

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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<http://oversight.house.gov>

November 16, 2017

The Honorable Elaine C. Duke
Acting Secretary
Department of Homeland Security
Washington, D.C. 20528

Dear Ms. Duke:

For several months, the Committee has been investigating the Transportation Security Administration's (TSA) decision to withhold documents and information from the Office of Special Counsel (OSC). To understand this decision, the Committee has subpoenaed documents and requested transcribed interviews from TSA. To date, TSA has not produced the documents nor provided agency officials for transcribed interviews. The Committee requires TSA to cooperate forthwith by producing the outstanding documents and scheduling the transcribed interviews.

Following the Committee's March 2, 2017, hearing titled "Transparency at TSA,"¹ the Committee requested documents related to TSA's decision to withhold documents and information from OSC.² Despite its assurances at the hearing, TSA failed to produce all requested documents, resulting in the Committee's issuance of a subpoena *duces tecum* on March 17, 2017.³ Following TSA's refusal to comply with this subpoena,⁴ the Committee sent a bipartisan letter on May 2, 2017, explaining TSA's obligation to comply with the Committee's subpoena, overruling the Department's objections, and threatening the "commence[ment] of enforcement proceedings" if TSA failed to comply with the subpoena.⁵ This letter also requested transcribed interviews with three TSA officials: Dr. Huban Gowadia, Mr. Steven Colon, and Ms. Francine Kerner.⁶

¹ *Transparency at TSA: Hearing Before the H. Comm. on Oversight & Gov't Reform*, 115th Cong. (2017).

² Letter from Hon. Jason Chaffetz, Chairman, H. Comm. on Oversight & Gov't Reform, to Dr. Huban A. Gowadia, Acting Adm'r, Transp. Sec. Admin. (Mar. 6, 2017).

³ Subpoena to Huban A. Gowadia (Mar. 17, 2017).

⁴ Letter from Joseph B. Maher, Acting Gen. Counsel, Dep't of Homeland Sec., to the Hon. Jason Chaffetz, Chairman, H. Comm. on Oversight & Gov't Reform (March 31, 2017).

⁵ Letter from Hon. Jason Chaffetz, Chairman and Hon. Elijah E. Cummings, Ranking Member, H. Comm. on Oversight & Gov't Reform, to Dr. Huban A. Gowadia, Acting Adm'r, Transp. Sec. Admin. (May 2, 2017).

⁶ *Id.*

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Subsequent to the May 2 letter, Committee staff offered to meet with Department staff. At that meeting, on May 11, the Department assured Committee staff the documents subpoenaed were innocuous and Committee staff raised the prospect of an initial *in camera* review as a compromise to determine whether the documents were in fact necessary to the Committee's inquiry. Two weeks later, then-Acting General Counsel for the Department Joseph Maher responded in writing, refusing to provide the Committee access to the documents and objecting to the "level of formality" of transcribed interviews.⁷ Instead, the Department offered only to make the individuals available for "meetings."⁸

The continued noncompliance with the Committee's subpoena and request for transcribed interviews is preventing the Committee from completing its investigative work. During yesterday's Committee hearing, we reaffirmed our bipartisan commitment to this investigation into TSA's decision to withhold documents and information from OSC.⁹ TSA plays a vital role in our national security and Congress has a duty to ensure TSA is well-managed in order to fulfill its important mission.

Please contact the Committee immediately to arrange for delivery of the compelled documents and to schedule transcribed interviews with the following TSA officials: Dr. Huban Gowadia, Mr. Steven Colon, and Ms. Francine Kerner. If TSA does not cooperate with this request, the Chairman will shortly issue deposition subpoenas for these witnesses. We have reserved Committee Room 2247 at 10:00 a.m. on December 5, 7, and 12, 2017, for purposes of these interviews or depositions.

If you have any questions regarding this request, please contact Jessica Donlon of the Majority staff at (202) 225-5074 or Lucinda Lessley at (202) 225-5051 of the Minority staff. Thank you for your consideration of this request.



Trey Gowdy

Sincerely,



Elijah E. Cummings

Enclosure

cc: The Honorable David P. Pekoske, Administrator
Transportation Security Administration

⁷ Letter from Joseph B. Maher, Acting Gen. Counsel, Dep't of Homeland Sec., to the Hon. Jason Chaffetz, Chairman, H. Comm. on Oversight & Gov't Reform (May 26, 2017)

⁸ *Id.*

⁹ *Recommendations and Reforms from the Inspectors General: Hearing Before the H. Comm. on Oversight & Gov't Reform*, 115th Cong. (2017).

**COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES
115TH CONGRESS**

NOTICE OF APPEARANCE OF COUNSEL

Counsel submitting: _____

Bar number: _____ **State/District of admission:** _____

Attorney for: _____

Address: _____

Telephone: (_____) _____ - _____

**Pursuant to Rule 16 of the Committee Rules, notice is hereby given of the entry of the
undersigned as counsel for _____ in (select one):**

All matters before the Committee

The following matters (describe the scope of representation):

**All further notice and copies of papers and other material relevant to this action should be
directed to and served upon:**

Attorney's name: _____

Attorney's email address: _____

Firm name (where applicable): _____

Complete Mailing Address: _____

I agree to notify the Committee within 1 business day of any change in representation.

Signature of Attorney

Date