

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5051

MINORITY (202) 225-5074

<http://oversight.house.gov>

May 20, 2019

The Honorable David P. Pekoske
Administrator
Transportation Security Administration
601 South 12th Street
Arlington, VA 20598

Dear Mr. Administrator:

The Committee is seeking information about new reports that the Trump Administration is planning to divert hundreds of Transportation Security Administration (TSA) employees to the southern border to work on immigration cases while airline travel begins to increase for the summer. We are deeply concerned that pulling hundreds of TSA employees away from their critical missions at our nation's airports and sending them to the southern border will weaken aviation security and significantly increase the risks faced by the American people.

On May 15, 2019, CNN reported that the Trump Administration plans to send TSA employees "to help with efforts to deal with migrant inflows on the southern border just as the busy summer travel season begins." Citing an internal email and multiple sources, this report stated that "TSA plans for the deployments to involve up to 175 law enforcement officials and as many as 400 people from Security Ops." The article cited an email from one senior TSA official, who warned: "We also understand we are accepting some risk as we enter a very busy summer."¹

An obvious and enormous problem with this plan is that TSA employees already have full-time jobs, and the agency needs them to fulfill their critical mission at our nation's airports, as well as to address vulnerabilities identified by the Government Accountability Office and the Inspector General of the Department of Homeland Security.

The Oversight Committee has been examining airport security, and the results of this review have been troubling. Last month, in response to a bipartisan request from the Committee, the Government Accountability Office issued a newly declassified report warning that TSA has failed to address existing security vulnerabilities at our nation's airports.²

¹ *First on CNN: TSA to Deploy Hundreds, Including Air Marshals, to Border*, CNN (May 15, 2019) (online at www.cnn.com/2019/05/15/politics/tsa-border-security/index.html).

² Government Accountability Office, *TSA Improved Covert Testing but Needs to Conduct More Risk-Informed Tests and Address Vulnerabilities* (Apr. 2019) (GAO-19-374)(online at

This report followed previous findings by the Department of Homeland Security Inspector General in 2017 that “identified vulnerabilities with TSA’s screener performance, screening equipment, and associated procedures.”³ In February 2019, the Inspector General issued another classified report that “identified vulnerabilities with various airport access control points and associated access control procedures.”⁴

The Oversight Committee has hosted multiple briefings for Members and staff on these issues and made the classified version of the Government Accountability Office report available to other Members of the House of Representatives for their review.

Based on our work, we have grave concerns about the wisdom of any proposal to pull hundreds of TSA employees away from their critical security mission at our nation’s airports to fulfill the President’s immigration policies.

For all of these reasons, we request that you produce the following documents and information by June 3, 2019:

1. For each TSA employee that may be diverted to the southern border or to units supporting operations on the southern border:
 - a. his or her current position and duty station; and
 - b. the length of time he or she is expected to be diverted;
2. A list of the airports and other transportation facilities that will have TSA personnel diverted to the southern border or to units supporting operations on the southern border, including the number of personnel expected to be diverted from each airport or other facility;
3. A description of the job responsibilities each TSA employee diverted to the southern border or to units supporting operations on the southern border will perform and the training that will be provided to each of these employees;
4. A description of any changes or reductions in TSA security operations due to the diversion of TSA employees to the southern border or to units supporting operations on the southern border, including with respect to Visible Intermodal

www.gao.gov/assets/700/698202.pdf).

³ Department of Homeland Security, Office of Inspector General, *Covert Testing of TSA’s Screening Checkpoint Effectiveness, Unclassified Summary* (Sept. 27, 2017) (OIG-17-112)(online at www.oig.dhs.gov/sites/default/files/assets/2017/OIG-17-112-Sep17.pdf).

⁴ Department of Homeland Security, Office of Inspector General, *Covert Testing of Access Controls to Airport Secure Areas, Unclassified Summary* (Feb. 13, 2019) (OIG-19-21)(online at www.oig.dhs.gov/sites/default/files/assets/2019-03/OIG-19-21-Feb19.pdf).

Prevention and Response teams, Federal Air Marshal operations, and any other affected operations;

5. A description of the risks to aviation security that could result from the diversion of TSA employees to the southern border or to units supporting operations on the southern border, including an explanation of how these risks were determined and how they will be mitigated; and
6. A list of all TSA employees diverted to the southern border or to units supporting operations on the southern border since January 20, 2017.

In addition, the Committee requests a staff briefing on these issues by the same date.

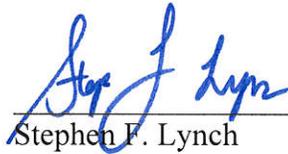
The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X. An attachment to this letter provides additional instructions for responding to this request. If you have any questions regarding this request, please contact Committee staff at (202) 225-5051.

Thank you for your prompt attention to this matter.

Sincerely,



Elijah E. Cummings
Chairman



Stephen F. Lynch
Chairman
Subcommittee on National Security

Enclosure

cc: The Honorable Jim Jordan, Ranking Member

The Honorable Jody Hice, Ranking Member
Subcommittee on National Security

Responding to Oversight Committee Document Requests

1. In complying with this request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.
2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committee.
3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, the request shall be read also to include that alternative identification.
4. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.
5. Documents produced in electronic format should be organized, identified, and indexed electronically.
6. Electronic document productions should be prepared according to the following standards:
 - a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - b. Document numbers in the load file should match document Bates numbers and TIF file names.
 - c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - d. All electronic documents produced to the Committee should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,
BEGATTACH.

7. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.
8. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.
9. When you produce documents, you should identify the paragraph(s) or request(s) in the Committee's letter to which the documents respond.
10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.
11. The pendency of or potential for litigation shall not be a basis to withhold any information.
12. In accordance with 5 U.S.C. § 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.
13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.
14. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.
16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.
17. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.

18. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.
19. All documents shall be Bates-stamped sequentially and produced sequentially.
20. Two sets of each production shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2105 of the Rayburn House Office Building.
21. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic

message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.

3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.
4. The term “including” shall be construed broadly to mean “including, but not limited to.”
5. The term “Company” means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.
6. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual’s complete name and title; (b) the individual’s business or personal address and phone number; and (c) any and all known aliases.
7. The term “related to” or “referring or relating to,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.
8. The term “employee” means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.
9. The term “individual” means all natural persons and all persons or entities acting on their behalf.