



# **CONGRESSIONAL TESTIMONY**

**STATEMENT BY**

**J. DAVID COX SR.  
NATIONAL PRESIDENT  
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO**

**BEFORE**

**SUBCOMMITTEE ON TRANSPORTATION SECURITY**

**HOUSE COMMITTEE ON HOMELAND SECURITY**

**ON**

**THE FUTURE OF THE TRANSPORTATION SECURITY ADMINISTRATION**

**February 2, 2017**

Mr. Chairman, Ranking Member Rice, and Members of the Subcommittee: My name is J. David Cox, Sr., and I am the National President of the American Federation of Government Employees, AFL-CIO (AFGE). On behalf of the more than 670,000 federal and District of Columbia workers our union represents, including Transportation Security Officers (TSOs) at airports across the U.S. and its territories who are on the job ensuring safe air travel for over two million passengers each day, I thank you for the opportunity to testify today on “The Future of the Transportation Security Administration.”

Members of Congress who can attend townhall meetings in their districts and return to Washington for hearings and votes can thank over 40,000 members of the TSO workforce. Hundreds of thousands of Americans who visited the nation’s capital for inaugural events experienced firsthand the effective and efficient screening performed by TSOs. Airline crews—pilots, engineers, and flight attendants—greet their loved ones after landing safely each day because TSOs screening passengers and baggage prevented acts of aviation terrorism. The economies of major tourist destinations from Orlando, Florida to Las Vegas, benefit from families who arrive safely for the vacation of a lifetime because experienced, committed and patriotic TSOs and other civil servants work to protect the public. The contributions of TSOs to the security of our nation are clear. Those contributions will be enhanced when Congress and the Transportation Security Administration provide the TSO workforce the basic rights and protections necessary to recruit and retain a workforce that is such an integral part of our national security framework.

No discussion of the future of TSA is complete without the voice of the TSO workforce. TSOs are the most visible of TSA’s components, the most likely to be blamed for any perceived failures on the part of the agency and the last to receive credit from the public or their employer for a job well done. It is necessary for TSA to recognize the TSO workforce’s contribution to national security by ensuring the fair treatment of TSOs on the job, and by ensuring TSOs have the resources necessary to carry out the agency’s mission and to hold TSA accountable. AFGE believes this is the best path forward to provide better stewardship of taxpayer funds and enhanced security to address ever-changing threats to American aviation.

### **The TSO Workforce is the Legacy of the Deadliest Act of Terrorism in the U.S.**

The duty of screening passengers and baggage at our nation’s airports is based on the national examination of aviation security following the terrible events of September 11<sup>th</sup>, 2001. The airline industry felt the aftershock of the attacks long after their occurrence: Even after airports reopened after 9/11, airlines experienced at least a 30% reduction in demand for air travel. A 2002 Congressional Research Service report entitled “The Economic Effects of 9/11: A Retrospective Assessment” noted that Congress created the Air Transportation Stabilization Board to assist airlines with up to \$10 billion in loans. The industry suffered significant layoffs. Nearly 18,000 business were disrupted or destroyed by the 9/11 attacks. The Gross City Product of New York City fell by \$27.3 billion between the fall of 2001 and the end of 2001. Nationally, 462 extended mass layoffs affecting nearly 130,000 workers were attributable to the 9/11 attacks. Congress extended unemployment compensation benefits an additional 13

weeks for workers who had exhausted their benefits and for those in “high-unemployment states.” Most important, 2,977 innocent civilians and brave first responders lost their lives on that tragic day. America resolved to address the lapses in security that contributed to the events of 9/11 and to prevent the reoccurrence of another act of mass terrorism on American soil.

Experts quickly recognized one important security lapse on September 11<sup>th</sup>. The patchwork of private firms with little oversight employing screeners with inconsistent training and no standard operating procedures, high turnover, low pay, and paltry benefits left a gap in airport security the terrorists could exploit. As noted at the time by Senator John McCain (R-AZ) “the people who now are employed as screeners can make more money by going down and working at a concession at the same airport.” A frightened and frustrated public demanded thoroughly vetted, highly-trained, professional workforce of civil servants. Congress passed the Aviation and Transportation Security Act (ATSA), P.L. 107-71, with the intention that the new positions of TSO have higher wages and benefits than screeners employed by private firms to create a well-trained, professional workforce with low turnover able to protect the public from those seeking to commit terrorist acts.

I recite these sad facts to remind everyone what is at stake: Throughout the world terrorists remained fixated on transportation hubs such as airports, bus terminals and railway stations as a focus for mass casualty attacks. The U.S. has a formula that has kept us safe from these types of attacks for over 15 years: Better intelligence-gathering methods shared among agencies, deployment of up-to-date technology, and in the case of commercial aviation, a career workforce of well-trained, dedicated TSOs entrusted by the federal government as the first and best line of defense against aviation terrorism at airports in the U.S. and its territories. It continues to be imperative that the duties of airport screening be performed by federal government employees, and that these employees be provided adequate resources to do their jobs. Likewise, Congress must pass legislation ends the shameful practice of treating the 42,000 members of the TSO workforce as second-class civil servants by granting the TSO workforce the same legal protections as other federal employees.

### **Privatizing Screening Duties is a Gamble the U.S. Cannot Afford**

Although airports have had the ability to apply for privatization of screening since 2004, only 21 out of 435 commercial airports currently participate in the Screening Partnership Program (SPP), TSA’s privatization program. By its nature the SPP circumvents TSA’s direct responsibility for passenger screening. There is no documentation of superiority of private screeners, or that they save taxpayer dollars. In 2012 Congress inexplicably tied the hands of the TSA Administrator by requiring the approval of airport applications to participate in the SPP if on its face the application does not compromise security or detrimentally effect cost efficiency or screening effectiveness. SPP does not “get rid of TSA”: to the contrary, the only change is that TSOs with years of experience are swapped-out for newly-hired screeners who are paid less and have fewer benefits, allowing the contractor to shift costs to workers. TSA management remains in place under SPP, as do TSA’s policies and procedures.

The TSO workforce is a well-known quantity. TSA reports that in 2016 3,391 firearms were seized at checkpoints at 238 airports. The highest number of guns were found by federal TSOs at Atlanta Hartsfield-Jackson International, Dallas/Fort Worth International and George Bush Intercontinental Airport. Despite the burden of relentless overtime due to short staffing, TSOs defied predictions of a summer of long checkpoint lines. In addition to Presidential inaugurations, TSOs continued to be called upon to provide the effective, speedy screening necessary to maintain free movement of large groups of people at national events. TSOs have provided screening for Amtrak and large public transportation systems. The diligence and dedication of the TSO workforce has coordinated effectively with updated intelligence information to prevent another act of transportation terrorism in the U.S.

AFGE calls on the Congress to limit the SPP, and require that TSA provide the same transparency to private screeners as the TSO workforce. AFGE has strongly supported the legislative efforts of Homeland Security Committee Ranking Member Bennie Thompson (D-MS) to bring much needed reforms to the SPP. Because screening of passengers and baggage at airports reacts to rapidly updated intelligence, TSO duties must be recognized as being inherently governmental and should not be subject to privatization under any circumstances.

In addition to maintaining the TSO workforce, Congress must be accountable for providing the resources necessary to provide the level of screening demanded by the public. Last summer's checkpoint delays were largely caused by TSA's failure to maintain the necessary level of staffing. TSA admitted that TSO staffing levels fell from 47,147 full-time employees in 2013 to 42,525 in 2015. TSA allowed TSO vacancies to go unfilled based on faulty staffing projection resulting from expected PreCheck enrollments that never materialized. Congress must not allow TSA to "blow smoke" about necessary staffing levels. The PreCheck program produces a known population of passengers who still require some TSO screening. Piloted use of automated bin return systems may move passengers through checkpoints faster but they do not impact the number of TSOs needed to screen. Congress must provide the oversight necessary to hold TSA accountable for adequate staffing to ensure security and reduce wait times. Congress continues to divert \$1.25 billion each year from the Security fee to deficit reduction. AFGE calls for Security fee funds to be directed to TSA.

### **Congress Must Act to End the Second Class Status of the TSO Workforce and Provide the Resources Needed to Protect the Public**

If you have departed from a U.S. commercial airport, flown with excitement to greet a new grandchild, traveled by air to follow a favorite sports team to a major sporting event such as the World Series or the Final Four, or returned to your Congressional district to meet with your constituents during the last 15 years, the work of a TSO facilitated your safety. The TSO workforce is the eyes, ears and hands of aviation security in the U.S. They are part of the reason why traveling on a U.S. airline is the safest mode of transportation. According to the U.S. Travel Association, almost four out of five domestic trips are taken for leisure purposes, including families with children visiting relatives or popular vacation destinations. In 2015, the

U.S. Travel Association noted that “U.S. residents logged 459 million trips ways from home for business purposes. Until something goes wrong it is difficult to recognize the contributions of a group. The work of TSOs makes it far more likely that Americans fly safely and we never again suffer the horrendous loss of life or economic downturn caused by an act of air terrorism. It is very important work.”

TSOs signed up for the job because they wanted to serve the public by keeping travel safe. In return they have every right to expect fair treatment from their employer: the federal government. Instead TSA remains heavily invested in treating the 40,000 plus TSOs like second class employees. Not only is this an affront to the entire TSO workforce—it is also an affront to all civil servants. Congress should never have given TSA the option of whether to provide fundamental workplace rights and protections to TSOs. And Congress should never have divided the TSA workforce into a group of management “haves” with statutory rights under title 5 of the U.S. code, and the frontline TSO “have nots” who do not. Ranking Member Bennie Thompson (D-MS) and Representative Nita Lowey (D-NY) have authored legislation granting all TSA employees equal rights under the law during successive sessions of Congress. The Rights for Transportation Security Employees Act now has a Senate companion, the Strengthening American Transportation Security Act introduced by Senator Brian Schatz (D-HI). Both bills ensure that TSOs and all other TSA employees have rights and protections under title 5, including:

- The Family and Medical Leave Act;
- The Federal Labor Standards Act;
- Employment discrimination protections, including application of the Rehabilitation Act;
- Access to the Merit Systems Protection Board to appeal adverse personnel actions;
- Fair shift and annual leave bid procedures;
- Fair pay under the General Schedule of wages; and
- Full collective bargaining rights.

AFGE has testified before the disproportionately negative impact of TSA’s policies on women in the TSO workforce. Our female members continue to report that they are prohibited from bidding on certain lines at the airport or to change positions, shifts, or regular days off because TSA has too few women working. This is especially true at checkpoints, where the-less than 40% of TSOs who are women are required to “patdown” the over 50% of female passengers. Although employers are required to provide breastfeeding rooms to new mothers under the Affordable Care Act and Office of Personnel Management guidelines, AFGE members report that the rooms provided for TSOs to express breast milk at some airports were far from checkpoints, unclean, lacked refrigerators, and did not have locks on the doors. These issues were only addressed through the activism of local AFGE leadership stood up to TSA management,

The union remains concerned about TSA's lack of commitment to the labor-management relationship. A working labor-management relationship requires transparency, good faith, and respect. AFGE recently ratified a contract with TSA through a process wholly created by TSA that is different from any other process in the federal government. Despite previous agreements and representations, TSA repeatedly sought to invoke different negotiating rules, including the date on which the contract became effective previously agreed to by both parties. Without consulting or notifying the union, TSA unilaterally issued interim guidance on outstanding sections of the collective bargaining agreement. The interim guidance contains new provisions applicable to AFGE and TSA. TSA should have followed the contract provisions of the first contract until the issues were settled.

Most recently, TSA failed to inform AFGE of the active shooter situation at Fort Lauderdale-Hollywood International Airport during December 2016. AFGE was forced to contact TSA to confirm that TSOs were not among the wounded. TSA also failed to inform AFGE that an application for private screeners under SPP was filed for Atlantic City International Airport. Previously, the late Robert Ball, who served as TSA's Senior Executive for AFGE Relations, would inform AFGE upon the filing of an SPP application. TSA has not named a new Senior Executive to function in this role. This list only includes recent unilateral actions on behalf of TSA inconsistent with previous Determinations, agreements, or past practice and evidence of why Congress should require TSA to follow the same labor-management rules as other federal agencies. Good labor management relations in the federal sector result in a better-functioning workplace and advance of the agency's core mission.

TSOs are in the untenable position of changing workplace policies with each new TSA Administrator. This level of unaccountable authority does nothing to help national security and contributes to the continuing turnover in the TSO workforce. I call on the members of the House Homeland Security Committee and the Senate Commerce, Science and Transportation Committee to not only sponsor, but favorably report out the Rights for Transportation Security Employees Act and the Strengthening American Transportation Security Act.

Fifteen years after the creation of TSA it is unthinkable that our union is still fighting for equality for over 40,000 federal workers. This workforce has not kept us safe because they lack workplace rights and protections. They have done so despite the fundamental rights so important to the effectiveness of government work. Let us commit now to send to President Trump a bill strengthening aviation security through rights for Transportation Security employees.