Operation Guardian] **include...Federal Air Marshals.**” (*emphasis added*)

(*see Section X. of this document to access MWAA’s past Annual Reports citing Operation Guardian*)

TSA wrongly infers that I’m absurdly demanding that all airline cargo be searched 24/7. Again, random law enforcement inspections are the least disruptive and the most cost-effective way to ensure that potential witting and unwitting insider-threats reconsider trying to circumvent security. TSA downplays that

² See pages 158 and 245 of the 2004 published 9/11 Commission Report:
<https://govinfo.library.unt.edu/911/report/911Report.pdf>

³ *The Gazette* article titled, “How 9/11 could have been prevented, and why the airline safety system still isn’t fixed”:
https://gazette.com/news/how-9-11-could-have-been-prevented-and-why-the-airline-safety-system-still-isn/article_e4c4470f-22e5-554f-9187-2bbbe31f86b3.html

airline food catering is exceptionally exposed to insider-threat vulnerabilities from witting and unwitting airport workers. It only takes 5 (five) minutes or less to open and look into a truck in order to find any anomalies or stowaways, officers are not interested in unsealing individual meal carts; a food catering truck's cargo bay is the perfect environment—full of cool food and beverages—for a stowaway to hide and ride for hours on a hot day.

TSA constantly asserts that it relies upon “layered security”. One would almost certainly agree that a layered security approach would help thwart vulnerabilities such as insider-threats. By preventing law enforcement from conducting basic “open and look” random inspections on sealed food catering trucks, such layers no longer exist. In its response to OSC, TSA asserted that contract security workers routinely conduct inspections at the catering facilities, but these facilities are **miles away from the airport**. (*see Section XI. of this document*) Contract security guards are exceptionally vulnerable to being bribed, compared to VIPR FAMs who are paid a \$100,000 to \$150,000 annual salary and have **Top Secret security clearances**. Private security guards are lucky to get **paid minimum wage**. It was Congress's intent for law enforcement VIPR FAM teams to provide a random and visible layer of authoritative, governmental security to potentially foil a plot such as insider-threats utilizing work vehicles. Contract security inspections consist of searching the empty interiors of the trucks and then applying seals at the facility, but according to TSA's response to OSC, no subsequent security layers now exist. For a determined bad-actor with knowledge of TSA's law enforcement exemption policy, there's no reasonable expectation that stowaways or weapons will ever be discovered beyond the initial contract security inspections at facilities. There also won't be any reasonable expectation because airport security guards are not allowed to break trucks' security seals, therefore, there won't be an additional opportunity to discover vulnerabilities prior to a potential threat reaching the footprint of a passenger airliner which is the ultimate destination of a sealed truck.

In my June 9, 2015 published testimony requested by the U.S. Senate Committee on Homeland Security and Governmental Affairs, I publicly warned about the insider-threat problem—page 10:

“3. THREAT: Lone-wolf or organizational terrorists infiltrating government or private sector transportation companies through employment. ...This is obviously a potential problem given the rogue employees willing use their position for personal gain”⁴

An agent for China’s military pled guilty to the U.S. Department of Justice’s charges with regards to bypassing TSA security in order to smuggle contraband outside of the U.S.:

“[Since 2002, Ying] Lin, a former manager with an international air carrier headquartered in the [The People’s Republic of China (PRC)] (the Air Carrier), abused her privileges to transport packages from John F. Kennedy International Airport (JFK Airport) to the PRC aboard Air Carrier flights at the behest of the PRC military officers and in violation of Transportation Security Administration (TSA) regulations.”⁵

TSA is currently ignoring media requests with regards to an airline employee who stole and flew a \$30 million, 76-seat passenger airliner in 2018. The worker took-off from Seattle-Tacoma International Airport, flew 73 minutes over populated areas, and crashed into the ground:

“The TSA flatly refuses to discuss the Horizon Air incident and would not release its own civil investigation into the matter. TSA would not arrange any interviews with Rolling Stone, even to discuss the insider threat

⁴ Robert MacLean’s June 9, 2015 published written testimony requested by the U.S. Senate Committee on Homeland Security and Governmental Affairs: <https://www.hsgac.senate.gov/imo/media/doc/Testimony-MacLean-2015-06-09-REVISED.pdf>

⁵ April 17, 2019 U.S. Department of Justice press release titled, “Defendant Placed Packages on Flights from JFK Airport to Beijing at the Direction of Military Officers Assigned to the Chinese Mission to the United Nations”: <https://www.justice.gov/opa/pr/former-manager-international-airline-pleads-guilty-acting-agent-chinese-government>

generally. Administrator [David] Pekoske did not respond to a direct request to discuss the incident, or his department’s stonewalling of it.”⁶

In another disturbing insider-threat incident on June 11, 2021, a nonstop flight from Los Angeles to Atlanta, **an off-duty Delta Airlines flight attendant** sat in the first row, donned a helmet, attacked the flight crew in the forward galley, and forced the airliner to emergency land.⁷ It should be investigated if this potentially mentally ill flight attendant planned to wait for the cockpit to routinely unlock—when a pilot either needed to eat or use the lavatory—and dive into the cockpit while helmeted. In 2015, a mentally ill German airliner pilot killed 150 passengers by purposely crashing their aircraft into a mountain in Europe.⁸

10 (eleven) days after my catering trucks disclosure, TSA locked me out of my field office, ordered me to seek and pay for a private mental health fitness for duty examination, and forced me to exhaust over 2 (two) months of my earned personal leave due to the fact that every mental health provider—except one—refused to conduct such an examination due to the potential of it being unethical or illegal.⁹

Even one of my first-line VIPR supervisors testified that he was shocked and frightened of the security lapses associated with airline food catering workers. On

⁶ June 24, 2021 *Rolling Stone* article by Tim Dickinson titled, “The Sky Thief”: <https://www.rollingstone.com/culture/culture-features/beebo-russell-seattle-plane-theft-true-story-1187023/>

⁷ June 12, 2021 *Live and Let’s Fly* article, “Delta Captain Pleads For ‘All Able-Bodied Men’ Onboard To Assist In Restraining Out-Of-Control First Class Passenger Wearing Crash Helmet”: <https://Liveandletsfly.Com/Delta-White-Helmet/>

⁸ March 28, 2015 *The New York Times* article titled, “Co-Pilot in Germanwings Crash Hid Mental Illness From Employer, Authorities Say”: <https://www.nytimes.com/2015/03/28/world/europe/germanwings-crash-andreas-lubitz.html>

⁹ April 25, 2018 *The New York Times* article titled, “Scandals and Investigations, but Few Arrests, for Air Marshals Program”: <https://www.nytimes.com/2018/04/25/us/politics/air-marshals-scandals-investigations.html>

June 1, 2018, TSA Office of Investigations (TSA-OOI) conducted a sworn interview of TSA Washington Field Office (WFO) / VIPR Supervisory Federal Air Marshal (SFAM) [REDACTED]. SFAM [REDACTED] was my first-line supervisor from December 2017 until my second termination as a FAM. SFAM [REDACTED] has worked for the TSA Federal Air Marshal Service (TSA-FAMS) since 2002. Prior to TSA, SFAM [REDACTED] was an Army Soldier and a Central Intelligence Agency Security Protective Service Police Officer. SFAM [REDACTED] interview was pursuant a complaint filed against me by WFO Assistant Supervisory Air Marshal in Charge (ASAC) [REDACTED] [REDACTED]. ASAC [REDACTED] alleged that I was boarding parked aircrafts without authorization, subsequently I was exonerated after another exhaustive probe in which **TSA-OOI dragged in 11 (eleven) witnesses**; at minute 28:45 —

SFAM [REDACTED]: *"I've called [TSA Transportation Security Inspectors (TSI)] a couple of times. We used to have a couple of TSIs assigned to us in VIPR. When I first got there. And then when the **funding went away**, they took them away. But because I liked the two of them, [TSI] [REDACTED] retired, but the other [TSI] is still over there. I had to call him a couple of times for some things that I found out over at [Dulles airport (IAD)] cargo that **were just ugly**. So the kid came over and addressed it, but it had nothing to do with Robert [MacLean]."*

TSA-OOI Investigator [REDACTED]: "Okay."

SFAM [REDACTED]: *"In fact, I don't bring Robert [MacLean] to cargo."*

Ms. [REDACTED] (laughing): **"Probably a good thing."**

SFAM [REDACTED]: *"If he saw what went on over at cargo, this issue [cockpit security] right here..."*

TSA-OOI Investigator [REDACTED]: "Would be by the 'wayside?'"

SFAM [REDACTED]: *"He would kick that to the curb."*

Ms. [REDACTED]: *"Well I know he has mentioned in the past the **catering trucks**."*

SFAM [REDACTED]: *"Well, that doesn't even hold a candlestick to cargo. If I, **if I was the [Federal Security Director (FSD)] I couldn't sleep at night**, because it's his job. You know, his responsibility. That's **the ugliest thing I've ever seen in my life**. It's like going from night to day. You go from the [IAD] airport [passenger screening] there's this*

*amazing security apparatus, you go to cargo—it's an absolute opposite. **I've never seen anything like it.***

Ms. [REDACTED]: "Particular to Dulles? In particular?"

SFAM [REDACTED]: "Yah."

Ms. [REDACTED]: "Versus other places you've been?"

SFAM [REDACTED]: "This is just... **I've never seen anything like it. I'd be afraid.** Seriously. Have you ever gone over there?"

Ms. [REDACTED] (laughing): "Yah, I have. I got a lot of experience in the cargo side."

SFAM [REDACTED]: "That's **the ugliest thing I've ever seen in my life.** That time I called the TSI. This is a side note right?"

Ms. [REDACTED]: "Yah, that's fine."

SFAM [REDACTED]: "I go over there, I'm driving by, and there's a guy on a forklift out in the street with the cargo door open. I go, 'What the heck is this?' He's bringing **pallets of food** out there. People are driving up, picking up, filling up their **cars with food** that's just come from **Saudi Arabia**. I'm like, 'What the hell is going on here?' I stopped because nobody was watching the doors. He's like a hundred yards away nobody's watching the cargo door that he's just driving in and out of, right? So I stop. So I call the TSI and he comes over and comes to find out that there are **thirty people over that their badges have been terminated, and they're all working there.**"

Ms. [REDACTED]: "Wow."

SFAM [REDACTED]: "Yah. So, on top of all that, maybe I quit today. Maybe I got fired. Well, there's no [Security Identification Display Area (SIDA) badge access security] doors over there. Everything is a key or a cipher-lock. They don't change the cipher-locks and there's no key accountability. It is a direct route to the [Air Operations Area (AOA)]. **It is awful.** And there's just not one door, there's like seventy doors."

Ms. [REDACTED]: "Right."

SFAM [REDACTED]: "That has got to be the ugliest thing I've ever seen in my life and we hold a blind-eye to it. But then **if Robert was privy to this, he'd lose his mind**—that would be his new endeavor in life. And it would be on Twitter, Facebook, **Capitol Hill [Congress]**, you name it."

At minute 32:45—

SFAM [REDACTED]: "Robert is not loved. I don't know if you two know that. You know, **a lot of FAMs don't like [Robert MacLean] because they think he's trying to destroy the agency, and that's their livelihood, so he's not loved by that many. And the few he befriends, you know, tolerate him. So the group [of VIPR FAMs], this group, doesn't like him really.**"¹⁰

III. Despite having an unblemished military record and awarded the Air Force Good Conduct Medal and consistently rated as an "exemplary" federal law enforcement officer since 1996, between my 2015 Supreme Court victory and my second termination in 2019—days after the MSPB went empty and powerless to stop it—TSA launched 7 (seven) investigations against me conducting over 30 witness-interviews

Never disciplined and awarded the *Air Force Good Conduct Medal* as a nuclear missiles and space systems specialist, I was honorably discharged from the military after declining an offer to reenlist.¹¹

Between the time I became a U.S. Border Patrol Agent in 1996 and was fired—the first time—as a Federal Air Marshal, TSA's only witness in my 2009 *U.S. Merit Systems Protection Board* (MSPB) hearing testified that I consistently performed "exemplary".¹² After I beat DHS's appeal to the U.S. Supreme Court in 2015, **7 (seven) investigations** were launched against me in which TSA-OOI investigators conducted over **30 (thirty) witness-interviews**.

¹⁰ U.S Department of Homeland Security / Transportation Security Administration's (TSA) discovery responses pursuant to U.S. Merit Systems Protection Board Washington Regional Office (Docket No. DC-1221-20-0235-W-2); TSA Office of Investigations' June 1, 2018 sworn interview audio of TSA Washington Field Office Visible Intermodal Prevention and Response Supervisory Federal Air Marshal [REDACTED]:
<https://drive.google.com/file/d/1ct29MKp9SaRRIFY7WEPjrRAoqAsG9SEm/>

¹¹ Robert MacLean's 1992 military discharge DD Form 214:
<https://drive.google.com/file/d/0B5QD7Ci6CgwwUdTc1VuazJuWkU/>

¹² November 5, 2009 Robert MacLean v. U.S. Department of Homeland Security (DHS), Docket No. SF-0752-06-0611-I-2, U.S. Merit Systems Protection Board hearing "exemplary" testimony from DHS Supervisory Air Marshal in Charge [REDACTED]:
<https://drive.google.com/file/d/0B5QD7Ci6CgwwN2RjRElNYmxYek0/>

Prior to the 2018 IAD airport secure areas breaches allegations probe against me, TSA-OOI investigated and exonerated me in 2016 after TSA Headquarters SFAM ██████████ accused me of being a **homicidal racist**.¹³ Ms. ██████████ was subsequently promoted to Supervisory Air Marshal in Charge.

For its 2017 probe, I immediately admitted to TSA-OOI investigators for posting about 3 (three) disclosures of serial workplace sexual misconduct on an unsearchable members-only “Secret Group” inside Facebook.com. Despite my admissions to my “Secret Group” posts, **TSA-OOI dragged in 20 (twenty) witnesses** and tacked on 9 (nine) new allegations—including multiple allegations **that I instead** committed sexual harassment and misconduct—in order to sustain my second termination as a FAM. TSA simply flip the script and demonized me as a sexual deviant.¹⁴

In 3 (three) more 2018 TSA-OOI probes, FAMs and a TSA-OOI Criminal Investigator accused me of:

- withholding information about WFO supervisors accusing our WFO Supervisory Air Marshal in Charge of having an extramarital affair with now-former DHS Secretary Kirstjen Nielsen, this allegation was referred by TSA-OOI to the U.S. Attorney’s office for my criminal prosecution;
- threatening to murder a FAM’s children at their school; and

¹³ April 5, 2019 *The Orange County Register* article titled, “This whistleblower air marshal was fired by TSA, reinstated by Supreme Court, and fired again”: <https://www.ocregister.com/2019/04/05/this-whistleblower-air-marshal-was-fired-by-tsa-reinstated-by-supreme-court-and-fired-again/>

¹⁴ December 19, 2019 *East Bay Times* article by Teri Sforza titled, “Flight security ‘hopelessly inadequate’ to stop another 9/11-style attack, whistleblower says”: <https://www.eastbaytimes.com/2019/12/14/flight-security-hopelessly-inadequate-to-stop-another-9-11-style-attack-whistleblower-says/>

- intimidating another FAM by signaling that I would run them over in the WFO parking lot using my vehicle.

Immediately after I was cleared of the allegations that I had breached secured IAD airport areas during my VIPR operations, TSA launched its death-threats probes in which **TSA-OOI investigators dragged in 9 (nine) witnesses.**

I was exonerated of all 4 (four) of TSA-OOI's 2018 investigations.

Instead of immediately firing me for the 2017 allegations it later sustained on March 21, 2019, TSA had to run-out the clock on the **full three-member U.S. Merit Systems Protection Board (MSPB)** by launching 4 (four) more probes throughout 2018 and until March 2019—when the full MSPB became empty of all of its members for the first time in its 40-year history.¹⁵

IV. 2 senior TSA-FAMS Headquarters officials testified that—within U.S. airports—local airports' authority supersedes TSA VIPR's, federal law 6 U.S.C. § 1112 contradicts their testimony; DHS-OIG complained about VIPR's "effectiveness"; Israel's national airline, EL AL, also does not allow U.S. law enforcement random inspections on the food catering trucks that serve its aircrafts

During June 2, 2021 U.S. Merit Systems Protection Board (MSPB) hearing, pursuant to my second termination as a FAM, former VIPR Assistant Supervisory Air Marshal in Charge (ASAC) [REDACTED] testified that MWAA dictates how TSA VIPR conducts airport counter-terrorism activities such as *Operation Guardian*. ASAC [REDACTED] affirmation is wrong: TSA VIPR gets its authority from federal law 6 U.S.C. § 1112; there's no language in §1112 stating that local law enforcement departments' authority, such as MWAA's, have authority over TSA VIPR. §1112 only asserts that TSA VIPR shall "consult" with "local security and law enforcement [and] transportation entities". Logically, §1112 requires TSA VIPR to

¹⁵ April 19, 2019 *The Washington Post* article titled, "Federal appeals board: Better defunct or with Trump appointees?":

<https://www.washingtonpost.com/politics/2019/04/19/federal-appeals-board-better-defunct-or-with-trump-appointees/>

“consult” with local stakeholders so that resources are best used, to avoid disruption of airport and airline operations, and to prevent a dangerous “blue-on-blue” police shooting.¹⁶

ASAC [REDACTED] further testified that MWAA and TSA did not want to open any catering trucks’ cargo doors because that would’ve “spoiled” the religious food inside.

During my July 7, 2021 MSPB hearing (Day No. 8), newly-promoted TSA-FAMS Supervisory Air Marshal in Charge (SAC) [REDACTED] repeatedly contradicted her previous testimonies to TSA-OOI in 2017 and her deposition taken by my attorney on January 26, 2021. During the July 7, 2021 hearing, my attorney asked her why she supported SFAM [REDACTED] decision to order me to never look inside airline catering trucks. SAC [REDACTED] responded that VIPR “has no jurisdiction” in U.S. airports and that VIPR is at U.S. airports “by invitation only”. Later during her hearing testimony, SAC [REDACTED] was asked why she forwarded my September 2017 catering trucks disclosure email to a TSA attorney 7 (seven) months after the fact.¹⁷ SAC [REDACTED] responded that she did not know why she emailed the TSA attorney [REDACTED] 7 (seven) months after my disclosure.

In text messages to me, Newark Field Office VIPR SFAM [REDACTED] confirmed that Israel’s national airline, EL AL, does not allow U.S. law enforcement random inspections of the food catering trucks that serve its aircrafts.¹⁸

¹⁶ May 27, 2010 *Harvard University* study report titled, “New York State Task Force on Police-on-Police Shootings Report”:
<https://www.hks.harvard.edu/publications/reducing-inherent-danger-report-new-york-state-task-force-police-police-shootings>

¹⁷ U.S. Department of Homeland Security (DHS) Supervisory Air Marshal in Charge [REDACTED] April 18, 2018 email to DHS Transportation Security Administration Office of Chief Counsel Attorney-Advisor [REDACTED] forwarding Robert MacLean’s September 26, 2017 *Operation Guardian* airline food catering trucks disclosure:
<https://drive.google.com/file/d/12OHwSXv6OuOdqek9zSO6-iJm0jk6R6jd/>

¹⁸ October 2017 text messages from U.S. Department of Homeland Security / Transportation Security Administration / Visible Intermodal Prevention and

There's a proven and unbiased reason as why I was banned from conducting VIPR operations at airports: In its **redacted** July 24, 2018 report, the DHS Office of Inspector General (DHS-OIG) specifically complained about the TSA-FAMS's most expensive ground-based assignments program, VIPR. VIPR's annual budget is \$55.6 million. VIPR and other TSA-FAMS ground-based assignments programs were unable to demonstrate their effectiveness:

"What We Found Despite dedicating approximately \$272 million to ground-based activities, including Visible Intermodal Prevention and Response (**VIPR**) **operations, FAMS could not demonstrate** how these activities contributed to TSA's mission. During our assessment of FAMS' contributions to TSA's layered approach to security, we determined that FAMS lacked performance measures for the 24 strategic initiatives and most ground-based activities outlined in its strategic plan. Additionally, FAMS' **VIPR operations performance measures fail to determine the program's effectiveness.**"
(emphasis added) ¹⁹

Without allowing it to perform random law enforcement inspections on all food catering trucks, to gather intelligence, to carry-out covert RED TEAM tests, and to conduct undercover criminal investigations, the VIPR program is just another one of the TSA-FAMS many multi-million dollar "security theater" "dog and pony shows".

V. After my 2016 disclosure, "TSA requested" vehicle-ramming bollards be built in front of DCA, took credit for their installation, and had me secretly banned from conducting anymore operations at DCA

Response Supervisory Federal Air Marshal [REDACTED] confirming that Israel's national airline, EL AL, does not allow U.S. law enforcement random inspections on food catering trucks that serve its aircrafts:

https://drive.google.com/file/d/1g5ZxS-Xbrh2gXB7EaB2j_lnwbqf9m1xi/

¹⁹ July 24, 2018 U.S. Department of Homeland Security Office of Inspector General Report No. 18-70 titled, "FAMS Needs to Demonstrate How Ground-based Assignments Contribute to TSA's Mission (REDACTED)":

<https://www.oig.dhs.gov/sites/default/files/assets/2018-08/OIG-18-70-Jul18.pdf>

Here's a perfect example of the flagrant and reckless measures TSA leadership officials will take to deny security and/or safety lapses, quietly take corrective action, credit themselves for the correction, and then retaliate against the whistleblower:

December 30, 2016 — Email I sent to a TSA/FAMS leadership official, Reagan National Airport (DCA) Assistant Federal Security Director for Law Enforcement (ASFD-LE) [REDACTED]:

"Hi [REDACTED], how come there are no vehicle barriers between the end of the pedestrian walkway and the sliding glass doors to the main entrance of Reagan National Airport's Terminal A? Another Federal Air Marshal and I noticed that a small to medium sized vehicle could drive between the steel hand rails at the end of the pedestrian walkway, to the left of the baggage machine, through the glass doors, and into one of the gate jetways."²⁰

December 30, 2016 — DCA AFSD-LE [REDACTED] nonsensical response that a snowplow is driven over when there's *apparently* an elevated threat:

"That's what the snowplow is for; barricade situations[.]"
(see footnote No. 20 for link to document)

January 16, 2017 — Pursuant to 5 U.S.C. § 2302(A)(2)(d)(ii), I filed a disclosure with the DHS-OIG public website hotline asserting that Reagan National Airport's (DCA) Terminal A was extremely vulnerable to a vehicle-ramming attack by a vehicle as large as a dually pick-up truck, i.e., Ford® Super Duty® F-250 truck. DHS-OIG would subsequently punt my disclosure to TSA-OOI.²¹

²⁰ December 30, 2016 emails exchanged between Robert MacLean and U.S. Department of Homeland Security / Transportation Security Administration Reagan National Airport (DCA) Assistant Federal Security Director for Law Enforcement [REDACTED] with regards to the need for vehicle-ramming barrier bollards to protect DCA's Terminal A:
https://drive.google.com/file/d/1nbw-8jLLoQdA_x4fD4yJoajPGYrL_ddZ/

²¹ January 18, 2017 U.S. Department of Homeland Security (DHS) / Office of Inspector General request for Robert MacLean's permission to punt his lack of

February 16, 2017 (10:58AM) — TSA-OOI's email to TSA DCA Federal Security Director [REDACTED] requesting that any corrective action be taken at his level:

"Attached for your information, is a complaint received in the Office of Inspection (OOI)/Investigations Division. This complaint was reviewed in OOI and it was determined that the issue involved is more appropriate for your office. Please handle as you deem appropriate." ²²

February 16, 2017 (11:13AM) — Email from TSA DCA Federal Security Director [REDACTED] to all of TSA DCA leadership and AFSD-LE [REDACTED]:

"Subject: FW: HL17-0119 DCA Information Only

FYI...no action required.

[REDACTED]: (Please follow up with this guy [Robert MacLean])"
(see footnote 22 for link to view document)

February 16, 2017 (2:58PM) — Email from ASFD-LE [REDACTED] to TSA DCA leadership, TSA-FAMS Washington Field Office leadership, and Metropolitan Washington Airports Authority (MWAA) leadership in response to my January 25, 2017 DHS-OIG disclosure of the lack of vehicle-ramming barrier bollards to protect DCA Terminal A and its pedestrians. AFSD-LE [REDACTED] asserted that I need to be informed that "management is satisfied" and that the installation of bollards is unnecessary:

"Please inform FAM Robert MacLean that TSA-DCA management appreciates his security concerns regarding Terminal (A); however,

Reagan National Airport Terminal A vehicle-ramming bollards complaint to the DHS Transportation Security Administration:

<https://drive.google.com/file/d/1640fIyOf5EGtVIL71859QNxfAYzna9UB/>

²² 2017 emails between U.S. Department of Homeland Security (DHS) / Transportation Security Administration leadership officials in response to Robert MacLean's January 16, 2017 DHS Office of Inspector General complaint with regards to the need for vehicle-ramming barrier bollards in front of Reagan National Airport's Terminal A:

https://drive.google.com/file/d/1lTBuSBpQHfPfnbm_8x-NGyoRKEdaGDlrt/

management is satisfied with the physical security measures employed by the Metropolitan Washington Airport Authority Police used to protect Terminal (A) such as 24-hour police patrols, snowplows/police vehicles used for emergency barriers, and a (visible) police presence throughout the day.”²³

April 25, 2018: DCA AFSD-LE [REDACTED] email in response to my public assertion that I prompted the May 2017 installation of new bollards in front of DCA’s Terminal A:

“FAM MacLean **had no involvement** with the installation of new vehicle barricades at DCA.” (*emphasis added*)²⁴

April 15, 2021: MWAA responds to my March 15, 2021 Freedom of Information Act request for its work order that resulted in the May 2017 installation of bollards in front of DCA’s Terminal A:

“Metro. Wash. Airports Authority Corrective Maintenance Work Order

...

Date Orig: 4/26/2017

...

TSA has requested MWAA to install a removable bollard at the [DCA] terminal A

...

Note that job needs to be scheduled and completed within the next two weeks.” (*emphasis added*)²⁵

²³ Transportation Security Administration’s (TSA) discovery responses pursuant to U.S. Merit Systems Protection Board Washington Regional Office (Docket No. DC-1221-20-0235-W-2); 2017-2018 emails between TSA Federal Air Marshal Service Washington Field Office leadership and TSA Reagan National Airport leadership: <https://drive.google.com/file/d/0B5QD7Ci6CgwwSVhtQ3ptZElleTg/>

²⁴ April 25, 2018 email from U.S. Department of Homeland Security / Transportation Security Administration Reagan National Airport (DCA) Assistant Federal Security Director [REDACTED] asserting that Robert MacLean “had not involvement with the installation of new barricades at DCA [Terminal A]”: <https://drive.google.com/file/d/1GlvM0Iwj74DIXTmfyG5e48riDvPnYVaD/>

²⁵ April 15, 2021 Metropolitan Washington Airports Authority (MWAA) Freedom of Information Response cover-letter response to request for April 26, 2017 work order

Excerpts from Supervisory Air Marshal in Charge (ASAC) [REDACTED]

[REDACTED] sworn U.S. Merit Systems Protection Board (MSPB) January 26, 2021 deposition—pages 74 to 75:

My counsel, Gary Gilbert: *"And you also understood that [Robert MacLean's Twitter] post [about the lack of vehicle-barrier bollards in front of Reagan National Airport's (DCA) Terminal A] had something to do with a safety -- at least Mr. MacLean was alleging that the post had something to do with a safety concern that he had previously raised. Isn't that also correct?"*

SAC [REDACTED]: *"Yes."*

Mr. Gilbert: *"Therefore, the posting of that was at least related to his whistleblowing activity. Isn't that also true?"*

Agency counsel, [REDACTED]: *"Objection."*

Mr. Gilbert: *"You can answer."*

SAC [REDACTED]: *"Yes."*

Page 97:

Mr. Gilbert: *"Why didn't you tell the [Washington Metropolitan] Airport Authority that they could not dictate to you what assignments to give to people and allow Mr. MacLean to continue in his job?"*

SAC [REDACTED]: *"I was not involved in the decision of whether or not we were going to abide by the stakeholder's request."*

Mr. Gilbert: *"Did you agree with the decision [to prevent Mr. MacLean from working anywhere at Reagan National Airport (DCA)]?"*

SAC [REDACTED]: *"No."*²⁶

for "TSA is requesting [Reagan National Airport Terminal A vehicle ramming bollards installation]":

<https://drive.google.com/file/d/1PF94r-CTCV2p5xIkewP58U4ckbxFVXfV/>

April 26, 2017 MWAA's work order for "TSA is requesting [Reagan National Airport Terminal A vehicle ramming bollards installation]":

https://drive.google.com/file/d/13_D3X2RQHCFYJmZTH2EIPxiLFg2wbrpY/

²⁶ January 26, 2021 U.S. Merit Systems Protection Board Washington Regional Office (Docket No. DC-1221-20-0235-W-2) deposition of Assistant Supervisory Air

VI. With regards to my 2017 airline catering trucks disclosure, I reported to TSA leadership “a substantial and specific danger to public health [and] safety” pursuant to 5 U.S.C. § 2302(A)(2)(d)(ii); 17 months later I was terminated a second time

On September 26, 2017, I made a “a substantial and specific danger to public health or safety” disclosure directly to my TSA leadership pursuant to 5 U.S.C. § 2302(A)(2)(d)(ii). Specifically, I learned that both local and federal law enforcement officers are prevented from conducting random inspections on certain airline catering food trucks.

Seventeen (17) months after my catering trucking disclosure, TSA terminated my employment for the second time as a FAM. My first termination was reversed subsequent to a January 21, 2015 decision by the Supreme Court of the United States (Case No. 13-894) citing that I made protected disclosures under the federal Whistleblower Protection Act.

From August 17, 2016 to June 14, 2018, TSA leadership directed me to be involuntarily reassigned to the TSA Federal Air Marshal Service (FAMS) Washington Field Office (WFO) Visible Intermodal Response and Prevention (VIPR) division. WFO VIPR activities mainly consisted of patrolling airports and rail stations. During VIPR operations, sometimes FAMs would observe serious criminal activity and effect arrests, for instance on May 16, 2018, I arrested a man who sexually assaulted and stalked a woman in Union Station, Washington DC.

On the morning of September 26, 2017, TSA leadership directed my team to cancel our scheduled VIPR operation for the day. We were directed to immediately report to Dulles International Airport (IAD) and obtain orders from the Metropolitan Washington Airports Authority (MWAA). MWAA identifies these random safety and security inspection missions as *Operation Guardian*.

Marshal in Charge [REDACTED] conducted by Robert MacLean’s counsel, Gary Gilbert:

<https://drive.google.com/file/d/1H-UCSlgKuA2e5dA3WQrtlKRhf4iCMX5x/>

MWAA directed me and another FAM to establish a vehicle checkpoint inside of IAD's secured air operations area (AOA) next to a vehicle gate where a security guard was always posted. We were ordered to conduct "open and look" searches on all vehicles after they entered the AOA. At the start of our checkpoint operations, we were informed that the only exception were emergency response vehicles, i.e., fire, medical, law enforcement.

As a prior U.S. Border Patrol Agent, I conducted vehicle checkpoint operations for almost 6 (six) years in areas far north of U.S./Mexico border Ports-of-Entries. Without a warrant, I was required to either obtain voluntary consent or establish probable cause before searching vehicles that were already inside the U.S. or had recently and legally entered the U.S. from a Port-of-Entry.

During our *Operation Guardian* checkpoint operations, a *Flying Food Group* airline catering bobtail truck entered our checkpoint. The truck's cargo doors had a blue plastic seal that had to be broken in order to "open and look" into its cargo bay. Per our orders, I subsequently asked the truck's driver to exit and provide me with his drivers license and IAD security identification display area (SIDA) badge for a records-check to be conducted by an MWAA police officer. I also asked for the seal manifest in order to annotate that I would be breaking the seal. Although I did not require it, I asked for and was given the driver's consent to look into the cargo bay. Immediately, an MWAA police officer ordered me not to break the seal. The MWAA police officer stated that airline food catering trucks were exempt *Operation Guardian* random inspections because certain meals were "specially blessed" by religious clerics, specifically, the Islamic meals. The MWAA police officer mentioned various airlines based in Muslim/Halal countries. I responded to him that such an exemption was nonsensical and dangerous. This conversation was in direct earshot of the truck driver who was standing outside next to the cargo door.

After the MWAA police officer's directive, to not break the cargo door seal, I contacted my first-line VIPR supervisor, SFAM [REDACTED]. Over the phone, SFAM [REDACTED] was upset that I was second-guessing MWAA's directive and ordered me to comply without any more hesitation. Mr. [REDACTED] would eventually be

promoted to a position in TSA Headquarters as the Assistant Supervisory Air Marshal in Charge of the VIPR program.

All of my conversations, between the MWAAs police officer and SFAM [REDACTED], were heard by the catering truck driver who was ready to allow me to look into his truck's cargo bay. The truck driver, who was likely unaware of the law enforcement random inspection exemption, now knows about this vulnerability and could relay that information to potential bad-actors. In *Section XI*. of this document, I cite to a report that one airline catering facility is **28 (twenty-eight) miles** from the U.S.'s fifth busiest airport, Los Angeles International Airport.

During a scheduled March 20, 2018 meeting that I had with Region One Supervisory Air Marshal in Charge (SAC) [REDACTED], SAC [REDACTED] warned me that searching airline food catering trucks was in violation of Muslim passengers' First Amendment rights under the U.S. Constitution, specifically the "establishment of religion". [REDACTED], a contractor, was a witness to SAC Porter's assertion. His First Amendment statement was not extemporaneous, weeks in advance I provided him a detailed copy of my September 26, 2017 disclosure.

Several TSA leadership officials and TSIs have told me that a "religious exemption" does not exist and never has existed. These officials assert that the "religious exemption" pretense is only a distractive myth that's never been challenged before.

SFAM [REDACTED] repeatedly ignored my follow-up emails requesting that he to cite to the law, regulation, or rule supporting his repeated assertion that one existed. Finally, I phone-called him and he declared that he does not need to provide me with any directive and that the existing law enforcement random search exemption "is standard protocol and there won't be any changes[.]" ²⁷

²⁷ Robert MacLean's email memorializing his October 11, 2017 phone conversation with U.S. Department of Homeland Security / Transportation Security Administration Visible Intermodal Prevention and Response Assistant Supervisory Air Marshal in Charge [REDACTED]:
<https://drive.google.com/file/d/1AabyFvU2mUpfOnDZjrb22pvuOeBLz91d/>

VII. In 2019, several of TSA’s compliance branches issued warnings and requested corrective action regarding “numerous questions and potential vulnerabilities relating to catering and supplies” and “that

TSA designated its branches’ warnings as “SENSITIVE SECURITY INFORMATION” therefor exempting it from the public’s Freedom of Information Act requests and congressional requests

Designating it as “SENSITIVE SECURITY INFORMATION” (SSI), the TSA’s *Aviation Compliance Branch* and *Cargo Compliance Branch* together issued a joint March 13, 2019 warning memorandum “Subject: UPDATE: SEA 2019-002 Catering and Provisioning”—page 1:

“In addition, it was determined that Full All-Cargo Standard Security Program (FACAOSSP) and All-Cargo International Security Program (ACISP)

.” (emphasis added)

Attaching it to the March 13, 2019 warning and also designated as SSI, the TSA’s *Aviation Compliance Branch* issued this alarming July 9, 2019 warning memorandum “Subject: SEA 2019-002 Catering/Supplies Survey”—page 1:

“The Aviation Compliance Branch conducted a nationwide Compliance Security Enhancement Through Testing (COMSETT) inspection for catering (COMSETT 2019-002), which concluded on January 24, 2019. The COMSETT **identified numerous questions and potential vulnerabilities relating to catering and supplies**. As a result, Phase III of the COMSETT was cancelled and SEA 2019-002 was developed to evaluate the process and security procedures for the delivery of catered items and supplies to the aircraft. In addition, discussions with the Cargo Compliance Branch revealed that

...
From the results, it is recommended that [TSA Operations Support Policy, Plans, and Engagement (PPE)] review and draft update(s) to current security programs **to address the identified security concerns and/or vulnerabilities**, as deemed necessary and appropriate.
...

[REDACTED]

security procedures or required measures for some of the deliveries being made. [REDACTED]

[REDACTED] (emphasis added)²⁸

In a flagrant contradiction, TSA conveniently chose not to designate as SSI its responses to OSC's 5 U.S.C. § 1213 referral, pursuant to my September 26, 2017 disclosure. Bipartisan members of Congress have complained about TSA using the SSI designation to purposely hide embarrassing safety and security failures. In a bipartisan Joint Staff Report, Congress highlighted this testimony from a now-former TSA Office of SSI Director:

"[T]here was information in the responsive documents that was not by any stretch of the imagination at all SSI, but was either embarrassing or was something that [TSA senior leadership] just didn't want the other side to know. And there was extreme pressure from again I'll use the term '[the TSA Administrator's] front office' to mark it as SSI."

²⁹

²⁸ March 13, 2019 U.S. Department of Homeland Security / Transportation Security Administration (TSA) / Aviation Compliance and Cargo Compliance Branches joint warning memorandum "Subject: UPDATE: SEA 2019-002 Catering and Provisioning" attaching the March 13, 2019 TSA's Aviation Compliance Branch's July 9, 2019 warning memorandum "Subject: SEA 2019-002 Catering/Supplies Survey":

<https://drive.google.com/file/d/15JSRW-md5kBNNvvgg36VrHoJUyjJngQO6/>

²⁹ May 29, 2014 U.S. House of Representatives Committee on Oversight And Government Reform bipartisan "Joint Staff Report" titled, "Pseudo-Classification of Executive Branch Documents: Problems with the Transportation Security Administration's Use of the Sensitive Security Information (SSI) Designation":

<https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/Pseudo%20Classification%20Report%20FINAL%205-29-2014.pdf>

After a TSA office accidentally posted the TSA's SSI-designated airport passenger checkpoint security screening *Standard Operational Procedures* (SOP) manual on the open Internet, acting TSA Gale Rossides testified during a Congressional hearing that Congress cannot be trusted with SSI:

"During the hearing, when Rossides repeatedly refused to hand over the most up-to-date version of the SOP for legislators to review, Rep. Charlie Dent, R-Penn., asked why. Rossides replied that she was concerned about keeping such sensitive information protected. 'This implies [we] would disclose the document,' said Dent, visibly frustrated." ³⁰

VIII. MWAA's mandatory random inspection waiver for airport workers and TSA's law enforcement random inspection policy

MWAA's "Pass & ID Airport Identification Badge Application" in effect prior to my 2017 disclosure—page 2:

"Section III – Applicant's Security Responsibility Agreement
49 CFR Part 1540 holds each individual responsible for their actions as they may pertain to airport security. Following is a summary of those responsibilities and obligations

...

7. I will submit to searches of my person, property, bags, and/or **vehicle at any time** entering or within the SIDA/Secure Area/Sterile Area/AOA." (*emphasis added*) ³¹

MWAA's vehicle "ORDERS AND INSTRUCTIONS" in effect prior to my 2017 disclosure—page 27:

³⁰ December 16, 2009 ABC News article titled, "TSA Stonewalls Congress About Screening Manual Security Breach

Rossides says screening procedures have changed – but won't provide the proof":

<https://abcnews.go.com/Blotter/tsa-stonewalls-congress-security-breach/story?id=9354132>

³¹ September 18, 2015 version of the Metropolitan Washington Airports Authority Pass & ID Airport Identification Badge Application via Archive.org:

https://web.archive.org/web/20170626173918/http://www.mwaa.com/sites/default/files/mwaa_id_application_2015-09_final_0.pdf

“SECURITY REQUIREMENTS FOR VEHICLES

Operators and passengers of **all vehicles entering** the Secured Area/AOA through the AACS gates must comply with the security procedures outlined in Orders and Instructions DCA64-4, current version. Such procedures include but are not limited to:

• **Submitting to inspections and searches of the vehicle,** persons, and property **by TSA,** Authority Police, Airport Operations, or designated Authority Security representatives” (*emphasis added*)³²

IX. TSA’s policy directing law enforcement “random patrols” for the “security of aircraft and facilities”

October 3, 2017 TSA Emergency Amendment No. EA 1546-12-07J—page 10 of 23:

“V. SECURITY OF AIRCRAFT AND FACILITIES

A. Airport Facilities - Exclusive Area Agreement

1. Secured Area and [*security identification area (SIDA)*]

a. Working in conjunction with the airport operator and [TSA Federal Security Director (FSD)]:

1) Limit the number of access points (pedestrian and vehicle) to the secured areas (such as, baggage make-up areas) and to the SIDAs to those approved by the FSD.

2) Conduct **random patrols** of secured areas and SIDAs using direct air carrier employees, authorized representatives, uniformed or plainclothes security guards who are trained **to summon law enforcement officers** (LEOs), or LEOs at a frequency approved by the FSD to provide surveillance, act as a deterrent, and respond, as necessary, to security incidents.” (*emphasis added*)³³

³² February 23, 2017 version of the Metropolitan Washington Airports Authority Orders and Instructions via Archive.org:
https://web.archive.org/web/20170626225926/http://www.mwaa.com/sites/default/files/2017-02-23_oi_dca_3-2-4k_vehicle_control_program_for_ronald_reagan_washington_national_airport.pdf

³³ October 3, 2017 U.S. Department of Homeland Security / Transportation Security Administration Emergency Amendment No. EA 1546-12-07J; SUBJECT: “Security Measures for Flights Departing From or Operating Within the United States”:
https://drive.google.com/file/d/13CdEgl_xD9qgCIcNXeOxBK2V39xG0rNq/

X. MWAA boasted that Operation Guardian was “covert and undisclosed”;
Operation Guardian was indefinitely suspended after my 2017 airline
catering trucks disclosure

After my September 26, 2017 catering trucks disclosure, MWAA stopped citing “Operation Guardian” and “Federal Air Marshals” in its annual reports.³⁴

An excerpt from MWAA’s 2017 Annual Report in which it describes *Operation Guarding* as “covert and undisclosed”—page 17:

“The Airports Authority also has a ‘This is my Airport’ campaign focusing on airport employees reporting suspicious activity or **insider threats**.

...

Operation Guardian is designed to achieve and maintain a high level of intense proactive law enforcement activity for the entire detail. The overarching objectives of this initiative are to create counter-terrorist and criminal suppression measures through overt enforcement and presence coupled with **covert and undisclosed activities**. Examples of specific details include high-visibility M4 deployment, K-9 sweeps, saturation patrols, and initiating contacts through traffic enforcement or field interviews. Contacts are made with our Airports community during the operation and See Something, Say Something along with Watch, Listen, Speak Up literature is handed out. Jurisdictional partners routinely participate in the operations. Examples of our jurisdictional partners who participate **include...Federal Air Marshals.**” (*emphasis added*)³⁵

2016 MWAA Annual Report again citing *Operations Guardian* as “covert and undisclosed activities”:

“We work with our federal, state, and local partners to constantly find inventive methods to keep our travelling public safe through initiatives such as Operation Guardian, Operation Gate Guard, and our consistent focus on our ‘**insider threat**’.

...

³⁴ 2018 Metropolitan Washington Airports Authority’s Annual Report:
https://www.mwaa.com/sites/default/files/2018_annual_report.pdf

³⁵ 2017 Metropolitan Washington Airports Authority’s Annual Report:
https://www.mwaa.com/sites/default/files/2017_annual_report.pdf

Operation Guardian is designed to achieve and maintain a high level of intense proactive law enforcement activity for the entire detail. The overarching objectives of this initiative are to create counter-terrorist and criminal suppression measures through overt enforcement and presence coupled with **covert and undisclosed activities**. Examples of specific details include high-visibility M4 deployment, K-9 sweeps, saturation patrols, and initiating contacts through traffic enforcement or field interviews. Contacts are made with our Airports community during the operation and **See Something, Say Something** along with Watch, Listen, **Speak Up** literature is handed out. Jurisdictional partners routinely participate in the operations. Examples of our jurisdictional partners who participate **include...Federal Air Marshals.**" (*emphasis added*)³⁶

MWAA's July 27, 2016 social media post with photos on Twitter and citing that it worked with FAMs on a recent "Operation Guardian" mission:

"MWAAPD working with our partners such as @VSPPIO @DHSgov @TSA during #OperationGuardian to keep your airports safe."³⁷

Another MWAA post on Twitter, generated on August 22, 2017, showing photos of FAMs on another recent "Operation Guardian" mission:

"Another great #OperationGuardian @Reagan_Airport. It's great to interact with our community."³⁸

XI. TSA has been aware of airline food catering trucks security vulnerabilities since 2014

TSA was provided with an airline food catering workers union's report citing the dangers associated with poor airline food catering security:

³⁶ 2016 Metropolitan Washington Airports Authority's Annual Report: https://www.mwaa.com/sites/default/files/2016_annual_report.pdf

³⁷ Metropolitan Washington Airports Authority's July 27, 2016 post on Twitter.com: <https://twitter.com/MWAAPoliceChief/status/758361429531557889>

³⁸ Metropolitan Washington Airports Authority's August 22, 2017 post on Twitter.com: <https://twitter.com/MWAAPoliceChief/status/900056304764563456>

“Nearly one in four airline catering workers — 24% — say unauthorized people could get into their kitchens and trucks, and the same percentage warned that someone could place contraband on a food cart, according to a survey obtained by USA TODAY.

...

Unite Here, a union representing 12,000 airline catering workers nationwide, surveyed 400 of its members and provided an 18-page report to the Transportation Security Administration on Monday.

...

A Los Angeles caterer has a subcontractor 28 miles from the airport, which the union said raises security concerns.

...

‘The farther you get away from a secure location, the less secure it becomes, in our opinion.’

The report recommends:

- **A TSA presence in any kitchen** where meals are prepared or plated.” (*emphasis added*) ³⁹

XII. Local airport authorities have successfully implemented their own “insider-threat” sting operations resulting in dozens of criminal indictments; TSA’s Visible Intermodal Prevention and Response (VIPR) program, Office of Intelligence and Analysis, and Office of Law Enforcement/Federal Air Marshal Service have federal legal authority and a collective budget of \$943.6 million, there’s no excuse for TSA to submit to the whim of corporations and local governments

In one airport, 46 workers were **criminally indicted** for unwittingly smuggling packages past TSA security:

“Airline workers smuggled phony heroin, cocaine and methamphetamine through Dallas-Fort Worth International Airport for distribution nationwide as part of an undercover sting that led to the indictment of 46 people Wednesday, federal officials said. In the elaborate operation orchestrated by federal and local agents, airline employees used their knowledge, airport friends and security credentials to evade Transportation Security Administration scrutiny

³⁹ September 8, 2014 *USA Today* article titled, “Report: 1 in 4 airline caterers say food carts vulnerable”:

<https://www.usatoday.com/story/travel/news/2014/09/08/tsa-caterers-airlines-unite-here/15286633/>

and to board planes to Chicago, Las Vegas, Newark, Phoenix, Wichita and San Francisco.”⁴⁰

3 (three) years later, the same local airport police department arrested 10 (ten) more workers for the same crimes:

“Federal indictments have been issued for 10 employees of companies working out of [Dallas-Fort Worth International Airport (DFW)] and nine have been arrested and face federal drug distribution charges.”⁴¹

TSA’s Visible Intermodal Prevention and Response Team program has an annual budget of \$55.6 million. TSA’s Office of Intelligence and Analysis has an annual budget of \$83.5 million. TSA’s Office of Law Enforcement/Federal Air Marshal Service has an annual budget of \$805 million.

TSA employs approximately 75 (seventy-five) Series 1811 Criminal Investigators who have the same authority and are paid the same as U.S. Department of Justice Federal Bureau of Investigation (FBI) and Drug Enforcement Administration (DEA) Criminal Investigators.⁴² TSA Criminal Investigators are paid at the J Band grade under the TSA’s pay-for-performance Core Compensation Plan Pay plus receive an additional 25% Law Enforcement Availability Pay as do FBI and DEA Criminal Investigators.

⁴⁰ July 15, 2015 *The Washington Post* article titled, “46 people indicted in drug-smuggling bust at Dallas-Fort Worth airport”:
https://www.washingtonpost.com/local/trafficandcommuting/undercover-sting-snags-would-be-airline-drug-smugglers-at-dallas-fort-worth/2015/07/15/4d016a0e-2b04-11e5-bd33-395c05608059_story.html

⁴¹ May 15, 2018 *Fort Worth Star Telegram* article titled, “Feds: 10 schemed to load drugs, weapons and explosives on aircraft at DFW Airport”:
<https://www.star-telegram.com/news/local/fort-worth/article211175769.html>

⁴² July 26, 2019 U.S. Department of Homeland Security / Office of Inspection report titled, “TSA’s Data and Methods for Classifying Its Criminal Investigators as Law Enforcement Officers Need Improvement”:
<https://www.oig.dhs.gov/sites/default/files/assets/2019-07/OIG-19-56-Jul19.pdf>

There's no excuse that the American public pays \$943.6 million a year for Secret to Top Secret Sensitive Compartmented Information (TS/SCI) security clearances, TS/SCI polygraph examinations, and counter-terrorism training for TSA intelligence and law enforcement officers, but has to stand down to corporations' profit-margins and local governments' "security theater" activities such as *Operation Guardian*. No rational commercial airline passenger ever complained of arriving late, but safe and sound, due to "security concerns" as a result of law enforcement random searches.

XIII. CONCLUSION: Immediately resume law enforcement random inspections of catering trucks and establish protocols in accordance Islamic and Jewish customs; in 2021, TSA-FAMS senior leadership told the GAO that it plans to rapidly reassign FAMS to ground-based assignments

It's an insult to the Muslim and Jewish communities that they would demand that non-Muslim or non-Jewish law enforcement officers be prohibited from keeping them safe.

Law enforcement random inspections, such as TSA VIPR and MWAA's Operation Guardian, must immediately resume. It would not be difficult to establish respectful search protocols and sensitively training that would be acceptable to the majority of Islamic and Jewish leaders. Law enforcement random inspections are the least disruptive and most cost-effective way to make sure that the food catering and cargo side of commercial passenger aviation remain secured.

In my published June 9, 2015 written testimony requested by Congress, I asserted that the installation of cockpit secondary barriers would allow FAMS to conduct significantly more ground-based activities (GBA) such as preventing weapons and dangerous passengers from boarding aircrafts—pages 16 to 17:

"[I]t is dangerous to not...put more FAMS on the ground to prevent hijackers and [improvised explosives devices (IED)] from boarding aircraft, instead of deploying jet-lagged FAMS to dangerously sit and wait for hijackers to attack and/or discover an in-flight IED mid-flight — when it's too late. A team of bored and sleepy FAMS sitting on one plane waiting for something to happen is a waste of great resources, and dangerous with current policies. More VIPR teams need to be

deployed deep inside airports familiarizing themselves with the daily activity and gathering human intelligence. FAMs need to be on the ground in VIPR and U.S./overseas RED TEAMS proactively gathering and analyzing intelligence, conducting behavior detection, investigating leads, interviewing informants, and building casework that could save us from another 9/11.”

(see footnote No. 4 to access document)

In a June 2021 U.S. Government Accountability Office report of investigation of the U.S. air marshal program, TSA-FAMS senior leadership asserted that it was rapidly going to reassign FAMs to more ground-based assignments—page 30:

“FAMS leadership is in the early stages of planning to permanently shift operations toward more ground-based transportation security activities. According to the Executive Assistant Administrator/Director of FAMS, FAMS leadership had been considering an increase in ground-based operations prior to the COVID-19 pandemic—as far back as **2011**—but the effects of the COVID-19 pandemic have caused them to accelerate this shift.”⁴³

2011 was the year the Radio Technical Commission on Aeronautics issued its disturbing unpublished **unredacted** SSI-marked study report (No. RTCA DO-329). The September 28, 2011 RTCA DO-329 concluded that FAMs—expecting the RTCA study’s cockpit-breach scenario—were unable to prevent faux hijackers from breaching unlocked cockpits [REDACTED]

[REDACTED] *(see footnote No. 14)* An airline pilot/captain (“Capt.”)—who was co-chairman and participated in the RTCA DO-329 study—told the media in 2011 that FAMs were unable to stop breaches on cockpits when pilots routinely unlocked them in order to sleep, eat, or use the lavatory:

“How to Hijack an Airplane in 3 Seconds

...

‘We’re in a race against time, frankly, because there is going to be another attack,’ said Capt. Ed Folsom, a United Airlines pilot who has

⁴³ June 2021 U.S. Government Accountability Office Report No. GAO-21-595 titled, “Federal Air Marshal Service Should Document Its Response to Cases and Facilitate Access to Testing Report to Congressional Committees”:

<https://www.gao.gov/assets/gao-21-595.pdf>

played an active role in the development of the secondary barrier system since 2002. 'I'm no rocket scientist, so if I can see the vulnerability, so can everyone else.'

...

Folsom, a co-chairman of the [RTCA DO-329] committee, said the group is currently working on a report that will outline minimum performance criteria, installation instructions, and other issues for secondary barriers.

...

What's more, Folsom added that the drills, while grim, likely offer a best-case scenario. **'We looked at some**

[REDACTED] unwilling to serious hurt or kill themselves],'

Folsom said. 'If they can't do it, then little 57-year-old, 40 percent body fat Susie isn't going to do it.'

...

In recent years, according to [2011 RTCA D-329 member and a commercial airline pilot and former president of the Coalition of Airline Pilots Associations Captain Paul] Onorato, the coalition has set up scenarios where a handful of would-be terrorists are seated in the first few rows of an airplane. These scenarios have shown that **terrorists are able to 'blow past' both a flight attendant and galley cart and get into the cockpit within three seconds.**" (*emphasis added*)

44

Capt. Folsom's 2011 "I'm no rocket scientist, so if I can see the vulnerability, so can everyone else" unlocked cockpit suicidal attack warning came true in 2020:

"While Abdullah was obtaining pilot training at the Flight School, he also conducted research into the means and methods to hijack a commercial airliner to conduct the planned attack, including security on commercial airliners and how to breach a cockpit door from the outside, information about the tallest building in a major U.S. city, and information about how to obtain a U.S. visa." 45

44 August 16, 2011 *The Atlantic* article titled, "How to Hijack an Airplane in 3 Seconds":

<https://www.theatlantic.com/national/archive/2011/08/how-to-hijack-an-airplane-in-3-seconds/243631/>

45 December 16, 2020 U.S. Department of Justice Official Press Release titled, "Kenyan National Indicted for Conspiring to Hijack Aircraft on Behalf of the Al Qaeda-Affiliated Terrorist Organization Al Shabaab":

From January 2016 to March 2016, I repeatedly requested in writing that the TSA-FAMS—including TSA-FAMS Regional Director [REDACTED]—grant FAMS access to the UNredacted RTCA DO-329 study report that was designated as SSI. Despite my requests being initially denied, the U.S. Department of Transportation / Federal Aviation Administration (FAA) reversed the TSA-FAMS's denial and allowed all FAMS to solely view the UNredacted RTCA DO-329 study report inside a TSA-FAMS field office:

"Subject: FAM Reference Material Regarding Aircraft Secondary Barriers and Alternative Flight Deck Security Procedures

From: [Supervisory Federal Air Marshal] [REDACTED]

Sent: Wednesday, March 02, 2016 11:47 AM

To: 18Squad11

The [TSA-FAMS Washington Field Office] WFO has a copy of the DO 329 report 'Aircraft Secondary Barriers and Alternative Flight Deck Security Procedures' and the **SSI information that was redacted** from the original document.

These documents are available in the office in hard copy only. They **cannot be sent electronically and cannot be reproduced or taken out of the office**. Please see me at your convenience to review the documents.

The FAA has also covered the report with an advisory circular http://www.faa.gov/documentLibrary/media/Advisory_Circular/AC_120-110.pdf (see attachment AC_120-110)." (*emphasis added*)⁴⁶

<https://www.justice.gov/opa/pr/kenyan-national-indicted-conspiring-hijack-aircraft-behalf-al-qaeda-affiliated-terrorist>

⁴⁶ January 2016 to March 2016 emails between Robert MacLean, U.S. Department of Homeland Security / Transportation Security Administration / Federal Air Marshal Service (TSA-FAMS) senior leadership, and U.S. Department of Transportation / Federal Aviation Administration senior leadership with regards to granting all Federal Air Marshals access to view the UNredacted Radio Technical Commission on Aeronautics RTCA DO-329 study report:
<https://drive.google.com/file/d/0B5QD7Ci6CgwwWnlDS1d4c2ZnZkU/>

In its heavily redacted June 26, 2017 *Audit Report* No. AV2017063, the U.S. Department of Transportation (USDOT) / Office of Inspector General vaguely referred to the RTCA DO-329 study report study's conclusion that expectant FAMs were unable to stop suicidal hijackers from defeating the current method of protecting unlocked cockpits by directing flight attendants to rotate wheeled airline service trolleys ("galley cart") into the aisle and/or using flight attendants without galley carts:

"Despite the important recommendations from the [September 28, 2011 Radio Technical Commission on Aeronautics (RTCA) No. DO-329] report, **only 5 of 63 air carrier representatives and none of the 34 FAA inspectors we interviewed were aware of either the RTCA study or FAA's guidance.** According to FAA, this is because none of the airlines we interviewed had requested new [unlocked cockpit] blocking procedures, and inspectors were under the impression the guidance only applied to new procedures. As a result, critical information contained in the study was ineffectively communicated to the field to address safety risks as called for in FAA's Safety Management System.

Lastly, FAA's guidance omits some key information. While FAA's guidance mentions the RTCA report, it does not highlight important conclusions from the report needed to select a door protection method. As an example, **the report concluded that some improvised secondary barriers, such as a flight attendant with a galley cart, were ineffective** 'as tested,' and additional enhancements were required to raise the effectiveness of certain barrier methods to an acceptable level." (*emphasis added*)⁴⁷

Two major universities in the U.S. and Australia conducted and published in 2011 their own study doubting that unbeknownst air marshal teams would be able to stop attackers' suicidal breaches of an unlocked cockpits—page 12:

⁴⁷ June 26, 2017 redacted U.S. Department of Transportation (USDOT) / Office of Inspector General Audit Report No. AV2017063 titled, "[The USDOT Federal Aviation Administration (FAA)] Has Taken Steps to Identify Flight Deck Vulnerabilities but Needs to Enhance Its Mitigation Efforts": [https://www.oig.dot.gov/sites/default/files/FAA%20Cockpit%20Safety%20SSI%20Final%20Report%209132017 Redacted 508.pdf](https://www.oig.dot.gov/sites/default/files/FAA%20Cockpit%20Safety%20SSI%20Final%20Report%209132017%20Redacted%20508.pdf)

“In addition, if a door-transition attack (by highly trained, armed, and athletic attackers) can take place in seconds, it is not at all clear that **air marshals could act fast enough** to waylay the attempt.”
(*emphasis added*)⁴⁸

***** END OF MY DECEMBER 5, 2022 REPLY COMMENTS *****

⁴⁸ December 2011 *University of Newcastle and Ohio State University* Research Report No. 281.12.2011 titled, “Cost-Benefit Analysis of Aviation Security: Installed Physical Secondary Barriers (IPSB), Federal Air Marshal Service (FAMS), Federal Flight Deck Officer (FFDO) Program”:
<http://fdx.alpa.org/Portals/26/docs/Security/FAMS%20Congressional%202012.pdf>