

HOW PERVASIVE IS MISCONDUCT AT TSA:
EXAMINING FINDINGS FROM A JOINT SUB-
COMMITTEE INVESTIGATION

JOINT HEARING
BEFORE THE
SUBCOMMITTEE ON OVERSIGHT
AND MANAGEMENT EFFICIENCY
AND THE
SUBCOMMITTEE ON
TRANSPORTATION SECURITY
OF THE
COMMITTEE ON HOMELAND SECURITY
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HOW PERVASIVE IS MISCONDUCT AT TSA: EXAMINING FINDINGS FROM A JOINT SUB- COMMITTEE INVESTIGATION

Thursday, July 7, 2016

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
SUBCOMMITTEE ON OVERSIGHT AND
MANAGEMENT EFFICIENCY, AND
SUBCOMMITTEE ON TRANSPORTATION SECURITY,
WASHINGTON, DC.

The subcommittees met, pursuant to notice, at 10:08 a.m., in room 311, Cannon House Office Building, Hon. Scott Perry [Chairman of the Oversight and Management Efficiency subcommittee] presiding.

Present from Subcommittee on Oversight and Management Efficiency: Representatives Perry, Clawson, Loudermilk, Watson Coleman, and Torres.

Present from Subcommittee on Transportation Security: Representatives Katko, Rogers, Carter, Ratcliffe, Keating, and Payne.

Mr. PERRY. The Committee on Homeland Security Subcommittee on—the Subcommittees on Oversight and Management Efficiency and Transportation Security will come to order. The purpose of this hearing is to examine findings of the joint subcommittee investigation related to misconduct at the Transportation Security Administration, otherwise known as the TSA.

Before we begin the Chair asks unanimous consent for the majority staff report to be included in the hearing record.

Hearing no objection, so ordered*.

The Chair now recognizes himself for an opening statement.

In May 2016, Secretary Jeh Johnson released a new mission statement for the Department of Homeland Security. “With honor and integrity we will safeguard the American people, our homeland, and our values.”

I think most Americans would agree this isn’t an unreasonable expectation. The American people expect all Federal employees, especially those charged with protecting the homeland to conduct themselves with integrity.

Unfortunately, a 6-month investigation conducted jointly by this subcommittee and Chairman Katko’s subcommittee has found that TSA violates the words and spirit of this new mission statement to a degree that is alarming and unconscionable to most Americans.

*The information referred has been retained in committee files and is also available at <https://www.govinfo.gov/content/pkg/CPRT-114HPRT97200/pdf/CPRT-114HPRT97200.pdf>.

Here are the facts of our investigation. Egregious misconduct occurs across all levels of TSA, all levels from the bottom to the top, and is growing. Yet, TSA's investigations into internal misconduct and the resulting penalties have decreased.

Specifically, we found that TSA employee misconduct grew by almost 29 percent. Think about that, grew by almost 29 percent from fiscal year 2013 through 2015—35 percent of airports experienced increased numbers of allegations, some having nearly 40 times the number of allegations, that is allegations to be clear, than in fiscal year 2013.

In terms of the types of misconduct that are growing, we saw significant increases in areas related to integrity and ethics, and disruptive behavior including sexual misconduct.

Neglect of duty allegations nearly doubled during this period. There was a 17 percent jump in the category of failing to follow instructions. That is just failure. It is simple stuff, 17 percent jump. There are examples of airport screeners facilitating drug and human smuggling which we can't imagine that coming from this dais.

Facilitating drug and human smuggling and sexually assaulting travelers. A Federal deputy, correction, a deputy Federal security director promoting a subordinate with whom he had a romantic relationship among numerous others.

Every American should be outraged by these findings. I certainly am myself. We are in the highest threat environment since 9/11. From Orlando to San Bernardino our citizens are under attack from radical Islamist terrorists.

Terrorist groups remain obsessed with both attacking civil aviation and recruiting Westerners. Just last month, CIA Director John Brennan testified that ISIS is probably exploring a variety of means for infiltrating operatives into the West. That is what he said.

The last thing the American people need to be concerned with are corrupt, insolent, and often unethical airport screeners. What is even more outrageous is that TSA's response has been to investigate fewer, fewer allegations and use lesser penalties as the allegations actually increase.

We found that open investigations had declined 15 percent and closed investigations had declined 28 percent during this very same period. Use of non-disciplinary actions, such as counseling, jumped 80 percent while disciplinary actions including letters of reprimand and suspension decreased by 14 percent. Adverse actions including termination declined 23 percent.

TSA has not taken—this shows, this is evidence that TSA has not taken this conduct seriously and it is no wonder why employee morale at DHS is among the worst in the Federal Government. We literally had hearings on that.

When TSA employees, when employees know that people that are engaged in adverse conduct aren't disciplined then that reduces their pride and their incentive to do the right thing. I think that is borne out in low employee morale. At least it is one of the reasons.

What TSA has done is created a bloated bureaucracy without any real substance to process misconduct issues. Multiple offices have

varying responsibilities related to misconduct, but no one oversees misconduct across airports to identify systemic solutions.

So, what we are saying there is that there are multiple offices. It is not like when you think of most companies where there is an H.R. or human capital department with somebody at the top that oversees the whole thing.

There is a series of different offices for different styles of management and different levels, and so on and so forth. There is nobody at the top that seems to be working and in control of the whole thing from top to bottom.

Airports vary in how they address misconduct. Some airports have staff devoted to tracking misconduct issues while other absolutely do not. Some Federal security directors are engaged while others step in only when needed.

This disjointed approach simply, the numbers, the metrics show, is not working. Several individuals who came forward to us said that they were either blown off or recriminated against for bringing issues forward. These are safety and security issues.

So, if you imagine an employee comes forward and says, hey, I have got this issue. They are either disregarded or literally almost penalized. One of the penalties is you are moved with very little notice—in some cases, we have heard as little as 3 days, across the country for bringing a salient issue. These are big concerns.

TSA's big government, bureaucratic response has failed. It has failed TSA employees. It has failed the American public and the taxpayers. We recommend several common-sense actions, and I know you have seen them in the report just released, in a report which could have improved TSA's management of misconduct issues, but TSA must be committed to reform, committed to the reform.

Dr. Gowadia, I am sorry, Gowadia, Gowadia. Thank you. There cannot be lip service, and we talked about this, to what TSA is doing to address these findings. There needs to be a significant, lasting, and meaningful reform from the top to the bottom of the agency.

If there are employees unwilling to change, you must replace them with those who will. That includes the ones at the very top. Every minute TSA is forced to handle employee misconduct is one less that they are safeguarding the lives of travelers.

The American people deserve better, and they are counting on you. They are counting on us. They are counting on you particularly to succeed in your mission.

That ends my statement.

[The prepared statement of Mr. Perry follows:]

STATEMENT OF CHAIRMAN SCOTT PERRY

JULY 7, 2016

In May 2016, Secretary Jeh Johnson released a new mission statement for the Department of Homeland Security: "With honor and integrity, we will safeguard the American people, our homeland, and our values." I think most Americans would agree that this isn't that high an expectation; the American people expect all Federal employees, especially those charged with protecting the homeland, to conduct themselves with integrity. Unfortunately, a 6-month investigation conducted jointly by my subcommittee and Chairman Katko's subcommittee has found that TSA vio-

lates the words and spirit of this new mission statement to a degree that is alarming and unconscionable.

Here are the facts of our investigation: Egregious misconduct occurs across all levels of TSA and is growing, yet TSA's investigations into internal misconduct and the resulting penalties have decreased. Specifically, we found that TSA employee misconduct grew by almost 29 percent from fiscal year 2013 through 2015. Thirty-five percent of airports experienced increased numbers of allegations, some having nearly 40 times the number of allegations than in fiscal year 2013. In terms of the types of misconduct that are growing, we saw significant increases in areas related to integrity and ethics and disruptive behavior, including sexual misconduct. "Neglect of Duty" allegations nearly doubled during this period. There was a 17 percent jump in the category of failing to follow instructions. There are examples of airport screeners facilitating drug and human smuggling and sexually assaulting travelers, and a Deputy Federal Security Director promoting a subordinate with whom he had a romantic relationship, among numerous others.

Every American should be outraged by these findings; I certainly am. We are in the highest-threat environment since 9/11. From Orlando to San Bernardino, our citizens are under attack from radical Islamist terrorists. Terrorist groups remain obsessed with both attacking civil aviation and recruiting Westerners. Just last month, CIA Director John Brennan testified that ISIS is "probably exploring a variety of means for infiltrating operatives into the West." The last thing the American people need to be concerned with are corrupt, insolent, and unethical airport screeners. What's even more outrageous is TSA's response has been to investigate fewer allegations and use lesser penalties. We found that open investigations had declined 15 percent and closed investigations had declined 28 percent during this period. Use of non-disciplinary actions, such as counseling, jumped 80 percent while disciplinary actions, including letters of reprimand and suspensions, decreased by 14 percent and adverse actions, including termination, declined 23 percent. TSA has not taken misconduct seriously and it's no wonder why employee morale at DHS is among the worst in the Federal Government.

What TSA has done is created a bloated bureaucracy without any real substance to process misconduct issues. Multiple offices have varying responsibilities related to misconduct but no one oversees misconduct across airports to identify systemic solutions. Airports vary in how they address misconduct. Some airports have staff devoted to tracking misconduct issues while others do not. Some Federal Security Directors are engaged while others step in only when needed. This disjointed approach is not working. Several individuals who came forward to us said that they were either blown off or recriminated against for bringing issues forward. TSA's big government, bureaucratic response has failed. It has failed TSA's employees and it has failed the American public.

We recommend several common-sense actions in our report which could improve TSA's management of misconduct issues. But TSA must be committed to reform. Dr. Gowadia, there cannot be lip service to what TSA is doing to address these findings—there needs to be significant, lasting, and meaningful reform from the top to the bottom of the agency. If there are employees unwilling to change, you must replace them with those who will. Every minute TSA is forced to handle employee misconduct is one less that they are safeguarding travelers. The American people deserve better and they are counting on you to succeed in your mission.

Mr. PERRY. The Chair now recognizes the Ranking Member of the Subcommittee on Oversight and Management Efficiency, the gentlelady from New Jersey, Mrs. Watson Coleman for her statement.

Ms. WATSON COLEMAN. Thank you very much, Mr. Chairman. Thank you to you and to Chairman Katko for holding today's hearing.

Just as a matter of on the record, I just want to make it known that we are just receiving a copy of this "Misconduct At TSA Threatens the Security of the Flying Public," which I understand was a joint report that the Majority staff did without our input, and obviously without our opportunity to see it. Perhaps it could have been helpful for me for today.

But, nonetheless, I am glad that we are here today. I want to thank our witnesses for being here. Thank you for the testimony that you are going to be giving.

The Transportation Security Administration provides security at airports throughout the Nation, and it helps secure our Nation's service transportation systems. TSA screens over 2 million passengers at 450 airports in the United States daily.

In fiscal year 2015 TSA employees screened over 700 million passengers and 400 million checked bags. Travel in the United States is on the rise, seeing a 15 percent increase from 2013 to 2015. Airports are expected to experience a significant rise in passenger traffic this summer.

Due to increased passenger volumes, decreased appropriations for transportation security officers, and changing procedures due to security screening shortfalls, wait times in the Nation's airports have increased.

Recently TSA has come under fire about the passenger wait times and the extravagant bonuses that were paid to a former assistant administrator who oversaw security operations while TSA was known to have security lapses.

High-profile incidences such as these in addition to the TSA pay scale and benefits for its front-line personnel have a devastating effect on the transportation security officers that serve the public on a daily basis.

The performance and morale of TSA personnel should be of utmost importance. However, many of the front-line employees, the transportation security officers, are short-staffed and are often asked to work multiple shifts.

In addition, while these TSOs are Federal Government employees, they are not subject to general civil service provisions that include collective bargaining rights, the ability to appeal adverse actions to the independent merit system protection board, and whistle-blower protections.

I believe that the TSA employees, especially those engaged in security screening, should be subject to civil service provisions. That is why I am an original sponsor of H.R. 4488, The Rights for Transportation Security Officers Act of 2016.

This bill authored by the Ranking Member of the full committee provides the Transportation Security Administration screening work force with long overdue rights, the same rights afforded to most Federal workers under Title V.

Both the DHS office and the Inspector General and the Government Accountability Office, GAO, have examined allegations of misconduct by TSA personnel. Two offenses account for more than half of all cases. One, attendance and leave, and two, screening and security.

Based on its analysis GAO found that TSA did not have a proper process for conducting reviews of misconduct to verify whether TSA personnel at airports were complying with policies and procedures.

TSA implemented the recommended changes. However, allegations of misconduct increased by almost 30 percent from 2013 to 2015. I certainly will be interested in understanding an explanation of that.

In fiscal year 2015 alone the DHS OIG received approximately 1,000 complaints either from or about a TSA employee, most of which related to allegations of misconduct. Specific instances of misconduct included retaliation against whistleblowers, mismanagement, and security failures.

It has also been reported that TSA personnel are afraid to speak up about problems at the agency in fear of being unfairly punished or reassigned to lower positions. In fact, TSA management has been described by staff as the biggest bully in the Federal Government.

Allegations of retaliation and mismanagement drastically impact the workplace. Moreover, it appears that rank-and-file personnel are disciplined at a much higher rate than management. It seems as if management is disciplined when they are high-profile cases or media attention that brings negative attention to the TSA.

For the sixth year in a row DHS saw an overall drop in employee engagement and morale according to the 2015 Federal employee viewpoint survey. What is even more concerning is TSA in particular is ranked one of the worst places to work in the Federal Government, coming in 313 out of 320 in the annual survey by the Partnership for Public Service.

Dr. Gowadia, today I look forward to hearing from you how TSA plans on better managing its work force starting from the top in addressing low morale. I also look forward to hearing the changes that TSA has implemented as a result of the OIG and GAO investigations. Particularly the mechanisms implemented to better hold management accountable.

But I would also like to thank the TSOs who are on the front line every day for their diligent work under such intense responsibility and pressure during the July 4th holiday period. Even before and even as we go into the future.

TSA screened 10.7 million travelers with average wait times in standard security lanes less than 10 minutes. That is good news, moving in the right direction.

Thanks to reprogrammed funding from Congress, TSA has been able to hire additional TSOs and increase overtime to address staffing shortages.

With that, Mr. Chairman, I yield back the balance of my time. Thank you.

[The statement of Ranking Member Watson Coleman follows:]

STATEMENT OF RANKING MEMBER BONNIE WATSON COLEMAN

JULY 7, 2016

The Transportation Security Administration provides security at airports throughout the Nation and helps secure our Nation's surface transportation systems.

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Recently, TSA has come under fire about the passenger wait times and the extravagant bonuses that were paid to a former Assistant Administrator who oversaw security operations while TSA was known to have security lapses.

High-profile incidents such as these, in addition to the TSA pay scale and benefits for its front-line personnel, have a devastating effect on the Transportation Security Officers that serve the public on a daily basis.

The performance and morale of TSA personnel should be of utmost importance. However, many of the front-line employees, the Transportation Security Officers, are short-staffed and are often asked to work multiple shifts.

In addition, while these TSOs are Federal Government employees, they are not subject to general civil service provisions that include collective bargaining rights, the ability to appeal adverse actions to the Independent Merit Systems Protection Board, and whistleblower protections.

I believe that the TSA employees, especially those engaged in security screening, should be subject to civil service provisions and that is why I am an original cosponsor of H.R. 4488, the "Rights for Transportation Security Officers Act of 2016".

This bill, authored by the Ranking Member of the Full Committee, provides the Transportation Security Administration's (TSA) screening workforce with long-overdue rights, the same rights afforded to most Federal workers under Title 5.

Both the DHS Office of Inspector General and the Government Accountability Office have examined allegations of misconduct by TSA personnel.

Two offenses accounted for more than half of all cases: 1. Attendance and Leave and 2. Screening and Security.

Based on its analysis, GAO found that TSA did not have a proper process for conducting reviews of misconduct to verify whether TSA personnel at airports were complying with policies and procedures.

TSA implemented the recommended changes; however, allegations of misconduct increased by almost 30% from 2013 to 2015.

In fiscal year 2015 alone, the DHS OIG received approximately 1,000 complaints either from or about a TSA employee, most of which related to allegations of misconduct.

Specific instances of misconduct included retaliation against whistleblowers, mismanagement, and security failures.

It has also been reported that TSA personnel are afraid to speak up about problems at the agency in fear of being unfairly punished or reassigned to lower positions.

In fact, TSA management has been described by staff as "the biggest bullies in the Federal Government."

Allegations of retaliation and mismanagement drastically impact the workplace.

Moreover, it appears that rank-and-file personnel are disciplined at a much higher rate than management.

It seems as if management is disciplined when there are high-profile cases or media attention that brings negative attention to TSA.

For the sixth year in a row, DHS saw an overall drop in employee engagement and morale according to the 2015 Federal Employee Viewpoint Survey.

What is even more concerning is TSA in particular is ranked one of the worst places to work in the Federal Government, coming in 313 out of 320 in the annual survey by the Partnership for Public Service.

Dr. Gowadia, today, I look forward to hearing from you how TSA plans on better managing its workforce, starting from the top, and addressing low morale.

I also look forward to hearing the changes TSA has implemented as a result of the OIG and GAO investigations, particularly the mechanisms implemented to better hold senior management accountable.

I would like to thank the TSO's for their diligent work under such intense responsibility and pressure—during the July 4 holiday travel period, TSA screened 10.7 million travelers, with average wait times in standard security lanes less than 10 minutes.

Thanks to reprogrammed funding from Congress, TSA has been able to hire additional TSOs and increase overtime to address staffing shortages.

Mr. PERRY. The Chair thanks the gentlelady. The Chair now recognizes Chairman of the Subcommittee on Transportation Security, the gentleman from New York, Mr. Katko.

Mr. KATKO. Thank you, Mr. Chairman.

I am going to echo Mrs. Watson Coleman's sentiments that I do applaud the efforts of the TSA front-line workers, the officers. But, you know, of course, we cannot stand—good performance then can

be better. So, that is why we are here. That is why we always must strive to be the greatest that we can do in our jobs, and provide the greatest security we can for our country in an ever-evolving threat environment.

Since the creation of the TSA after the terror attacks of September 11, Congress has had to step in numerous times when the agency has failed to appropriately manage its personnel. These instances have included countless allegations of misconduct from TSA from the top to bottom.

As Chairman of the Transportation Security Subcommittee, I am particularly invested in and concerned about ensuring that the good men and women who protect our Nation's critical transportation systems every day are not only provided with the resources they need, but are also surrounded by an ethical and positive work culture.

Such a culture currently does not exist within TSA. In fact, in recent months a number of disturbing accounts of misconduct and just poor conduct on the part of high-ranking TSA officials as well as front-line workers at airports, and Federal air marshals, have contributed to a discouraging picture of a bureaucracy struggling to meet the demands of an increased threat environment and spiking passenger volume.

All of this at a time at which we are facing unprecedented threats to our National security. In the last several months, terrorists have bombed 2 and potentially 3 commercial aircraft, and 2 of which were likely inside jobs of employees at airports, and have orchestrated devastating attacks against transportation modes in Brussels and Istanbul.

Frankly, this is not the time to be dealing with misconduct or corruption in our own ranks. The risk is simply too great. Administrator Neffenger, for his part, has instituted a number of reforms to right the ship. One of which I very much applaud was a ludicrous practice of having subordinates recommending bonuses for their superiors.

Absolute definition of insanity. How that ever happened in a Federal agency is beyond me. I am glad you stopped it. I want to be assured through our questions a little later today, Doctor, that that has in fact stopped and will not happen again.

Despite these efforts, however, much more needs to be done to give the American people the security they need from a TSA that is responsive to reforms and ethical in its operations.

As public servants, TSA personnel must be held to the highest ethical standards. We must be training up workers of the highest moral caliber if we are entrusting them with the lives of traveling Americans.

But unfortunately, TSA management has often sought punitive actions against responsible employees who attempted to speak out against problems plaguing the agency, the whistleblowers, rather than taking their concerns seriously. This is unacceptable.

Covering up or discouraging individuals from speaking out only perpetuates a negative culture and serves as a direct result and assault on employee morale. Employee misconduct, particularly the sort that compromises security and wastes the taxpayer dollars must not be permitted to continue.

It is because of this that our two subcommittees have conducted a joint investigation to assess the scope and depth of misconduct across the TSA work force. Resulting from this investigation, we are releasing a telling report on the challenges facing TSA and the actions needed to rectify years of baked-in mismanagement.

Much has been written and discussed surrounding the abysmally low morale at TSA, of which Mrs. Watson Coleman just mentioned, which suffers the lowest employee satisfaction levels of any agency in the Federal Government.

Rampant allegations of misconduct plaguing the agency in the news media and through word of mouth no doubt serve as a contributing factor to lower employee morale within TSA.

The efforts to improve the culture at TSA must start with addressing the issue of employee misconduct. As my subcommittee has continued to investigate the insider threat to aviation security over the last year, I have become thoroughly convinced that stemming this conduct among TSA personnel and individuals with access to secure areas of airports is directly tied to mitigating insider threats to the security of the traveling public.

The ease with which certain individuals have had accepted bribes and smuggled drugs and weapons through our Nation's airport terminals is of serious concern. While the issue certainly extends beyond just TSA personnel, TSA is on the front lines of improving access controls, detecting insider threats, and ensuring that its own house is in order, being held to the highest standards.

I want to commend Chairman Perry's dedication to this issue and to developing this report. I look forward to continued work together to reform TSA into an efficient, effective, and an accountable organization.

Oversight work like what we are doing today is what the American people expect and demand of the representatives in Congress. I am optimistic that we on this committee and together with TSA can create a better culture within the agency and ultimately improve the security of the traveling public.

With that, I yield back, Mr. Chairman.

[The statement of Chairman Katko follows:]

STATEMENT OF CHAIRMAN JOHN KATKO

JULY 7, 2016

Since the creation of the Transportation Security Administration after the terror attacks of September 11, Congress has had to step in numerous times when the agency has failed to appropriately manage its personnel. These instances have included countless allegations of misconduct throughout TSA from top to bottom. As Chairman of the Transportation Security Subcommittee, I am particularly invested in, and concerned about, ensuring that the good men and women who protect our Nation's critical transportation systems everyday are not only provided with the resources they need, but are also surrounded by an ethical and positive work culture.

Such a culture currently does not exist within TSA. In fact, in recent months, a number of disturbing accounts of misconduct on the part of high-ranking TSA officials, as well as front-line workers at airports and Federal Air Marshals, have contributed to a discouraging picture of a bureaucracy struggling to meet the demands of an increased threat environment and spiking passenger volume. All of this at a time in which we are facing unprecedented threats to our security. In the last several months, terrorists have bombed two—and potentially three—commercial aircraft, and have orchestrated devastating attacks against transportation modes in Brussels and Istanbul. Frankly, this is not the time to be dealing with misconduct or corruption within our own ranks. The risk is simply too great.

Administrator Neffenger, for his part, has instituted a number of reforms to right the ship. Despite these efforts, however, much more needs to be done to give the American people the security they need from a TSA that is responsive to reforms and ethical in its operations. As public servants, TSA personnel must be held to the highest ethical standards and we must be training up workers of the highest moral caliber if we are entrusting them with the lives of traveling Americans. Unfortunately, TSA management has often sought punitive actions against responsible employees who have attempted to speak out against the problems plaguing the agency, rather than taking their concerns seriously. This is unacceptable. Covering up or discouraging individuals from speaking out only perpetuates a negative culture and serves as a direct assault on employee morale. Employee misconduct, particularly the sort that compromises security and wastes taxpayer dollars, must not be permitted to continue. It is because of this that our two subcommittees have conducted a joint investigation to assess the scope and depth of misconduct across the TSA workforce. Resulting from this investigation, we are releasing a telling report on the challenges facing TSA and the actions needed to rectify years of mismanagement.

Much has been written and discussed surrounding the abysmally low morale at TSA, which suffers the lowest employee satisfaction levels of any agency in the Federal Government. Rampant allegations of misconduct plaguing the agency in the news media and through word of mouth no doubt serve as a contributing factor to low employee moral within TSA. Any efforts to improve the culture at TSA must start with addressing the issue of employee misconduct. As my subcommittee has continued to investigate the insider threat to aviation security over the last year, I have become thoroughly convinced that stemming misconduct among TSA personnel and individuals with access to secure areas of airports is directly tied to mitigating insider threats to the security of the traveling public. The ease with which certain individuals have accepted bribes and smuggled drugs and weapons through our Nation's airport terminals is of serious concern. While the issue certainly extends beyond just TSA personnel, TSA is on the front lines of improving access controls, detecting insider threats, and ensuring that its own house is in order and being held to the highest standards.

I commend Chairman Perry's dedication to this issue and to developing this report, and I look forward to continuing to work together to reform TSA into an efficient, effective, and accountable organization. Oversight work like what we are doing today is what the American people expect of their representatives in Congress, and I am optimistic that we on this committee and together with TSA can create a better culture within the agency and ultimately improve the security of the traveling public.

Mr. PERRY. The Chair thanks the gentleman from New York.

The Chair now acknowledges the absence of the Ranking Member of the Subcommittee on Transportation Security, the gentlelady from New York, Miss Rice. She cannot be with us at this time. Should she be able to attend we will defer to her at that time.

Other Members of the subcommittee are reminded that opening statements may be submitted for the record.

[The statements of Ranking Members Rice and Thompson follow:]

STATEMENT OF RANKING MEMBER KATHLEEN RICE

JULY 7, 2016

In light of the recent attacks at airports in Istanbul and Brussels, I think we are all more cognizant than ever of the importance of TSA's mission. I think those attacks have also made us more aware of the increasing complexity of that mission, as TSA must confront not only the threat of terrorists trying to sneak weapons or explosives past checkpoints and on to planes, but also the threat of attacks on soft targets like the public areas of airports.

Right now, I think TSA is in the midst of sort of a perfect storm. On the one side, we have the constant and evolving threat of terrorism. On the other, we have record numbers of travelers passing through American airports, and an ever-increasing demand for speed and efficiency. And in the middle of it all, we have an administration that has struggled to recruit and retain the highly-skilled workforce that it needs to carry out its mission and achieve the right balance between security and efficiency.

So as we assess allegations of misconduct and mismanagement within TSA, we have to be aware of the fact that such behavior has real and direct implications for our National security.

In 2013, GAO examined how TSA investigates and adjudicates cases of employee misconduct, and issued a report with four recommendations for how TSA can strengthen these processes.

I understand that TSA concurred with and has implemented all four recommendations. But I'm concerned about the fact that the process for adjudicating misconduct by Transportation Security Officers remains different than that for other TSA employees—and I hope that our witnesses can shed some light on why that is, and whether a more uniform adjudication process would better serve TSA's mission.

In April and May of this year, the Committee on Oversight and Government Reform held hearings on mismanagement and misconduct at TSA.

During their first hearing, OGR heard testimony from TSA employees who recounted instances of intimidation, retribution, and improper reassignments.

Following that hearing, the same panel questioned Administrator Neffenger on bonuses given to senior officials, and we learned that over the course of several months, one individual who was responsible for overseeing the TSA's Office of Security Operations had been given a bonus of \$90,000. Ms. Gowadia, I hope that you can tell us what changes TSA has made to prevent such actions and better protect taxpayer resources.

I mentioned earlier that one of the problems facing TSA—and one that I know Admiral Neffenger is working hard to address—is the low morale within TSA. According to the Best Places to Work in the Federal Government, TSA ranked 313 out of 320 Federal agencies—and that certainly adds to the administration's problems with recruitment and retention.

But at the same time, TSA's Domestic Nuclear Detection Office has been ranked among the best places to work in the Federal Government—so I'm eager to hear how TSA is working to replicate practices from that office within the broader workforce.

TSA's workforce is tasked with a tremendous responsibility, and Transportation Security Officers, who make up the majority of that workforce, perform what is often a thankless job.

They are on the front line of our aviation security efforts, ensuring that prohibited items are not able to be brought on board an aircraft, while also evolving to better confront the threat of attacks on soft targets within airports.

This time last year, a leaked OIG report caused them to refocus and tailor their efforts to ensure that they do not miss threat items at checkpoints. Security effectiveness was the top priority.

Recently, not even a year later, TSOs were facing criticism for long lines at airports, even though the issues causing wait times were systemic and not necessarily tied to their performance. The priority shifted to efficiency.

So I hope that Deputy Administrator Gowadia can talk about to what extent those challenges may be related to some allegations against these officers, as well as how many allegations of misconduct are adjudicated and found to be valid versus those where no instance of wrongdoing is found.

Again, I think it's important to remain aware of the fact that with TSA, even more so than many other agencies and departments, mismanagement and misconduct have direct National security consequences and cannot be tolerated. So I hope that our conversation today will give us a more complete understanding of how prevalent such behavior is within TSA and how it is being addressed, so that we can focus on how we can better combat perhaps the most pressing threat facing TSA and the American aviation industry—that of attacks on soft targets like the public areas of airports.

STATEMENT OF RANKING MEMBER BENNIE G. THOMPSON

JULY 7, 2016

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numbers of travelers passing through American airports, and an ever-increasing demand for speed and efficiency. And in the middle of it all, we have an administration that has struggled to recruit and retain the highly-skilled workforce that it needs to carry out its mission and achieve the right balance between security and efficiency.

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Mr. PERRY. We are pleased to have a distinguished panel of witnesses before us today. The witnesses' entire written statement will appear in the record.

The Chair will introduce all of the witnesses first, or both of them, and then recognize each of you for your testimony.

Dr. Huban Gowadia, yes, is TSA's deputy administrator. Prior to her appointment to this position in May 2016, so it is roughly 2

months ago, she was director of Domestic Nuclear Detection Office where she led DHS's efforts related to radiological and nuclear detection.

She began her Federal career with the Federal Aviation Administration in 2000, working on aviation security technologies and policy. She is a graduate of the University of Alabama, and has a PhD from the Pennsylvania State University. Congratulations. Welcome to the committee, once again.

Mr. Andrew Oosterbaan is the assistant inspector general for investigation at the DHS Office of Inspector General. His office investigates allegations of criminal, civil, and administrative misconduct involving DHS employees, contractors, grantees, and programs.

Previously, Mr. Oosterbaan served at the Department of Justice's Criminal Division as a chief of child exploitation section and was an assistant United States attorney for the Southern District of Florida.

We thank you for your service, sir, and welcome to the committee.

Thank you all for being here today.

The Chair recognizes Dr. Gowadia for her opening statement.

**STATEMENT OF HUBAN GOWADIA, DEPUTY ADMINISTRATOR,
TRANSPORTATION SECURITY ADMINISTRATION, U.S. DE-
PARTMENT OF HOMELAND SECURITY**

Ms. GOWADIA. Good morning, Chairman Perry, Chairman Katko, and the Ranking Member Watson Coleman, and distinguished Members of the subcommittee. Thank you for the opportunity to appear before you today. My colleagues at TSA and I appreciate your support in ensuring that we maintain the highest professional standards for our work force.

As evidenced by the recent attacks in Istanbul and Brussels, terrorists continue to plot and execute attacks against the global transportation system. The United States faces persistent threats from terrorist groups around the world, as well as from home-grown violent extremist inspired by messages of hatred.

These threats pose a challenging dynamic environment that demands the utmost dedication and professionalism for my employees, from front-line officers to senior leaders. TSA's greatest strength is its committed, professional work force.

Administrative Neffenger and I are dedicated to providing a supportive environment for all our employees with an emphasis on values, standards, and accountability. Central to our success is a commitment to a common set of values focused on integrity, innovation, and team spirit, and to our agency's core principals which are to focus on mission, invest in people, and commit to excellence.

To protect the Nation's transportation networks, we recruit and retrain highly capable individuals, reflective of the diverse public we serve. We invest in their training, provide them career paths for growth and development, ensure fair personnel practices at all levels of the agency, and identify and hold accountable those who engage in misconduct.

TSA's recruitment and hiring strategy is focused on selecting the best individuals. All of our employees have successfully cleared an assessment program. This includes a thorough background check,

and vetting against terrorist watch lists, as well as a criminal history records check.

To ensure our work force continues to accomplish our security mission and to strengthen TSA's professional foundation by building future leaders, we have increased our investments in training and education programs.

A common foundation of training will connect our work force to a unified culture and strengthen our focus on mission.

We have expanded our leadership development opportunities with offerings that range from the rising leaders' development program for entry-level employees to the executive leadership program for transportation security executive service employees.

Since January 2016, our newly-hired officers receive basic training at the TSA Academy which is located at FLETC. At the Academy, officers are immersed in our mission, our history and values, and high ethical standards.

They undergo realistic training that prepares them for the demands of the screening mission. Each of our training and professional development programs reinforces integrity, duty to mission, and a commitment to excellence.

We are delivering the professional TSA that the American public deserves. Integrity is a core value at TSA. Appropriate conduct is the responsibility of every employee. All employees are responsible for reporting any known or suspected violation of the law, rule, regulation, or policy.

In concert with our colleagues at the office of Inspector General we investigate all allegations of employee misconduct and ensure appropriate disposition. Our disciplinary policies hold accountable individuals who engage in misconduct while upholding due process rights and ensuring equitable treatment for employees across the agency.

As part of our continuing evolution we are exploring ways to improve our human capital practices. We are reviewing our bonus payment procedures for our front-line officers, and have imposed new strict controls on bonuses for senior executives.

Our approach to leadership is driven by our dedication to our security mission. We are holding ourselves accountable to high standards of effectiveness and are supporting our front-line officers in their critical counterterrorism mission.

Every day the men and women of TSA display passion, patriotism, and a sense of duty while performing demanding tasks under very difficult circumstances.

I thank you again for this opportunity to appear before you today. If I may close on a personal request, I would like to recognize Mrs. Watson Coleman's shout-out to our TSOs. If you are so inclined the next time you encounter one, would you please stop and say thank you? I know your kindness will be deeply appreciated. Thank you.

[The prepared statement of Dr. Gowadia follows:]

PREPARED STATEMENT OF HUBAN GOWADIA

JULY 7, 2016

Good morning, Chairmen Perry and Katko, Ranking Members Watson Coleman and Rice, and distinguished Members of the subcommittees. Thank you for the op-

portunity to appear before you today to discuss the Transportation Security Administration's (TSA) counterterrorism workforce, which safeguards the traveling public and secures our Nation's transportation systems. We appreciate the committee's support in ensuring TSA maintains the highest professional standards for our workforce.

Both in the field and at headquarters, the TSA workforce is vigilant in ensuring the security of people and commerce that flow through our Nation's vast transportation networks. TSA employs risk-based, intelligence-driven operations to prevent terrorist attacks and to reduce the vulnerability of the Nation's transportation system to terrorism. At all times, our goal is to maximize transportation security to stay ahead of evolving terrorist threats while protecting privacy and facilitating the flow of legitimate travel and commerce.

It is critical that we employ a culture of operational evolution that constantly re-evaluates assumptions, plans, and processes to achieve the highest level of mission excellence to counter the plans of our determined adversaries. The United States continues to face persistent threats from terrorist groups around the world, as well as from home-grown violent extremists inspired by messages of hatred to harm the American traveling public. These threats are complex and diffuse, and pose a challenging, dynamic environment that demand our utmost dedication and professionalism. To address these complex threats, the TSA employs Transportation Security Officers (TSO) across more than 430 airports and deploys Federal Air Marshals (FAM) both for flight coverage as well as ground-based assignments, such as Visible Intermodal Prevention and Response (VIPR) teams. TSA's inspectors ensure compliance with Federal statutes and regulations. TSA's personnel are committed to reducing the vulnerability of the Nation's transportation system to terrorism. These dedicated employees occupy the front line in executing the agency's transportation security duties in support of our Nation's counterterrorism efforts.

ADMINISTRATOR'S INTENT

Mission success depends on a shared understanding of objectives, unity of purpose, and alignment of values and principles. In January 2016, Administrator Peter Neffenger published TSA's first Administrator's Intent to articulate those objectives, the approach we will pursue in accomplishing our essential counterterrorism mission, and the values and principles that define TSA.

Central to our success is a commitment to a common set of values: Integrity, innovation, and team spirit. Building on these, the Administrator's Intent outlines the principles we care about as an agency, which are: Focus on Mission, Invest in People, and Commit to Excellence.

- *Focus on Mission.*—Focusing on our mission prioritizes our resources and operations to meet the threat. It also informs how we must invest in our workforce to achieve mission success.
- *Invest in People.*—Our culture, effectiveness, and mission-readiness are a direct result of consistent and career-long investment in people and set the foundation for agency success. Value-based leadership, a foundation of training, recruiting and retaining talent, and appropriate recognition are core elements of our approach.
- *Commit to Excellence.*—Our standard is excellence in all mission areas. We operate in a global environment where the threat remains persistent and evolving. As we pursue our counterterrorism mission, we will relentlessly pursue excellence through a culture of constant improvement, organizational adaptation, and discipline.

WORKFORCE TRAINING AND DEVELOPMENT

On a daily basis, the men and women of TSA display passion, patriotism, and sense of duty while performing demanding tasks under difficult circumstances. In order to ensure our workforce is able to continue accomplishing its vital mission, Administrator Neffenger and I are committed to providing a supportive working environment for all TSA employees with an emphasis on standards, values, and accountability. To this end, we have increased our investments in training and education programs to strengthen TSA's professional foundation and build future leaders. A common foundation of training will connect our workforce to a unified culture, strengthen the focus on mission, and build esprit de corps. As a result, TSA has expanded its leadership development opportunities with offerings that range from the Rising Leaders Development Program for entry-level employees, to the Executive Leadership Program for Transportation Security Executive Service (TSES) employees, which is designed to inspire ethical leadership in a complex and demanding homeland security environment. In early 2017, we will be launching mandatory

leadership training for all newly-promoted senior-level TSA employees. Additionally, in January 2016, TSA began sending newly-hired officers to basic training at the TSA Academy, located at the Federal Law Enforcement Training Center in Glynco, Georgia. While at the Academy, new hires are immersed in our mission, history, values, and high ethical standards. All of these vital training and professional development programs reinforce professional integrity, duty to mission, and commitment to excellence.

DISCIPLINARY PROCESSES

Integrity is a core value at TSA, and as the Deputy Administrator I strive to motivate our employees to fulfill their duties while upholding TSA's high standards of professionalism. TSA employees are responsible for reporting any known or suspected violation of law, rule, regulation, policy, or Standard Operating Procedure to any manager and/or to the TSA Office of Inspection (OOI). Allegations of employee misconduct are investigated and, in some cases, OOI investigators work with other law enforcement agencies.

OOI refers allegations to the Department of Homeland Security's Office of Inspector General (DHS OIG) for right of first refusal to investigate. If the OIG does not accept the case for investigation, the matter is referred back to OOI or local management for an administrative inquiry. After the completion of an investigation of alleged misconduct, OIG or OOI investigators produce a Report of Investigation, which generally contains witness statements, relevant documents, and other evidence as well as an agent's summary of investigative activities.

Completed reports and administrative inquiries are referred to TSA's Office of Professional Responsibility (OPR) or the appropriate management official for adjudication. TSA's OPR provides consistency in misconduct penalty determinations and facilitates an expeditious, standardized adjudication process. OPR adjudicates all allegations of misconduct investigated by the DHS OIG or involving senior-level employees or law enforcement officers. OPR may also exercise jurisdiction over any matter the assistant administrator for OPR determines should be reviewed and adjudicated by OPR. Cases that fall outside of OPR's jurisdiction are handled at the supervisory level.

TSA's Table of Offenses and Penalties provides guidance for determining appropriate corrective, disciplinary, or adverse actions for common offenses. Disciplinary penalties range from a letter of reprimand to removal. With respect to screening workforce employees, TSA requires removal for certain offenses, including failed drug or alcohol testing, sleeping on duty while assigned to a security activity, intentional serious security breaches, and cases involving theft. When removal is not required, the Table includes a recommended penalty range, as well as aggravated and mitigated penalty ranges.

TSA employs an important accountability tool for rapidly removing TSOs when egregious or serious misconduct is substantiated. The one-step removal process allows management officials to expeditiously remove an employee while ensuring due process. In the one-step removal process, a TSO may be issued a removal action after a management official has a meeting with the employee to discuss the incident or allegation, advise the employee of the possible consequences, and allow the employee an opportunity to respond to the allegations. The offenses for which the one-step removal process may be used include cases involving theft, illegal drugs, on-duty alcohol use, intentional serious security breaches, sleeping on duty while assigned to a security activity, and arrests for specific serious offenses set forth under 49 C.F.R. § 1542.209(d).

Most disciplinary and adverse actions are handled through a two-step process. Pursuant to the two-step process, a TSA management official will first issue a notice of the proposed action and provide the employee with the opportunity to review the evidence supporting the charge(s) and to respond orally and/or in writing. Second, another management official will consider the entire record, including the input from the affected employee, and will issue a written decision. OPR issues the proposal and decision notices in the matters it adjudicates.

TSA's disciplinary policies and processes are designed to hold accountable individuals who engage in misconduct while upholding due process rights and ensuring equitable treatment for employees at all levels of the agency. TSA empowers its employees through training and professional development opportunities, but also takes prompt and appropriate action to investigate and adjudicate misconduct if an employee falls short of our high standards.

CONCLUSION

TSA's greatest strength is its committed, professional workforce. We must continue to recruit and retain highly-capable individuals dedicated to, and focused on, our core mission. We are committed to maintaining an environment where employees and leaders can develop, employees have the tools to be successful, and the workforce is motivated by TSA's mission, vision, and strategic imperatives. To provide the most effective transportation security, the workforce must constantly be training and improving.

Our workforce places a strong emphasis on values, performance, and accountability. The traveling public expects efficient and effective screening and to be treated with dignity and respect, and we will uphold these principles by continually reinforcing this message of dignity and respect in training for our front-line workforce and management alike. Thank you for the opportunity to appear before you today and for the committee's support of TSA's important mission.

Mr. PERRY. Thank you, Dr. Gowadia.

The Chair recognizes Mr. Oosterbaan for his opening statement.

STATEMENT OF ANDREW OOSTERBAAN, ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. OOSTERBAAN. Good morning. Chairman Perry, Chairman Katko, Ranking Member Watson Coleman, and distinguished Members of the subcommittee, thank you very much for inviting me to testify about TSA misconduct.

My testimony today will focus on the Office of Inspector General's role in investigating misconduct at TSA. I will discuss briefly some examples of our TSA misconduct investigations, and I will highlight the importance of whistleblowers to our mission.

Our office is charged by Congress with preventing and detecting fraud and abuse in agency programs and activities, conducting investigations and audits, and recommending policies to promote efficiency, economy, and effectiveness.

We play a critical role in ensuring transparent, honest, effective, and accountable Government. The personal and organizational independence of OIG investigators free to carry out their work without interference by agency officials is essential to maintaining the public trust, not only in the I.G.'s work, but in the work force of DHS as a whole.

The American public must fundamentally trust the Government employees will be held accountable for crimes or serious misconduct by independent fact finding.

As the Assistant Inspector General for Investigations, I lead more than 200 criminal investigators in our Office of Investigations. We investigate acts of criminal, civil, and administrative misconduct involving DHS employees, contractors, grantees, and programs.

These investigations can result in criminal prosecutions, fines, civil monetary penalties, administrative sanctions, and personnel actions. We also provide oversight and monitor the investigative activity of DHS's various internal affairs offices.

We typically receive allegations of misconduct through our hotline or website, or from another DHS component. After assessing an allegation, we decide whether to investigate the allegation or refer it to the component's internal affairs office or another agency for their decision whether to investigate or take no action.

If we decide to investigate, we develop evidence seeking to substantiate or not substantiate the allegation and then write a report of investigation. For administrative or noncriminal misconduct, we provide our investigative findings to the effective component to inform its decision regarding disciplinary action, but we are not involved in that decision.

For criminal matters OIG presents its investigative findings to the Department of Justice for determination of whether judicial action will be pursued.

In fiscal year 2015, we received almost 18,000 complaints, and we initiated 664 investigations. Our investigations resulted in 104 criminal convictions and about 37 personnel actions. We are on pace to exceed these numbers in fiscal year 2016.

The OIG has an important role in addressing misconduct at the TSA. The integrity of TSA's work force is an important factor in the safety of our airports, and any acts of wrongdoing can diminish the public's confidence in their safety.

In fiscal year 2015, we received nearly 1,000 complaints related to TSA. And we decided to investigate about 40 of those complaints based on the seriousness of the allegation, the rank or grade of the individual involved, and whether OIG's uniquely independent role was necessary to ensure that the case was handled appropriately.

Let me give you some examples of our TSA-related investigations. As Chairman Katko had mentioned, in 2015 we initiated an investigation on a complaint that former TSA Assistant Administrator Kelly Hoggan improperly received excessive cash awards recommended by a subordinate.

Our investigation confirmed that between November 2013 and November 2014 Mr. Hoggan was given 6 \$10,000 special act awards and a seventh \$8,000 special act award. These awards were an addition to annual performance awards of over \$12,000 each for 2013 and 2014.

While our investigation did not uncover any criminal or administrative wrongdoing, it did reveal that TSA had inadequate internal controls over the awards process, and that TSA's internal written policy was unclear.

As a result of our investigation, TSA has tightened and clarified its written policies and practices. Some of OIG's investigations of TSA personnel do involve serious crimes.

For instance, we investigated a transportation security officer who conspired with others outside of TSA to smuggle undocumented aliens through an international airport. The TSO was prosecuted and sentenced to 10 months' incarceration.

In another case, the supervisory TSO was convicted for helping a drug-trafficking organization to smuggle large quantities of narcotics through an airport in the Caribbean. The TSO was prosecuted and sentenced to 87 months of imprisonment.

We also investigated a supervisory TSO and a lead TSO for using cocaine while on duty. Both employees were convicted in State court.

We investigated a TSO for transporting a 14-year-old with intent to commit sexual acts. He was sentenced to 188 months of imprisonment.

I want to end by noting the critically important role that whistleblowers play in ensuring transparent, honest, effective, and accountable Government. The DHS employees who step forward to disclose fraud, waste, and abuse or other wrong-doing are invaluable to our mission, as are the Federal laws providing the protection from retaliation.

In the TSA context, for example, we investigated a TSO's whistleblower report that he had been prevented by a supervisor from stopping a former member of a domestic terrorist group and notorious convicted felon from using PreCheck's expedited screening, for which he should have been ineligible.

As a result of the TSO's disclosure and the resulting inspection, standard procedures now allow TSOs to use discretion to deny expedited screening in such circumstances and TSA is in the process of changing the program which had inappropriately granted PreCheck to this traveler.

Over the last 2 years our office has made changes to our whistleblower protection program designed to raise our profile within DHS to encourage reporting of fraud, waste, and abuse, and to ensure that we have a program that is as good as or better than any other.

To accomplish this, we have taken some important steps. We imported an OIG senior executive to be the DHS whistleblower ombudsman. We vastly improved the intake and investigative process for whistleblower allegations. We have specially-trained investigators and we obtained official certification from the Office of Special Counsel that our program meets statutory requirements.

We are confident that these changes will greatly enhance our whistleblower program.

Mr. Chairman, this concludes my testimony. I look forward to your questions.

[The prepared statement of Mr. Oosterbaan follows:]

PREPARED STATEMENT OF ANDREW OOSTERBAAN

JULY 7, 2016

Chairman Katko, Chairman Perry, Ranking Member Rice, Ranking Member Watson Coleman, and Members of the subcommittees: Thank you for inviting me to testify on TSA misconduct.

My testimony will focus on the Office of Inspector General's (OIG) role in investigating misconduct at TSA and the important role that whistleblowers play in bringing waste, fraud, and abuse to the attention of our office. In addition, I will address a particular OIG investigation regarding the award of TSA bonuses that has been of interest to this panel and mention a few other investigations as examples of our work related to TSA.

OIG'S ROLE IN INVESTIGATING MISCONDUCT AT TSA

Through the *Inspector General Act of 1978* (IG Act), Congress established Inspectors General, in part, in response to concerns about integrity and accountability and failures of other forms of Government oversight. The IG Act charged Inspectors General, among other tasks, with preventing and detecting fraud and abuse in agency programs and activities; conducting investigations and audits; and recommending policies to promote efficiency, economy, and effectiveness. The position of Inspector General was strengthened by provisions in the IG Act establishing independence from Department officials, providing powers of investigation and subpoena, and reporting to the Secretary as well as Congress.

Inspectors General play a critical role in ensuring transparent, honest, effective, and accountable Government. The personal and organizational independence of OIG investigators, free to carry out their work without interference by agency officials, is essential to maintaining the public trust not only in OIG's work, but in the DHS

workforce as a whole. The American public must fundamentally trust that Government employees will be held accountable for crimes or serious misconduct by an independent fact finder.

OIG and DHS Internal Affairs Offices

DHS Management Directive (MD) 0810.1 implements the authorities of the Inspector General Act in DHS. MD 0810.1 establishes OIG's right of first refusal to conduct investigations of criminal misconduct by DHS employees and the right to supervise any such investigations conducted by DHS internal affairs offices. The MD requires that all allegations of criminal misconduct by DHS employees and certain other allegations received by the components—generally those against higher-ranking DHS employees—be referred to OIG immediately upon receipt of the allegations.

Many DHS components, including TSA, have an internal affairs office that conducts investigations. Under the authority of the IG Act, OIG has oversight responsibility for those internal affairs offices. This oversight responsibility generally takes three forms.

- First, we determine upon receipt of the complaint whether the allegations are the type that should be investigated by OIG rather than the component's internal affairs office. We have the absolute right under the Inspector General Act to conduct any investigation without interference. Except for a few narrow categories of matters (which must be reported to Congress), not even the Secretary can prevent the OIG from conducting an investigation.
- Second, for those investigations the internal affairs offices conduct, we have the authority to receive reports on and monitor the status of investigations.
- Lastly, we conduct oversight reviews of DHS component internal affairs offices to ensure compliance with applicable policies, reporting requirements, and accepted law enforcement practices. Our reviews are conducted on a 3-year cycle and our findings are published on our website. In this fiscal year, we have reviewed two component internal affairs offices and made more than 45 recommendations for improvement. In 2015 and the first half of 2016, we reviewed three component internal affairs offices and made 70 recommendations for improvement. Our recommendations ranged from suggestions for improving the processing of allegations to counseling a component to seek the proper investigative authority for its internal affairs office. These reviews are critical to ensuring that misconduct allegations, whistleblowers, and those reporting allegations of wrongdoing by DHS employees are treated with the seriousness they deserve.

Our process for addressing allegations of misconduct generally follows these steps:

1. An allegation of misconduct is reported to OIG or other appropriate office; if reported to an office other than OIG and several criteria for seriousness are met, the component must report the allegation to OIG.
2. Whether the allegation was reported directly to OIG or through a component, OIG will decide to investigate the allegation or refer it to the component's internal affairs office; if referred, the component can decide to investigate the allegation or take no action.
3. If OIG decides to investigate, we develop sufficient evidence to substantiate or not substantiate an allegation and write a report of investigation.
4. For administrative or non-criminal misconduct, OIG provides its investigative findings to the affected component, which uses this information to decide whether discipline is warranted. We are not involved in decisions regarding discipline after we provide our investigative findings.
5. For criminal matters, OIG presents its investigative findings to the Department of Justice (DOJ) for a determination of whether DOJ will pursue judicial action.

The Department employs more than 240,000 employees (and nearly an equal number of contract personnel), including a large number of law enforcement officers and agents in U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, the Secret Service, and the TSA. These officers and agents protect the President, our borders, travel, trade, and financial and immigration systems.

In fiscal year 2015, we received almost 18,000 complaints. A substantial number of the complaints alleged that DHS personnel engaged in misconduct. We initiated 664 investigations; the remainder were referred to component internal affairs offices, other agencies, or were administratively closed. In fiscal year 2015, our investigations resulted in 104 criminal convictions and 37 personnel actions.

Investigations against TSA personnel comprise a portion of our overall work. In the last fiscal year, we received about 1,000 complaints either from or about TSA employees. We typically accept for investigation about 40 of those cases per year. Our criteria for case selection generally involves an assessment of the seriousness

of the allegation, the rank or grade of the individual involved, and whether OIG's uniquely independent role is necessary to ensure that the case is handled appropriately.

TSA BONUSES

In March 2015, we initiated an investigation after receiving a complaint advising that former TSA Assistant Administrator Kelly Hoggan received six \$10,000 cash awards during the period of approximately 1 year. It was further alleged that the approving official and Mr. Hoggan were related and that nepotism was therefore motivating the awards.

To address these allegations, our office reviewed pertinent records and interviewed TSA personnel involved in the award process. We confirmed that Mr. Hoggan was awarded six \$10,000 Special Act Awards and a seventh \$8,000 Special Act Award between November 2013 and November 2014. These Special Act Awards were in addition to annual Performance Awards for 2013 and 2014.

We concluded that these cash awards did not violate law or TSA policy, and that there was no criminal conspiracy between Mr. Hoggan and others to personally enrich themselves by abusing the TSA awards system. We also found no evidence indicating that Mr. Hoggan was related to anyone within his chain of command.

However, while this investigation did not uncover any criminal or administrative wrongdoing, it did reveal that TSA had inadequate internal oversight of the awards process and that TSA's internal written policy regarding cash awards contained unclear language. As the result of our investigation, TSA has tightened and clarified its written policies and practices to address these problems.

EXAMPLES OF OIG INVESTIGATIONS OF TSA MISCONDUCT

The integrity of TSA's workforce is an important factor in the safety of our airports. And, while the percentage of TSA employees involved in crimes or serious misconduct may be small, any acts of wrongdoing can diminish the public's confidence in air safety.

Some of the OIG's investigations of TSA personnel involve serious crimes. For instance, in 2012 we investigated a Transportation Security Officer (TSO) who conspired with others outside of TSA to smuggle Brazilian nationals through an international airport. For his role in the crime, the TSO was sentenced to 10 months' incarceration, followed by 36 months of supervised release.

In a 2014 case, a supervisory TSO was convicted for assisting a drug trafficking organization responsible for smuggling large quantities of narcotics through an airport in the Caribbean. With the supervisory TSO's assistance, the organization was able to bypass airport security and smuggle the narcotics to couriers on the secure side of the airport for transport to the United States. The TSO was sentenced to 87 months of imprisonment and 2 years supervised release.

Also in 2012, we investigated a supervisory TSO and a Lead TSO for using cocaine while on duty. Both employees were arrested, charged, and pled guilty in State court.

Finally, in 2015 we investigated a TSO for transporting a 14-year-old with the intent to commit sexual acts. He was sentenced to 188 months' imprisonment followed by 120 months of supervised release.

WHISTLEBLOWER PROTECTION

It is important to note the critically important role that whistleblowers play in ensuring transparent, honest, effective, and accountable Government. The DHS employees who step forward to disclose fraud, waste, abuse, and other wrongdoing are invaluable to our mission, as are the Federal laws providing them protection. Under these laws, managers are prohibited from retaliating against whistleblowers by taking or threatening to take any adverse personnel actions because they report misconduct. The IG Act also gives us the absolute right to protect the identity of our witnesses, who we depend on to expose fraud, waste, and abuse.

DHS employees' contributions to the integrity and effectiveness of DHS by exposing poor management practices and wrongdoing have been well documented. In the TSA context, for example, we investigated a whistleblower's allegation that a notorious felon was granted expedited screening through PreCheck in 2014. The traveler was a former member of a domestic terrorist group and, while a member, was involved in numerous felonious criminal activities that led to arrest and conviction. After serving a multiple-year sentence, the traveler was released from prison.

The traveler was sufficiently notorious through media coverage that a TSO recognized the traveler. Concerned, the TSO reviewed the traveler's boarding pass and realized that the traveler was PreCheck-eligible. The TSO, aware of the traveler's

disqualifying criminal convictions, notified his supervisor who directed him to take no further action and allow the traveler to proceed through the PreCheck lane.

As a result of the TSO's subsequent disclosure and our report, TSA ultimately agreed to modify its standard operating procedures to clarify TSOs' and supervisory TSOs' authority in referring passengers with PreCheck boarding passes to standard screening lanes when they believe it is warranted. This change came after TSA initially disagreed with our recommendation regarding the Secure Flight program, however. (Allegation of Granting Expedited Screening through TSA PreCheck Improperly (Redacted) OIG-15-45)

Over the last 2 years, our office has made changes to our Whistleblower Protection Program. These changes were intended to raise our profile within DHS as the entity to which allegations of fraud, waste, and abuse are reported, and with effective results. Our goal is to make sure that we have a proactive whistleblower program that is as good or better than any OIG in the Federal Government. To accomplish this, we have:

- Appointed a senior executive at the OIG to be the statutorily-mandated DHS Whistleblower Ombudsman. He is spearheading the efforts to ensure that all DHS personnel and contractors, in every component, understand their rights to report fraud, waste, and abuse, and to be protected from retaliation for doing so.
- Vastly improved the intake process for allegations of whistleblower retaliation. Now, each claim will be examined by a specially-trained group of investigators within our Whistleblower Protection Office, being assisted and supported by our lawyers in the Office of Counsel.
- Obtained, for the first time in our history, official certification from the Office of Special Counsel that our whistleblower protection program met the whistleblower protection requirements of 5 U.S.C. § 2302(c).
- Begun the process of hiring specially-trained investigators who will be exclusively dedicated to whistleblower retaliation investigations.

While we are confident that these changes will make us more effective, we also understand that it will take constant vigilance and dedicated effort to ensure that whistleblowers who have claims of retaliation are listened to and that their claims are fairly and independently investigated.

Mr. Chairmen, this concludes my testimony. I welcome any questions you or other Members of the committee may have.

Mr. PERRY. Thank you, Mr. Oosterbaan.

The Chair now recognizes himself for 5 minutes of questioning. I am going to say that, you know, much of your testimony, Mr. Oosterbaan, is troubling indeed. But I would hope it is not indicative of, and we don't think it is indicative of the vast majority of TSOs and employees at the TSA.

But it does show the egregiousness of some of the infractions that concern all of us here, and we must do absolutely everything we can to make sure that they are dealt with correctly, judiciously, speedily and at that they are minimized.

With that, Dr. Gowadia, the work force, nearly 60,000 employees, right? At the TSA? Four hundred fifty airports, and we are talking about a work force that allegedly, there is alleged committed misconduct of almost half the numbers of those employees, nearly 27,000.

Now, they are allegations, grant you. They are allegations. But, you know, a lot of folks, and myself included, you know, we kind of believe that where there is smoke, there is fire. Right? You know, and then you have the case where 14, 16, and 18 allegations on one or more employees. In fact, 1,270 employees have had 5 or more misconduct allegations filed against them.

I just wonder, in a general sense, I don't know what your private sector of experience is. You are obviously a person of high intellect, well-accomplished. But it seems to me when I read the report that there should be one person at the top of TSA's human capital, their H.R. department.

Of course, there is a series of direct reports, whether it is somebody that deals with investigations or benefits and so on and so forth. That cascades down through 60,000 employees so that there is a chain of command. That there is accountability. At some point the buck stops somewhere.

I don't see that. I know you have been on the job for 2 months. We appreciate you being here. But like I said, you are a person of high intellect. So we have high expectations of you. Does that seem incongruent with common sense, the rest of the real world, or does that seem somehow that it is appropriate for TSA to have this structure of a non-structure, if you will?

Ms. GOWADIA. Thank you for that question, Mr. Perry. I would like to thank you for acknowledging that the large numbers are allegations, not substantiated cases of misconduct. I think that is an important distinction. I appreciate you making it.

Now, as I mentioned in my opening statement, the administrator and I are responsible for our entire work force, but every employee is responsible for his or her own conduct and performance.

When it comes to allegations of misconduct or even attendance and leave issues, performance issues, it is important that we have a set of people who investigate the allegations, a set of people who will adjudicate the findings, and then a set of people who will implement the recommended discipline and penalties.

Of course, all of that does not preclude us from having a central focal point for the implementation of policies for making sure that there is consistent application of those policies, affording oversight of that role across the enterprise, and you will be heartened to know that the administrator has actually asked me to take a look at human capital management on an enterprise-wide basis.

One of the first steps we will take in that regard will happen very shortly here. We will be bringing together the management of the human capital of all our work force under the Office of the Human Capital Office.

So, we are beginning to take steps much in concert with what you just said.

Mr. PERRY. I am glad that you are. We will look forward—we will try and establish some off-line, post this hearing, directly with dialog to determine when we can get together again and see what that looks like. Because, I think, we are very interested to know what the solution set that you glean from that is.

But I want to move on a little bit and just drill down on this multiple infractions problem. Our investigation found that some employees had over a dozen allegations of misconduct. For the egregious repeat offenders what do you know about them? What positions do they hold, or did they hold?

What types of misconduct are they allegedly involved with? What risk do they pose to, you know, regarding insider threats? I mean, this is a great concern to the flying public. We want to know these things. So what can you tell us about, you know, who is looking into these things, and so on and so forth about these repeat offenders so to speak?

Ms. GOWADIA. Chairman Perry, when it comes to the repeat offenders, I do not have all of the details in the individual cases.

What I will tell you is with every allegation, the totality of your service is considered in meting out the discipline or the penalty.

As I mentioned earlier, we are bringing a lot of this to a centralized location. All the data that we now collect, we will be able to mine, look for trends, looks for opportunities to improve, opportunities to provide remedial training, et cetera.

Certainly, we will work with you as you requested to share with you what we are finding, and what we intend to do to make it so that we do manage our entire work force to the high standards that you expect of us.

Mr. PERRY. Dr. Gowadia, my time is expired. I think we will do at least one more round. I think it would be interesting to note that the data that you are talking about, it is my understanding that the Department really didn't know much about the data even though they collect the data until our team went in and started asking questions, they weren't really aware of using the data, so to speak, in judicial actions and in punishments, and so on and so forth.

So, that is a great concern as well.

But with that, I want to recognize other Members as well. So, I will recognize Mrs. Watson Coleman for questions. Thank you.

Ms. WATSON COLEMAN. Thank you, Mr. Chairman.

Thank you, Doctor, for your information that you are sharing.

To you, Mr. Oosterbaan. Mr. Oosterbaan, you work for Mr. Roth. To whom does Mr. Roth report?

Mr. OOSTERBAAN. The I.G.s are independent. So, the word report is a little different than it is in some context.

Ms. WATSON COLEMAN. Well, who are you accountable to?

Mr. OOSTERBAAN. We work for the Department of Homeland Security and therefore the Secretary. Although there is, you know, a different kind of reporting that is done for the I.G.

Ms. WATSON COLEMAN. What does that mean?

Mr. OOSTERBAAN. That means that our independence is critically important, and there is a limited amount of control that the Secretary has over the I.G.

Ms. WATSON COLEMAN. OK. Thank you very much. So, there were 1,000 complaints that were referred to you with regard to TSA of which your office chose to take on 40 of those complaints, allegations?

Mr. OOSTERBAAN. That is correct.

Ms. WATSON COLEMAN. Of those 40 allegations, how many resulted in action?

Mr. OOSTERBAAN. I don't have that specific information, I regret, but we generally were not involved in that. So, we generally do not track that information.

Ms. WATSON COLEMAN. All righty. So there were 1,000. So, there were 960 other allegations of misconduct that are referred someplace else. That includes things like—does that include tardiness, taking leave without permission?

Mr. OOSTERBAAN. Correct.

Ms. WATSON COLEMAN. Doctor, I am sorry, Dr. Gowadia, right?

Ms. GOWADIA. Yes, ma'am.

Ms. WATSON COLEMAN. So those issues are addressed to you all to evaluate?

Ms. GOWADIA. Yes, ma'am.

Ms. WATSON COLEMAN. All righty. I understand that you are significantly understaffed, and that there have been instances where people have had to work back-to-back shifts.

Ms. GOWADIA. Yes, ma'am.

Ms. WATSON COLEMAN. Do you find that there is any correlation between that phenomenon, that understaffing, or inadequate, and these tardiness or these AWOL, or these leave without permission?

Ms. GOWADIA. First, ma'am, I would like very much to thank Congress for the reprogramming actions that have allowed us to hire new officers, convert more from part-time to full-time status, and give us a significant bank of overtime hours so that we are able to mitigate some of the impact on our front-line officers.

While we have not studied the data sufficiently to give you a definite one-for-one correlation, I will tell you that the informed opinion of our leadership is, that the fact that we have shift work, some shifts start at 3:30 in the morning. Some officers have to stay late because an airport stays well beyond its usual operating time.

All of these conditions do impact some of the attendance and leave—the large number of attendance and leave——

Ms. WATSON COLEMAN. So, I looked over——

Ms. GOWADIA [continuing]. Numbers you see.

Ms. WATSON COLEMAN. Thank you. I looked over your, sort-of, guidelines for disciplinary action which are quite exhaustive actually.

Ms. GOWADIA. Yes, ma'am.

Ms. WATSON COLEMAN. I recognize that there are certain categories, and there are certain circumstances under which you can do A to a person who is 3 minutes late chronically, versus B to a person. I am wondering if this new, sort-of, first-line supervisory training that you all are engaging in is going to be helpful in helping first-line supervisors to kind of make that distinction better.

Do you think that would result in less, sort-of, I think loosens allegation of people who are 3 minutes late under those circumstances that we think are very stressful anyway?

Ms. GOWADIA. I certainly think that that training will help them. I also know that penalty table that you mentioned is a guideline.

Ms. WATSON COLEMAN. Yes, it is.

Ms. GOWADIA. It allows us to——

Ms. WATSON COLEMAN. Let me just ask one question——

Ms. GOWADIA. Yes.

Mrs. WATSON COLEMAN [continuing]. Because what do you think we need to do to improve the morale?

Ms. GOWADIA. So, I think morale improves in many different ways. First, you provide a rallying cry for a work force. I think our Administrator's Intent gives it to us. We are committed to our security mission. We are committed to ourselves. We invest in our work force. In everything we do we strive for excellence.

I think that forms the core basis of how we train, how we prepare to do our work, how we arrive at work, what we do every day. In building that esprit de corps, in affording opportunities for training, for career path progression, leadership training from the most junior employees all the way up to making that sure that even our senior employees receive the adequate leadership training.

I think you build and support a work force by making it an environment in which they can grow. I think we are well on our way with that, with the establishment of our TSA Academy at Glynco.

Ms. WATSON COLEMAN. Thank you.

My time is up. I think that as we have an opportunity to revisit some of this discussion with you and see how you are moving in that direction, and how successful you are becoming in creating this esprit de corps, which will improve the morale issue and the efficiency issue and the performance issue.

Some would be very much interested in exploring it later.

Thank you. With that, I yield back.

Mr. PERRY. Chair thanks the gentlelady.

The Chair now recognizes the gentleman from New York, Mr. Katko.

Mr. KATKO. Just to follow up on the last question, Mrs. Watson Coleman asked, it is fair to say also that how the front-line workers perceive upper management and how they are treated compared to how they are treated in the front lines is important as well. Is it not?

Ms. GOWADIA. Undoubtedly so.

Mr. KATKO. OK. So, when someone is getting \$60- or \$70,000 in bonuses for poor performance, that is not a good signal to send.

Ms. GOWADIA. It isn't, which is why it is a practice that has been discontinued at TSA, sir.

Mr. KATKO. Yes, I just want to get into that a little bit. I am sorry to say sometimes, but the upper management at TSA, there have been some problems. When the front-line people see those problems I think that impacts negatively the morale issue as opposed to numerous other things as well?

What have you done since you have come on the job there to address the issue of upper management proper performances, and when they mess up making sure that they are held accountable as well.

I mean, the bonuses are one. But can you give some other examples?

Ms. GOWADIA. Yes. So, let me dig into the bonuses issue and the control that the Inspector General mentioned that we should take into account.

So, first a subordinate may no longer nominate a supervisor for an award. Only a supervisor can nominate somebody for a special act award.

Mr. KATKO. Can I just digress 1 second?

Ms. GOWADIA. Please.

Mr. KATKO. Where the heck did that idea ever come from to begin with?

Ms. GOWADIA. Sir, that was well before my time, and I was in the nuclear world at that time.

Mr. KATKO. OK. Figuring nuclear equations would be easier to figure out than having to figure out why that program was implemented in the first place. But OK, go ahead, please.

Ms. GOWADIA. So, that was No. 1. No. 2, we have capped the annual that a senior executive service employee can get at the TSA to \$10,000. So, in any fiscal year, no more than \$10,000.

Third, the Office of Human Capital has to review the package. Finally, as deputy administrator, I get to approve those recommended bonuses.

So, bonuses will no longer happen the way it used to at TSA.

Mr. KATKO. Now, just drilling down a little farther, at local airports the discipline for the front-line workers seems to be more handled at a local level. Of course, TSA handles the management, the discipline management at the headquarter level.

How is TSA working to streamline the processes and procedures to provide some continuity or consistency across the agency, for all levels of employees?

Ms. GOWADIA. So as I mentioned earlier, sir, we have taken our first step in that regard. We are bringing the management and the policies and the oversight under one central person, our Office of Human Capital.

Of course, it is important that we allow our Federal security directors and our leaders in the field to be sufficiently empowered to address performance issues. To address as much as they can at the local level.

An empowered work force, a work force that works diligently through leadership and management actually is a work force that has higher morale. Which is why we are all going through training at our TSA Academy, why we are affording our young leaders, our aspiring leaders, new training. Even our most senior leaders are going through the same training.

We are beginning to baseline and build the same values and same integrity across the board, sir.

Mr. KATKO. Does that training, first of all I applaud that action. Does that training also include refreshers on how to report misconduct?

Ms. GOWADIA. Indeed.

Mr. KATKO. OK.

Ms. GOWADIA. We do recurring training on No Fear Act, et cetera, yes, sir.

Mr. KATKO. Now, you are getting more analytical with respect to how you look at employee misconduct because you are analyzing data more frequently. Is that correct?

Ms. GOWADIA. Yes. We will begin to do so with greater rigor with each passing day.

Mr. KATKO. OK. Now, as far as that goes, we really haven't seen evidence that the employee misconduct cases are really being assessed, excuse me, for trend analysis. I mean, trends and misconduct and what is causing those trends to go in certain areas.

What are you doing if anything to implement some sort of trend analysis to try and nip that conduct or pervasive conduct in certain areas?

Ms. GOWADIA. So, my background as an engineer, I value data. I do appreciate the data when carefully analyzed can help you shape the course of an organization. I hope to bring some of that personal touch to the analysis of the State and moving forward.

Mr. KATKO. Is the FBI Rap Back system currently in operation?

Ms. GOWADIA. Sir, I do not have details on that at this time. But I do believe, yes.

Mr. KATKO. OK. One thing I would like to know, and perhaps you could follow up with a written answer, is the FBI Rap Back system in effect for all of TSA employees, not just officers, all employees, No. 1?

No. 2, how are they using that data to ensure that people that may be breaking bad or committing crimes outside of the work force that indicate security risk, how are they being dealt with?

Ms. GOWADIA. So, we do conduct on an annual basis a criminal history background check on all our employees. We also conduct random and reasonable suspicion-based drug testing. We certainly have a lot of recurrent training for our staff.

The allegations, the data you see before you are direct results of colleagues reporting things that they see out of place. So, I think we have some of that in place.

Mr. KATKO. The Rap Back service would—

Ms. GOWADIA. Indeed.

Mr. KATKO [continuing]. Certainly enhance that.

Ms. GOWADIA. Indeed.

Mr. KATKO. We need to get that on-line. I would like to know when that—if it is on-line, if it is operational, No. 1. No. 2, if it is not, when is it going to be?

Ms. GOWADIA. Yes.

Mr. KATKO. Then, No. 3, how are you using that information?

Ms. GOWADIA. I will take that as a get-back, sir.

Mr. KATKO. Thank you very much.

Mr. Chairman.

Mr. PERRY. The Chair thanks the gentleman from New York.

The Chair now recognizes the gentleman from New Jersey, Mr. Payne.

Mr. PAYNE. Thank you, Mr. Chairman.

First, let me say, I will be glad to have the opportunity to look at this report after the fact. We are just receiving it and that is something that is a bit of a concern. But, I will have a great opportunity to look at it later.

You know, we are here discussing allegations in terms of TSOs and their ability to do a job properly. Let me just say that the front-line workers in these airports have a job that is of the utmost importance to the flying public to make sure that no harm comes to them during their travel.

They work diligently, and they work hard. I think we need to understand that and make sure that we let them know that we support them. Naturally there are people that aren't doing the job properly. Allegations of misconduct. But there is misconduct in everything.

There is misconduct with attorneys. There is misconduct with police. There is misconduct with Members of Congress. So, we need to just focus on the true issues and not just blanketly penalize the entire work force.

Most of these allegations, from what I understand, deal with tardiness and absenteeism. But we have a work force here that is, because of the issue around wait times, are doing double shifts, and just really being pushed to the limit.

So, if you do two shifts and you go home and you try to rest, you just might be 3 minutes late getting back to the job. So, we just

want to make sure that, you know, the misconduct that we are talking about rises to a serious level.

Also, you know, there is an issue around Chicago O'Hare Airport and contract workers, two unarmed security guards at O'Hare were fired under the pretense that they leaked sensitive security information to the press.

Prior to that firing, they made statements to the press complaining about their pay, poor working conditions, and retaliation of union organizing activities. They also said that they had no training to deal with emergencies other than to radio a supervisor in case an event.

What do you have in place to make sure contractors are getting the type of training that they need in these airports?

Ms. GOWADIA. Mr. Payne, when it comes to the contractor that you are referring to, Chicago is a Federalized airport. So the transportation security officers there are Federal employees. So, I am not familiar with the report that you cited. But if I had to take a stab at it, I would say that the contractors you are probably referring to are the ones that work for the airport in other duties.

We certainly have an insider threat program at TSA where we work with our airport and airline partners to make it so that we are putting into effect as many of the ASAC recommendations as possible, reducing the number of access points to the sterile area, and increasing the expectation for every airport worker that they will be screened or they will be questioned if they came through a gate that required a badge screening.

We are beginning to see some significant improvement in the insider threat piece and we are improving our insider threat training across the system.

But, if I may, Mr. Payne, may I just address something you mentioned earlier in your statement? I would like to go on record as saying that 99.7 percent of TSA officers have passed integrity tests.

So, I would say that 99.7 percent of our tests have seen positive results. Over 5,000 tests at over 200 airports since 2012, and to have that rate speaks to the integrity and values-driven work force that I am very proud to be a part of.

Mr. PAYNE. OK.

Well, my time is up, and so I will yield back.

But just before I say that, I do reach out to TSOs when I see them. As a matter of fact, my way back to Washington, picking up my clothes at the cleaners, it was TSO that came in, and I definitely thanked them for their service.

Ms. GOWADIA. Thank you so much for doing that.

Mr. PAYNE. I yield back.

Mr. PERRY. The Chair thanks the gentleman from New Jersey.

I would like to state for the record that all parties on the committee, and, as well, you folks received the report at the same time, which is yesterday. So, nobody was given any deference at all. We all got it the same time. We are all going through it, including you as well.

So, with that, the Chair will now recognize the gentleman from Alabama, Mr. Rogers.

Mr. ROGERS. Thank you, Mr. Chairman.

Thank the witnesses for being here.

Dr. Gowadia, I want to follow up on Mr. Katko's question about the bonus compensation. You mentioned these were all senior executive service officials who were receiving them and it has now been capped at \$10,000.

Is there a total cap on annual compensation for SES officials?

Ms. GOWADIA. So, our program is in concert with the OPM standards. I do not have the exact number for you though.

Mr. ROGERS. But is there a total cap?

Ms. GOWADIA. I do believe—

Mr. ROGERS. On top of their annual base compensation, they can possibly be paid?

Ms. GOWADIA. A performance bonus? Yes, they will be paid a performance—they are paid a performance bonus commiserate with their performance in that year, but I do not know the exact cap, sir. I can get back.

Mr. ROGERS. My question really goes to this, if somebody is being paid \$175,000, is there a cap how much over and above that they could possibly be given, or is there unlimited amount that—

Ms. GOWADIA. We have controls in the department. So, at a certain level you have to pay an SES 5 percent as a bonus level. If you decide it is 0 or 5, that is the starting level. Beyond a certain dollar value, and I can't remember that dollar value, we have to go through the Department. The Deputy Secretary has to approve it.

We have a performance review board that reviews everything across the Department. But as to the exact value or do we have an absolute cap, I would have to get back to you on that.

Mr. ROGERS. Please do. Please check and see if there is any cap or not.

Ms. GOWADIA. I will take that as a get-back, sir.

Mr. ROGERS. Anyway, I wanted to ask you, 5 entities within the TSA have responsibility for some part of the process to address misconduct. But no one senior official has been clearly designated to oversee it.

Despite this though, TSA has 20 direct reports to the administrator. I find that just phenomenal that Neffenger has 20 direct reports, and nearly 3,000 headquarter employees. That is an awfully big bureaucratic hierarchy.

Do you think that is the best structure to be used to deal with some of these problems that have been outlined in this report?

Ms. GOWADIA. Sir, as I mentioned before, when it comes to misconduct allegations, there are different functions that have to work through the system. You need somebody to investigate. You need somebody to adjudicate the findings of the investigation. You certainly need leadership that can implement the disciplinary process.

But all of them do come through so that policies, the Office of Human Capital and, of course, ultimately they are responsible to the administrator and myself. So, we do have a structure that is actually rather in keeping with the rest of Government when it comes to the assignment of functions.

Centralization of the work force management is under way, as I mentioned. We are in fairly short order here, we will begin to use our systems administrator for human capital as the central body

that will oversee the policies and the implementation of the policies across the enterprise.

Mr. ROGERS. So, I guess I am hearing you say that you don't see a problem the administrator having 20 direct reports.

Ms. GOWADIA. So, when the administrator came in he did look at his structure. He has already consolidated many of those direct reports under a chief operations officer.

Mr. ROGERS. Good.

Ms. GOWADIA. So, as we look to the future of TSA, we will certainly absorb the findings of your report. Any best practices available as we keep evolving TSA to be an effective and efficient organization in the days ahead.

Mr. ROGERS. Well, I would urge to look into the private sector for some of these organizational charts as opposed to the Government. The Government has not been the best role model for that.

According to Administrator Neffenger, TSA vets employees on a recurrent basis. You made reference to that earlier today. Which includes conducting criminal history checks to identify activity that might not be self-reported or disclosed as required.

However, our investigation found that other agencies identified criminal activity that TSA missed, which were referred to the OIG for investigation.

Please reconcile these two facts. How effective can the current vetting process be if other agencies are identifying information that TSA is not uncovering?

Ms. GOWADIA. So, I do believe it depends on what it is that was uncovered. So, if it is recreational drug use, that would probably not show up in a criminal history check for example. So, in those instances, the annual criminal history check would not catch it. But, if you were polygraphed at a different agency, you might self-report on it.

Mr. ROGERS. Great. Thank you.

I yield back, Mr. Chairman.

Mr. PERRY. The Chair thanks the gentleman from Alabama.

The Chair now recognizes the gentleman from Georgia, Mr. Loudermilk.

Mr. LOUDERMILK. Thank you, Mr. Chairman.

Thank you both for being here today. This is extremely important in my view. Since I have been here and looking at TSA. TSA is definitely an important aspect of our National security. But I also believe that it is viewed by the American people as potentially one of the most mismanaged and ineffective from the perspective of—if we hear about now long wait lines.

But also, the interaction between TSA employees and the general public and some other issues, which I will get into. Understand, you haven't been on the job very long, so this isn't geared toward you. You have a lot of work ahead of you if we can turn things around.

My first question, Mr. Oosterbaan, is, and I will pose this to both of you, of the numerous allegations of misconduct that are made, generally who makes those allegations? Coworkers, supervisors, the public? Who is it that makes most of the allegations?

Mr. OOSTERBAAN. I don't have specific information to provide to you an exact number. It is certainly all of the above in terms of

the allegations we get. It, of course, depends on the nature of the allegation, you know, the narcotics through an airport, came through a confidential informant. So, someone that was not part of TSA at the time. It really depends.

Mr. LOUDERMILK. OK.

Would you like to address that?

Ms. GOWADIA. I would concur with everything the I.G. just said.

Mr. LOUDERMILK. OK. One of the things I have known from working in the military and as well as in private business, one indication of poor morale is exactly what we are seeing here, a lot of allegations. Which, many may end up being false. I think that there is this morale problem we have.

Another question I have is regarding the number of employees, there is, I think, 781 have been placed under administrative leave between 2013 and 2015. Are generally those employees paid while they are in administrative leave?

Ms. GOWADIA. I do believe they are, sir, but I can get back to on the specifics.

Mr. LOUDERMILK. OK. I would appreciate that because a previous investigation we did through this committee showed that during that similar time frame the Department of Homeland Security spent over \$30 million paying employees to stay at home and not at work because they were on administrative leave, and some of those for as much as 2 years.

Quite often our friends on the other side of the aisle say that our biggest problem in TSA is a lack of funding. I think there is at least \$30 million that we can use there if we can adjudicate these on a much quicker basis.

Let me address one other thing that is very important. I am actually going to be meeting with an ambassador for a foreign country over some issues that we have been having. Last year, a constituent of ours was put in prison in India because when they arrived in India to work for Habitat for Humanity it was found that he had four live bullets in a backpack that he carried onto the aircraft.

He didn't know they were in there. He borrowed the backpack from his son. Went through two TSA checkpoints in the United States. It was not found. When he arrived in India they were found.

Right now I have a constituent in Mexico who was arrested. He made it through a TSA checkpoint here in the United States for the same thing, live bullets in a backpack that he didn't realize was there. But it was caught as he was trying to return back to the United States in Mexico. He was arrested and imprisoned there. Self-employed, he has no income at this point.

A friend of mine came to DCA without realizing he had a backpack carryon, he had 12, 12-gauge shotgun shells in his backpack that he didn't realize was there until he got to the hotel here in Washington, DC. Made it through a TSA checkpoint.

Another one recently made it to the gate at DCA with a pair of shears in their pocket that they forgot that was in there until they were about to board the plane and reached in their pocket and found the pair of shears that made it through a TSA checkpoint.

I personally experienced getting several years ago to the District of Columbia, had a large flathead screwdriver in my briefcase that I did not know was there. I made it through a TSA checkpoint.

We are talking about bonuses for performance? These issues, we are lucky that these were people that did not have ill intention. How is this happening? Is it a morale issue? Is it because we have people on drugs that are working? I noticed that a lot of the incidents are because we are not following security procedures.

Is it the technology is not up to date and we are forcing people to do things that they don't have the right tools? So, if you could opine on those, please.

Ms. GOWADIA. So, all of that begins with training. You have to prepare your work force to do their mission. Which is why we have started our TSA Academy, and why we have sent all our new officers through there.

They receive training on the specific technologies they will use when they hit the airports. We will continue to give recurrent training to our officers.

Second, the technology can and will improve in the future. I will tell that our rededication to our security mission has resulted in an appreciable uptick of the prohibited items we find on a daily basis at the airports.

In 2012, for example, we found about 2,200 firearms. This year, we are on track to finding about 3,000. We continue to work with our staff to keep them vigilant, give them better training aids.

You may have heard of the new innovation lanes we put in in Atlanta, for example. Not only does it speed up the flow of people divesting themselves and moving through the checkpoint, but it allows us to give an officer real-time feedback on tests that are run in the system.

This helps officers learn and keep improving their skills. Working in a checkpoint is a demanding environment. But we do not have the luxury to fail. So, we are continuing to invest in our people and commit to their excellent service and support of the Nation.

Mr. LOUDERMILK. Thank you, Doctor.

I see I am out of time, Mr. Chairman. I yield back, but I am gravely concerned over the bonus issue when the performances bonuses do not seem to be commiserate with the performance that we are seeing. Thank you.

Mr. PERRY. The Chair thanks the gentleman from Georgia.

The Chair now recognizes gentleman from Florida, Mr. Clawson. Correction, Mr. Ratcliffe.

Mr. CLAWSON. You owe me now.

Mr. RATCLIFFE. Thank you, Chairman. Thank you, Chairman Perry and Chairman Katko, for your work over the last 6 months to put together this report and its findings.

I want to thank both witnesses for being here. Mr. Oosterbaan, for the investigative work that your office did here.

Dr. Gowadia, good to see you again.

For the benefit of others in the room, I have had the chance to work with Dr. Gowadia in her prior role as the head of the Domestic Nuclear Detection Office, and in my role as the Chairman of the Subcommittee on Cybersecurity, Infrastructure Protection, and Security Technologies here on the Committee on Homeland Security.

I will say that DNDO under your leadership repeatedly received excellent marks and reviews with respect to its morale, with respect to its efficiency, with respect to its effectiveness. So, I think that really bodes well. I was pleased to hear about your selection as the deputy administrator at TSA.

So, having said that, these are challenging times. I related the same to Administrator Neffenger when he was here a few months ago. Because, we know that aviation traffic is up, passenger loads are up, but at the same time, we know that terrorists continue to make civil aviation, both airlines and airports, the target of their twisted ideology.

That being the case, it makes some of what we have in this report and in findings all the more troubling. I think that it looks like, I think, TSA employs about 60,000 people. According to this report, a total of 17,611 allegations of misconduct.

So, if I am doing my math right, that means about 29 percent of the TSA's work force has had misconduct allegations within the past year. Given that the vast majority of those relate to the TSOs, the Transportation Security Officers, folks on the front line, that is even more troubling.

One thing that I have almost observed universally with respect to all successful organizations is they can point to one of their greatest assets being their people.

So, Dr. Gowadia, I want to start with you and say in trying to get TSA to that place where it can champion its people as its, as one of its greatest assets, I know you have only been there for a short time but I would like your assessment.

So, is this a problem? Is it a need for better protocol? Is it an issue of retraining the TSA work force? You talked about the TSA Academy in response to Congressman Loudermilk. Is this an issue of technology, better technology? Is it a combination of all those?

So, I would like your candid and frank assessments given where you are at this point.

Ms. GOWADIA. Sir, I would like to reiterate something I said to Mr. Payne earlier this morning. Since, 2012 we have conducted almost 5,000 inspections at the airport, integrity testing tests at airports, over 200 airports. And 99.7 percent pass rate for our front-line officers.

That is an incredibly diligent and proficient work force, a very professional work force. We do have some issues with misconduct, and even one case is one too many. It starts with training. It starts with providing them the right basics, giving them all the tools that they can possibly have to succeed, career path progression.

Making sure that the technology that they have enables their ability to do their job, keep up with their skills, and certainly I want to thank Congress for the additional resources that you have afforded us by virtue of our reprogramming because it allows us to bring on board the right-sized staff, convert people from part-time to full-time, which also increases performance and retention, and overtime hours, precluding the shiftwork, tired officers, et cetera.

So, thanks to you guys we will have more canines. We will have better technology. We will certainly have more people on the front lines. All of that, all of that accompanied with the training, the technologies, it has to be a holistic approach.

They cannot be just a single bullet that will fix everything.

Mr. RATCLIFFE. Thank you. My time is about to expire. But as I already said I have great confidence in you and your abilities. I am very pleased so far with how administrator Neffenger has approached the job in short time there.

But you and the administrator only have 6 months until the new administration comes in. So, what are your plans with respect to making sure the initiatives and the approaches that you want to use to fix some of these issues and problems with respect to employee misconduct will carry forward into the next administration?

Ms. GOWADIA. Mr. Ratcliffe, thank you for your vote of confidence. In taking this job, I went back to the Federal service. So, the next administration will continue to see me in service. I hope to stay there for a good bit of my career.

But the administrator has given us a strong foundation, virtue of the academy, virtue of his intent, constant training, consistent training across the board. He has set us on a good path. Whether he stays on in the next administration or not, I think he has set us off in fine fashion, sir.

Mr. RATCLIFFE. My time has expired. Again, I thank you both for being here.

I will yield back.

Mr. PERRY. The Chair thanks the gentleman from Texas.

The Chair now recognizes the gentleman from Florida, Mr. Clawson.

Mr. CLAWSON. Thank you for coming. I am going to go a little off topic, OK? I appreciate what you all do for our Nation. My district is Fort Meyers, Naples. It is a great district, right on the water. We live and die on tourism. We live and die on tourism.

We don't mind being team players. Right now, the TSA checks dogs and people out of our airports, to go to Chicago or wherever you have got long lines and it is our down season. We hear ya. We don't, you know, I ain't been kicking up a lot of dust on this.

But when October and November gets here, we want our people back, you all. You hear me now. We want our dogs back.

Ms. GOWADIA. I hear you.

Mr. CLAWSON. We hear you all, you know, everybody is on the record here. You all gotta give us our stuff back. We, you know, we are always small child, you know, we are the youngest child compared to some of the other big airports and regions around the country.

But we already have an ecological disaster that we don't do a lot about. If we get long lines on top of that in southwest Florida, it is going to hurt my people. It is going to hurt my economy. So, please, give us our people back.

We are being team players. We are not squawking. But when our season comes, you all figure out a way in Chicago and those other airports to handle you all's business so we can get our dogs and our people back. Please, I am pleading with you.

Ms. GOWADIA. I hear you, sir. I think—

Mr. CLAWSON. Home team first for me, all the way. Home team first. We have got a lot of working class folk that depends on that industry.

The second thing I wanted to bring up with you all this is not, you know, bad behavior or anything like that. It is my impression through my investigation and, you know, reading and studying this that our dog, you know, our canine thing is kind of helter skelter.

You know, if you looked in the past, we shut down some of our breeding, and, you know, other internal dog development and it kind of feels like we are a little under-staffed on canines, particularly canines that can track that vapor scent in a crowd.

Particularly if you look outside of TSA and the airports, and look at DHS at a broader level, it just feels to me and seems to me that we could spending a lot more time and a lot more money on dogs. We could understand the genetic, you know, we are buying dogs from Mexico and Europe for God's sakes. You know that. We get a few out of Auburn. We send them to Texas. We train them with their handler. Then we put them out in the field.

You know, it kind of feels like to me I wish we had five times more good dogs. That that would, some of these problems that have already been talked about today wouldn't be such a big issues if we had that line because those dogs are pretty damn, you know, they are very good.

Machines and humans are not as good in my view on some things. So, it feels like we should be putting a lot more into the dog program. Are you agreeing with me on that, Doctor?

Ms. GOWADIA. Yes, sir. Which is why we are aiming to get up to 500 passenger screening canine teams out for our airports. To this end, again, many thanks to Congress for helping us in the re-programming. That is going to be one of the focus areas for the money that is—

Mr. CLAWSON. Are we going to keep buying those dogs from Belgium and from other countries? Are we going to insource more of it so we understand? Look, if I buy a car, a used car and somebody else has had that motor for three owners, you know what I mean, I don't know if he has re-boarded or not. You know?

So, I would think for, you know, the genetics of dogs is very important in how effective they are, correct?

Ms. GOWADIA. Yes, absolutely.

Mr. CLAWSON. But we are outsourcing the genetics and the up-bringing of those dogs right now. Am I right about that?

Ms. GOWADIA. Mr. Clawson, I think it would be really beneficial if we were to come sit down with you and walk you through the full extent of our canine program. How we buy the dogs, how we train the dogs. What it takes to train the dogs and how we put them out into the field, the partnerships we have domestically and internationally.

I think it would help you to see all of that. At your convenience I would love to bring the team up and share that information with you.

Mr. CLAWSON. I have been talking to some of your folks because I sit on Homeland Security and I am worried about my airport. I think they do a very good job. I just think we would like to put more into it. If you all want to start training dogs and set up a facility in southwest Florida, we would love to have it.

I am very supportive. Thanks for coming in today. Appreciate what you all do for our country.

Ms. GOWADIA. Thank you, Mr. Clawson.

Mr. PERRY. The Chair thanks the gentleman from Florida. I am going to go for a second round.

As long as I am sitting here it is going to be you and me. So, with your indulgence, Doctor, TSA uses a discipline process where repeated misconduct should result in more stringent penalties.

So, as you incur more infractions, the penalty curve goes up, right? Half of TSA's work force allegedly committed misconduct from fiscal year 2013 to 2015. I say allegedly again. Almost half of that number did so repeatedly.

So, half of the 27,000 allegations, and of those multiple infractions. That suggests that this model of increasing penalty is a failure because it hasn't deterred it. But it probably also suggests that maybe that is not being implemented, the increasing penalty with increasing infractions.

How, can you speak to that? I know you have been here 2 months. But that is a concern for us.

Ms. GOWADIA. Chairman Perry, I think it is important that we look at the individual cases to a certain extent. Because if you just look at the raw data, the vast majority of those allegations, again, fall within attendance and leave, things that can be addressed using administrative processes.

It is not so much an issue of misconduct as much as it is an issue of performance. So, if somebody is tardy once, somebody is tardy twice, yes, it goes from counseling, to letter of reprimand—

Mr. PERRY. Right.

Ms. GOWADIA [continuing]. Et cetera, et cetera. So, when it comes to some of the larger numbers, I think perhaps it would benefit us to tear the individual cases apart.

Mr. PERRY. Then maybe you should have two separate categories so that we can further determine where the bigger problem is, and then resources can be expended there because I tend to agree with you. If it is something criminal that is obviously different than showing up a few minutes late for work.

I think we all get that, but I would also say, and I think you would agree, that the integrity of the system depends on everybody doing the best they can at all times. While none of us are perfect, you know, if you, as a boss used to tell me, if you can be 3 minutes late, you can be 3 minutes early, right?

You are holding the other person up, and you are holding the line up. These things cascade. So, we have to have that level of expectation of excellence. We are not often, or often enough, going to meet that. But we have to have that expectation that we are going to strive for that at every single time.

If our metrics don't bear that out correctly then we need to look at something else that adequately reflects the circumstance so we can address the problem. Would you agree or—

Ms. GOWADIA. Absolutely, Chairman Perry. Our conduct permeates everything we do. So, to the extent that we can separate the more egregious and devote enough time to training and retraining, and continue to raise the professionalism of our entire work force, we fully intend to do so.

As I mentioned, our three principals are mission focus, we will invest in our people, and we, as a team, are committed to excellence.

Mr. PERRY. Let me turn to Mr. Oosterbaan on that. Do you have some input regarding that last kind of discussion that the good doctor and I were having that you would like to impart, or do you have any thoughts?

Mr. OOSTERBAAN. Thank you, Chairman Perry. One thing I would note in reviewing the report of the subcommittee is, and it has been mentioned earlier, is the lack of consistency with regard to discipline. Perhaps the lack of transparency, and it sounds like TSA is addressing this.

I think that is critically important. We have talked about morale. That has a direct impact on morale. This thought, this notion that discipline is being applied inconsistently. Legal precedent just kind of relies on that consistent application to assess whether this discipline was correct.

So, I think that is an important point of your report.

Mr. PERRY. Right. If we have missed the mark, and if the administration has missed the mark, I would also say that attendance can turn into misconduct. Attendance and leave, that category includes AWOL, and, you know, absent without leave. As a military guy, you know, AWOL is a very, very serious issue.

When you are expected on the line, and certainly in the military and certainly in a combat situation, these are issues of life and death. I don't want to diminish the military in that regard or increase the visibility or the import of this at TSA.

But these employees are expected to be on the line, right? It does increase the workload for the next person, right? Or the time spent. That leads to potential failures, and so this can be an issue of life and death, right?

Ms. GOWADIA. Undoubtedly, sir. Which is why I said that conduct permeates everything we do. How we prepare for the work, how we do when we show up to work, and certainly how we have recovered and retrained along the way.

You will not get any fight from me on the notion that our work force needs to be disciplined, needs to commit to excellence, and maintain a good esprit de corps so that you are not having to lean on the rest of your—

Mr. PERRY. Those adjudications fairly meted out are seen by everybody. Let me ask you, you mentioned integrity testing and evaluation or something. I don't know if I have the terminology correct. But I want to make sure I understand that. Is that integrity from the standpoint of personal integrity?

You said it is somewhere in the 97 percent? Is that?

Ms. GOWADIA [continuing]. Ninety-nine percent.

Mr. PERRY [continuing]. Ninety-nine percent. I got to tell you, from my standpoint when you said that, so how do I juxtapose, how do I view that in light of 27,000 allegations of misconduct among the, nearly half, right? So, 99 percent integrity rating. I am wondering, do you see maybe there is an issue with that system.

Is it adequate? Is it appropriate? Because it is saying everybody has got this great integrity, but half of the work force is alleged

to have been involved in misconduct. So, where is the disconnect there?

Ms. GOWADIA. So, your personal integrity. So, let me give you a sample test that might happen.

Mr. PERRY. Sure.

Ms. GOWADIA. An inspector might walk through a checkpoint and accidentally drop some money. In 99.7 percent of those tests since 2012—

Mr. PERRY. Somebody says, hey, I found some money. Did anybody lose it?

Ms. GOWADIA. Brings it right back to—if they see who it was dropped, right?

Mr. PERRY. Right.

Ms. GOWADIA. So, those are the kinds of tests where they are looking at an officer's personal integrity. Again, the allegations that you see before you range all the way from criminal misconduct. About 1 percent of those allegations relate to integrity and ethics, and about 50 percent of them relate to attendance and leave.

I am not downplaying any of that. I am not saying that that is any excuse for not having a strong, effective, professional work force, which we do have at TSA. I came home to be a part of a proud work force, sir.

Mr. PERRY. All right.

I am going to turn to Mr. Katko at this time. But I probably have a third round for me with his indulgence as well.

The gentleman from New York is recognized.

Mr. KATKO. Thank you very much. Mr. Oosterbaan, you pronounce it? Is that correct?

Mr. OOSTERBAAN. Oosterbaan, sir.

Mr. KATKO. Oosterbaan, OK. All right. Well, a quick question for you. In doing your report, I know the report is not completely finished yet. I presume you looked at the access control issue as far as employee misconduct. By access control, I mean, the employee is getting access to secure areas of the airports.

That is a major concern of mine, particularly in light of what happened in Istanbul and Brussels. But, more importantly, what happened in Mogadishu and Sharm El Sheikh where airports were bombed, and perhaps the Egypt Air one as well.

The latter two were definitely inside jobs at airports it looks like, where bombs were smuggled in through corrupt employees. So, we are very concerned about the access control issue and the sight of badge issue.

We passed legislation to that extent which is sitting in the Senate. Hopefully, going to get some attention at some point.

With that as a background, do you believe TSA is currently capable of effective oversight of its own employees' access to secure and sterile areas of airports?

Mr. OOSTERBAAN. In our work we have addressed that to a certain extent. It has given us some concern. I think we have expressed that concern previously. Your concerns with regard to the screening that isn't currently being done at the vast majority of airports, while we don't have a specific position on that, it makes great sense to us.

We get screened when we came into this building. You know, we get screened if the people come to visit us at the OIG get screened. So, it seems to make great sense to do it at airports.

Mr. KATKO. Yes, and it is one of the things that is particularly concerning to me is that a visitor to an airport gets screened at an exponentially higher degree of intrusion than individuals that are entrusted with access to the secure areas of airports. We saw what happened with a drug trafficking case in Dallas Fort Worth as an example of how they exploit that.

I am concerned about that going forward. So, to the extent your report can address that to some extent going forward, I would really very much appreciate that.

Now, the last thing I will note is a little off-topic, but it is important. I do want it noted for the record, part of coming in here today, Dr. Gowadia, we had a discussion in the anteroom here about the Cuba issue.

I was just handed an email that was sent out this morning which is celebrating the fact that, from the Department of Transportation, that multiple airlines are now giving multiple daily flights from the United from Cuba and that the process is on-going, and it looks like it is going full speed ahead.

It is going full speed ahead despite the fact that my committee was denied access to even look at the airports in Cuba, my committee being the Transportation Security Subcommittee. That trip to Cuba was necessitated on the fact that we believed some of the conduct at the hearing about Cuba led to basically stonewalling us while trying to get that information.

So, we were compelled to go to Cuba ourselves. Now, we are talking about opening up the airways, airports, ten airports in Cuba with direct flights to the United States that we have no idea what the security levels are.

I know you told me that there are charter airlines that have been operating out there for quite a while. So, quite a different thing from a charter airline who has an occasional stop in Cuba to multiple flights with direct flights to the United States.

Also I will note that the main security concerns about that, and that is on the heels of what has happened with bombings and other airports world-wide, which I just mentioned. So, I am very concerned about this.

I am very concerned about the lack of transparency coming from TSA on this issue. I am concerned about the fact that we were prohibited from going to Cuba to go and make sure the airports are safe enough for people to fly from those airports to the United States.

I am very concerned about that. I wanna make sure and reiterate that concern on the record because this seems like, with this administration, it is a runaway train. No one is going to be able to stop them from doing this. But we are going to try our hardest to make sure at least its American people are safe when they fly to and from those airports.

There is a lot of work to be done. There are concerns about whether or not air marshals are even going to be allowed on the flights. There is concerns about the integrity of the employees.

There are concerns about whether the equipment there is sufficient or existent at all.

Those are all things that we need to have answered and vetted, not just in a secure setting but in a public setting. So, the American people can make informed decisions on whether or not they want to go to Cuba based on the security concerns.

You overlie that with the fact that the communist government of Cuba is not letting us in, is not working with us, is still subject to sanctions from the United States which I don't think any of the last point of departure airport in the world has.

You overlie that on the fact that Cuban passports are showing up all over the Middle East, especially in Afghanistan. Some people are speculating that we may be looking at Cuba as a new gateway into the United States for terrorists.

You overlie that with the fact that 60 years of hostile relations between the United States and Cuba lend to the logical conclusion that one or two people in Cuba might be really pissed off at us still. Might be so mad at us that they might do something stupid.

So, all those things are of a high concern. I would ask that you, again, convey them to the appropriate people, and tell them that we need to have access to those airports. So, we can see for ourselves whether or not they are in proper shape to allow American travelers to come.

Last, I will note it is our job as oversight. We feel like we are not doing our job if we don't get that. So, I ask in the strongest words possible that you convey that to the folks at TSA, and at Homeland Security.

Ms. GOWADIA. I certainly will, sir.

Mr. KATKO. The last thing I will say, and I am sorry, just 1 minute, the other thing I want to ask about and perhaps I will wait until next round, is the overuse of security classifications by TSA to shield themselves from discussing unfavorable topics in public. I want to talk about that perhaps if I have another round.

Mr. PERRY. The Chair thanks the gentleman.

The Chair would like to follow up on one of his line of questions regarding, and it was also the good gentleman from Alabama, Mr. Rogers, regarding recurrent investigations or vetting, screening, testing, et cetera, and the fact that other agencies identified criminal activity that TSA had missed.

I just want to make sure I understand how that is done. So, there is concurrent testing of current employees. So, it is not just incoming employees, but as your employed by TSA you undergo a battery of testing on some basis, annually, what have you. Is that correct?

Ms. GOWADIA. Yes, sir.

Mr. PERRY. So, is there a variation in that? Not only in time, but say, different paradigms, the whole panoply. So, this year you might have been tested. Let us say you are a 2-year TSA employee, and you think you are going to have another check in, say, June.

That check happens in September. So, you can't predict when. That test didn't include a polygraph this year, but it includes a polygraph next year. That test didn't include a State police background check last time. But I just want to get a flavor for the vari-

ations of that so that there is an unpredictability at the point of TSA employees to be able to thwart that system.

Specifically, regarding the insider threat we are all concerned about. Yes, ma'am?

Ms. GOWADIA. So, let me clarify, sir. The annual and recurrent piece is a vetting.

Mr. PERRY. Right.

Ms. GOWADIA. Vetting against your criminal history.

Mr. PERRY. OK.

Ms. GOWADIA. The testing happens, for drug testing, for example, it happens on a reasonable suspicion basis, or a random basis.

Mr. PERRY. Or a what basis?

Ms. GOWADIA. Random basis.

Mr. PERRY. Random basis. But regularly occurring. So, in the military, if you are in the military, there is going to be a random drug test. You might show up 2 times in a row, you might not show up for 6 times in a row. It might happen a couple months in a row, it might not happen for 8 months at a time. Is that similar to TSA?

Ms. GOWADIA. So, I do not know the full details of this program, yet, but I imagine that random translates just as you mentioned.

Mr. PERRY. Can you confirm that for me?

Ms. GOWADIA. Would you allow me to take it as a get-back, please?

Mr. PERRY. Yes, ma'am.

Ms. GOWADIA. Thank you.

Mr. PERRY. On the other paradigms, I would like you to delve into that if you could because it seems to me that once you get in, look, people are people. We have people that are radicalized. We have people that are influenced by different things.

They become dejected, what have you, influenced by maybe blackmail. It seems to me that there needs to be—this is critical. This infrastructure that would protect the American flying public that there should be a pretty robust paradigm in this regard that is random, as is varied, and covers the full panoply so that we keep honest people honest.

I don't know how else to put that, but I would like your thoughts. If you could get back to me on that as well.

Let me move on to another question that I have. According to individuals who came forward to the committee, senior managers at TSA have used directed reassignments, that is the terminology I am familiar with it, but I just want to make sure I am clear here, to at times punish those who elevate security concerns.

This practice potentially poses a significant cost to taxpayers. The administrator, Neffenger, previously testified that this practice is no longer occurring. However, just last week our staff received allegations, and they are allegations, that in June TSA directly re-assigned an FSD requiring her to report to work from across the country in just 3 days. Are you familiar? If you can, please explain if this is occurring, how it can occur.

Ms. GOWADIA. All right. I would like to reiterate what the administrator said at the hearing that you have referenced. An operating agency does need the ability to move its people periodically, exigent circumstances, mission-driven, full controls applied, well-vetted, because it goes through the Office of Human Capital.

Is it financially sustainable, etcetera? When it comes to individual cases, in the interest of the privacy of the employee, sir, it is a discussion we should probably have in a different environment. I would like to present to you, again, off-line, all the details that we have on that particular case that you mentioned.

Mr. PERRY. So that I fully understand, are these permanent reassignments? Are they temporary? Are they both? You know, 3 days to relocate across the country, I am thinking, if I had to relocate in 3 days across the country it would, you know, I have got a family, to get a house.

Most people do. So that is a hardship. We understand that usually like a military TDY move or some other Government move, there is a fairly robust period of time with the expectation of selling your home and setting up your new home and all that stuff.

So, what is the circumstance there? Is there, if you would, do you have any knowledge of it being used as a point of reprisal? Has that been done in the past? How do you gauge, how do you monitor so that that doesn't happen in the future?

So, again, in this particular instance we can discuss it, all the details in a different environment. We do use details, TDYs. We do ask, on occasion, for permanent reassignments. Sometimes employees themselves ask for reassignments to be directed to new assignments.

However, the case comes about, it is presented to the executive resources counsel. We work through the Human Capital Office. We work through the CFO and make sure that the decision is being made in the best interest of the mission while keeping the employees, the employee in mind.

Mr. PERRY. I do appreciate your mission-focused attitude. It has to be mission-focused, but I think maybe what we will do is set up a time where we can have a further discussion because if it doesn't involve a particular employee information that that would be appropriate, but I do want to do that.

Ms. GOWADIA. Right. I would like to underline, sir, that this practice does not occur as a retaliatory measure under Admiral Neffenger's watch. He has absolutely discontinued that practice.

Mr. PERRY. Do you—

Ms. GOWADIA. Put good controls on it.

Mr. PERRY. Since you brought that back up, which I do, and if you can in this setting, because I don't know if we are divulging—we don't want to divulge operational issues here. But, how do you monitor whether it is being used in a—what is the safeguard to make sure it is not being used in retaliatory fashion.

Ms. GOWADIA. It can no longer be done as a unilateral action. There are controls in place.

Mr. PERRY. So it comes up to various agents, various—

Ms. GOWADIA. Absolutely. It comes up the agency.

Mr. PERRY. OK. All right.

Ms. GOWADIA. There are deliberations involved.

Mr. PERRY. Is there a process for redress for the employee if they feel that it has not been correctly adjudicated as it moves up the chain? Is there a process for redress?

Ms. GOWADIA. Yes.

Mr. PERRY. Maybe the I.G. knows. Are you familiar? Any—

Mr. OOSTERBAAN. Certainly. We would address that if the allegation is raised to us that would be a kind of classic retaliation case that we would investigate.

Mr. PERRY. Do you have a familiar area with this case or any others?

Mr. OOSTERBAAN. I am not sure which case we are talking about. So—

Mr. PERRY. OK. Fair enough. All right.

At this time, I will yield to the gentleman from New York, Mr. Katko.

Mr. KATKO. Thank you.

As we alluded to earlier there was a hearing a while back about the whole Cuba issue. Prior to the hearing, many of us, staffers, Congressmen and women, many individuals met with folks from TSA to get briefed on what was going on in Cuba.

Based on that briefing, we became very concerned about the security issues with respect to the Cuban airports. At no time during that hearing, at no time during that meeting rather, did anyone from TSA raise any concerns about any of the information that they were discussing being of a Sensitive, Secure, Confidential, Secret nature. No security classification whatsoever.

It wasn't even discussed. It was never discussed. We would come to the hearing to discuss the very same matter so we could have a public discourse on it. Immediately that information was designated by the same witness who spoke to us in the meeting as being Secure, Sensitive Information which we could not discuss in public.

It raised a specter that we have heard again and again, about TSA continually using security classifications to avoid having public discussions about certain things that may be unpleasant for them to discuss in public.

So, that is the background. Now, let me ask you, Mr. Oosterbaan, did your report look at this issue at all about them over the use of security classifications with respect to employee misconduct?

Mr. OOSTERBAAN. We have just begun an audit on this. So, we do not have a current report on it. We are very concerned about it. While it is just starting, and I don't have a date yet. It should be relatively soon.

Mr. KATKO. Well, I am very glad to hear that that has started because it was requested—I made a request to the Inspector General's Office after that hearing. So, let me ask you, Dr. Gowadia, I know that you have only been there a few months, and you have been very patient with some of my questions today, but let me just ask you this last question.

Since that hearing, and since I raised the issue with Admiral Neffenger, has there been any internal reviews or discussions about this issue at TSA?

Ms. GOWADIA. So, we have definitely spoken to all our staff to be more deliberate, be more up front when they are discussing material that could expose vulnerabilities, et cetera, in a closed setting to make it very clear to our partners with whom we are sharing that information that that is Security Sensitive Information, and apply the right wrappers to it.

So that you know ahead of time what can and can't be discussed in——

Mr. KATKO. Now, on top of that, not just with respect to this issue but with respect to other security issues where you basically overuse it, what the allegation is, in order to not have to talk about unpleasant things with respect to TSA.

Have you looked at the larger issue?

Ms. GOWADIA. We have not started that, sir. But we will certainly take that under advisement. We will wait for the findings of the Inspector General, and absolutely act on what we see. I would like to stress, and I know you feel the same way about this matter, discussing vulnerabilities, aiding and abetting the enemies is certainly not in the interest of the American public.

I do appreciate your support in that regard.

Mr. KATKO. Of course, no one wants to do that, but we also have a solemn responsibility to protect the American public. When you have memos like we got today saying that they are going headstrong in with opening up airports all over Cuba.

We still don't have any of these things answered. They may be opening up as soon as the next few months. The American Airlines I believe is one that is already selling seats for September for those flights. We have no answers.

Understand why we are concerned about this, and understand why there needs to be a public dialog, and understand why we, as a committee, may be skeptical about some of the security designations because anybody that walks through the airports in Cuba can see the same thing.

So, I don't understand how they are considered to be Classified. So, with that being said I want to thank you for your patience. I wanna thank you. I know some of the questions were tough. They weren't aimed at you personally because you just started on the job.

I have great faith that TSA is going in the right direction with your leadership and with Admiral Neffenger's, but there is also a lot of tough questions. Like I said to you in the other room. The tenor and the relationship between the committee, my committee at least, and TSA is going to be dictated by how some of these questions are answered.

We have had a very good relationship going so far. That relationship has been tinged by the last hearing. I am hoping that it gets repaired and we move forward together because the security of airports is what our job is to make sure we do as best we can.

I am not at all confident that that is the case with respect to Cuba.

Ms. GOWADIA. You have my support in that partnership, sir.

Mr. PERRY. The Chair thanks the gentleman. Let me wrap up with just a couple final questions and thoughts. And Mr. Oosterbaan, and Dr. Gowadia, do you know as well?

Do you conduct what I normally consider a climate survey? Is that a normal issue for TSA where you survey the employees on a battery of questions that is ever-changing about their perceptions of management? Their, you know, their upper management, lower management, punishment, all that stuff of what I would call a climate survey?

Are you aware and familiar? Is that something that you institute in the performance of personnel management?

Ms. GOWADIA. Well, I know that we take the Federal employee viewpoint survey which in some aspects is a climate survey, sir. I know we take that annually just like the rest of the Federal Government. I do not know if we add onto to that other climate surveys.

Mr. PERRY. Mr. Oosterbaan, thoughts?

Mr. OOSTERBAAN. We do, sir. Actually, we conduct regular inspections of ourselves, and as part of that we do a morale or viewpoint survey that addresses all the issues that you mentioned.

Mr. PERRY. So let me delve into that a little bit with the morale issue as it relates maybe to employee misconduct. What kind of things do you glean from the survey that then you can put into action or some actionable item to address an issue?

Can you give me any examples of either one, issues, or actions, or solution sets?

Mr. OOSTERBAAN. If the surveys are done correctly, you are going to get a lot of information running the gamut.

Mr. PERRY. Right.

Mr. OOSTERBAAN. But an example would inconsistent application of disciplinary rules, favoritism.

Mr. PERRY. Are those issues that you have seen in TSA because you mentioned them? I don't know if you are just giving me potential data, or these are things that you are familiar with because you have seen them and there is an increased occurrence of those items.

Mr. OOSTERBAAN. I was speaking more generally.

Mr. PERRY. OK.

Mr. OOSTERBAAN. But I think your report points to these things very directly.

Mr. PERRY. OK. Is that something that is done, how often? The climate survey, or the employee survey? How often does that occur?

Mr. OOSTERBAAN. I was referring to our internal—

Mr. PERRY. Right.

Mr. OOSTERBAAN [continuing]. Surveys and we do those somewhat independently, in other words, not on an exact—

Mr. PERRY. OK.

Mr. OOSTERBAAN [continuing]. Recurrent basis, but we also have every one of our field offices and therefore all of our people on a regular schedule of inspection and service.

Mr. PERRY. OK, Doctor, do you know?

Ms. GOWADIA. So, I can speak to the Federal Employee Viewpoint survey which we do take every year. There are certainly questions very similar to what my colleague mentioned. I will tell you that my experience with the survey is they have very good data.

First, you have to encourage your staff.

Mr. PERRY. Right.

Ms. GOWADIA [continuing]. To take the survey.

Mr. PERRY. OK.

Ms. GOWADIA. Right? So, the first thing is to increase the response.

Mr. PERRY. Right.

Ms. GOWADIA. Because when your soldiers are talking to you, you can lead them, right? But you have to inspire that response. So, some of the things we did at the NDO back in the day was we took the data. We analyzed it carefully. We found a couple of places where we could make immediate improvement.

In doing so we established a basis of trust with our staff. Now, the solution sets don't always come from management. In fact, they usually come from people who know what is broken and know how to fix it.

So, relying on employee teams to help solve things is critical. A lot of these experiences that I did have at the NDO I hope to bring to TSA, acknowledging that they are completely different work forces in size and scale and mission.

I will stress to you, in Federal employee viewpoint survey, question 43, my supervisor treats me with respect. I find that to be a tremendously powerful question. Because if you are treated with respect, you are more likely to over-perform. You are more likely to feel that you work in a safe and secure environment.

So, this is the one question that I will continue to pay attention to. I have seen supervisors peg out at 100 percent on that question. Deservedly so. I will throw a shout out to TSA supervisors. They do rather well in this area, so.

Mr. PERRY. OK. Thank you. I appreciate that. Let me kind-of wind this down. Just a couple thoughts. You need to know, and I don't know if you do, that the gamut that misconduct runs from the very bottom to your first line brand new employee to the very top.

I just want to make sure if you are not aware that OIG has investigated senior leaders, including the former administrators, former administrator, for alleged misconduct. I just want you to be aware of that.

I also don't know. I received information recently that some of your folks in management, not the TSOs but in management, were asked to be deposed, and had to be asked some questions. They declined.

Agency counsel, because they have no confidence in the chief counsel. You need to know that. Now, this might be a personality issue. But, you know, chief counsel is known to me, and is known to me from the Madison Guarantee issue where the chief counsel was then an object of investigation as purported to provide information of the investigation to other people that were objects of the investigation.

I tell you this because, in this context of low morale, or not optimal morale, at the same time we see this issue of misconduct. Those issues are important to people and how they react to them, and how you, in this new job of yours, and you have very little time to make a first impression. You know this. You are a smart lady.

Set that standard and that circumstance where justice is blind, and there is a standard that everybody from the top to the bottom has to adhere to, and will be judged on accordingly. You are the person to do that. All right? I just wanted to outline that.

We appreciate your time here today. We thank you very much for it. I thank you for your—I thank the witnesses. Your testimony has been valuable. I thank the Members for their questions.

Members may have some additional questions for the witnesses. We will ask you to respond to those in writing pursuant to the committee rule, VII(E) the hearing record will remain open for 10 days. Without objection, this subcommittee stands adjourned.
[Whereupon, at 12 p.m., the subcommittees were adjourned.]

A P P E N D I X

QUESTIONS FROM CHAIRMAN SCOTT PERRY FOR HUBAN GOWADIA

Question 1. Of the 1,270 TSA employees who received more than 5 misconduct allegations from fiscal year 2013 to 2015, how many received promotions, bonuses, or awards during that same time period?

Answer. Please see the chart below for the requested data. Please note: The 1,270 figure represents the number of employees who received 5 or more allegations of misconduct. Not all allegations were found either to have merit or resulted in discipline or adverse action.

FISCAL YEAR 2013–2015 AWARDS, BONUSES AND PROMOTIONS FOR 1,270 EMPLOYEES

	Amount
Received Awards, Bonuses, or Promotions	1,151
No Awards, Bonuses, or Promotions	119

Data Notations:

- Awards include Special Achievement Awards, Spot Awards, and Group Cash Awards.
- The term bonus represents performance-related bonuses.

Question 2a. Dr. Gowadia testified that Administrator Neffenger requested her to examine human capital functions enterprise-wide, which included bringing the entire workforce under the Office of Human Capital.

What specific steps have been taken to date?

Answer. The Office of Human Capital (OHC) is designing a phased approach to an enterprise-wide Human Resources (HR) solution. The plan will include the phased milestones necessary to achieve the centralized oversight of human capital positions at headquarters and field locations. The plan will be designed so that organizational levels understand and comply with guidance, policy, and merit system principles; provide local management and other program staff with advice; and continue to meet standards and competency requirements established by OHC for their positions.

Question 2b. What specific aspects of human capital management will be under the jurisdiction of the Office of Human Capital?

Answer. Administrative employment and personnel management functions will align under the jurisdiction of OHC to include: Benefits, employee relations, discipline, hiring, hours of duty, leave, compensation/pay, performance management, personnel and payroll, position classification, position management, workers' compensation, employee engagement, and workforce development.

Question 2c. Will the Office of Human Capital ensure that the policies it generates are followed? If so, what specific steps will be taken?

Answer. OHC will implement an engagement plan to ensure that the policies it generates are followed. OHC engages with headquarters and field offices on those policies. OHC also has reinforced communication with human capital staff. Further, OHC is developing a training program to improve operational effectiveness and handling of employee relations and HR-related workforce issues.

Question 3a. Dr. Gowadia testified that all TSA employees, including senior leaders, were going through training at the TSA Academy.

To date, how many TSA employees have completed this training?

Question 3b. Of these, how many senior managers have completed this training?

Answer. The Transportation Security Administration (TSA) created the TSA Academy at the Federal Law Enforcement Training Centers (FLETC). To date, approximately 4,200 Transportation Security Officers have completed basic training at

the TSA Academy. TSA's members of the Transportation Security Executive Service (TSES) also receive training. They attend the National Preparedness Leadership Initiative Course at Harvard University. To date, 75 of 133 TSES leaders have completed the National Preparedness Leadership Initiative Course. In addition, Federal Air Marshals (FAMs) go through extensive training at FLETC in Artesia, New Mexico and the TSA Training Center near Atlantic City, New Jersey.

In January 2017, TSA will begin Management and Administrative Professional training at the TSA Training Center. This training will be for employees hired at TSA who are not Officers, FAMs, or members of the TSES.

Question 4. In July 2013, GAO recommended that TSA establish a process to review misconduct cases to ensure that airport-level officials responsible for adjudicating employee misconduct were complying with TSA's policies and procedures (GAO-13-624). According to GAO, TSA implemented this recommendation because its Audits and Inspections Division audited disciplinary actions at airports in November 2014 and developed an inspection checklist that included items related to disciplinary files. How many audits have been conducted since that single audit in November 2014?

Answer. Since the initial Office of Inspection (OOI) Audit of disciplinary actions in 2014, OOI's Audits and Inspections Division has incorporated reviews of disciplinary actions into the standard inspection process. These reviews are typically assisted by representatives from OHC. Any deficiency is captured as a Corrective Action Plan (CAP), which articulates the actions needed to improve performance, along with time lines for implementation.

Since incorporating disciplinary actions as a standard inspection item, OOI's Inspections Branch has conducted 15 airport inspections, 3 Federal Air Marshal Service inspections, and 3 inspections at TSA's Office of Global Strategies (OGS), all of which included an examination of disciplinary actions. Of the 21 inspections, OOI has issued a total of 7 CAPs (6 at airports; and 1 at an OGS location) relating to disciplinary actions, all of which have been closed in the OOI follow-up process.

Question 5a. TSA's Employee Code of Conduct requires managers and supervisors to ensure that all employees review the code of conduct policy and accompanying handbook each year.

What percentage of TSA employees completed this requirement in fiscal year 2015?

Answer. Total accounts: 63,095.

Total Fiscal Year 2015 Completions: 62,706.

Completion Percent: 99.4%.

Question 5b. How does TSA headquarters ensure that managers and supervisors are enforcing this requirement?

Answer. In accordance with TSA Management Directive (MD) No. 1100.73-5, *Employee Responsibilities and Code of Conduct*, managers and supervisors are responsible for ensuring all new employees participate in new employee orientation. During the orientation, new employees receive a copy of the directive, the accompanying handbook, and either the Standards of Ethical Conduct for Employees of the Executive Branch (5 C.F.R. Part 2635) ("Standards") or a comprehensive summary of the Standards. In addition, managers and supervisors are responsible for ensuring employees sign TSA Form 1149, *Employee Responsibilities and Code of Conduct Acknowledgement*, or review the materials on the On-line Learning Center (OLC) and complete the associated certificate. This form/certificate acts both as acknowledgment of receipt of the Code of Conduct and acknowledgment of the employee's understanding of the content.

Throughout their employment with TSA, employees are expected to review and acknowledge their understanding of the MD, Handbook, and the Standards on an annual basis. Additionally, employees are expected to review and acknowledge their understanding of the MD, Handbook, and/or Standards after each revision within 45 calendar days of the effective date of the revision. Employees are provided up to 1 hour of official duty time per year to complete the review. The Headquarters OLC office provides training managers the ability to create reports locally to verify completion. The OLC office provides larger reports on an "as requested" basis.

Question 6. According to TSA, all directed reassignments must now be reviewed by the chief human capital officer, chief financial officer, the Executive Resources Council and, ultimately, by the administrator. However, the Executive Resources Council is made up of the very officials who may request the directed reassignments they are in charge of approving. Given that individuals who came forward to the committee have asserted that directed reassignments have been abused by senior leadership, what specific controls are in place to ensure that the Executive Resources Council fairly reviews and approves directed reassignments?

Answer. The Executive Resources Council (ERC) is a committee of TSES members that are expected to be role models for Government integrity and set the workforce standards for ethical behavior and conduct. The deputy administrator is a permanent member of the ERC and serves as its designated chair. The assistant administrator for the Office of Civil Rights and Liberties, Ombudsman and Traveler Engagement and the deputy assistant administrator for OHC serve as advisors to the ERC. As such, these advisors ensure that business conducted by the ERC is fair and in accordance with applicable laws, regulations, and policies regarding merit staffing procedures, equal employment opportunity, the TSES Interchange Agreement with the U.S. Office of Personnel Management, and Department of Homeland Security and TSA workforce diversity goals. Voting members of the ERC must recuse themselves and abstain from voting on any decisions directly affecting their respective offices, including directed reassignments. The Chair only votes on decisions that result in a tie.

Question 7a. Dr. Gowadia testified that 99.7% of TSA officers have passed integrity tests and Administrator Neffenger stated in a letter to Chairman Michael McCaul that this “anti-theft program uses a wide array of ‘bait’ items that are sent through both the checkpoint and baggage screening operations to verify the integrity of the screening workforce.”

Please list in full the bait items that are included in integrity tests.

Answer. The bait items used in integrity testing are based on TSA claims management data indicating which types of items are often reported as lost or stolen. They include cash, jewelry, watches, physical fitness monitors, iPads, laptop computers, handheld gaming devices, headphones, earbuds, and other designer items.

Question 7b. What steps does TSA take when an employee fails an integrity test?

Answer. When TSA’s OOI has determined that an employee has failed an integrity test due to potential criminal activity, OOI will initiate a criminal case, which includes referring matters involving over \$2,000 to the Department of Homeland Security (DHS) Office of Inspector General (OIG) for first right of refusal. If OIG chooses not to accept the case for investigation, the matter is referred back to OOI for investigation.

Question 7c. On what research or scientific basis did TSA base these integrity tests?

Answer. OOI analysts review TSA claims management data for trends and hotspots to determine locations for testing, as well as what types of items to use. OOI also receives information from various other sources, including Federal Security Directors concerned about theft at their airports. In addition to this targeted testing, OOI also selects airports at random for inclusion in integrity testing.

Question 8a. According to TSA policy, “TSES members may only receive one pay adjustment to their salary in a 12-month period unless approved by the Under Secretary for Management.”

How many of these types of adjustments occurred from fiscal year 2013 through 2015?

Question 8b. During that time period, how many TSES members received more than one pay adjustment to their salary in a 12-month period?

Question 8c. Of those, how many were approved by the DHS Under Secretary for Management?

Answer. Between fiscal year 2013 and fiscal year 2015, TSA processed 196 performance-based pay adjustments for TSES employees; 102 during fiscal year 2014 and 94 during fiscal year 2015. TSA processed no adjustments during fiscal year 2013 due to the Federal Government-wide pay freeze for Senior Executives that was in effect during calendar years 2010 through 2013.

During fiscal year 2014 and fiscal year 2015, there were 29 TSES employees who received more than one increase during a 12-month period. The following is the breakdown for the 29 TSES employees:

- Twenty-five TSES employees received reassignments resulting in moving into a position with greater responsibility and complexity. Reassignments are exceptions to the 12-month pay adjustment rule and do not require approval by the DHS Under Secretary for Management.
- One TSES employee received an additional pay adjustment to raise the employee’s salary to the minimum of the SES/TSES pay range because the employee’s current salary was below the minimum TSES pay band at the time that the new year pay rates went into effect. This pay increase is an exception to the 12-month pay adjustment rule and does not require approval by the DHS Under Secretary for Management.
- TSA and the DHS Under Secretary for Management approved pay adjustments for three TSES employees as part of their annual Performance Review Board process, and each adjustment was scheduled to be processed on the 12-month

anniversary date. However, due to an administrative error, these were processed ahead of schedule and thus these 3 TSES employees received an additional increase within a 12-month period.

Question 9a. TSA conducts several types of testing related to deterring and detecting misconduct.

How often does TSA's recurrent vetting against criminal history records to detect criminal activity that may not have been self-reported?

Answer. On September 1, 2013, TSA implemented an annual Recurrent Vetting Program, which includes a review of all TSA employees' fingerprint-based criminal history records check. The purpose of recurrent vetting is to identify any unreported criminal activity between the current re-investigation cycles that may not have been self-reported, disclosed, or developed. This does not replace the 5- and 10-year re-investigative process, but rather enhances it by requiring a more frequent review of an employee's criminal history records.

2013 / 14 TSA Employee Recurrent Vetting

- Total population equates to approximately 51,643 or (99%)
- Total number of unreported issues 220 or (1%) of the population
- Top 3 Offenses: DUI, Miscellaneous Traffic, Assault/Battery

Question 9b. For fiscal years 2013 through 2015, how often did TSA conduct random drug testing?

Answer. TSA conducted random drug testing 228 days in fiscal year 2015, 265 days in fiscal year 2014 and 254 days in fiscal year 2013.

Question 9c. What specific types of testing does TSA conduct to identify behavior indicative of insider threats?

Answer. TSA's Insider Threat Unit (ITU) within the Office of Law Enforcement conducts Insider Threat Assessments (ITAs) at high-risk U.S. airports and TSA facilities. These ITAs are coordinated with Joint Vulnerability Assessment (JVA) deployments and are designed to:

- Educate internal and external stakeholders on insider-threat-related motivators, factors, and observable behavioral indicators;
- Promote a culture of integrity and an environment of acceptance for reporting insider-threat-related factors and indicators;
- Increase awareness and provide tips for recognizing behaviors and/or situations that may indicate an employee is a risk of an insider threat.

Airports also receive the Self-Vulnerability Assessment Tool for yearly self-testing and JVA Best Practices Guide summarizing common vulnerabilities and suggested mitigation strategies.

The ITU's Focused Operations branch maintains highly-skilled personnel who possess capabilities/skillsets which include digital forensics, e-discovery, data analysis, and Open Source data correlation which allow for the gathering of evidentiary data for high-risk user monitoring cases. This branch provides technical support and detects and responds to high-risk user malicious, anomalous, and/or unauthorized cyber activity in the environment. This detection is accomplished using a software tool where defined user activities on a TSA IT system, indicative of potential misconduct or malicious behavior, are used as alerts. Examples of these types of end-user activities include:

- Unauthorized Removable Media use (USB Thumb Drive, External Hard Drives, digital cameras)
- Excessive data alteration and deletion/wiping, especially by high-risk groups (e.g. administrators)
- Use of non-approved tools
- Attempts to access segregated/escalated systems/file shares/databases
- Business logic triggers that would capture misuse of access and rights
- Sensitive keyword searching of confidential or sensitive keywords or data
- Excessive printing, for example 200 pages/day
- Abnormal work hours (IT Access/physical access)

Lastly, TSA's Office of Inspection conducts proactive operations to detect employees who may be involved in corruption or other insider activities, solicit assistance from trusted employees, and collect criminal intelligence information that may identify those who are exploiting their insider access with nefarious intent.

Question 10. Beyond the Federal Employee Viewpoint Survey, does TSA administer any other surveys to assess employee morale? If so, please describe such surveys and how often they have been administered.

Answer. In addition to the annual Federal Employee Viewpoint Survey (FEVS), which is administered by the Office of Personnel Management to a sample of Federal Government employees, TSA also administers an Employee Engagement Survey (EES) and a National Exit Survey (NES) to assess employee morale.

The EES was first administered in 2015 and is designed to address TSA's unique needs and characteristics. This survey allows TSA to assess the entire workforce and collect agency-specific information on employee engagement, organizational climate, culture, and environment, set initial benchmarks to compare with future studies, link to other organizational metrics, and drive organizational change. Like the FEVS, results are compiled and distributed at the local (i.e., office/airport) and corporate (i.e., TSA-wide) levels. The EES is conducted on a bi-annual cycle, with the next administration scheduled for 2017.

The NES began in 2005 and was updated in 2009 to an on-line-only process and to include Federal Air Marshal Service employees. The NES covers all TSA employees who voluntarily leave TSA. They are asked to describe how they viewed the job at TSA at the time of hiring, provide the reason(s) for leaving TSA and respond to follow-up questions on their reason(s) for leaving. Additionally, they are asked to identify one or two things TSA could do to retain talented employees in the future. Results from the NES are compiled semi-annually and distributed to TSA senior leadership with an analysis of the most frequent reasons for departing during the reporting period and cumulatively since survey inception.

The EES and NES supplement the FEVS to assess morale at TSA. Results from the three surveys help TSA understand the drivers of satisfaction and engagement at the local (i.e., office/airport) and corporate (i.e., TSA-wide) levels, as well as reasons why employees choose to leave and how TSA can improve retention.

Question 11. In January 2016, the DHS OIG reported that TSA's oversight of its \$1.2 billion human capital services contract needed more effective oversight, particularly related to holding the contractor accountable for poor performance. Despite TSA agreeing with OIG's four recommendations, the OIG reported that TSA's planned actions to address two of these recommendations did not fully address the OIG's intent. As such, two of these recommendations are considered open and unresolved. To what extent has TSA implemented all four of these recommendations?

Answer. The DHS OIG January 2016 report contained 5 recommendations. TSA concurred with all 5 recommendations. As noted in the attached May 18, 2016 OIG memorandum: Recommendation 3 was previously closed; recommendations 2 and 4 were resolved and closed; recommendation 5 was resolved and open; and recommendation 1 remained unresolved and open.

TSA submitted a Corrective Action Plan Update to the OIG in July 2016 (attached)* with an update on the open recommendations 1 and 5. The Corrective Action Plan Update also requests closure of recommendation 5 and a change in the status of recommendation 1 from unresolved and open to resolved and open. Among other things, the Corrective Action Plan Update outlines the steps TSA is taking to address and implement recommendation 1.

QUESTIONS FROM CHAIRMAN SCOTT PERRY FOR ANDREW OOSTERBAAN

Question 1a. According to TSA, employees are vetted on a recurrent basis, which includes TSA conducting criminal history checks to identify activity that might not have been self-reported or disclosed as required.

How does TSA's process for vetting employees compare to other DHS components?

Question 1b. How does it compare with best practices?

Answer. The OIG has not conducted audit or inspection work regarding TSA's employee vetting process or comparing the process for vetting employees across DHS components. While we published a report in 2015, "TSA Can Improve Aviation Worker Vetting," that report did not analyze TSA's process for vetting its own employees, but rather vetting airport workers with access to secure airport areas. If you would like us to review DHS employee vetting policies and best practices, we would be happy to consider your request as part of our fiscal year 2017 or fiscal year 2018 work plan.

Question 2a. According to TSA, all directed reassignments must now be reviewed by the chief human capital officer, chief financial officer, the Executive Resources Council and then, ultimately, by the administrator himself. However, the Executive Resources Council is made up of the very officials who may request the very directed reassignments they are in charge of approving.

Does this current construct appear to have a conflict of interest?

Question 2b. What controls should be implemented to ensure that directed reassignments are used only when necessary and not as retribution?

Answer. TSA appears to have implemented a new process designed to ensure that directed reassignments are used appropriately, which includes review by the administrator. It is too early to tell whether this will correct the reported abuses of the

*The information has been retained in committee files.

process, but we will monitor TSA's implementation and report problems or improprieties if we find any.

