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House of Representatives

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Opening Statement Ranking Member Elijah E. Cummings Hearing on "Transparency at TSA" March 2, 2017

Last week, our Committee conducted an extraordinary interview at my request with Mark Hatfield, who served as the Deputy Administrator of TSA and worked at the agency for 13 years.

He explained to the Committee that TSA employees lack some of the most basic safeguards to protect them against retaliation when they highlight security concerns. The Deputy described an agency where—in the absence of normal federal employee safeguards—a culture of retribution and arbitrary personnel actions evolved that made employees reluctant to raise security concerns.

I will highlight some of the statements made by the Deputy during his interview, and I ask unanimous consent to include longer excerpts in the hearing record.

With respect to the subject of today's hearing, the Deputy explained: "There was very little transparency. There was a lot of distrust. There was a sense of, you know, in favor and out of favor for employees."

He explained: "so many things were governed by self-direction at TSA, it bred misbehavior." He said the lack of protections for employees "gave people the opportunity to do things that were typically not against the rules, because the rules were so flexible, but very questionable when you looked at it from a moral or ethical point of view."

During the Deputy's interview, our staff asked him if the absence of normal federal employee safeguards contributed to an environment in which employees did not want to come forward with information about security. In response, he said this:

Oh, yeah. I mean, it didn't take long for you to know enough of your compatriots had, you know, taken an arrow in the back and, you know, were either wounded or dead, that you had a decision to make depending on how loud you wanted to be, how far you wanted to go.

The Deputy also warned: "People learned that if you spoke too loudly or if you questioned whether the emperor was actually wearing clothes or not, that you could do it at, you know, personal consequence."

When Congress created TSA in 2001, it did not provide the agency's employees with all of the due process protections given to other federal employees under Title V.

The Deputy said that although some flexibility might have been appropriate when TSA was first created, the agency "should have started converting some of these practices to make them more standardized in Federal Government practices." He explained: "The structure that gave it the flexibility and the facility and the power to make the extraordinary moves it did when it was created should have evolved, and, unfortunately, some of them have just led to toxicity rather than a healthy agency."

One tactic reportedly used against TSA employees was "directed reassignments," or forcing employees to move to entirely new locations as punishment for raising concerns.

For example, the Deputy explained that the former Assistant Administrator in charge of the agency's security operations ran a "very dictatorial department." Rather than focusing on improving security, he was "using the directed reassignment process to manipulate positions in the field and to both help people that were in favor and to punish people that were out of favor."

The Deputy confirmed during his interview that one TSA whistleblower, Jay Brainard, who testified before this Committee on April 27, 2016, received a directed reassignment after being "very outspoken" about security concerns.

According to the Deputy, Mr. Brainard "would often raise issues" about security, including "the extraordinary emphasis on speed over quality of screening." The Deputy said this whistleblower highlighted "what many felt was an unreasonable reliance on a metric system that was oftentimes beautiful in full-color presentation on slide decks but was very detached from the reality of the front line where the actions were taking place."

The Deputy also confirmed what we have heard many times before—that TSA has abused the SSI designation to cover up information. He joked that in the early years at the agency, "you could mark a Chinese carryout menu 'SSI.'" He added: "a brochure or something that was clearly public consumable material or information, you could get on the internet or in a library, and they would, you know, stamp it 'SSI.'"

Now, from everything we have seen, TSA operations have improved over the last two years under the most recent Administrator, Vice Admiral Peter Neffenger. But the Deputy's interview last week makes crystal clear that TSA employees need the same protections as other federal employees so they can speak up about the security of the American people without being retaliated against. Congress should consider these reforms immediately.

On the other hand, for anyone who thinks Congress should remove Title V protections for employees at other federal agencies, TSA is a case study demonstrating why this would be a terrible idea.