

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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### Opening Statement

#### Ranking Member Elijah E. Cummings

#### Hearing on “Examining Misconduct and Retaliation at TSA”

#### September 26, 2018

Mr. Chairman, thank you for calling today’s hearing to examine the results of our bipartisan, three-year investigation of the Transportation Security Administration (TSA).

This issue is very close to my heart because I helped launch this investigation together with our former Chairman, Jason Chaffetz, in 2015 after the Inspector General of the Department of Homeland Security issued a troubling report on vulnerabilities in TSA’s screening operations.

Later that year, we expanded our investigation to examine problems with TSA’s personnel management practices after we received reports that a senior official engaged in serious misconduct and was recommended for removal. Instead of being fired, he was given a settlement that included only a two-week suspension and no reduction in pay.

Since then, we have sent many requests for documents, interviewed witnesses, and held hearings. However, our oversight efforts have been impaired significantly by the failure—the refusal—of TSA and the Department to produce the documents and witnesses we need to do our job. For that reason, I fully supported subpoenas to hold those officials accountable.

Now let me make one thing clear. I supported these oversight efforts regardless of who was in the White House—under the administrations of both President Obama and President Trump. I did that because the security of the American people should not be a partisan issue.

Today, I am releasing a staff report that sets forth my conclusions and recommendations for how I believe we should move forward in this Committee and in Congress. I ask unanimous consent that my report be made part of the official hearing record.

Based on all of our work over the past three years, I believe we need urgent reforms in three key areas: security operations, personnel management, and transparency.

First and foremost is security operations. When we started this investigation, we received troubling testimony from the DHS Inspector General about serious vulnerabilities in TSA’s screening operations. More recently, the Inspector General issued a report that warned of ongoing “vulnerabilities with TSA’s screener performance, screening equipment, and associated procedures.” He also issued a report concluding that the contribution of the Federal Air Marshal’s Service to aviation security is “questionable.”

Based on our three-year investigation, my recommendation is for Congress to demand sustained accountability from TSA on security measures. We need to press the agency to finally

implement numerous unfulfilled security recommendations made by the Inspector General, GAO, and others that have languished—in some cases for years.

I fully understand that many of these unfulfilled recommendations are classified, but I believe Congress needs to launch a one-year oversight effort that is focused on ensuring that TSA takes the steps it needs to take to resolve the numerous vulnerabilities in its security operations.

Second, on personnel practices, we have identified many examples of arbitrary and unfair actions against both managers and security officers. We have also found several instances of retaliation against whistleblowers who report security deficiencies.

The problem is that TSA employees have fewer protections against these kinds of abuses than other federal employees. There is a much higher bar for TSA employees to clear, although they have been doing so. In fact, just two weeks ago, I attended an event to honor three TSA whistleblowers who received the Public Servants of the Year Award from the Office of Special Counsel.

My second recommendation is for Congress to consider legislative proposals to strengthen civil service protections to protect whistleblowers from retaliation and protect employees against arbitrary personnel actions.

Third is the absolutely critical need for greater transparency. Both TSA and the Department repeatedly refused to cooperate with our investigation. They refused to provide documents we subpoenaed a year and a half ago, including documents about the same whistleblowers who received these awards. They also withheld documents from the Office of Special Counsel, and it took an act of Congress—literally—to make sure they got them.

Just yesterday, our staff was finally able to speak with the senior attorney at the Department who was involved with many of these troubling decisions. The Department refused to produce him voluntarily, so we had to subpoena him for a deposition.

So, my third and final recommendation is for Congress to consider legislation to significantly enhance transparency at TSA—transparency about whistleblower claims, about settlement agreements, and about nondisclosure agreements employees are forced to sign.

As I close, let me say this. I do not know who will control Congress next year, but based on the results of our three-year investigation, I believe that we must do everything in our power to redouble our oversight efforts while also moving to implement concrete reforms.

With that, let me welcome the Administrator and thank you for being here. Thank you again to the Chairman for holding today's hearing.

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