



AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO

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The Honorable Trey Gowdy
Chairman
House Oversight and Government
Reform Committee
Washington, DC 20515

The Honorable Elijah E. Cummings
Ranking Member
House Oversight and Government
Reform Committee
Washington, DC 20515

Dear Chairman Gowdy and Ranking Member Cummings:

On behalf of the over 44,000 Transportation Security Officers (TSOs) represented by the American Federation of Government Employees, AFL-CIO (AFGE), in light of today's hearing of the Committee on Oversight and Government Reform (the Committee) entitled "Examining Misconduct and Retaliation at TSA," I am writing to provide additional information regarding workforce issues at the Transportation Security Administration (TSA). TSOs are not just the face of TSA—they are the hands and minds that implement security measures that keep the flying public safe. Management misconduct should not be tolerated at any federal agency, especially those charged with aviation security.

We believe it is a mistake for the Committee to emphasize the rights of Transportation Security Administration (TSA) management with full access to appeal adverse personnel decisions to the Merit Systems Protection Board (MSPB) while barely addressing the workplace issues of 44,000 TSOs. The confluence of unfair treatment, low pay, and staffing shortages makes it harder for them to carry out their duties to protect our nation from a repeat of another attack like the terrible events of September 11, 2001. TSOs do not decide the procedures they execute, allocate funding, or propose unrealistic staffing levels. TSA has created a situation where the workers with the least authority bear the brunt of any and every problem created by management decisions.

This statement focuses on serious personnel issues at TSA impacting the majority of TSA employees, the TSO workforce

TSA's Separate and Unequal Personnel Systems

Since Congress created TSA in November 2001, the agency has operated two separate personnel systems: TSA provides supervisors, administrative staff, and all other TSA employees appeal rights to the Merit Systems Protection Board (MSPB). In comparison, the "review" process TSA created for the TSO workforce does not include the right to an in-person hearing on the action or review by an objective body outside of TSA, all of which are available through the MSPB. In a January 2018 report, the Department of Homeland Security Inspector General



found that TSA senior leadership operated "a shadow disciplinary process for senior management," deviating from and interfering with TSA's standard disciplinary practice to reduce a penalty against a favored senior management employee. TSOs face discipline that is swift and severe without the ability to testify and challenge witnesses. The TSO workforce is not the beneficiary of TSA management assistance. To the contrary, AFGE currently is litigating 19 cases of retaliation against TSOs who filed discrimination complaints against the agency. Over 44,000 TSA employees 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. Denial of common-sense statutory workplace rights and protections was unnecessary to stand up TSA in 2001, and it is wrong to continue this unfair system almost 17 years later.

Misconduct, retaliation, and obstruction at TSA runs deep within the organization and is a direct result of the lack of accountability and transparency within TSA's personnel systems. The nation's security is enhanced when the workers who contribute to our protection have a personnel system that is fair, transparent, and consistent. For this reason, AFGE strongly supports H.R. 2309, the Rights for Transportation Security Officers Act, introduced by Representatives Bennie Thompson (D-MS) and Nita Lowey (D-NY). The Rights for Transportation Security Officers Act would apply title 5 of the U.S. Code that provides workplace rights and protections to the entire TSA workforce in the same manner as other security employees at the Department of Homeland Security (DHS). We strongly urge the Committee to hold a hearing on H.R. 2309 and favorably report out the bill. This is the most effective action to advance TSA's mission of aviation and transportation security.

High Rates of Attrition of the TSO Workforce

The TSO attrition rate far surpasses attrition rates of the entire Federal Government workforce. A September 19, 2018 Bloomberg BNA article entitled *Airport Screeners Often Take Off Shortly After Arrival* reported that a Freedom of Information Act (FOIA) request for information regarding screener employment at 10 large airports found turnover rates ranging "from 30 percent to more than 80 percent" between 2012 and 2016. TSA's response to AFGE's own FOIA request showed between 2007 and July 2018 roughly the entire agency was replaced due to attrition. During this time 45,576 TSOs resigned from the agency. These numbers are a strong indication that TSA does not have a misconduct problem. TSA has a quitting problem. These high attrition rates do not occur in other DHS components where the rank and file workforce are afforded workplace rights and protections and a transparent pay system under title 5 of the U.S. Code.

TSA Should Adequately Staff Checkpoint and Baggage Screening

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 that was forced on its existing TSA Officer workforce, and for TSOs, a repeated pattern. TSA's failure to adequately staff checkpoint and baggage

screening areas leads to overworked officers and less security for the flying public. TSOs at some airports are subject to ongoing mandatory overtime due to short staffing, while other full time TSOs are working split shifts between two airports because of shortages. AFGE is especially concerned that female TSOs continue to face denial of shift or line bids or delayed breaks due to chronic underrepresentation of women among the TSO ranks. All 2 million passengers departing on flights from U.S. airports daily must be screened by a person, not by canines or solely by use of technology. Staffing issues can be resolved by full funding to cover the cost of hiring the full time TSOs necessary to screen passengers and addressing TSA's retention issues by providing workplace rights and protections and fair pay.

TSO Pay is Too Low to Build the Workforce

The TSO workforce is underpaid. TSA invented its own pay band system lacking the stability and transparency of the General Schedule pay system of compensation used by most Federal agencies. In 2017, the average TSO pay increase was \$244, or about \$9.38 a paycheck. TSOs are largely clustered in the E pay band by TSA, the third lowest at the agency, and TSA recently eliminated the ability of TSA Officers to achieve the higher G pay band, a difference of thousands of dollars. TSA has promoted a Career Progression program, but there is no assurance of being promoted to a vacant, available position with higher wages for TSOs who complete training and certification requirements for various career paths. TSOs face constant training and changing procedures and are required to pass more certifications than armed federal law enforcement officers. The screening workforce deserves a pay system that is fair and adequately reflects their training, complexities of tasks, and seniority.

With the assistance of Congressional oversight, AFGE has successfully worked with countless agencies to accomplish the goal of representing our members and helping the Federal government function at the highest level for the U.S. public. There is no good reason why our union cannot have the same relationship with TSA. Thank you for the opportunity to share AFGE's views on this important issue.

Sincerely,



Thomas S. Kahn
Director, Legislative Affairs