



CONGRESSIONAL TESTIMONY

STATEMENT BY

**J. DAVID COX, SR.
NATIONAL PRESIDENT
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO**

BEFORE

**SUBCOMMITTEE ON TRANSPORTATION AND PROTECTIVE SECURITY OF THE
COMMITTEE ON HOMELAND SECURITY**

**EXAMINING THE PRESIDENT'S FY 2019 BUDGET REQUEST FOR
THE TRANSPORTATION SECURITY ADMINISTRATION**

APRIL 12, 2018

Chairman Katko and Ranking Member Watson Coleman, my name is J. David Cox, and I am the National President of the American Federation of Government Employees, AFL-CIO (AFGE), representing over 700,00 federal workers, including over 44,000 Transportation Security Officers (TSOs) who serve on the front line of aviation security at our nation's airports. Thank you for the opportunity to testify before the Transportation and Protective Security subcommittee for the hearing on *Examining the President's FY 2019 Budget Request for the Transportation Security Administration*. The officers represented by AFGE are critical to the Transportation Security Administration's (TSA's) mission and integral to the national security framework but face unnecessary difficulties we believe are largely created by TSA's failure to seek the funding necessary to address acute staffing shortages and to adequately compensate TSOs, especially officers who have shown a long-term dedication to the flying public by staying on the job.

TSOs are the most visible position in the Department of Homeland Security (DHS) and interact most often with the public. The officers represented by AFGE are required to apply constantly evolving procedures that change according to TSA's risk assessment, perform their duties swiftly, pleasantly interact with the public, and are expected to never make a mistake. In 2017, TSOs discovered 3,957 firearms in carry-on bags at checkpoints of which 84 percent were loaded. While screening more than 771 million passengers and 466 million checked bags daily, our officers completed 2017 successfully without a single terrorist incident on a TSA-screened aircraft and without a repeat of the long checkpoint lines of two years ago. The TSOs represented by AFGE appreciate the challenges of protecting the flying public, but wonder when they will receive tangible acknowledgment of their hard work and assistance in performing their duties.

Despite their important role in the seamless framework of aviation of security, the TSO workforce continues to be confronted with serious workplace issues. AFGE commends Administrator Pekoske for identifying and discussing two of those important issues at a November 8, 2017 hearing: employee morale and pay rates for officers. Administrator Pekoske previously testified that employee morale is an incredibly high priority issue and he believes that as employee morale improves, security effectiveness improves at the same time as attrition declines. AFGE agrees and believes the FY 2019 TSA budget presents options to address the entrenched low employee morale at the agency and improve aviation security. AFGE would urge Administrator Pekoske to show the same commitment to increasing officers' pay and addressing staffing shortages as he has in advocating for increased training. The FY 2019 TSA budget presents the following solutions to ongoing problems at TSA:

Instill Objectivity and Fair Compensation to the TSA Pay System

TSA officers are underpaid, and the wage issues follow the workforce from smaller current paychecks to smaller retirement checks. New TSA officers are paid under the so-called D pay band. After completing one year on the job, they automatically move to the E pay band in addition to the CEI and TOPS pay increases received for the last two years. For the rest of the time they remain TSOs, the workforce remains in the E pay band unless promoted to another

position at the agency. Because TSA recently eliminated the Behavioral Detection Officer position, TSOs can no longer achieve the higher G pay band, a difference of thousands of dollars. After failing to raise TSO base pay for a five-year period, in 2014 TSA increased starting D and E band pay by 5 percent, but failed to also adjust the pay of TSOs with years on the job. As a result, the pay of a TSO with one year on the job is now within a few thousand of a veteran TSO with 10 years on the job. TSOs do not receive the time-in-grade or other longevity pay increases that are built into the General Schedule (GS) pay system. TSO paychecks fail to reflect the importance and expertise demanded of their work, and bonuses, if any, are not calculated into their pension benefits. The workforce deserves a pay system that is fair and adequately reflects their training, the complexities of tasks, and their seniority.

AFGE makes the following recommendations for the FY 2019 TSA budget:

- Adopt the GS pay system for the TSO workforce.
- Adjust the pay of veteran TSOs to compensate for years of wage stagnation and recognize their years of work at TSA.
- TSA should request the funding necessary to adequately compensate the TSO workforce.

TSA Should Adequately Staff Checkpoint and Baggage Screening

The House FY 2018 Department of Homeland Security report stated of TSA Appropriations:

The Committee is concerned that, despite the continued upward trend in air travel, TSA continues to use artificially low estimates for anticipated growth in passenger volume when developing its Transportation Security Officer staffing requirements, resulting in multiple reprogramming actions in the year of execution to address rising wait times, or Congress appropriating additional funds above the budget request to address these unrealistic assumptions. The Committee supports TSA's efforts to seek innovative improvements in efficiency and security, and not solely relying on increases in staffing and overtime to address growth in air travel. Unless the agency uses realistic projections when developing its budget request, however, it will simply continue to set itself up for failure.

We agree with the House appropriations report language but we would respectfully suggest it should also recognize that it has been the hard work of TSOs that repeatedly rescues TSA from its failure to address checkpoint and baggage staffing at airports. For several years, Congress passed spending bills that included arbitrary caps on the number of TSOs that did not comport with the rise in passengers. AFGE has warned before of the impact of TSO shortages on the security mission. These labor shortages also have a disproportionate impact on female TSOs who face denial of shift or line bids or delayed breaks due to chronic underrepresentation of women among the TSO ranks.

There are other issues at play in the understaffing problem as well. For example, TSA failed to fill TSO vacancies based on an expectation that the public would enroll in TSA precheck and other trusted traveler programs despite evidence to the contrary. In response to long checkpoint lines during the spring and summer of 2016, former DHS Secretary Jeh Johnson redirected \$34 million in reprogrammed funds to TSA. Most of this funding was used by TSA for overtime worked by its existing TSO workforce, even though the number of TSOs had fallen by 5,000 since 2011. The 687 FTE TSO increase in the President's FY 2019 TSA budget is only a first step. AFGC continues the call for 5,000 additional TSO positions to address the staffing shortages created by attrition and TSA's erroneous projections. TSA's failure to adequately staff checkpoint and baggage screening areas leads to overworked officers and less security for the flying public.

TSA's failure to maintain an adequate workforce also exposes TSOs to the loss of their jobs with the agency if airport operators threaten to privatize screening through the Screening Partnership Program as a means to gain additional staffing. Members of AFGC TSA Local 556 and members of the Florida Congressional delegation, including House Homeland Security Committee member Val Demings, Representatives Darren Soto and Stephanie Murphy, and Senator Bill Nelson are fighting in opposition to attempts to privatize screening at Orlando International Airport (OIA) by the airport operator. Despite high satisfaction ratings from passengers who use the airport, the airport operator includes inadequate staffing as a reason for the consideration of privatizing screening at the airport. Any problem in Orlando can be traced to highest-in-the-nation passenger volume per checkpoint, and to the failure of local TSA managers to adequately manage that operation. While AFGC believes it is inappropriate for airport operators to hold the jobs and lives of the TSO workforce at the airport as a pawn against TSA, it is equally wrong for TSA to set a ceiling on the TSO workforce instead of allocating that workforce by need.

I also want to emphasize that all two million of the passengers departing on flights from U.S. airports must be screened *by a person*, regardless of canine alerts, enrollment in precheck, or the use of technology.

End the Separate and Unequal Personnel Systems at TSA

AFGC calls upon Administrator Pecoske to end TSA's separate and unequal personnel system that provides supervisors, administrative staff, and all other TSA employee rights that are denied to TSOs who make up the vast majority of the workforce. TSA has denied TSOs the ability to appeal adverse personnel decisions to the Merit Systems Protection Board (MSPB) or an independent third-party. A minority of TSA employees, including supervisors and managers, can appeal adverse personnel decision to the MSPB. In January the DHS Office of Inspector General issued a report detailing how high-ranking TSA officials (Deputy Administrator Mark Hatfield, Chief Counsel Francine Kerner, and former Office of Professional Responsibility Assistant Administrator Heather Book) interfered with TSA disciplinary process to ensure a more lenient outcome for the Transportation Security Executive Service employee found to

have violated TSA policies and procedures. TSOs are denied the protections of the Fair Labor Standards Act and the Back-Pay Act simply because their job classification is that of Transportation Security Officer and TSA has blocked the application of the law to them. If the Agency wishes to increase employee morale to reflect that of other government agencies, it must treat all its employees the same rather than continue a separate and unequal system within TSA.

TSA must also address labor-management rollbacks that have increased since the start of the Trump Administration. Since then, TSA has announced the following rollbacks:

- The end of quarterly labor-management meetings.
- The end of the National Advisory Council and the Diversity Advisory Council—both employee and manager led committees that jointly tackle nationwide workforce issues.
- Only last week did TSA offer dates to confirm a meeting between Administrator Pekoske and TSA Council 100, the exclusive representative of the TSO workforce. Instead, TSA had been hosting random “town halls” at some airports. The town hall attendees are selected by TSA and are made up of mostly managers and supervisors. The town halls are not focused on the needs of the largest most critical portion of TSA: the frontline screening workforce.
- Refused to sign the most recent collective bargaining agreement (CBA) between AFGE and TSA.
- Sought to undermine third party review and resolution of disputed CBA provisions.
- Unilaterally deemed “non-negotiable” provisions that were negotiable under the last CBA.
- Continued to refuse to negotiate a grievance procedure with AFGE.
- Awarded and then issued a stop work order on a non-competitive contract worth more than \$500,000 to evaluate TSA’s dispute resolution system to a contractor from the Chickasaw Nation that has demonstrated no expertise in dispute resolution, grievance review, or TSA’s grievance system specifically. Although required under the current determination, TSA has yet to evaluate TSA’s dispute resolution system or involve AFGE in that evaluation.

TSA has eliminated existing labor-management frameworks for solving issues between the Agency and employees through their exclusive representative. I have urged Administrator Pekoske to commit to building a labor-management relationship at TSA and addressing issues with the employees’ elected exclusive representative. We engage with the frontline workforce daily and those frontline officers have a lot to offer to improve labor relations and the overall security mission: AFGE is their elected conduit for that input.

Congress can also do its part by ensuring TSOs have the same workplace rights and workplace protections under Title 5 of the U.S. Code as other DHS employees. H.R. 2309, the Rights for Transportation Security Officers Act, introduced by Homeland Security Committee Ranking Member Bennie Thompson (D-MS) and Appropriations Committee Ranking Member

Nita Lowey (D-NY), repeals the authority of TSA to unilaterally set the terms and conditions of employment for 44,000 TSOs. AFGE strongly supports the Rights for Transportation Security Officers Act, and I call on you to report this important bill out of Committee.

Meanwhile, the TSA employee attrition rate has far surpassed the Federal Government attrition rate since the agency was created following the terrible events of September 11, 2001. Declines in attrition rates from astronomical highs of over 20 percent to the current Fiscal Year attrition rate of about 12 percent is nothing to brag about and detrimental to security. These high attrition rates do not occur in other DHS components where the rank and file workforce are afforded workplace rights and protections under title 5 of the U.S. Code. Similarly, some airports see attrition rates far higher than the average rate cited by the Administrator in previous testimony. We believe that if we address the issues of pay, staffing, and the grievance procedure, attrition will start to improve.

AFGE strongly supports H.R. 2514, the Funding for Aviation Screeners and Threat Elimination Restoration (FASTER) Act introduced by Representative Peter DeFazio, Homeland Security Committee Ranking Member Bennie Thompson, and Transportation and Protective Security Subcommittee Ranking Member Bonnie Watson Coleman. The FASTER Act provides an ample and much need funding to TSA by returning to TSA the security fees collected from passengers instead of applying the funds to pay for other items in the general fund. The FASTER Act would restore more than \$19 billion for use to both the TSOs, and technology to ensure aviation safety and move passengers effectively and efficiently through airport checkpoints.

Conclusion

In this testimony, I have outlined numerous proposals for the TSA workforce that are all related, ultimately, to increasing aviation security, fairly treating the TSO workforce, and in return, saving taxpayer funding. This can be accomplished by eliminating poorly conceived and inefficient Human Resource and labor relations programs, processes, and protections at TSA in favor of those available to federal workers under title 5 of the U.S. Code. AFGE has worked successfully with countless agency heads under Administrations of both parties to represent our members and bolster the performance of the Federal Government function for the benefit of the U.S. public. There is no good reason why our union cannot have the same relationship with TSA under the leadership of Administrator Pekoske. Thank you for the opportunity to share AFGE's views on these important issues, and I am available to answer any questions you might have.