Sworn Affidavit of Events

To whom it may concern —

On Monday, 21 January 2013, I was heading for American Airlines flight 1551 from Boston Logan (where I was visiting) to San Francisco (where I live) via Chicago O'Hare — boarding time 11:30 am, gate B31. I passed through the Transportation Security Agency ("TSA") checkpoint guarding gates B30-36.

During my screening at that checkpoint, the TSA, and two TSA supervisors individually — Supervisory Transportation Security Officer ("STSO") Tricia Tonge-Riley (ID #s 110944 / 12311562) and STSO Kukula ("the agents") — violated my rights in multiple ways, which I detail below.

The Logan TSA can be reached at (617) 561-2002 phone, (617) 561-5758 fax. The Logan police can be reached at (617) 568-7300. The address for both is 2 Service Rd, Logan Airport, East Boston, MA 02128.

This complaint is written informally and without the assistance of counsel. My recollection of events listed below may not be perfect; I may later recall substantive details or mistakes, and reserve the right to improve it later.

Chronological record of events

The following is, to the best of my current recollection (with the supplement of notes that I took during and immediately after the encounter[1]), a clear and accurate recounting of the events that transpired.

I should note at the outset that throughout the events described below, I was physically unable to speak due to an episodic neurological disability. As a result, all communication I refer to making was done using a combination of American Sign Language ("ASL") and mouthing, except where I explicitly say that I wrote something.

Beginning of screening

When I approached the TSA checkpoint, I put my items — a large jacket, laptop bag, and backpack — on the x-ray machine belt and indicated to a nearby TSA agent that I was opting out of the TSA's electronic strip search machine. I watched my baggage go through the xray machine without incident, and then received an uneventful patdown. Neither the patdown nor the x-ray revealed anything of note; both proceeded routinely.

Afterwards, the agents took me aside and told me that they were going to search my bags.

I have previously had follow-up hand screening when something came up on x-ray that couldn't be determined clearly and needed to be examined by hand; that was not the case here. If it were, the agents would have singled out the particular container, looked within it for the specific item(s) that seemed suspicious on x-ray, and concentrated their search on those item(s).

Instead, the agents commenced a general search through *all* of my items, not looking for anything in particular, even though all the items had already been cleared by x-ray.

[1] See Exhibit F; the notes were written after boarding my plane, while awaiting takeoff

Search of papers and medications, and denial of access to communication aids

First, the agents demanded to see my identification and boarding pass. They protested and physically intervened when I went to get them out of my jacket.

The agents were extremely rude about my inability to speak, and refused to engage with my attempts to communicate with them asking the reason and motivation of their search, to explain items they asked about (such as my ocarina), etc.

Then, rather than searching for weapons or explosives, the agents' search concentrated on *reading* through my papers (including personal notes, writings, books, bank statements, identification, ticket stubs, confidential job related documents, private medical information cards, etc) and my medications[2]. The agents proceeded to interrogate me about all of these items — asking me about my travel history and plans, my name, my medical issues, my residence and work history, affiliations, etc.

The agents extracted my medical information card (Exhibit B) from my wallet, read it, and made spoken comments about its content during their search of my papers. The medical information card clearly states I have a medical need for constant access to my medication, liquids, food, computer, paper, and pen. Even after having read it, they continued to deny me access to those items, without any legitimate security reason to do so.

I told the agents that I objected to their questions and indeed to the entire illegal search. Because the agents refused to communicate with me, I repeatedly and clearly asked for access to my own pen and paper so that I would be able to write rather than having to rely on signing and mouthing that they refused to acknowledge as speech. The agents repeatedly denied and physically prevented me from doing so.

Eventually, one of the agents did give me access to my pen and paper. I wrote (Exhibit D): "The law limits the TSA's jurisdiction to 'search no more extensive nor intrusive than necessary to detect the presence of weapons or explosives'[3]. You are violating the law. What exactly are you looking for?"

The agents read it, scoffed, and then immediately took away my paper and thereafter physically prevented me from accessing paper again[4].

The agents then continued thoroughly searching through my papers and medications, repeatedly stopping to read the contents thereof.

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[2] I changed my name legally in July 2011, and have moved twice since then. As a result, some of my medication is in my current name (Sai) and some is in my former name (which I prefer to be kept private), as well as having been issued in more than one state. Having anticipated possible harassment regarding this, I carry my voided former passport in the bag containing my older medication, to ensure that there is no confusion that it does in fact belong to me.

The US Passport Office, upon issuing me my new passport after my name change, returned my old passport to me, voided (with two hole punched in it). This is intentional, so that people who have changed their name can easily prove their former identity when needed, such as for situations like this. Carrying both is perfectly legal.

[3] In writing this, I was quoting from memory *US v. Davis,* the controlling case law about the extent to which the TSA is authorized to conduct search.

[4] These actions were clearly in retaliation for my highly protected speech protesting their illegal actions. They had the effect of *literally* denying me freedom of speech, under color of law, as well as deliberately blocking the communication accommodations which they owed a positive duty to provide from the start of this encounter.

Results of search

The agents claimed that my possession of two passports (one valid in my current name, one voided in my former name) was illegal; that my possession of medication in both my current and former names were illegal; and that possession of expired medication was illegal.

Occasionally throughout this search, one of the agents would swab a random item or area of my backpack and put it through the nearby explosive trace detector machine (all of which tests were clear). However, this pretense at search was strictly *pro forma*, and the swabbing could easily have been done without the intrusive search of my papers and medications; her predominant activity, like her partner's, in fact concentrated on the *content* of my papers and medications.

The agents repeatedly tried to prevent me from reading their badges or writing down their names and ID numbers.

Police involvement

The agents then called MA Police Officer Coleman (badge #356, airport ID #315287) to investigate these alleged issues with my medication and ID, and gave them to him. When Coleman arrived, a third TSA agent provided me with a pad of paper with which to communicate; my communication with Coleman was entirely in writing on my side (Exhibit E).

Coleman proceeded to question me regarding my travel history, the reasons for my presence in Boston, whether I was travelling with others, my residence history, etc. When he asked whether I had previously been arrested, I wrote "I don't consent to any interrogation. I am not under arrest." He responded that we were "merely having a friendly conversation", to which I responded by pointing again at my denial of consent.

Contrary to Coleman's implicit claim that this was merely a voluntary encounter, rather than a detention, Coleman retained possession of my passport, medication, and boarding pass, and I clearly was not free to leave. He then went off to the side, and asked over his radio whether I had outstanding warrants, as well as other things I couldn't hear.[5]

At some point during this later stage of events, someone (I believe one of the two named TSA agents) made copies of some of my documents, including my boarding pass and some other documents I couldn't easily identify.

Conclusion

Coleman eventually returned saying that I had no warrants and was free to go.

At this point, I stopped the agents and got the names and badge numbers given above. When the agents noticed me write "STSO" next to their names (based on the three stripes on their uniform epaulets), they asked me aggressively how I knew they were STSOs[6], whether I did this often, etc.

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[5] I would point out that this clearly constitutes a police detention on Coleman's part, not a voluntary encounter, and that I had by this point clearly objected to any further interaction with him as well as indicated my desire to leave. This interaction was not consensual.

[6] I would point out that it is rather offensive that a government agent, *especially* a supervisor, should consider their title or status in any way secret — or treat a citizen's knowledge of their insignia of rank as somehow suspicious. Government agents have a positive *duty* to identify themselves, including their name, rank, and identification number(s). Any attempt to

The agents demanded that I give them the paper I was writing on and make a manual copy of its information for myself. I refused their demand, folded the paper, and put it into my pocket.

This whole ordeal took about an hour (from approximately 10:30-11:30am). As a result of it, although I had budgeted a significant amount of extra time, I only barely made my flight; it was mid boarding when I arrived at the gate.

Due to the TSA's actions in aggravating my neurological disorder, my symptoms were exacerbated, causing me to later have a painful episode of spasticity.[7]

My disability

I have a rare form of non-Tourette's tic disorder; this is a neurological disorder affecting my motor system.

In addition to more common symptoms (e.g. spasmodic torticollis, arm jerking or spasticity, hand tremors, etc), I occasionally have episodes of speech impairment. These episodes can range in severity from stuttering to my being totally unable to produce spoken words, and can last anywhere from minutes to hours. (See Exhibit A.)

The severity of my symptoms comes and goes cyclically; it happens that the last few months have been particularly bad, and that the day before this incident I had also had an episode of mutism.

My symptoms are severely aggravated by stress as well as lack of immediate and constant access to medications, liquids, and food — all of which factors were present due to the TSA agents' actions.

Normally, my episodic mutism is not really a problem. I fall back to ASL, mouthing, typing, or writing. It is an inconvenience and annoyance, but not a substantive barrier to communication with anyone who is cooperating — generally even the worst case scenario is that we have to resort to pen and paper. Under any reasonable circumstances, that's what would have happened here.

However, the agents deliberately both prevented me from accessing writing materials, and then deliberately *confiscated* those materials and physically prevented me from accessing them after they saw that I was writing a protest of their actions, thereby *preventing* rather than *accommodating* my right to speech.[8]

This occurred despite their actual knowledge of my disability and need for accommodation resulting from their illegal search of my wallet and reading of the medical information card contained therein, as well as from my directly informing them of my disability and needs.

Privacy of former name

Please note that "Sai" is my full legal name, as listed on my current passport; I am mononymic[9].

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hide these things is *a priori* an indication that the agent is knowingly engaging in inappropriate activity.

[7] Due to my disability, severe emotional distress of the kind inflicted by this ordeal directly leads to severe physical pain from torticollis, spasticity, etc.

[8] Again, these actions were in direct retaliation for my highly protected speech protesting their illegal actions, and with the clear intent of preventing my continued ability to communicate effectively, without any security justification whatsoever.

[9] For the purposes of the TSA's "Secure Flight" program, I entered my name as "MR SAI", since their system is not

I strongly request that my former name and any identification numbers (e.g. SSN, passport number, driver's license number, etc) not be listed or mentioned in any public documents or media, and be redacted from any proceedings in this matter (as I have done in the attached exhibits).

My reasons for changing my name are highly personal and not ones I wish to discuss in a public forum, and I have tried to keep my former name out of available public records to the extent possible. My former name is neither newsworthy nor relevant to any proceedings related to this matter, and I would be highly offended at its publication.

I will consider any violation of this request for privacy "public disclosure of private facts" and act accordingly.

Conclusion & contact information

I intend to work with any group that has allied cause in this matter, and to pursue both civil and criminal action against both the TSA as well as TSA agents Tonge-Riley and Kukula in their personal capacity, as well as to pursue all facets of this cause (in particular, the violations of both civil liberties and disability rights).

As of this writing, I have filed formal complaints / grievances in this matter with the Logan Airport ADA Coordinator and the national TSA Office of Civil Rights and Liberties (Exhibit C); the Massachusetts Attorney General's Civil Rights Division[10]; the Department of Justice's Disability Rights office[11], and the Massachusetts Commission against Discrimination[12]. I am currently seeking private counsel to engage in civil litigation.

I have read the above complaint, and the allegations contained above are true to the best of my knowledge and belief.

Signed under penalty of perjury, sincerely,
Sai
29 January 2013

Phone: +1 510 394 4724
Email: tsa@saizai.com
Physical mail: [redacted]

capable of processing mononyms. My passport lists my surname as "SAI" and my given name as blank.

[10] http://www.mass.gov/ago/consumer-resources/your-rights/civil-rights/civil-rights-complaint.html

[11] http://www.justice.gov/crt/complaint/#two

[12] http://www.mass.gov/mcad/index.html

Exhibit A: Neurologist's letter confirming details of disability and need for constant access to medication, food/drink, and communication aids

Dr. Xie's contact information has been redacted; it is available if needed, under confidentiality.

THE UNIVERSITY OF CHICAGO MEDICAL CENTER

Department of Neurology
AT THE FOREFRONT OF MEDICINE

To whom it may concern -

My name is Dr. Tao Xie. I am a clinical neurologist at the University of Chicago Medical Center, specializing in movement disorders.

My patient, Sai (formerly [redacted]), has chronic motor tics. This is a neurological disorder that causes symptoms such as frequent neck jerking movements and muscle spasms of his right arm. These symptoms can range from mild to quite severe. This disorder can be aggravated by all kinds of stress. He also has intermittent mutism of unclear etiology.

As a result of this medical disorder, Sai requires constant access to any medication he is carrying, and to other medical items which he finds help to control his tics, such as sugar pills, food, water, juice, etc. He also requires access to his notebook, pen, and laptop to mitigate communication difficulties when mute. Denying access to any of these, or causing unnecessary stress, could worsen his symptoms.

In case acute treatment is required for a particularly severe episode, with Sai's consent, 1-2 mg intramuscular Ativan (lorazepam) is effective treatment.

Should you have any questions, please feel free to contact me at [redacted] during regular office hours, or page the neurology resident on call by calling [redacted] after office hours or on weekends.

Sincerely,

Tao Xie, MD PhD

Exhibit B: Medical information wallet card

A wallet-sized version of the Exhibit A letter (similarly redacted and copied below) was in my wallet at the time of screening.

To whom it may concern:

My name is Dr. Tao Xie. I am a clinical neurologist at the University of Chicago Medical Center, specializing in movement disorders.

My patient, Sai (formerly), has chronic motor tics. This is a neurological disorder that causes symptoms such as frequent neck jerking movements and muscle spasms of his right arm. These symptoms can range from mild to quite severe. This disorder can be aggravated by any kind of stress. He also has intermittent mutism of unclear etiology.

As a result of this medical disorder, Sai requires constant access to any medication he is carrying, and to other medical items which he finds help to control his tics, such as sugar pills, food, water, juice, etc. He also requires access to his notebook, pen, and laptop to mitigate communication difficulties when mute. Denying access to any of these, or causing unnecessary stress, could worsen his symptoms.

With Sai's consent, 1-2 mg intramuscular Ativan (lorazepam) is effective acute treatment for a particularly severe episode.

Should you have any questions, please feel free to contact me at during regular office hours, or page the neurology resident on call by calling after office hours or on weekends.

Sincerely,

Tao Xie, MD PhD

Exhibit C: Grievance with the Logan Airport ADA Coordinator and the national TSA Office of Civil Rights and Liberties

TO: bmacon-bell@massport.com[13], TSAExternalCompliance@dhs.gov[14]

Dear Bernadette Macon-Bell and TSA External Compliance —

On January 21st, while going through Logan TSA, I was subjected to illegal search & seizure, illegal detention, and literal, retaliatory deprivation of my freedom of speech linked to my disability.

Linked below is a listing of claims, a detailed chronological description of events, a description of my disability, and a list of what relief I'm seeking.

https://docs.google.com/document/d/1sHL4Pfx9mOrAncAS_Zw_zIQvsJuFanZPVPLE3sSUKQk/pub

This email is a formal grievance and evidence preservation demand, asking you to:
1. Investigate the matter immediately and take appropriate action;
2. Preserve all related materials, held by all relevant parties, in anticipation of further litigation, and inform all relevant parties of their legal obligation to do the same;
3. Promptly provide me with a digital copy of all such materials

"Related materials" include, but are not limited to:
* all airport surveillance video from that day covering myself, the named TSA agents, and the named police officer
* the TSA Incident Report that the agents were required to file when contacting an officer
* any police reports filed, whether informal or formal, by the officer or others
* any and all notes, correspondence, communications, etc relating to the incident by any parties, witnesses, etc
* the copies of my documents that were made at the scene
* any and all history of complaints against the named TSA agents
* any and all history of similar complaints against any TSA, Logan police, or Logan Airport agent

"Relevant parties" include, but are not limited to:
* all TSA agents present or contacted during or relating to this incident
* all police officers present or contacted during or relating to this incident
* Massport, including its Office of Corporate Security
* any entity who has the ability to preserve or destroy any of the materials above

Please note that I am concurrently pursuing both criminal and civil action against the TSA and the individual agents involved and am already in contact with both state and private attorneys.

Your immediate and complete cooperation with this grievance, evidence preservation demand, and evidence turnover would go a long way towards reducing the extent of my action against the TSA.

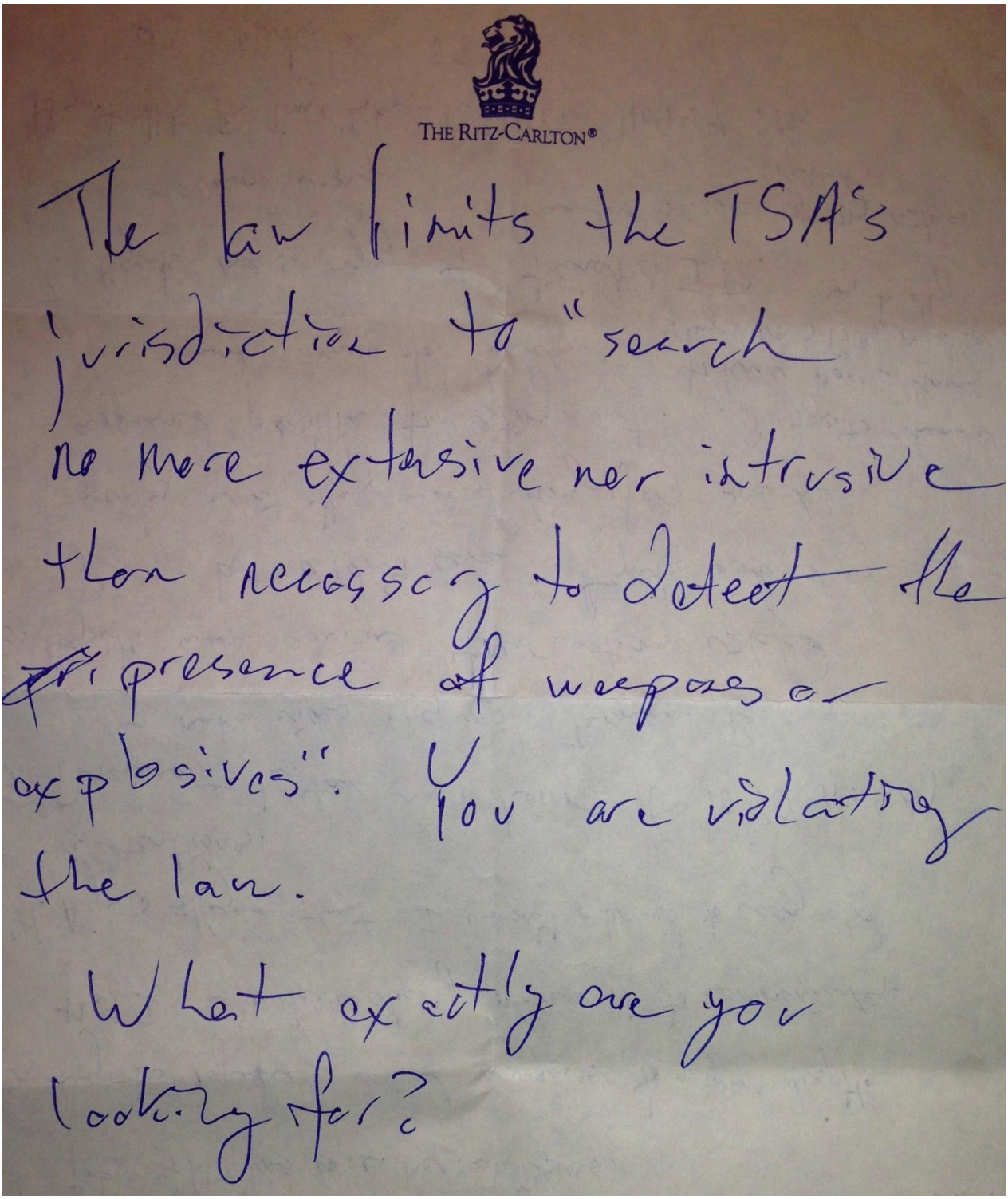
Sincerely,
Sai

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[13] http://www.massport.com/logan-airport/inside-airport/Pages/GrievanceProcedure.aspx

[14] http://www.tsa.gov/traveler-information/travelers-filing-complaint

Exhibit D: Paper written to TSA agents and confiscated by them upon reading it


THE RITZ-CARLTON®

The law limits the TSA's jurisdiction to "search no more extensive nor intrusive than necessary to detect the presence of weapons or explosives". You are violating the law.

What exactly are you looking for?

Exhibit E: Paper used for communication with Officer Coleman

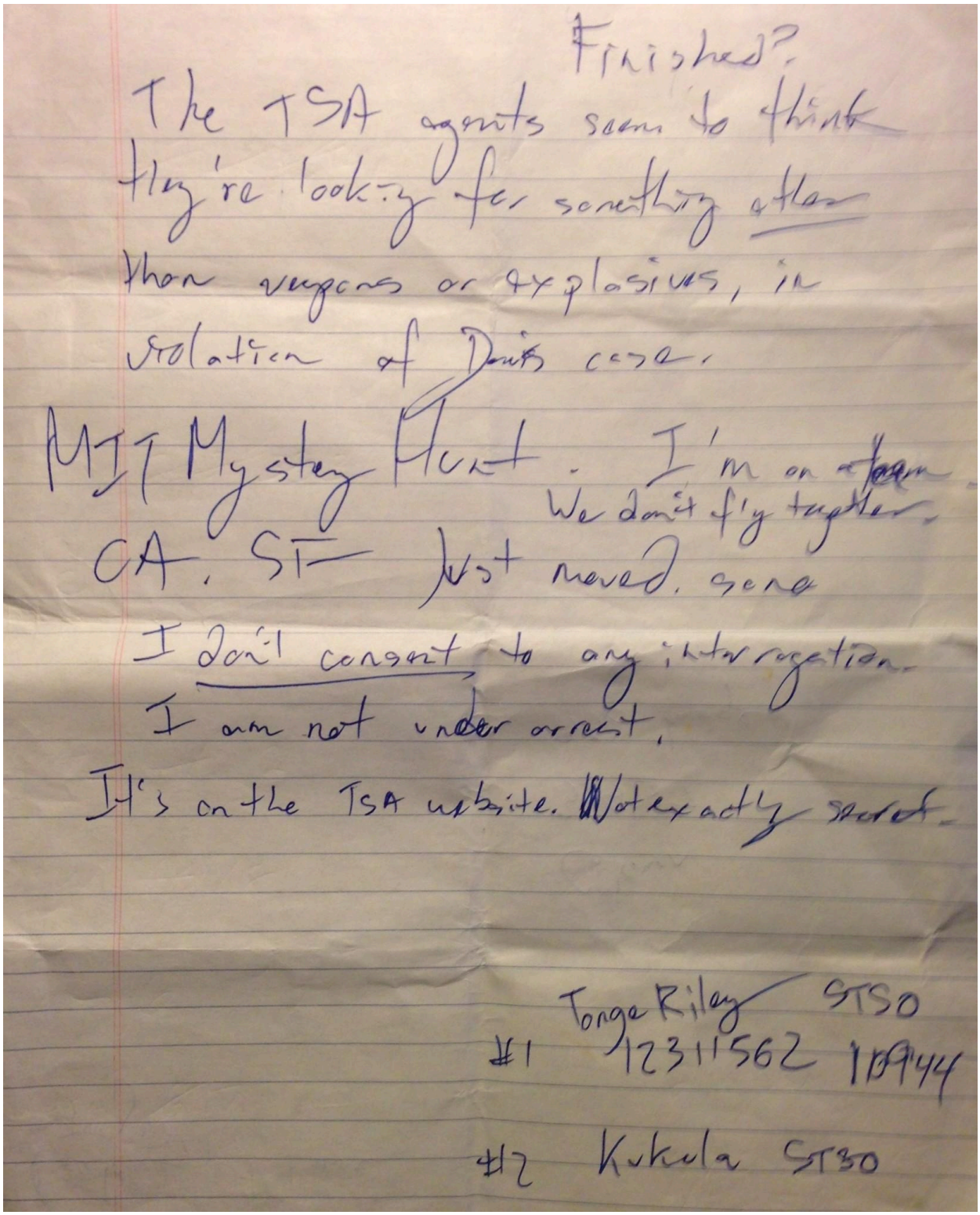
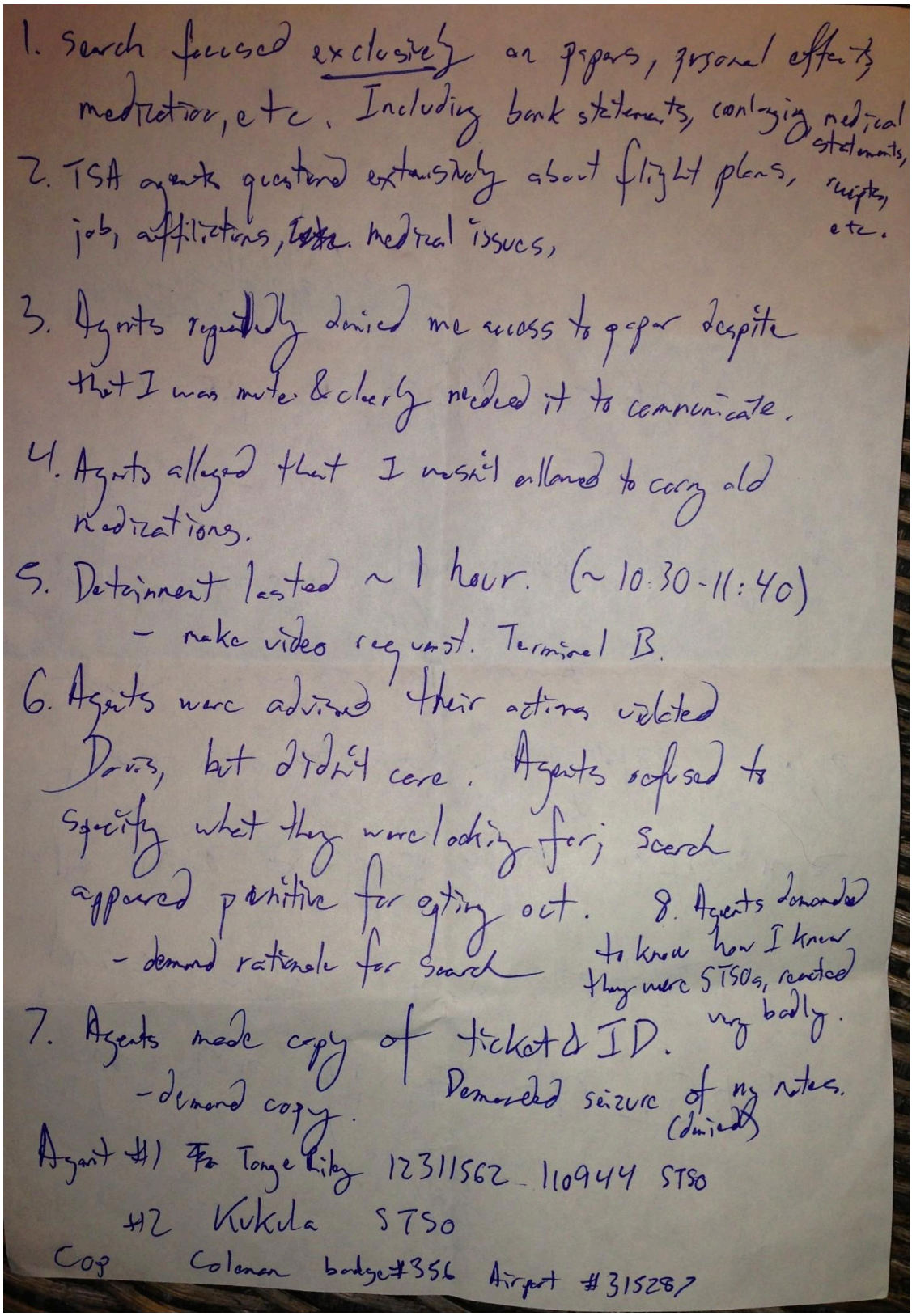


Exhibit F: Notes taken immediately after the incident



1. Search focused exclusively on papers, personal effects, medication, etc. Including bank statements, containing medical statements, etc.
2. TSA agents questioned extensively about flight plans, receipts, job, affiliations, [illegible] medical issues,
3. Agents repeatedly denied me access to paper despite that I was mute & clearly needed it to communicate.
4. Agents alleged that I wasn't allowed to carry old medications.
5. Detainment lasted ~ 1 hour. (~ 10:30 - 11:40)
   - make video request. Terminal B.
6. Agents were advised their actions violated Davis, but didn't care. Agents refused to specify what they were looking for; Search appeared punitive for opting out.
   - demand rationale for Search
8. Agents demanded to know how I knew they were STSOs, reacted very badly.
7. Agents made copy of ticket & ID.
   - demand copy.
   Demanded seizure of my notes. (denied)

Agent #1 Fa Tonge Liky 12311562 110944 STSO
#2 Kukula STSO
Cop Coleman badge #356 Airport #315287

Substantive claims

This complaint is written informally and without the assistance of counsel. The claims and reliefs sought here, and the legal justifications presented for them, are by no means exhaustive, and I reserve the right to make changes or additions.

1. The TSA agents conducted an illegal search of my belongings.[15]

The search in question concentrated exclusively on kinds of highly privacy invasive search unrelated to weapons or explosives that are clearly illegal for TSA agents to conduct — searching the *content* of documents, medication, etc., rather than narrowly searching for *weapons or explosives*.

The search in question was not motivated by any reasonably tailored security need; my person had already been cleared by "enhanced patdown", and my belongings had been cleared by x-ray. Further search was completely unnecessary, and unnecessary search is illegal under the *Davis* standard. As such, the only reasonable conclusion is that the illegally extensive & intensive search was in retaliation for my having opted out of electronic strip search or protested the search itself[16], or in discrimination against my disability, either of

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[15] 4th amendment - "The right of the people to be secure in their persons, … papers, and effects, against unreasonable searches and seizures, shall not be violated…"

United States v. Davis, 482 F. 2d 893 - Court of Appeals, 9th Circuit 1973, "[A] screening of passengers and of the articles that will be accessible to them in flight does not exceed constitutional limitations provided that the screening process is no more extensive nor intensive than necessary, in the light of current technology, to detect the presence of weapons or explosives, that it is confined in good faith to that purpose, and that potential passengers may avoid the search by electing not to fly."

US v. Fofana, 620 F. Supp. 2d 857 - Dist. Court, SD Ohio 2009, quoting US v. Aukai, 497 F. 3d 955 - Court of Appeals, 9th Circuit 2007 quoting *Davis* as above, as well as stating: "The case law dealing with airport checkpoint searches teaches that a checkpoint search tainted by 'general law enforcement objectives' such as uncovering contraband evidencing general criminal activity is improper… That conclusion is further supported by the Supreme Court's repeated instruction that administrative searches may not be justified by a desire to detect "evidence of ordinary criminal wrongdoing… It is equally conceivable to the Court that a combination of x-ray screening and external manipulation would be sufficient to exclude the presence of weapons or explosives."

United States v. Place, 462 US 696 - Supreme Court 1983, "We have affirmed that a person possesses a privacy interest in the contents of personal luggage that is protected by the Fourth Amendment."

Bivens v. Six Unknown Fed. Narcotics Agents, 403 US 388 - Supreme Court 1971 "the Fourth Amendment operates as a limitation upon the exercise of federal power regardless of whether the State in whose jurisdiction that power is exercised would prohibit or penalize the identical act if engaged in by a private citizen. It guarantees to citizens of the United States the absolute right to be free from unreasonable searches and seizures carried out by virtue of federal authority. And 'where federally protected rights have been invaded, it has been the rule from the beginning that courts will be alert to adjust their remedies so as to grant the necessary relief.'… That damages may be obtained for injuries consequent upon a violation of the Fourth Amendment by federal officials should hardly seem a surprising proposition. … Having concluded that petitioner's complaint states a cause of action under the Fourth Amendment … we hold that petitioner is entitled to recover money damages for any injuries he has suffered as a result of the agents' violation of the Amendment."

[16] Florida v. Bostick, 501 US 429 - Supreme Court 1991 "We have consistently held that a refusal to cooperate, without more, does not furnish the minimal level of objective justification needed for a detention or seizure… Citizens do not forfeit their constitutional rights when they are coerced to comply with a request that they would prefer to refuse."

which gives rise to separate *Bivens*, 4th amendment, ADA, §504, MA discrimination, etc., claims.

They are strictly limited to the discovery of weapons and explosives — physical items — through the most minimally intrusive possible means. The fact that my bags cleared x-ray should have immediately stopped all further search.

The TSA has no authority to interrogate anyone about anything, yet proceeded to do so nonetheless, acting as if they were conducting a police interrogation. Despite their false claims about the illegality of my medication and identification, the TSA is in no way authorized or trained to investigate or prosecute such issues in the first place, as their purview is strictly limited to the minimum possible intrusion necessary to detect weapons or explosives, not to examining my medications and private documents.

The result of an illegal search — especially since in this case their findings were perfectly legal material — cannot be used to justify the search or anything springing from it, and the time it took to do this intensive, unnecessary, unconstitutional search only adds to, not subtracts from, their culpability. Moreover, courts have repeatedly held that the TSA is constitutionally and statutorily forbidden from engaging in any kind of law enforcement motivated search, and that any kind of search conducted by the TSA with the intent of finding materials or facts that are mere illegal, and not weapons or explosives, is illegal — as is further search of items that has already been cleared by x-ray[17]. Merely *reading the label* of a prescription bottle is an illegal action for a TSA agent, since doing so could not possibly constitute the search for a weapon or explosive.

2. The TSA agents willfully and retributively discriminated against me on the basis of protected speech, and failed to accommodate my disability.

Directly in retaliation for my protest against their illegal actions, the TSA agents intentionally deprived me of the ability to communicate effectively and abused my disability of episodic mutism, *literally* depriving me of the freedom of speech.

In addition, the agents had a positive obligation to facilitate my communication through any reasonable means of my choice immediately upon my first request, and failed to do so.

US v. Fuentes, 105 F. 3d 487 - Court of Appeals, 9th Circuit 1997 "Mere refusal to consent to a stop or search does not give rise to reasonable suspicion or probable cause. People do not have to voluntarily give up their privacy or freedom of movement, on pain of justifying forcible deprivation of those same liberties if they refuse."

US v. Freeman, 479 F. 3d 743 - Court of Appeals, 10th Circuit 2007 "Refusal to consent to a search—even agitated refusal—is not grounds for reasonable suspicion."

[17] See e.g. *Fofana*, which specifically dealt with this kind of situation.

This is illegal under the Americans with Disabilities Act[18], Massachusetts disability law[19], the Rehabilitation Act

[18] Americans with Disabilities Act, 28 CFR § 35

28 CFR § 35.160 "General.
(a)(1) A public entity shall take appropriate steps to ensure that communications with … members of the public … with disabilities are as effective as communications with others.
(b)(1) A public entity shall furnish appropriate auxiliary aids and services where necessary to afford individuals with disabilities, including … members of the public, an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity of a public entity.
(2) The type of auxiliary aid or service necessary to ensure effective communication will vary … In determining what … aids … are necessary, a public entity shall give primary consideration to the requests of individuals with disabilities. In order to be effective … aids … must be provided … in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability."

28 CFR § 35.130 "General prohibitions against discrimination.
(a) No qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity. …
(b)(7) A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity. …
(g) A public entity shall not exclude or otherwise deny equal services, programs, or activities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association."

28 CFR § 35.134 "Retaliation or coercion.
(a) No private or public entity shall discriminate against any individual because that individual has opposed any act or practice made unlawful by this part, or because that individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under the Act or this part.
(b) No private or public entity shall coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by the Act or this part."

28 CFR § 35.149 "Discrimination prohibited.
Except as otherwise provided in § 35.150, no qualified individual with a disability shall, because a public entity's facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in, or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity."

[19] MA General Laws 272.98 "Whoever makes any distinction, discrimination or restriction on account of … any physical or mental disability … relative to the admission of any person to, or his treatment in any place of public accommodation, resort or amusement, as defined in section ninety-two A, or whoever aids or incites such distinction, discrimination or restriction, shall be punished by a fine of not more than twenty-five hundred dollars or by imprisonment for not more than one year, or both, and shall be liable to any person aggrieved thereby for such damages as are enumerated in section five of chapter one hundred and fifty-one B; provided, however, that such civil forfeiture shall be of an amount not less than three hundred dollars; but such person so aggrieved shall not recover against more than one person by reason of any one act of distinction, discrimination or restriction. All persons shall have the right to the full and equal accommodations, advantages, facilities and privileges of any place of public accommodation, resort or amusement subject only to the conditions and limitations established by law and applicable to all persons. This right is recognized and declared to be a civil right."

MA General Laws 272.92a "A place of public accommodation, resort or amusement within the meaning hereof shall be defined as and shall be deemed to include any place … which is open to and accepts or solicits the patronage of the general public and, without limiting the generality of this definition, whether or not it be … (2) a carrier, conveyance or

of 1973, § 504[20], the 1st Amendment, 4th Amendment, 42 USC § 1983, and 18 USC §§ 241-242[21].

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elevator for the transportation of persons, whether operated on land, water or in the air, and the stations, terminals and facilities appurtenant thereto …"

MA General Laws 265.37 "No person, whether or not acting under color of law, shall by force or threat of force, willfully injure, intimidate or interfere with, or attempt to injure, intimidate or interfere with, or oppress or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him by the constitution or laws of the commonwealth or by the constitution or laws of the United States. Any person convicted of violating this provision shall be fined not more than one thousand dollars or imprisoned not more than one year or both…"

[20] 45 CFR 84.4 "Discrimination prohibited
(a) General. No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives Federal financial assistance.
(b) Discriminatory actions prohibited.
(1) A recipient, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap:
(i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;
(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;
(iii) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective as that provided to others;
(iv) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others; … or
(vii) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service. …
(3) Despite the existence of separate or different aids, benefits, or services provided in accordance with this part, a recipient may not deny a qualified handicapped person the opportunity to participate in such aids, benefits, or services that are not separate or different.
(4) A recipient may not, directly or through contractual or other arrangements, utilize criteria or methods of administration (i) that have the effect of subjecting qualified handicapped persons to discrimination on the basis of handicap, (ii) that have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the recipient's program or activity with respect to handicapped persons. …
(6) As used in this section, the aid, benefit, or service provided under a program or activity receiving Federal financial assistance includes any aid, benefit, or service provided in or through a facility that has been constructed, expanded, altered, leased or rented, or otherwise acquired, in whole or in part, with Federal financial assistance…"

29 USC § 794 "Nondiscrimination under Federal grants and programs
(a) Promulgation of rules and regulations
No otherwise qualified individual with a disability in the United States, as defined in section 705 (20) of this title, shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency…"

[21] 18 USC § 241 "Conspiracy against rights
If two or more persons conspire to injure, oppress, threaten, or intimidate any person … in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same … They shall be fined under this title or imprisoned not more than ten years, or both…"

18 USC § 242 "Deprivation of rights under color of law
Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person … to the

This happened even though the agents were personally informed that I had a disability, personally demanded to provide communication aid, read a doctor's note explaining my need for communication aid, and were employed in a position federally mandated to be aware of disability needs.

Note that the communication accommodation that I demanded here was a simple piece of paper and pen, which were immediately and trivially accessible.

3. Officer Coleman conducted an unlawful search of my medication and documents, and unlawfully detained me without reasonable suspicion.

Officer Coleman received my documents and medication directly from the TSA agents, who made allegations that were not, in fact, crimes. At no time did I consent to being detained or searched by Officer Coleman to *any* degree, and at no time did I consent to my items being given to him (which the TSA agents had no authority to seize to begin with). To the contrary, I clearly *objected* to both my search and detention directly to Officer Coleman.

A detention to check my arrest history or warrant status, which Coleman did, could only have been justified with reasonable suspicion of a specific crime, and there was no *actual crime* even alleged by the TSA agents, let alone reasonably suspected by Officer Coleman. A search of my medication, which Coleman also did, could only have been justified with probable cause or consent, neither of which were present.

Officer Coleman was legally obligated to tell the TSA agents that he had no cause to detain me or search my possessions, or to obtain my consent, and he failed to do either. Instead, he acted as an accomplice in their unlawful actions and abused his authority.

This is a crime under 42 USC § 1983.

4. The duration of this ordeal was longer than is reasonably acceptable for a routine administrative airport search, and constituted illegal detention and seizure by both the TSA agents and Officer Coleman.[22]

The TSA agents were clearly detaining me, by preventing me, under color of law, from leaving or continuing on my flight until they finished their impermissibly extensive and intensive search. Furthermore, after engaging in what could *most* charitably be called a law enforcement motivated search — itself an illegal activity, under clearly established law — they caused me to be detained by Officer Coleman. Coleman's actions of holding my passport, boarding pass, and medication while interrogating me and checking whether I had any warrants clearly constitute police detention, not voluntary contact, despite his claim to the contrary.

In doing so, neither the agents nor the officer had any reasonable suspicion, let alone probable cause, of any crime whatsoever — nor did the agents have any legally permitted power of detention to begin with.

Courts have long upheld the notion that administrative searches, *Terry* stops, and police detentions are very limited in their permitted duration; that a police detention may *only* be conducted in the context of reasonable suspicion of a specific crime; and that administrative searches may not be used for law enforcement purposes.

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deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States … shall be fined under this title or imprisoned not more than one year, or both…"

[22] United States v. Place, 462 US 696 - Supreme Court 1983 "we have never approved a seizure of the person for the prolonged 90-minute period involved here and cannot do so on the facts presented by this case"

This event far exceeded the minimum time necessary to conduct a *Davis*-permitted administrative search.

Moreover, though only the agents are liable for their own illegal detention of me, *both* the agents and police officer are liable for the illegal and completely unsupported police detention of me at the agents' behest.

5. The TSA agents violated clearly established law as well as TSA policy[23] and had an elevated

[23] See all of the above mentioned clearly established law, as well as TSA Management Directive 100.4, revised 24 September 2007:

§6.A.4 "Screening may not be conducted to detect evidence of crimes unrelated to transportation security."

§6.B.2 "All administrative or special needs searches are to be tailored to the transportation security purpose for which they are conducted. These searches should be designed to be minimally intrusive, in that they should be no more intensive or extensive than reasonably necessary to detect threat items, to prevent persons who may pose a threat to transportation security from entering the transportation system, or to determine compliance with TSA standards, regulations and applicable laws." (Quoting the *Davis* standard.)

§6.B.4 "All administrative or special needs searches should be conducted according to established procedures to ensure that the searches will be confined in good faith to their intended purpose…"

§6.D.3 "The only TSA personnel who should engage in law enforcement activities are TSA law enforcement officers…"

Furthermore, note that the above revision of TSA MD 100.4 was the result of settlement after a lawsuit by the ACLU for the TSA's violation of a traveler's 4th amendment rights (in Bierfeldt v Napolitano). The repetition of this violation demonstrates a willful or negligent failure by the TSA to actually cure the issues that led to that settlement.

responsibility to know all such policies[24], and as such, are not entitled to any qualified immunity.[25]

6. The TSA as an agency had an obligation to prevent and cure such incidents, and failed to do so.

The TSA agents, being supervisors (STSOs), were in a position of responsibility for training and educating other agents in proper procedure and respect for civil liberties and disabilities. The TSA in turn is responsible for their behavior, even (perhaps especially) when that behavior violates the TSA's policies.

If the TSA claims in a memorandum to have one policy, but *de facto* operates in a completely different fashion through its senior agents, the TSA must be judged and held accountable for its *actual* operations.

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[24] As supervisors, both agents had a positive obligation not merely to know but to *teach* TSA policy, and thus any failure to follow its restrictions must be presumed either negligent or malicious.

TSA Screening Management SOP, rev. 3 (June 2008) "2.4. SUPERVISORY TRANSPORTATION SECURITY OFFICER (STSO) DUTIES
A. The STSO is responsible for implementing the uniform performance standards for security screening services set forth in this SOP, and the Screening Checkpoint and Checked Baggage Screening SOPs at al screening locations. STSOs must be knowledgeable in all the screening functions they supervise.…

C. The STSO must:…
2) Observe TSOs, when staffing and workload permit, to ensure compliance with the Screening Checkpoint and Checked Baggage Screening SOPs.
3) Ensure the proper use of all screening equipment.…
5) Conduct daily briefings and instruct TSOs on current requirements.…
6) Ensure the SOP and other required documents are accessible to TSOs for their review.…
8) Make every effort to ensure that TSOs are knowledgeable of all SOPs.…
9) Allow TSOs to review the SOPs.
10) Ensure that TSOs are fit for duty in accordance with TSA Management Directive 1100.73-5, Employee Responsibilities and Conduct.…
19) Represent TSA in handling complaints, respond to TSA security reviews, and immediately notify TSA management about incidents.
20) Provide a written summary of any incident to TSA management as soon as possible, but not to exceed 24 hours after the incident or as directed by the FSD.
21) Make every effort to resolve problems or conflicts and monitor individuals when appropriate, without using physical restraint and without jeopardizing the safety of the STSO, TSOs, the individual, or others.…
37) Ensure chairs are available at checkpoints to accommodate Persons With disabilities (PWDs) before, during, and after the screening process.
38) Ensure that the screening of all individuals is conducted without regard to a person's race, color, national origin, gender, disability, religion, parental status, or sexual orientation.
41) Ensure TSOs provide… their TSA nametag information when an individual requests a TSO's personal information during, or as a result of, the screening process."

TSA website: hearing disabilities "If you need to communicate with the Security Officer, inform her/him of your disability and the way in which you can communicate. TSA Security Officers are trained to provide whatever assistance they can to persons with hearing disabilities."

[25] Harlow v. Fitzgerald, 457 US 800 - Supreme Court 1982 "[G]overnment officials performing discretionary functions generally are shielded from liability for civil damages insofar as their conduct does not violate "clearly established" statutory or constitutional rights of which a reasonable person would have known… If the law was clearly established, the immunity defense ordinarily should fail, since a reasonably competent public official should know the law governing his conduct."

7. The TSA is equally liable for its agents' actions.[26]

This principle of agency liability is so well established under common law that it does not need citation — especially when it comes to the actions of high ranking supervisors and administrators. This responsibility is not limited because the agents disobeyed agency directives or acted illegally.

Moreover, to the extent that its agents' actions constitute a *de facto* policy or procedure of the TSA, or a failure by the TSA to adequately train its agents to respect civil liberties, the TSA is liable to a §1983 *Monell* action[27], on the same grounds as *Bivens*.

8. I have the right to prosecute these offenses.[28]

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[26] This principle of agency liability is so well established under common law that it does not need citation. This responsibility is not limited because the agents disobeyed agency directives or acted illegally.

[27] Monell v. Dept. of Social Services of City of New York, 436 US 658 (1978)

[28] See above, and also:

42 USC § 1983 "Civil action for deprivation of rights
Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory… subjects, or causes to be subjected, any citizen of the United States … to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress…"

5 USC § 702 "Right of Review
A person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute, is entitled to judicial review thereof. An action in a court of the United States seeking relief other than money damages and stating a claim that an agency or an officer or employee thereof acted or failed to act in an official capacity or under color of legal authority shall not be dismissed nor relief therein be denied on the ground that it is against the United States or that the United States is an indispensable party. The United States may be named as a defendant in any such action, and a judgment or decree may be entered against the United States: Provided, That any mandatory or injunctive decree shall specify the Federal officer or officers (by name or by title), and their successors in office, personally responsible for compliance."

5 USC § 706 "Scope of review
To the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall—
(1) compel agency action unlawfully withheld or unreasonably delayed; and
(2) hold unlawful and set aside agency action, findings, and conclusions found to be—
(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;
(B) contrary to constitutional right, power, privilege, or immunity;
(C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;
(D) without observance of procedure required by law;
(E) unsupported by substantial evidence in a case subject to sections 556 and 557 of this title or otherwise reviewed on the record of an agency hearing provided by statute; or
(F) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court.
In making the foregoing determinations, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error."

"28 CFR § 35.178 State immunity.
A State shall not be immune under the eleventh amendment to the Constitution of the United States from an action in

These offenses are prosecutable in Massachusetts state and federal court, both in civil and criminal prosecution, against both the TSA itself and STSOs Tonge-Riley and Kukula individually.

Federal or State court of competent jurisdiction for a violation of this Act. In any action against a State for a violation of the requirements of this Act, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in an action against any public or private entity other than a State."

Relief sought

1. Damages[29] for the agents' intentional and negligent infliction of emotional distress on me.

2. Damages for the agents' repeated violation of my civil rights.

3. The above damages to be borne in part by STSOs Tonge-Riley and Kukula personally, at a level sufficient to constitute both a strong punishment to them and a strong deterrent to other TSA agents who may think themselves free to engage in such illegal activity because of agency protection.

4. The immediate firing, for cause, of STSOs Tonge-Riley and Kukula, and their blacklisting from any further public employment in which they would have a similarly abusable position of power.

5. A public apology both from the highest ranking TSA representatives at Logan as well as from national TSA representatives, detailing and enacting an effective plan to change the manner in which TSA agents are trained; to ensure that agents do not violate civil liberties or disabilities rights; to ensure that those who do so are effectively retrained, punished, and/or fired; to ensure that victims of such violations are immediately and proactively compensated by the TSA without their having to exercise the privilege and effort that I have done in pursuing this matter; and to ensure that the TSA is held externally accountable for doing all of the above.

Another mere TSA memorandum of policy will not be sufficient to meet this relief, given the TSA's repeatedly demonstrated failure to actually enforce such memoranda.

6. Mandate requiring that American Sign Language video remote interpreting (VRI) service be provided at every TSA checkpoint within five minutes of a request by any person using sign language at a checkpoint, to take effect within six months of settlement in this case.

7. Injunction against the TSA providing that any repeated offense of a similar nature against any person by any TSA agent, or any retaliatory action against me, will be treated with extra scrutiny and punishment.

8. An order requiring the TSA to notify any person who complains about similar charges of the existence and content of the above injunction.

9. Recovery of all attorney's fees, costs, etc.[30]

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[29] actual, punitive, statutory, etc., as applicable

[30] 42 USC § 1988 "(b) Attorney's fees
In any action or proceeding to enforce a provision of sections 1981, 1981a, 1982, 1983, 1985, and 1986 of this title … [or] title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.] … the court, in its discretion, may allow the prevailing party … a reasonable attorney's fee as part of the costs…

(c) Expert fees
In awarding an attorney's fee under subsection (b) of this section in any action or proceeding to enforce a provision of section 1981 or 1981a of this title, the court, in its discretion, may include expert fees as part of the attorney's fee."

45 CFR 84.61 "Procedures
The procedural provisions applicable to title VI of the Civil Rights Act of 1964 apply to this part."

29 USC § 794a - "Remedies and attorney fees
(b) In any action or proceeding to enforce or charge a violation of a provision of this subchapter, the court, in its discretion,

may allow the prevailing party, other than the United States, a reasonable attorney’s fee as part of the costs."