

**TWENTY YEARS OF WORKFORCE CHALLENGES:
THE NEED FOR H.R. 903, THE RIGHTS FOR
THE TSA WORKFORCE ACT OF 2021**

HEARING
BEFORE THE
**SUBCOMMITTEE ON
TRANSPORTATION AND
MARITIME SECURITY**
OF THE
COMMITTEE ON HOMELAND SECURITY
HOUSE OF REPRESENTATIVES
ONE HUNDRED SEVENTEENTH CONGRESS
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TWENTY YEARS OF WORKFORCE CHALLENGES: THE NEED FOR H.R. 903, THE RIGHTS FOR THE TSA WORKFORCE ACT OF 2021

Tuesday, May 4, 2021

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
SUBCOMMITTEE ON TRANSPORTATION
AND MARITIME SECURITY,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:05 p.m., via Webex, Hon. Bonnie Watson Coleman (Chairwoman of the subcommittee) presiding.

Present: Representatives Watson Coleman, Payne, Titus, Gottheimer, Luria, Gimenez, Van Drew, and Norman.

Mrs. WATSON COLEMAN. The Subcommittee on Transportation and Maritime Security will come to order. Without objection, the Chair is authorized to declare the subcommittee in recess at any point. Thank you to Ranking Member Gimenez and our panel of witnesses for joining us.

Today marks the first hearing for our subcommittee this Congress, and I am excited to be chairing the subcommittee during this Congress, and I look forward to working with my colleagues on both sides of the aisle to tackle the critical security challenges that lay before us.

The challenge that we have gathered here to discuss today is one many of us has grappled with for years. Since TSA's establishment nearly 20 years ago, its work force has lacked the workplace rights and protections afforded to other Federal employees.

Despite the diversity and the dedication of the transportation security officers, or the TSOs, they remain among the lowest-paid workers in the entire Government. We cannot wait any longer to correct this injustice, and I am proud to be an original co-sponsor of Chairman Thompson's H.R. 903, the Rights for the TSA Workforce Act, a common-sense and bipartisan solution to one of TSA's foundational flaws.

In 2001, after the deadly attacks of September 11, Congress passed legislation to create TSA to protect the safety and security of our Nation. However, by excluding the TSA work force from Title 5, that statute has failed to protect the front-line workers who uphold that mission.

H.R. 903 simply applies Title 5 to the TSA work force and ensures TSA employees stand on equal footing to their peers elsewhere in Government.

The contrast between the challenging nature of TSA's work and the unfair treatment of its front-line work force is stark as can be. Every day, TSOs screen millions of passengers and pieces of luggage, securing the public from threats to aviation security.

Behind the scenes, air marshals, TSA inspectors, and other essential workers perform equally critical National security tasks. In doing so, they must deal with unruly passengers, a rapidly-evolving threat landscape, and, in some cases, even gunmen who have specifically targeted TSA personnel.

Instead, basic full-time TSO salaries can start as low as \$29,000 per year, and even after years of dedicated service, the opportunity for advancement can be far more limited than for most Federal employees.

Now over the last year, TSOs have confronted new dangers. Even when faced with the prospect of coming into contact with thousands of traveling passengers each day amid a deadly pandemic, TSOs showed up day after day at great risk to themselves and their families.

To date, 16 TSA employees have tragically lost their lives to COVID-19, and approximately 7,800 personnel have tested positive. Yet unlike other Federal Government employees, TSA employees lack the basic Civil Service protections.

Full collective bargaining rights? Not if you work at the TSA. The ability to appeal disciplinary decisions to a neutral third party? Not if you work at the TSA. Title 5 whistleblower protections, the regularly-scheduled salary increases almost all other Federal workers receive? Again, not at the TSA.

To add insult to injury, TSOs aren't even paid under the Federal Government's normal wage scale, known as the GS scale. As I stated before, basic full-time TSO salaries can start as low as \$29,000 a year, and even after years of dedicated service, the opportunities for advancement can be more limited than for most employees in Federal Government.

I think most Americans would be shocked to learn that the workers charged with protecting the traveling public are living paycheck to paycheck, struggling to pay the rent, sometimes relying on food banks, and denied basic workplace protections.

These disparities come with consequences, and these consequences impact TSA's ability to fulfill its Homeland Security mission.

While their salaries are low, turnover and attrition rate among front-line TSA employees are very high. Each time a TSO quits because of inadequate pay and workplace rights, TSA needs to spend more money recruiting and training a new officer.

According to the Department of Homeland Security, the Office of the Inspector General, in specific, in 2017, TSA spent \$16 million on new hires who left within 6 months. Wouldn't these resources be better spent ensuring that TSOs are compensated and treated fairly in the first place, so they are incentivized to stay and to grow their careers at TSA?

But rectifying these wrongs isn't just about improving retention and morale at TSA. Fundamentally, it is also about equity and fairness. The diversity of its work force is one of TSA's greatest assets. Fifty-five percent of TSA employees come from underrepresented racial and ethnic groups.

This means that when our law singles out TSA workers for disparate treatment, denying them the compensation and the protection that other Federal Government employees receive, people of color bear the burden of that consequence.

When the 2019 Government shutdown occurred, and TSOs were required to show up for work without receiving a paycheck, this extraordinary burden was disproportionately placed on members of marginalized communities.

So instead of maintaining a personnel system that treats TSA workers as second class, we should be exploring ways to help those workers enter the leadership pipeline and diversify DHS as a whole.

Passing H.R. 903 will send a powerful message to the TSA work force that they are anything but second class. They are the front line of our Nation's transportation security. They are essential workers, and their dedication will be rewarded with respect and dignity.

Simply put, H.R. 903 is about workers' rights, civil rights, and enhancing our Nation's security. It is supported by Members of both parties, and its benefits will flow to communities all across our Nation. The TS work force deserves to be treated equally.

I am looking forward to hearing from our witnesses—thank you for being here—who each will bring important and distinct perspectives to this issue.

Finally, before I close, I ask for unanimous consent to insert into the record a letter of support for H.R. 903 from Sara Nelson, who is the international president of the Association of Flight Attendants. Without objection.

[The information follows:]

LETTER FROM THE ASSOCIATION OF FLIGHT ATTENDANTS—CWA, AFL–CIO (AFA)

April 30, 2021.

The Honorable BENNIE THOMPSON,
Chairman, House Homeland Security Committee, 310 Cannon House Office Building, Washington, DC 20515.

DEAR CHAIRMAN THOMPSON: The Association of Flight Attendants—CWA, AFL–CIO (AFA) represents 50,000 flight attendants across the industry. We offer our strong support for H.R. 903, the Rights for Transportation Security Administration (TSA) Workforce Act of 2021.

Twenty years ago, when TSA was created, Congress wrongfully excluded TSA agents from basic rights and protections afforded to most Federal employees. The result has been a shameful separate and unequal system of low pay and inadequate protections for this critical group of public safety employees.

During the pandemic, 7,787 TSA employees have contracted COVID–19 and 16 have lost their lives to the virus.¹ Under the previous Administration, many TSA agents were forced daily into close proximity with hundreds, even thousands, of maskless passengers. Ignoring the advice and guidance of Federal health agencies and public health leaders, TSA and the Administration permitted airports to set their own rules for mask-wearing, denied their workers access to Personal Protective Equipment (PPE), and never created a preventative testing system. These constitute a profound and unacceptable failure to address the vulnerabilities of this es-

¹<https://www.tsa.gov/coronavirus>.

sential and frontline workforce. The solution is clear. Congress must extend to TSA personnel the equal protections and representation long-denied under Federal law.

As aviation's first responders, Flight Attendants depend on the professionalism and expertise of the TSA workforce every day. TSA employees need and deserve a strong voice at work to help promote the best conditions for security of air travel. H.R. 903 ensures full collective bargaining rights for Transportation Security Officers (TSOs) to negotiate for better working conditions, puts TSA officers on the General Schedule pay scale, and provides officers with much needed statutory worker protections against unfair labor practices.

Security is very personal for me. I remember airport security prior to September 11, 2001. I remember the faces of the screeners who allowed terrorists to enter Terminal C at Logan and to board Flight 175. I remember the screeners' faces because they were there all the time, 7 days a week, all hours of the day. I remember the sound of their voices, their tired smiles, and the long hours they worked for the lowest bidding security company just so that they could provide for their own families. I often wonder how those security agents have coped with their part in failing to stop the most fatal attack on U.S. soil. Do they understand they were set up to fail?

Twenty years ago, the decision to Federalize airport screening improved aviation security immediately. When AFGE won the largest organizing campaign in the public sector in over 70 years and gave these workers a voice at the agency, our security improved again. My colleagues and I depend on TSOs to keep us safe. We also depend on our union. We know that our union has made flying safer for everyone through constant vigilance, and by giving front-line workers—the people who know the operation—a clear and strong voice in the workplace. Safety and security doesn't just happen; it happens because we demand it of ourselves, demand it of management, and demand it of government.

The unjust decision to exclude TSA from the basic rights and protections of Federal employees has produced a workforce that is among the lowest paid and least secure. While TSA's diversity is a cause for celebration—55 percent of the TSA workforce identifies as a racial or ethnic minority²—this makes their exclusion even more problematic, creating yet another disparate treatment, another barrier to advancement for historically marginalized workers.

We finally note that the drive to win long-denied rights for TSOs aligns with the goals of the newly formed White House Task Force on Worker Organizing and Empowerment.³ The first goal of this landmark Task Force is to “lead by example by ensuring that the Federal Government is a model employer with respect to encouraging worker organizing and collective bargaining among its workforce (emphasis added).”⁴ The moment for action has arrived.

AFA applauds your leadership and support for the aviation workforce and pledges to work alongside you and Members of this committee to secure the basic worker rights and protections long denied to Transportation Security Officers.

Respectfully,

SARA NELSON,
International President.

[The statement of Chairwoman Watson Coleman follows:]

STATEMENT OF CHAIRWOMAN BONNIE WATSON COLEMAN

MAY 4, 2021

Thank you to Ranking Member Gimenez and our panel of witnesses for joining us.

Today marks the first hearing for our subcommittee this Congress. I am excited to be chairing the subcommittee, and I look forward to working with my colleagues on both sides of the aisle to tackle the critical security challenges before us.

The challenge we have gathered to discuss today is one many of us have grappled with for years.

Since TSA's establishment nearly 20 years ago, its work force has lacked the workplace rights and protections afforded to other Federal Government employees. Despite the dedication and diversity of transportation security officers, or TSOs, they remain among the lowest-paid workers in the entire Government.

We cannot wait any longer to correct this injustice.

² <https://federalnewsnetwork.com/workforce/2020/03/dhs-workforce-is-more-diverse-than-most-but-struggles-to-prime-employees-for-leadership-roles/>.

³ <https://www.whitehouse.gov/briefing-room/statements-releases/2021/04/26/fact-sheet-executive-order-establishing-the-white-house-task-force-on-worker-organizing-and-empowerment/>.

⁴ Id.

I am proud to be an original cosponsor of Chairman Thompson's H.R. 903, the Rights for the TSA Workforce Act, a common-sense and bipartisan solution to one of TSA's foundational flaws.

In 2001, after the attacks of September 11, Congress established TSA to protect the safety and security of our Nation. However, by excluding TSA's workforce from Title 5, the statute failed to protect the front-line workers who uphold that mission.

H.R. 903 simply applies Title 5 to the TSA workforce and ensures TSA employees stand on equal footing to their peers elsewhere in Government.

The contrast between the challenging nature of TSA's work and the unfair treatment of its front-line workforce is stark as can be.

Every day, TSOs screen millions of passengers and pieces of luggage, securing the public from threats to aviation security.

Behind the scenes, air marshals, TSA inspectors, and other essential workers perform equally critical National security tasks.

In doing so, they must deal with unruly passengers, a rapidly-evolving threat landscape, and in some cases, even gunmen who have specifically targeted TSA personnel.

Over the past year, TSOs have confronted new dangers. Even when faced with the prospect of coming into contact with thousands of passengers each day amid a deadly pandemic, TSOs showed up day after day at great risk to themselves and their families.

To date, 16 TSA employees have tragically lost their lives to COVID-19, and approximately 7,800 personnel have tested positive.

Yet unlike other Federal Government employees, TSA employees lack basic civil service protections.

Full collective bargaining rights? Not if you work at TSA.

The ability to appeal disciplinary decisions to a neutral third party? Not if you work at TSA.

Title 5 whistleblower protections? The regularly-scheduled salary increases almost all other Federal workers receive? Again, not at TSA.

To add insult to injury, TSOs aren't even paid under the Federal Government's normal wage scale—known as the GS scale.

Instead, basic full-time TSO salaries can start as low as \$29,000¹ per year. Even after years of dedicated service, the opportunities for advancement can be far more limited than for most Federal employees.

I think most Americans would be shocked to learn that the workers charged with protecting the traveling public are living paycheck-to-paycheck, struggling to pay the rent, sometimes relying on food banks, and denied basic workplace protections.

These disparities come with consequences. And those consequences impact TSA's ability to fulfill its homeland security mission.

While their salaries are low, turnover and attrition rates among front-line TSA personnel are high.

Each time a TSO quits because of inadequate pay and workplace rights, TSA then needs to spend money recruiting and training a new officer.

According to the Department of Homeland Security Office of the Inspector General, in 2017 TSA spent \$16 million on new hires who left within 6 months.

Wouldn't these resources be better spent ensuring TSOs are compensated and treated fairly in the first place, so they are incentivized to stay and grow their careers at TSA?

But rectifying these wrongs is not just about improving retention and morale at TSA. Fundamentally, it is also about equity and fairness.

The diversity of its workforce is one of TSA's greatest assets: 55 percent of TSA employees come from underrepresented racial and ethnic groups.

This means that when our laws single out TSA workers for disparate treatment—denying them the compensation and protections other Federal Government employees receive—people of color bear the brunt of the consequences.

When the 2019 Government shutdown occurred and TSOs were required to show up for work without receiving a paycheck, this extraordinary burden was disproportionately placed on members of marginalized communities.

So instead of maintaining a personnel system that treats TSA's workers as "second class," we should be exploring ways to help these workers enter the leadership pipeline and diversify DHS as a whole.

Passing H.R. 903 will send a powerful message to the TSA workforce that they are anything but "second class." They are the front line of our Nation's transportation security. They are essential workers. And their dedication will be rewarded with respect and dignity.

¹ \$28,688.

Simply put, H.R. 903 is about workers' rights, civil rights, and enhancing our Nation's security. It is supported by Members of both parties and its benefits will flow to communities all across our Nation. The TSA workforce deserves to be treated equally.

I am looking forward to hearing from our witnesses, who each bring important and distinct perspectives to this issue. And with that, I recognize Ranking Member Gimenez for his opening statement.

Mrs. WATSON COLEMAN. The Chair now recognizes the Ranking Member of the subcommittee, the gentleman from Florida, for any opening statement.

Mr. GIMENEZ. Thank you, Chairwoman Watson Coleman. I am pleased that the subcommittee is holding this hearing today on the important challenges facing the TSA work force.

Transportation security officers serve on the front line protecting the traveling public from the ever-present threats to our aviation system. Over the past few years, TSOs have dealt with a 35-day Government shutdown, significant volume changes in passenger throughput at airport checkpoints, and the global COVID-19 pandemic.

Over 7,000 TSOs have tested positive for COVID-19 since March of last year, and tragically, we have lost 16 officers to that virus. I thank the TSA work force for their immense dedication to the American people and the traveling public.

I look forward to hearing from the witnesses today to discuss solutions to meet the challenges of low screener morale, recruitment and retention efforts, and pay and promotion opportunities.

I thank Mr. Jeff Neal for his service as chief human capital officer at DHS under the Obama-Biden administration, and in his role of chief of the Blue Ribbon Panel that examined TSA's human capital services delivery. I appreciate him joining us today to discuss the implementation of the panel's recommendations from 2019.

I do have concerns with H.R. 903, the Rights for TSA Workforce Act of 2021. Madam Chairwoman, I ask unanimous consent to enter into the record a Statement of Administration Policy from the 116th Congress on H.R. 1140, the Rights for Transportation Security Officers Act of 2020. Thank you.

[The information follows:]



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

March 2, 2020
(House Rules)

STATEMENT OF ADMINISTRATION POLICY

H.R. 1140 – Rights for Transportation Security Officers Act of 2020 (Rep. Thompson, D-MS and 242 cosponsors)

The Administration strongly opposes H.R. 1140, which would change how Transportation Security Administration (TSA) employees are compensated by making their employment subject to the provisions of title 5 of the U.S. Code. The current personnel system authorized by the Aviation and Transportation Security Act (ATSA) just months after the September 11th attacks provides the flexibility TSA needs so that it can quickly and efficiently adjust its workforce management to respond to emerging threats or national emergencies. It also benefits the workforce, as reflected in the recommendations of the Blue Ribbon Panel, an independent review of TSA's human capital program conducted in FY 2019 by public and private-sector personnel systems experts.

The Administration is grateful for the dedicated service of the workforce of the TSA, which has remained strong and flexible even in the face of evolving challenges. We are committed to providing TSA's employees with competitive compensation and benefits. That goal should be accomplished, however, through the budget, rather than through a statutory reclassification of TSA's workforce. That is why the President's Fiscal Year 2021 Budget proposes annual pay increases for Transportation Security Officers (TSOs). The President's budget proposal allows for predictable pay progression and provides funding for merit-based pay increases for high-performing TSOs. It optimizes existing authorities and properly resources ongoing workforce initiatives. As such, the President's budget better meets the needs of TSA, its workforce, and taxpayers than H.R. 1140.

If H.R. 1140 were presented to the President, his advisors would recommend that he veto the bill.

Mr. GIMENEZ. H.R. 1140 is the precursor to the legislation we are discussing today. The statement of administration policy noted that TSA's current personnel system, authorized by the Aviation and Transportation Security Act, ATSA, just months after the September 11 attacks, provides the flexibility TSA needs so that it can quickly and efficiently adjust its work force management to respond to emergency threats or National emergencies.

I share that viewpoint of the legislation we are discussing today, H.R. 903. When Congress created TSA in November 2001, its goal was to bring in the entrepreneurial spirit of the private sector. Placing TSA into Title 5 would go against Congress' intent and

force employees into an antiquated 20th Century system that really is not designed for the 21st Century National security threats.

TSA has all the flexibility it needs for the work force from ATSA. It just needs to use that flexibility. Administrator Dave Pekoske has stated before Congress that TSA needs to employ its ATSA authority to make TSA an employer of choice.

Our focus today should be to ensure that TSA harnesses the creativity and flexibility that it already has within ATSA to properly fund TSO salaries and create additional promotion and career advancement opportunities.

As the 20th anniversary of the 9/11 terrorist attacks approaches, I thank the men and women at TSA for their hard work and determination over the last 2 decades. I look forward to finding ways to continue to empower the TSA work force and address current challenges within the ATSA framework that Congress designed for TSA.

Thank you, Madam Chairwoman, and I yield the balance of my time.

[The statement of Ranking Member Gimenez follows:]

STATEMENT OF RANKING MEMBER CARLOS GIMENEZ

MAY 4, 2021

Thank you, Chairwoman Watson Coleman. I am pleased the subcommittee is holding this hearing today on the important challenges facing the TSA workforce. Transportation Security Officers (TSOs) serve on the front lines protecting the traveling public from the ever-present threats to our aviation system.

Over the past few years, TSOs have dealt with a 35-day Government shutdown, significant volume changes in passenger throughput at airport checkpoints, and the global COVID-19 pandemic. Over 7,000 TSOs have tested positive for COVID-19 since March of last year, and tragically, we've lost 16 officers to the virus. I thank the TSA workforce for their immense dedication to the American people and the traveling public.

I look forward to hearing from the witnesses today to discuss solutions to meet the challenges of low screener morale, recruitment and retention efforts, and pay and promotion opportunities. I thank Mr. Jeff Neal for his service as chief human capital officer at DHS under the Obama/Biden administration and in his role of chief of the Blue-Ribbon Panel that examined TSA's Human Capital Service Delivery. I appreciate him joining us today to discuss the implementation of the Panel's recommendations from 2019.

I do have concerns with H.R. 903, the Rights for the TSA Workforce Act of 2021. Madame Chairwoman, I ask unanimous consent to enter into the record a Statement of Administration Policy from the 116th Congress on H.R. 1140, the Rights for Transportation Security Officers Act of 2020.

Thank you, Madame Chairwoman. H.R. 1140 is the precursor to the legislation we are discussing today. The Statement of Administration Policy noted that TSA's "current personnel system authorized by the Aviation and Transportation Security Act (ATSA) just months after the September 11 attacks provides the flexibility TSA needs so that it can quickly and efficiently adjust its workforce management to respond to emerging threats or national emergencies". I share that viewpoint of the legislation we're discussing today, H.R. 903.

When Congress created TSA in November 2001, its goal was to bring in the entrepreneurial spirit of the private sector. Placing TSA into Title 5 would go against Congress' intent and force employees into an antiquated 20th Century system that was not designed for 21st Century National security threats. TSA has all the flexibility it needs for the workforce from ATSA; it just needs to use that flexibility. Administrator Dave Pekoske has stated before Congress that TSA needs to "employ its ATSA authorities to make TSA an employer of choice."¹ Our focus today should be to ensure that TSA harnesses the creativity and flexibility that it already has within

¹ TSA Administrator David P. Pekoske testimony to House Appropriations Homeland Security Subcommittee, March 3, 2020.

ATSA to properly fund TSO salaries and create additional promotion and career advancement opportunities.

As the 20th anniversary of the 9/11 terrorist attacks approaches, I thank the men and women at TSA for their hard work and determination over the last 2 decades. I look forward to finding ways to continue to empower the TSA workforce and address current challenges within the ATSA framework that Congress designed for TSA. Thank you, Madame Chairwoman, and I yield back the balance of my time.

Mrs. WATSON COLEMAN. Thank you very much, Mr. Ranking Member. Members are also reminded that the committee will operate according to the guidelines that are laid out by the Chairman and Ranking Member in their February 3 colloquy regarding remote procedures. Member statements may be submitted for the record.

[The statement of Chairman Thompson follows:]

STATEMENT OF CHAIRMAN BENNIE G. THOMPSON

MAY 4, 2021

Good afternoon. I would like to thank Chairwoman Watson Coleman and Ranking Member Gimenez for holding today's hearing examining the state of the TSA workforce.

I would also like to thank our witnesses for appearing today.

TSA is essential to the Nation's homeland security enterprise.

It could not do its critical work without its strongest asset: Its workforce.

For nearly 2 decades, Transportation Security Officers, or TSOs, have screened millions of passengers every day at airport checkpoints.

Unfortunately, after almost 20 years of promises by previous administrations to improve TSA's personnel management system, the TSA workforce still lacks the resources and support it needs to execute its mission successfully.

Despite serving on the front lines of homeland security during the COVID-19 pandemic, TSOs remain among the lowest-paid Federal workers, and they do not receive regular salary raises afforded to most Federal employees.

Under TSA's mismanaged personnel system, employees lack basic civil service protections and benefits Congress codified for most Federal workers many decades ago.

In recent years, TSOs have worked steadily through Government shutdowns, staff shortages, increased passenger volumes and job responsibilities, and now a pandemic—yet their pay has remained stagnant.

According to employee surveys, TSA ranks dead last out of 415 Federal agency subcomponents on employee pay satisfaction.

TSA has used its administrative authority to limit the scope of issues subject to collective bargaining, and TSOs lack the ability to appeal adverse personnel actions to an objective third party like other Federal workers.

As a result of these inequitable conditions, the TSA workforce has extremely low morale and high attrition.

TSA spends millions annually to hire thousands of TSOs, only to replace them with new TSOs soon after.

These issues not only cost taxpayers millions spent on constant recruitment and training, but ultimately they undermine TSA's security mission.

The Trump administration attempted to undermine the TSA workforce through inadequate funding for the agency and threats to end collective bargaining for the 45,000 front-line officers protecting our Nation's transportation system.

I am pleased to see the Biden administration take encouraging steps to address these concerns.

However, more needs to be done to provide full protections to these front-line workers.

Over the last 15 years, with the support of the American Federation of Government Employees and several colleagues, I have introduced and supported numerous measures that would provide TSA employees with a more equitable personnel management system.

With each Congress that passes, our legislative efforts garner increasing support.

Last Congress, I introduced H.R. 1140, the Rights for Transportation Security Officers Act of 2020. The House twice passed the measure with 242 bipartisan cosponsors.

This Congress, several colleagues and I introduced H.R. 903, the Rights for the TSA Workforce Act of 2021—and I am hopeful this will be the Congress we get this effort across the finish line.

This bill would set a path for increased pay and benefits for TSOs, providing access to the same basic personnel system used by most of the Federal Government.

Addressing TSA's workforce challenges in a strategic manner will not only improve front-line workforce morale, but also advance aviation security in the face of evolving threats.

TSOs continue to serve on our front lines, protecting the traveling public during the National pandemic.

To date, over 7,800 TSA employees have tested positive for COVID-19 and tragically at least 16 have died after contracting the virus.

It is high time we do right by them and provide them the same rights afforded to most Federal workers under Title 5.

I strongly urge my colleagues on both sides of the aisle to support my bill, and I look forward to partnering with the Biden administration to find ways to support the TSA workforce administratively while Congress works toward a statutory solution.

Mrs. WATSON COLEMAN. The Chair will now recognize our witnesses. We would like to remind the witnesses that your full statement will become a part of the record. I would ask you to summarize your statement for 5 minutes.

Our first witness is Dr. Everett Kelley, who is the national president of the American Federation of Government Employees, the largest union representing Federal and D.C. employees.

Mr. Kelley has, indeed, had a very prestigious career. He has been a member of AFGE since 1981, serving in various roles, including as national VP and president of Local 1845. He is a veteran of the United States Army and worked at the Anniston Army Depot, which he retired from after 30 years, and he also served as a senior pastor of St. Mary Missionary Baptist Church in Lincoln, Alabama, for 31½ years before retiring in February 2019 and being appointed pastor emeritus.

Mr. Kelley, I think you have a new definition of “retire.”

Second is Ms. Joi Olivia Chaney. She is the executive director of the Washington bureau and senior vice president for policy and advocacy at the National Urban League. Ms. Chaney is a domestic legal policy expert, political strategist, and former chief of staff to Senator Kirsten Gillibrand of New York.

She has served as the director of Equal Pay Today, and as senior policy counsel at Equal Rights Advocates. She held senior roles in the Obama administration where she served as chair of the United States Equal Employment Opportunity Commission.

Mr. Tom Warrick is the director of the future of DHS project and a nonresident senior fellow with the Scowcroft Center for Strategy and Security and the Middle East Programs Group at the Atlantic Council.

Prior to joining the Atlantic Council from August 2008 to June 2019, he was the deputy assistant secretary for counterterrorism policy at the Department of Homeland Security, and a career member of the Senior Executive Service. He was an international lawyer in private practice for 17 years, representing companies in connection with investment in the Middle East and elsewhere.

Finally, Mr. Jeffrey Neal, he is the founder and principal of Chief HRO, LLC. He was previously a senior vice president for ICF. Prior to joining ICF, he worked for the Department of Homeland Secu-

ality as the chief human capital officer under the Obama administration.

Mr. Neal serves as a fellow director and former board chair for the National Academy of the Public Administration, and serves as the strategic adviser to government executives for the Partnership for Public Service.

So without objection, the witnesses' full statements will, indeed, be inserted in the record. I am going to now ask each of the witnesses to summarize his or her statement for 5 minutes, beginning with Dr. Kelley.

**STATEMENT OF EVERETT B. KELLEY, NATIONAL PRESIDENT,
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES**

Mr. KELLEY. Thank you, Chairwoman Watson Coleman, Ranking Member Gimenez, Chairman Thompson, and Members of the committee. On behalf of the more than 41,000 transportation security officers that AFGF represent, I appreciate the opportunity to offer testimony today. AFGF strongly support H.R. 903, the Rights for the TSA Workforce Act, that extend full Title 5 collective bargaining rights and fair pay for the TSO work force.

For 19 years, TSOs have been subject to a separate but unequal personnel system that sets them apart from other Federal employees. They have fewer due process rights than even their fellow TSA employees, let alone their fellow DHS employees.

TSOs are denied the ability to appeal rights. The bosses at TSA, however, have the same rights as other Federal employees. They can do—they can, rather, and do, appeal adverse actions not only to the MSPB, but also to the U.S. Court of Appeals. Thus, no one can say that TSA cannot function if its employees have full legal protection.

Justice demands that TSOs have the same protection as the TSA employees who supervise them. TSA management has taken full advantage of this separate system to foster a toxic work environment. Fear and intimidation are the basis of everyday management, and there is little the work force can do to hold them accountable.

To this abuse work environment, the issue of low pay comes. Even some who have opposed providing due process rights to TSOs have acknowledged that their pay is far too low. An average screener starts at about \$35,000 per year, and since most live in large metropolitan areas, it is not a living wage.

H.R. 903 will place the TSA work force on the GS pay scale, the pay system that virtually everyone else at DHS and throughout the Federal Government and work force have. Many people try to delegitimize the GS locality system by calling it antiquated or inflexible.

Some TSA managers have tried to turn TSOs against the GS system. They falsely assert pay is better under the current TSO system, and at the same time, GS pay costs too much. This is contradictory. The truth is that it takes 18 years to advance to the top step in the GS system. Meanwhile, it takes 30 years to advance through a TSA pay band.

I had hoped to provide videos from TSOs sharing their stories, but the toxic work environment that they endure posed too much of a risk of retaliation, so I will do my best to share their stories.

Worker M has worked as a TSO in Pennsylvania for 9 years. She and her husband both work full-time. They can barely make ends meet. She is first to volunteer for extra shifts, often working 14 hours at a time, and giving up most of her days off. Fair pay would mean more time with her small children.

Worker J works in the Washington area for 5 years, and now fighting for, you know, back pay for reinstatement. He returned from surgery that was not related to his vision, but was told that he had to take a color vision test. His supervisor told him he failed the test, but would not provide him the results. He took a second test, and was told he didn't pass and would not be fit for duty.

He went on to his own private optometrist, passed a color vision test. He used the results to appeal his removal. The in-house professional responsibility appeal board recommends reinstatement and back pay, and still, yet, TSA says that he is not fit for duty. If he could appeal to MSPB, this would not be allowed.

Worker S works in New York for almost 2 years. She endured terrible harassment from her supervisor and her manager. The manager often made her uncomfortable, telling her to close his door behind and making reference to the size of his anatomy. The supervisor intimidated her with constant threats to write her up, even declining to inform her of a new COVID-related standard operating procedure, and instead telling others to hang back and watch her do it wrong, just to make her the butt of a joke. Now she is fighting to get her job back.

These are not isolated occurrences. They happen every single day in hundreds of airports. TSA has allowed a management culture of harassment, fear, and intimidation to run rampant. There is no legal path to pursue, and reporting bad managers end in isolation and retaliation.

My brothers and sisters at TSA work every day to protect the flying public. We say the aviation security provided by the screening work force is essential for Homeland Security, but for too long, TSA has tried to do it on the cheap, if I may say.

Members of this committee, this must end. I urge you to advance H.R. 903 to the full House and support Homeland Security in our skies the best way you can by voting for this legislation. Thank you for your time. I appreciate the opportunity to be here.

[The prepared statement of Mr. Kelley follows:]

PREPARED STATEMENT OF EVERETT B. KELLEY

MAY 4, 2021

Chairwoman Watson Coleman, Ranking Member Gimenez, Committee Chairman Thompson, and Members of the Homeland Security Committee: My name is Everett B. Kelley, and I am the national president of the American Federation of Government Employees, AFL-CIO (AFGE). On behalf of over 700,000 Federal workers represented by our union, including over 41,000 transportation security officers (TSOs), I appreciate the opportunity to offer testimony at today's hearing before the Subcommittee on Transportation and Maritime Security of the Committee on Homeland Security, "Twenty Years of Workforce Challenges: The Need for H.R. 903, the Rights for the TSA Workforce Act of 2021". The title of this hearing does not evoke nostalgia. Instead, please let it be a sounding call to action because the TSOs we represent have experienced continual mistreatment, fewer rights, and lower pay than

their fellow Federal employees as a result of the way the Transportation Security Administration (TSA) was authorized. I am here today to reinforce this message: Granting TSOs the same, full rights under title 5 of the U.S. Code as other Federal employees would directly improve the ability of TSA to provide the flying public the highest level of aviation security.

I thank the many Members of Congress on both sides of the aisle who stood with TSOs and voted for legislation in the 116th Congress to ensure that TSOs have title 5 collective bargaining rights, full due process rights, and fair pay. Unfortunately, the legislation was not considered in the Senate last year and we thank Chairman Thompson for reintroducing the bill in this Congress. AFGE fully supports H.R. 903, the “Rights for the TSA Workforce Act of 2021” and is working toward its enactment.

TSOs’ lack of statutory rights is rooted in a combination of 2 things: First, a desire by the Government to provide aviation security on the cheap; and second, a pernicious belief that worker rights are somehow contrary to homeland security. TSA apparently bases its personnel policies on both notions even though each is demonstrably false, and each has made it more difficult for the agency to provide security to the flying public. Above all else, TSA desperately clings to its authority under § 111(d) of the Aviation and Transportation Security Act (ATSA) (Pub. L. 107–71).

The footnote reads as follows:

“Notwithstanding any other provision of law, the Under Secretary of Transportation for Security may employ, appoint, discipline, terminate, and fix the compensation, terms, and conditions of employment of Federal Service for such a number of individuals as the Under Secretary determines to be necessary to carry out the screening functions of the Under Secretary under Section 44901 of Title 49, United States Code,” (49 U.S.C. § 44935 Note).

The footnote has been interpreted by courts and administrative proceedings as granting TSA almost unreviewable authority over TSO employment rights. AFGE was the first union to file judicial challenges to this interpretation beginning in 2003 and has continued to do so ever since. Congress has never before or since granted any other agency head this level of authority over a group of employees, and for good reason.

In the past, AFGE submitted testimony to Congress describing TSA working conditions as “separate and unequal.” TSA implemented 2 personnel systems: One created solely for TSOs and one for all other TSA employees, managers included, based largely on the Federal Aviation Administration (FAA) personnel system that applies most of Title 5 of the U.S. Code.

Over 41,000 TSOs are denied the ability to appeal adverse personnel decisions to an objective, outside body like the Merit Systems Protection Board (MSPB) or through negotiated grievance procedures. In contrast, like most Federal workers, TSA managers can appeal adverse personnel decisions (including removals) not only to the MSPB but also to the U.S. Court of Appeals. TSOs are subject to a cumulative disciplinary system unlike the progressive disciplinary system applied across other Federal agencies, including other Department of Homeland Security (DHS) components. For too long, the TSO workforce has performed their jobs effectively, efficiently, and with a professional demeanor, all the while under duress largely at the hands of TSA management and its inconsistent application of both discipline and reward.

The Federal Aviation Administration (FAA) reauthorization in the 115th Congress (H.R. 302) included Section 1907, Personnel Management System Review directing: “the Administrator shall convene a working group consisting of representatives of the TSA and representatives of the labor organization representing security screening personnel to recommend reforms to the TSA’s personnel management system, including appeals to the Merit Systems Protection Board and grievance procedures.” TSA met the minimum requirements to meet but was unwilling to conduct any meaningful discussion of a route to MSPB and did not adopt meaningful changes to grievance or discipline procedures.

The events of the past 3 years put into clear focus the dire need for legislation to protect TSOs’ basic rights at work and even their lives. Not only did TSOs work without pay throughout the 2018–2019 Government shutdown; a year later, as many were still struggling to get back on their feet financially, they were hit swiftly and pervasively by the COVID–19 pandemic.

COVID–19 PANDEMIC

Every action taken by TSA to protect the workforce during the pandemic has been a hard-fought struggle between management and TSOs. Early in the pandemic, su-

supervisors pushed back when TSOs requested to wear masks and face shields and were slow to develop safety protocols. When masks and face shields were permitted, TSOs had to supply them themselves. Later, TSA managers were quick to discipline TSOs who didn't comply with those same personal protective equipment (PPE) requirements. Leave policies were developed, but unevenly applied; while TSOs in one airport may have been granted weather and safety leave after close exposure to officers who developed COVID-19, TSOs in another airport were disciplined, considered absent without leave for taking leave under the same circumstances.

Make no mistake—the uncertain and unequal application of leave and illness policies throughout the pandemic is only the most recent but surely the most egregious evidence this agency must no longer administer its own separate and unequal personnel management system.

To date, TSA has reported more than 7,700 cases of COVID among its employees, almost entirely in the screening workforce, including 16 deaths. TSA could not have prevented all of the COVID-19 cases, but it could have taken faster action to protect its workforce. For months, TSA Administrator David Pekoske refused to require that passengers and other members of the public wear masks to go through security checkpoints.

To make matters harder on part-time TSOs, hours were cut to only 20 hours per week rather than 25–30 hours and until the Chairman of this committee insisted, TSA had stopped providing new part-time employees hired after October 2019 the full Government share of their health care premium. The simple truth is rights at work are not a luxury or a benefit, but absolutely essential when employers have the power to make life and death decisions about workers' safety.

TSA PERSONNEL POLICIES

TSA's application of its authority granted by the ATSA footnote has created a personnel system that repeatedly leads to dismal workplace satisfaction rankings. We know from the results of the most recent "Best Places to Work in the Federal Government" survey that TSA employees failed to rank the agency above the lowest quartile (25 percent) in any category with the exception of training. In addition to TSA coming in dead last on satisfaction with pay, TSA employees provided remarkably low scores on the fairness of leadership, matching employee skills to the mission, performance-based rewards and advancement, and teamwork and innovation. The low marks of this survey correlate with concerns AFGE has raised for the past 19 years.

Nineteen years of TSA running its own personnel management system has devolved into a toxic work environment where supervisors and managers foster a culture based on bullying, intimidation, and fear. TSOs work under the constant threat of being written up, of being disciplined unfairly and inconsistently, and never feeling respected. TSOs who file complaints, formally or informally, are punished and alienated. Their coworkers look the other way because they fear they will be next. Under this culture, there is no path to report harassment, mistreatment, or even unsafe working conditions. There is no meaningful way to appeal the actions of managers.

PAY

I began this testimony by noting that TSA cannot provide aviation security on the cheap. Because TSA has abused its authority under the ATSA footnote, and used it to shortchange its employees, the agency has actually made it harder to recruit and retain the career, professional workforce the public demanded following the terrible events of 9/11. TSA administrators have continued to disappoint the TSO workforce by failing to request additional funding from appropriators for a meaningful pay increase for long-term TSOs. Federal Security Directors (FSDs) have used public resources to communicate agency views intended to turn the TSO workforce against the General Schedule (GS) locality pay system and suggest pay is better under the current TSO-specific system, yet they tell Congress they can't migrate to the GS locality system because they don't have enough funding to do so. It cannot be simultaneously too expensive to provide fair pay and disadvantageous for the workers to provide fair pay. TSA management cannot have it both ways.

The average starting salary for TSOs is about \$35,000, just under \$17 an hour. A newly-hired TSO begins in the D pay band and is required to complete a 2-year probationary period during which time they can be disciplined or terminated for any reason without due process. At the completion of probation, TSOs automatically receive the E pay band in addition to any Employee Cost Index (ECI), an annually-recommended Federal civilian employee pay increase. The majority of TSOs are then stuck at the E pay band for their entire career. In the event a TSO can secure

a promotion to a Lead TSO, they go up a half step to an E2 and a very few will advance to a one full level to the F pay-band. But the outlook from there is grim. TSA eliminated the ability of bargaining unit employees to be promoted to a G pay band position in 2017.

If TSOs score high enough on the Transportation Officer Pay System, or TOPS evaluation, they may be eligible for a one-time bonus or a slight increase in salary at the subjective discretion of their manager. The TOPS “payout”—a combination of a percentage pay raise and bonus depending on evaluations and other factors—varies from year to year subject to the administrator’s instructions. Last year, the TOPs award for the highest rating of 5—achieved excellence or 4—exceeds expectations was a 1-percent pay increase. If you scored a 3—achieved expectations, you received no pay increase. These inconsistent and miniscule performance-based increases, particularly when they are not combined with a time-in-grade increase, do very little to retain or reward the front-line aviation security workforce that protects us around the clock. TSA recently layered in a Model Officer Program that recognizes only the top 5 percent of the entire screening workforce, noting that any associated pay is subject to availability of funds. In its guidelines it advises: “Model Officer Recognition is granted at management’s discretion. Meeting the minimum criteria does not guarantee or create an entitlement to a Model Officer Monetary/Non-Monetary Award and/or a Model Officer Pay Increase.” Under this guidance, a TSO has no means of knowing whether meeting the requirements will mean anything. So the question arises: What is the point of this program?

Any bonuses a TSO may earn under TOPS are not included in TSO base salaries and are not part of the calculation for their retirement under Federal Employee Retirement System. TSOs’ lack of opportunity for salary increases today has long-term financial consequences—less retirement income later in life. By contrast, most Federal workers have been compensated under the GS locality pay system, which has been reformed and updated many times since its inception in 1949. The GS locality pay system includes step increases at various intervals to employees with satisfactory performance. When there is not a pay freeze, they also receive annual salary adjustments that include a Nation-wide and locality component. These pay adjustments are based on objective market data from the Bureau of Labor Statistics and mirror the size and direction of salaries in the private sector and State and local government. The GS pay system is notable for the absence of pay discrimination; people in the same job with the same level of performance receive the same salaries regardless of race, gender, age or other attributes unrelated to the job they do for the American people.

Administrator Pekoske has advertised the Career Progression Program as a career path for TSOs that will both improve retention as TSOs move up the ladder and a means to improve pay. AFGE appreciates Administrator Pekoske’s intentions, but the Career Progression Program, which TSA did not negotiate over with the Union, does not meet those goals. The Career Progression Program only assists new-hires in receiving pay increases to an E-band level more quickly than before but does absolutely nothing for long-term employees.

When AFGE testified before this committee about the need for title 5 collective bargaining rights and the GS pay scale 2 years ago, it was on the heels of the release of 2 reports: The March 29, 2019 DHS Office of Inspector General Report (OIG), *TSA Needs to Improve Efforts to Hire, Retain, and Train Its Transportation Security Officers* and a May 2019 Blue Ribbon Panel report TSA commissioned a private company to conduct, “Human Capital Service Delivery Evaluation.” Both reports acknowledged the high turnover and low pay TSOs face, noting that TSOs are paid only a third of what Management, Administration, and Professional (MAP) pay is at TSA. The Blue Ribbon panel wrongly concluded that TSA should not utilize the GS pay system. It acknowledged that under the GS system, it takes a full 18 years to reach step 10 in a pay grade without recognizing that in TSA’s pay band system, it takes 30 years to reach the top of the pay band, essentially the length of a full career.

The DHS OIG report recommended additional funding is needed to fill program positions. TSA has also promoted a new On the Job Trainers (OJTs) program as a way for officers to receive extra incentive pay but these opportunities are very limited and do not change an officer’s salary. Federal Security Directors (FSDs) and other management officials determine how many OJTs they need depending on operational need and they decide who gets to be an OJT.

Many airports are located near major metropolitan areas with high costs of living. Many TSOs cannot afford to rent a 2-bedroom apartment or purchase a car on their salaries. At airports such as San Jose International in Silicon Valley, TSA has offered TSOs recruitment and retention bonuses to maintain its workforce. At the Seattle-Tacoma International Airport, TSA was required to raise TSO pay in response

to the city's implementation of a minimum wage increase to \$15 per hour, or about \$31,000 per year. TSA currently identifies 89 TSO essential job functions in its current TSO medical guidelines and has established rigorous standards for employment. TSOs often seek employment at other Federal agencies. The advantages of seeking employment with another Federal agency are substantial for a TSO: A likely significant pay increase, clear and achievable career progressions, full civil service rights under Title 5, and the ability to maintain their commitment to public service. TSA is investing money to hire, train, and employ an officer only to see them leave for higher-paying private employment or go to another Federal agency covered by the GS pay system.

Finally, it is important to note that high-ranking TSA officials are paid under the Title 5 guidelines for the Senior Executive Service and the agency has sought special discretion to increase the pay of upper management. The 100 highest-paid TSA employees all earn over \$175,000 annually. By pointing out the disparity in pay between TSOs and the top brass at the agency we make no assumption that the executive pay is unearned. AFGE does find it highly inappropriate that the pay disparity between TSA management and TSOs is comparable to the pay difference of Walmart store managers and salesclerks.

TSO RETENTION ISSUES AND STAFFING

The findings of the DHS OIG report 2 years ago confirmed AFGE's warnings that TSA has become a revolving door for the TSO workforce at many airports. The trend continues and it is even clearer that TSA's personnel policies are directly linked to retention problems. Throughout 2020 as the COVID-19 pandemic raged and travel declined precipitously, TSA allowed the TSO workforce to drop from about 46,000 to fewer than 41,000 officers. With travel resuming, TSA is again hiring. As a cautionary note during this time of hiring and training, AFGE has observed that although TSOs at checkpoints are not OJTs, they assist the many newly-hired TSOs as they learn their duties and have noted that many appear ill-prepared.

TSO schedules at some airports are constantly manipulated to meet airline arrivals and departures. As a result, TSOs have little stability in their schedules. Women TSOs have even less flexibility because they make up a smaller portion of the workforce but must be available on every shift and every checkpoint for pat-downs. Because there is little room in TSA's staffing decisions, at some airports nursing mothers report managers expect them to express breast milk only at specific designated times and are refused breaks as needed. Non-private expressing areas are often too far away for the time allotted. Other TSOs have reported denial of bathroom breaks resulting in unnecessary and demeaning accidents.

MANY TSOS PERCEIVE TSA TO BE A HOSTILE WORK ENVIRONMENT

The results of the DHS OIG report on TSA recruitment and retention of its TSO workforce matched AFGE's Freedom of Information Act (FOIA) data which revealed that over a 10-year period between 2008 and 2018, TSA replaced its approximate 44,000 workforce. TSO duties are not easy. The initial responsibility for the safety of the flying public is assigned to TSOs screening passengers and baggage. Dealing with passengers can be stressful and physically taxing, however, AFGE represents thousands of Federal employees with stressful and taxing positions. The difference is that Federal employees outside of TSA represented by AFGE do not work under the smothering cloak of unfairness described by their TSO brothers and sisters.

Under TSA's interpretation of ATSA, the agency makes and breaks the rules of employment. As noted above, TSA reinvents pay standards annually. Airport checkpoints are often the fiefdoms of TSA management, reducing the likelihood of consistency between checkpoints or baggage screening areas. All levels of TSA management exercise extensive discretion in supervision and discipline of TSOs. Much of it is subjective and has devolved into a culture of harassment and intimidation that can only end with a permanent end to the separate and unequal personnel management system.

Below are some of the situations described by TSOs in the daily performance of their duties.

Male TSO, Washington State

J has been a TSO for over 5 years. When he returned from surgery unrelated to vision last June he was told to take a color vision test. He was told he failed the test, but not provided the results. He was sent for a second test at a chain optometry store. He was told he failed that too, but TSA refused to provide the results of either test. He was stunned because in the past he had worked in color analysis for a makeup company. He went to his own optometrist and to another location of

the chain optometry store. He passed both tests and took them to his employer. He has taken multiple bag screening tests since then and has passed with 90 percent but was still proposed for removal. He appealed and to date, neither he nor the in-house Office of Professional Responsibility Appeals Board has received the color vision test results. He was told he would be reinstated but has again been told he is not medically fit for duty. Under MSPB, his reinstatement would not have been arbitrarily denied by the agency.

Female TSO, New York

S worked at TSA for almost 2 years. During that time, she endured harassment from her manager—this included reference to anatomy size and uncomfortable requests to close the door to his office. She was also subjected to repeated intimidation by her supervisor. Rather than providing instruction on a new COVID-related standard operating procedure, the supervisor set her up so others could watch her fail and made it a joke. When a passenger complained about communication with her, the on-site supervisor asserted the situation did not happen, but she still got written up by a supervisor who didn't see it. Her supervisor engaged in a frequent barrage of threats to "write her up." When she turned to coworkers to corroborate what they witnessed they said they wouldn't back her up because of fear for their own jobs. There is no recourse, no accountability.

Female TSO, Pennsylvania

M has been a TSO for almost 9 years. She works full-time and as does her husband, but they have 2 children under 6 in daycare, and she still has \$30,000 in student loans from college. She is the first to volunteer to pick up every extra shift she can get, often working 7 o'clock AM to 9:30 PM or 11 o'clock AM to midnight and giving up most of her days off. Because of the low pay, she has sacrificed work-life balance and time with her family and says they barely make ends meet.

Female TSO, Maine

N received an "employee of the month" designation 10 months into her first year of service. Her Mid-Year performance appraisal rated her "Exceeded Expectations in all Competencies and Goals" a few months later. One week after that excellent appraisal, she informed TSA that she was pregnant. Over the next several weeks, she experienced troubles with her pregnancy and used accrued sick leave, receiving TSA Management's approval of each and every one of her sick leave requests. Three months later, she was fired and has a pending EEOC suit. This was an excellent employee who loved her job.

Female TSO, Arizona

J, a TSO for 8 years, was summoned for a random breath blood alcohol test. She had not been consuming alcohol and had no reason to be concerned with the test. However, she had trouble with the equipment and the ability to blow sufficient air into the machine. She was terminated because it was determined she had no medical reason to provide an insufficient sample. She was never given due process to prove she has never reported for work impaired by alcohol and was not impaired at the time of the random test. She appealed a denial of unemployment benefit claims and won that appeal because the State found that the employer did not meet the burden of proof that she was disqualified for misconduct.

These and other responses from across the country were strikingly similar in their details: Unfair treatment, no remedy when reported to management, and almost certain retaliation.

Unwarranted disciplinary actions against TSOs present an opportunity for badly-trained and poorly-managed supervisors to victimize TSOs. In 2018, TSA modified their table of penalties for the TSO workforce based on a fundamental misunderstanding of the concept of progressive discipline. Progressive discipline provides increased penalties for particular types of conduct. Under TSA's version of progressive discipline, for example, a tardy will count as the first offense, an unrelated uniform violation as a second offense that includes a more severe disciplinary action which could lead to a proposed removal even though a tardy and a uniform violation are completely different forms of misconduct. There is little incentive to the employee to improve behavior or misconduct.

Each disciplinary action remains in the TSO's personnel files for 2 years. The mandatory 2-year presence of a previous disciplinary action in a personnel file negatively affects almost anything a TSO attempts to do at the agency. TSOs with disciplinary actions in their personnel files cannot transfer to another airport and face disqualification from the Career Progression program. Any corrective action, discipline, or sick leave restriction during the 12 months prior or during the OJT as-

signment is a disqualification and eliminates a large score of employees from receiving the highest TOPS rating.

The unrelentingly harsh disciplinary policies of TSA do not create a work environment that fosters workforce performance growth and improvement. A disciplinary action grinds a TSO's forward progress to a halt for at least 2 years. It is difficult for TSOs to clear their record without the right to appeal adverse personnel actions to the MSPB or a negotiated grievance and arbitration process.

THE FUTURE OF U.S. AVIATION SECURITY

Nineteen years ago, TSOs organized the first AFGE TSA local indicating a clear preference for union representation. They stood up for the union without statutory protections of their right to organize. AFGE is committed to the fight for full civil service rights and protections for the TSO workforce. Low pay, stressful duties, and a sense of unfairness create a trifecta for low morale and hopelessness that impedes the ability of TSOs to boldly serve as the front line of U.S. aviation security.

TSOs have stepped up and reported for duty through the lengthy Government shutdown and the COVID-19 pandemic. Many have dedicated themselves to this career protecting the traveling public and now they are hoping their dedication will be met with respect, basic rights, and fair pay.

We appreciate the continued advocacy of Chairman Thompson and Chairwoman Watson Coleman in support of title 5 rights for the TSO workforce. Their legislation, H.R. 903, the "Rights for the TSA Workforce Act of 2021," has well over 150 co-sponsors in the House. When enacted into law this legislation will provide permanence and predictability of the statutory rights and protections of title 5 of the U.S. Code, the fairness of negotiated grievance and arbitration provisions, and MSPB appeal rights lacking in the work lives of the TSO workforce.

Thank you for holding this hearing and for the opportunity to speak on behalf of the TSO workforce represented by AFGE. I am prepared to answer any questions the subcommittee may have.

Mrs. WATSON COLEMAN. Thank you, Mr. Kelley. Thank you for your testimony.

I now recognize Ms. Chaney to summarize her statement for 5 minutes.

STATEMENT OF JOI CHANEY, SENIOR VICE PRESIDENT FOR POLICY AND ADVOCACY AND EXECUTIVE DIRECTOR, WASHINGTON BUREAU, NATIONAL URBAN LEAGUE

Ms. CHANEY. Thank you, Chairwoman Watson Coleman, Ranking Member Gimenez, Committee Chairman Thompson, and Members of the subcommittee. Thank you for the opportunity to testify today.

My name is Joi Chaney, and I serve as senior vice president of policy and advocacy and executive director of the Washington Bureau for the National Urban League. I bring you greetings on behalf of Marc Morial, our president and CEO.

Before I continue, I must correct the record that I was not chair of the EEOC. I worked for the chair of the EEOC, and I loved every minute of it, as I do my current job.

The National Urban League is a historic civil rights organization dedicated to providing economic empowerment, educational opportunities, and the guarantee of civil rights for the underserved in America.

Of the Nation's 10 busiest airports, the Urban League has an affiliate in 9 and a presence in all 10 cities. I appreciate the opportunity to share the Urban League's perspectives on the need for the rights for the Transportation Security Administration Workforce Act of 2021.

If this is signed into law, TSA jobs will have the potential to offer pathways to stable employment with benefits, and a pathway to

the middle class in urban and rural communities across this Nation. Thus, it is vital that TSA workers are protected in the workplace and compensated fairly.

The TSA work force is diverse and reflects the communities they serve. Nation-wide, 55 percent of the 60,000 workers at the TSA are people of color. Black Americans make up about 11 percent of the overall population, but nearly triple that of transportation screeners.

Latino and Asian Americans also make up a larger share of the transportation security work force than their share of the U.S. population. Within the Department of Homeland Security, TSA workers of color have a higher concentration at TSA than they do at DHS overall.

The TSA also employs a higher concentration of women workers than DHS broadly. To put it plainly, the TSA is driving the diversity and inclusion in our country's Homeland Security work force, and, yet, transportation security workers are not afforded the protections and the benefits of their counterparts elsewhere in the Department of Homeland Security or the Federal Government at large. It makes you wonder.

The hard-working officers of TSA screen more than 2 million passengers each day at nearly 440 airports Nation-wide. Transportation security officers, or TSOs, are front-line workers who show up to keep our country safe through Government shutdowns, when they are not being paid, and through the pandemic, when their own health is at risk. Yet, they lack the rights and protections afforded their peers in the Federal Government under Title 5 of the U.S. Code.

TSA screeners do not have the same protections to collectively bargain. Their pay scale lags behind that of other agencies in the Government, and they are missing out on Family and Medical Leave Act protections available elsewhere in the Government.

Potential whistleblowers in the TSA are not protected. Without access to an objective outside body like the Merit Systems Protection Board, or a negotiated grievance procedure, TSA officers are denied the ability to appeal adverse personnel decisions in the same way as other Federal employees.

Unlike the progressive disciplinary system applied across other Federal agencies, including other DHS security components, TSOs are subject to a cumulative disciplinary system.

In addition to these disparities in statutory protections, the TSA ranked the lowest out of all Federal agencies in employee satisfaction with pay. TSA employees scored their employer poorly on the fairness of leadership, matching employee skills to the mission, performance-based awards and advancement, and teamwork and innovation.

This is no way to treat anyone, certainly not a work force that reflects the diversity of this Nation, or one that places itself at risk daily on our behalf.

As we know, people of color and women face unfair barriers to pay equity and workplace protections. One cause of this disparity is that people of color and women are often overrepresented in lower-paying professions that yield fewer benefits and fewer protections.

So, removing barriers to success and increasing protections to match those of other Federal workers, including those in management at TSA, is absolutely a matter of equity that is overdue and should be addressed once and for all.

TSOs should have the same fair pay, union rights, and treatment as other Federal workers. The Rights for the Transportation Security Administration Workforce Act of 2021 would codify these rights, and give long overdue workplace protections to TSO officers.

The Urban League supports this effort, and thanks you for your focus on the issue, as well as TSA officials and workers. Thank you and let me know if you have any questions.

[The prepared statement of Ms. Chaney follows:]

PREPARED STATEMENT OF JOI CHANEY

MAY 4, 2021

Chair Watson Coleman, Ranking Member Gimenez, Committee Chairman Thompson, and Members of the Subcommittee on Transportation and Maritime Security, thank you for the opportunity to testify today. My name is Joi Chaney, and I serve as senior vice president of policy and advocacy and executive director of the Washington bureau for the National Urban League. I bring you greetings on behalf of Marc Morial, our president and CEO, who could not be with us today but who supports this testimony and applauds the committee in its work.

The National Urban League is an historic civil rights organization dedicated to providing economic empowerment, educational opportunities and the guarantee of civil rights for the underserved in America. Founded in 1910 and headquartered in New York City, the National Urban League has 90 affiliates serving 300 communities in 36 States and the District of Columbia, providing direct services that impact and improve the lives of more than 2 million people Nation-wide.

Of the Nation's 10 busiest airports, the Urban League has an affiliate in 9 and a presence in all 10.¹ One of those cities is Orlando, FL, where I was born and raised. I also spent several years in the Office of the Chair at the U.S. Equal Employment Opportunity Commission during the Obama administration and have dedicated much of my career to promoting equity in employment for women and persons of color.

I appreciate the opportunity to share the Urban League's perspective on the need for the Rights for the Transportation Security Administration Workforce Act of 2021. Ensuring that transportation security officers—whose service helps keep us safe and our economy moving—receive the same rights and protections as other Federal workers is important to the mission of the Urban League and my personal mission. Transportation Security Administration (TSA) jobs have the potential to offer pathways to stable employment with benefits and the middle class in urban and rural communities across this Nation. Thus, it is vital that TSA workers deserve to be protected in the workplace and compensated fairly.

What Members of the subcommittee have likely noticed while flying to and from your home districts, including this week, is that the TSA workforce is diverse and reflects the communities they serve. For the most part, these are not jobs that can be outsourced. They are your constituents. Nation-wide, 55 percent of the 60,000 workers at the Transportation Security Administration are people of color. Black Americans make up about 11 percent of the overall population but nearly triple that (32.7 percent) of transportation screeners.² Latino and Asian Americans also make up a larger share of the transportation security workforce than their share of the U.S. population. Within the Department of Homeland Security (DHS), the Transportation Security Administration makes up a quarter of the workforce and workers of color make up about 45 percent of all employees, so TSA's workers of color have a higher concentration at TSA than they do at DHS overall.³

The Transportation Security Administration also employs a higher concentration of women workers than DHS broadly.⁴ Across the Department of Homeland Secu-

¹ <https://www.statista.com/statistics/185679/passengers-boarded-at-the-leading-25-us-airports/>.

² <https://datausa.io/profile/soc/transportation-security-screeners#-demographics>.

³ <https://www.fedscope.opm.gov/>.

⁴ https://www.tsa.gov/sites/default/files/resources/tsaatglance_factsheet.pdf.

ity, only 30 percent of employees are women.⁵ At the Transportation Security Administration, women make up over 41 percent of employees.⁶

To put it plainly, the Transportation Security Administration is driving the diversity and inclusion of people of color and women in our country's homeland security workforce. And yet, transportation security workers are not afforded the protections and benefits of their counterparts elsewhere in the Department of Homeland Security or the Federal Government at large.

As President Biden noted in his Joint Address to Congress last week, people of color and women face unfair barriers to pay equity and workplace protections. Due to historic injustices such as slavery, segregation, redlining, unequal access to Government programs, and on-going institutionalized and systematic discrimination, Black men on average make 87 cents on a White man's dollar. Black women face an even larger pay gap on average, making only 63 cents for every dollar earned by a White man. At the same time, 80 percent of Black mothers are the sole, co-breadwinners or primary breadwinners for their households.⁷ These trends track for the Latino community as well. One cause of this disparity is that people of color are often overrepresented in lower-paying professions that yield fewer benefits and fewer protections. So, removing barriers to success and increasing protections to match those of other Federal workers in the Transportation Security Administration, which employs a higher proportion of people of color and a higher proportion of women than the Department of Homeland Security overall, is absolutely a matter of equity that should be addressed urgently.

The hard-working officers of TSA screen more than 2 million passengers each day at nearly 440 airports Nation-wide. Transportation security officers (TSOs) are front-line workers who show up to keep our country safe through Government shutdowns when they are not being paid and during the COVID-19 pandemic when their own health is at risk. Since the novel coronavirus hit our shores, over 7,810 TSA employees have contracted the virus.⁸ At least 16 have died as a result. But these dedicated Federal workers continue to clock in and perform their duties in service to their country and communities.

Despite the importance of their role and the professionalism with which they continue to bring to their work, transportation security officers face inequities compared to other Federal employees. They lack the rights and protections afforded to their peers in the Federal Government under Title 5 of the U.S. Code. TSA screeners do not have the same protections to collectively bargain. Their pay scale lags behind that of other agencies in the Government and they are missing out on the Family and Medical Leave Act protections available elsewhere in the Government. Potential whistleblowers in the Transportation Security Administration are not protected. Without access to an objective outside body like the Merit Systems Protection Board (MSPB) or negotiated grievance procedures, transportation security officers are denied the ability to appeal adverse personnel decisions in the same way as other Federal employees. And unlike the progressive disciplinary system applied across other Federal agencies, including other Department of Homeland Security components, transportation security officers are subject to a cumulative disciplinary system.

In addition to these disparities in statutory protections, results from the "Best Places to Work in the Federal Government" survey⁹ consistently show that TSA employees rank the Transportation Security Administration in the lowest quartile (25 percent) in all categories except training. In addition to the Transportation Security Administration being ranked the lowest out of all Federal agencies in employee satisfaction with pay, TSA employees scored their employer poorly on the fairness of leadership, matching employee skills to the mission, performance-based rewards and advancement, and teamwork and innovation.

Our front-line workers in the Transportation Security Administration, who are disproportionately people of color, are facing added barriers to maintaining and excelling in their roles because the Federal Government has not affirmed their workplace rights in the same way as their peers working in other Government agencies.

It is past time this disparity is addressed. Transportation security officers should have the same fair pay, union rights, and treatment as other Federal workers. The Rights for the Transportation Security Administration Workforce Act of 2021 would

⁵ <https://pages.fiscalnote.com/rs/109-ILL-989/images/CQ-Womens-Representation.pdf?aliId=eyJpIjoNU5NajVDK3I2T3d1NFZqKylsInQiOiJTS1BQbGxqQloxaXprXC9NXC9UT-jRzVEE9PSJ9>.

⁶ <https://datausa.io/profile/soc/transportation-security-screeners#demographics>.

⁷ <https://www.aauw.org/resources/article/black-women-and-the-pay-gap/>.

⁸ <https://www.tsa.gov/coronavirus>.

⁹ <https://bestplacetowork.org/rankings/detail/HS10>.

codify these rights, and give long overdue workplace protections to TSA officers, including: Family and Medical Leave Act protections; expanded collective bargaining rights; the right to appeal adverse personnel decisions before the Merit Systems Protection Board; whistleblower rights; and better pay and benefits (including pay under the General Services wage system). The Urban League supports this effort. Thank you for your focus on this issue, I look forward to answering any questions that Members of the subcommittee have.

Mrs. WATSON COLEMAN. Thank you very much for your testimony.

Dr. Kelley, excuse me for not giving you your due recognition as both reverend and doctor, Mr. Kelley.

Mr. KELLEY. It does not matter. OK? Thank you so much.

Mrs. WATSON COLEMAN. Thank you. I will now recognize Mr. Warrick to summarize your statement, sir, for 5 minutes.

STATEMENT OF THOMAS S. WARRICK, NONRESIDENT SENIOR FELLOW AND DIRECTOR OF THE FUTURE OF DHS PROJECT, THE ATLANTIC COUNCIL

Mr. WARRICK. Thank you very much, Chairwoman Watson Coleman, Ranking Member Gimenez, and Members of the subcommittee. Thank you for the opportunity to testify in support of H.R. 903. I am the director of the Atlantic Council's Future of DHS Project. I served at DHS from 2007 to 2009, the last 10¾ years as a member of the Senior Executive Service. I have served under Presidents of both parties, and under 8 secretaries and acting secretaries of Homeland Security.

I am proud to have served alongside the men and women of TSA, who are some of the finest officers serving our Nation. We need to honor TSA's service during the COVID-19 pandemic when TSA officers have been on the front lines every day. They deserve our recognition and respect for what they do.

Madam Chair, there is much about DHS that is good and important, but DHS has some serious challenges that need to be addressed. One of these is DHS's consistently low morale. This diminishes the effectiveness of the work force, lowers employee retention rates, increases costs to hire and train new people.

When DHS needs to replace experienced officers with new people, this risks the security of the American public. Some of us are old enough to remember that in the 1970's the U.S. military had morale problems. Fixing this became a National priority. Today, we need to treat morale at DHS with the same sense of urgency.

If I could ask the clerk to put up on screen figure 1 for my testimony. Let me talk about that briefly. This data comes from the Office of Personnel Management's Federal Employee Viewpoint Survey. Figure 1 shows overall morale in each Cabinet department.

Other surveys shows that DHS employees are strongly dedicated to the mission, but since 2010, DHS morale has been consistently lower than any other large Cabinet department.

Success in turning DHS's morale around is not only possible, it has happened many times at the component level.

If I could ask the clerk to show figure 5. My testimony gives 3 success stories: The Office of Intelligence and Analysis under Frank Taylor; the Secret Service under Director Tex Alles; and what you see here—Immigration and Customs Enforcement between 2015 and 2017, under Sarah Saldana when morale went up by 20 points.

So let me now turn to TSA. TSA's morale overall is the lowest of the large components of DHS. In 2019, out of 420 sub agencies in the Federal Government, TSA ranked 398 out of 420.

If I can ask the clerk to show figure 6.

As this table shows, 30 percent of all DHS employees work at TSA, more than any other part of DHS.

Madam Chair, we have done the math. If TSA's morale scores increased by 20 points as they did at ICE under Sarah Saldana, that alone would mathematically lift DHS out of last place. That is how important morale is at TSA to improving morale at DHS as a whole.

There are 3 categories where TSA stands out, and in a negative way: Pay, promotions and career advancement, and employee empowerment. H.R. 903 will help address all 3.

If I could ask the clerk to show figure 7. The most striking problem at TSA is low pay. TSA is shown in the red line. As someone once said, TSA right now is competing for talent against Amazon fulfillment centers, and losing.

Let me ask the clerk to show figure 8. TSA also has problems in how employee performance is evaluated, and how its officers are promoted. H.R. 903 would force TSA to address both,

Let me ask the clerk to show figure 9. There are 3 important questions TSA employees were asked, if we could look at figure 9, please. Thank you. Our DHS employees were asked, are promotions based on merit? Are steps taken to deal with poor performers? Can you get a better job in your organization? TSA, in each case shown in red, is the lowest, or among the lowest, of all large DHS components.

We have to conclude from this, Madam Chair, TSA's current pay and promotion system simply is not working, and H.R. 903 will be a forcing function to enable DHS and TSA to address these problems.

There is only one improvement I can think of to mention here. TSA does need to retain the ability to issue security directives and emergency amendments without being subject to delays. So, I would recommend a short, tightly-focused additional provision so that nothing in the bill would delay TSA from taking necessary or urgent actions for a short time to protect the traveling public.

This should not be open-ended or indefinite. Eventually, all things should be subject to negotiation under the collective bargaining laws governing civil service.

I would refer you to my written testimony for some other comments, and thank you very much for your attention, and I will be happy to answer any questions. Thank you.

[The prepared statement of Mr. Warrick follows:]

PREPARED STATEMENT OF THOMAS S. WARRICK

MAY 4, 2021

Madame Chair, Ranking Member Gimenez, and Members of the subcommittee, thank you for the opportunity to testify in support of H.R. 903, The Rights for the TSA Workforce Act of 2021. I am currently the director of the Atlantic Council's Future of DHS Project, which has been working since April 2020 to improve the Department of Homeland Security (DHS). I served from August 2007 to June 2019 at DHS, the last 10¾ years as a member of the Senior Executive Service at DHS

Headquarters, under both Democratic and Republican presidents and 8 Secretaries and Acting Secretaries of Homeland Security.

I'm proud to have served alongside the men and women of the Transportation Security Administration, who are some of the finest officers serving our Nation. They help secure our transportation infrastructure—air travel, railroads, and pipelines that bind our country together and keep it running. They deserve your support.

Along with the other women and men of DHS, TSA's people help keep the United States secure from non-military threats, including terrorism, COVID-19, hostile nation-states like Russia, China, and Iran, and the long-term threat to lives and infrastructure from climate change and extreme weather.

We particularly need to honor the service of the people of TSA during the COVID-19 pandemic, when TSA officers have been on the front lines every day. Some have lost their lives to COVID-19. The officers of TSA deserve our deepest recognition and respect for all that they have done.

Madame Chair, there is much about DHS that is good and important, but DHS has some serious challenges that must be addressed if DHS is to succeed in its missions to protect the American people. One of these challenges is DHS's consistently low morale. Low morale diminishes the effectiveness of the workforce, lowers employee retention rates, and increases costs to hire and train new people. By failing to keep good people on the job, low morale at DHS risks the security of the American people when good people leave to take other jobs elsewhere.

Some of us remember when the U.S. military had morale problems in the 1970's. Congress, the Department of Defense, and the American people treated this as a National priority. Today, we need to treat morale at DHS with the same sense of urgency.

My testimony today is going to be a data-rich discussion, so I want to tell you where most of my data come from. Every year, the Office of Personnel Management fields the *Federal Employee Viewpoint Survey (FEVS)*. This is analyzed by independent experts such as the Partnership for Public Service, which publishes their results as the *Best Places to Work in the Federal Government*.

I should take a moment to note the Atlantic Council's policy of intellectual independence. The Atlantic Council itself does not take positions on legislation. Views expressed are those of individual experts. I also want to credit the Atlantic Council's partners at Accenture, whose expertise helped the Future of DHS Project understand and analyze personnel data and management trends. Of course, responsibility for the conclusions is mine, as the lead author and director of the Future of DHS Project. Let me turn to the data.

Figure 1: Results of Federal Employee Viewpoint Survey (FEVS) by cabinet department

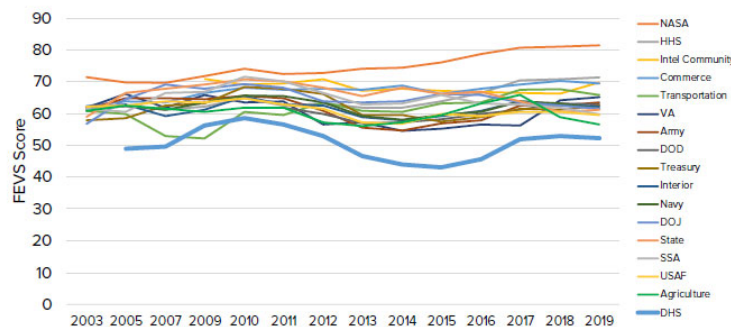
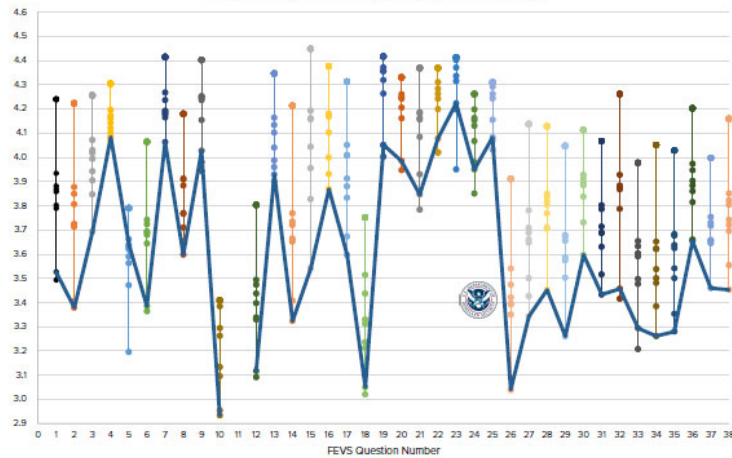


Figure 1 shows the overall morale score of DHS compared to other large Cabinet departments. Since 2010, and despite improvements in some years such as 2015–2017, DHS has consistently ranked lowest among large Cabinet departments.

Data for 2020 are not out yet, but some departments have released responses for 37 of 38 questions in the 2020 survey. When you calculate the average score for each department on each question, and connect the dots for DHS with a blue line, it looks like this:

**Figure 2: Partial 2020 FEVS Results from 9 Departments
Tracking DHS's Relative Position**



So in 2020, on virtually every question, DHS is once again the lowest, or among the lowest, of any Federal department or agency that has released 2020 data. DHS is not without success stories, and you should know that success in turning morale around in DHS is not only possible, it has happened many times. Let me present 3 examples before I turn to TSA.

**Figure 3: DHS's Office of Information & Analysis
FEVS scores by category**

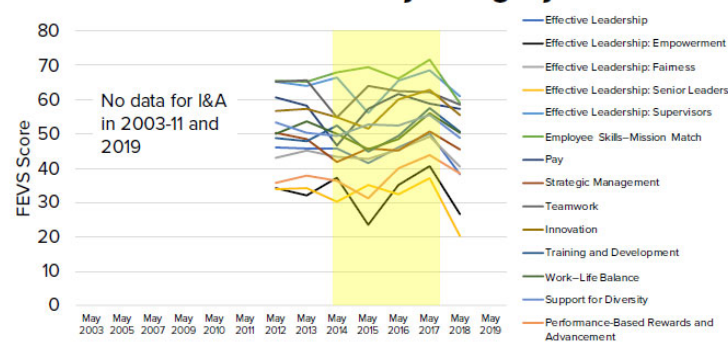


Figure 3 shows the different categories of data tracked by the analysts at the Partnership for Public Service. As you can see, most of the lines move up or down together, which suggests that employees have an overall opinion whether their workplace is doing better or worse than in previous years. Individual scores tend to matter less compared to whether all the scores are moving up or down.

In Figure 3, we see what happened during Frank Taylor's years as Under Secretary of Intelligence and Analysis (I&A). He initiated a major reorganization in late 2014. As often happens in the private sector, morale initially went down right after the reorganization. But by the end of his tenure, the numbers show morale was higher in 2017 than when he started—proof that he was right that his reorganization would raise morale in I&A.

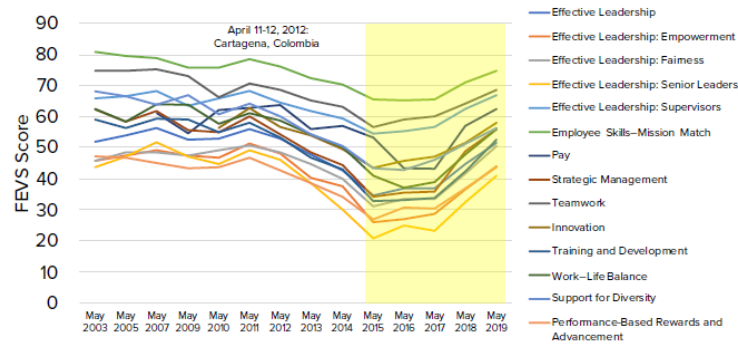
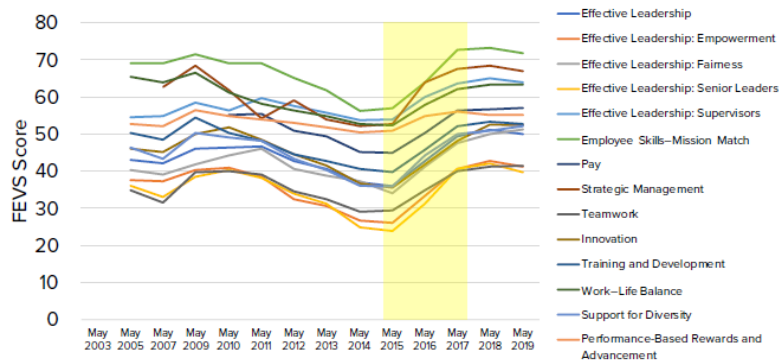
Figure 4: US Secret Service FEVS scores by category

Figure 4 shows how morale in the U.S. Secret Service declined starting in 2012 after a prostitution scandal in Cartagena, Colombia and other episodes revealed problems in the Service. The decline was halted during Secretary Jeh Johnson's tenure, then morale improved considerably because of efforts by Secretary John Kelly, both as Secretary and as Chief of Staff in the White House, and by the directorship of Randolph "Tex" Alles.

Figure 5: ICE FEVS scores by category

Finally, Figure 5 shows the dramatic improvement in morale at Immigration and Customs Enforcement (ICE) during the directorship of Sarah Saldaña. Morale improved by 20 points in the way the Best Places to Work FEVS scores are calculated.

Now let me turn to the Transportation Security Administration. TSA's morale overall is the lowest of the large components of DHS. In 2019, TSA ranked 398 out of 420 subagencies across the Government analyzed by the Partnership for Public Service.

Figure 6: DHS Employees by Component, 2018

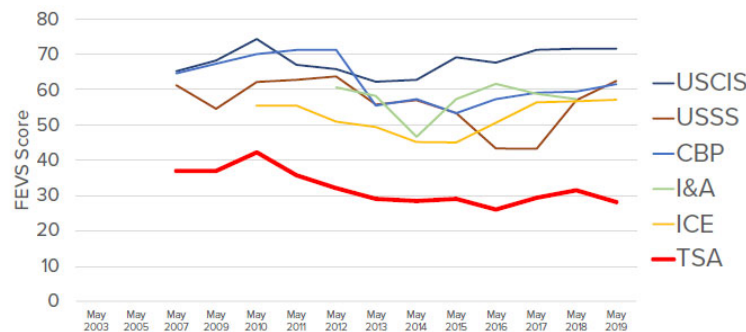
	Employees	Percent
TSA	64,051	30.76%
CBP	60,524	29.06%
FEMA	19,920	9.57%
ICE	19,912	9.56%
USCIS	18,738	9.00%
USCG	8,530	4.10%
USSS	7,292	3.50%
DHS HQ	3,397	1.63%
CISA	3,295	1.58%
FLETC	1,248	0.60%
OIG	760	0.36%
S&T	408	0.20%
DNDO	179	0.09%
Total	208,254	100.00%

It is important to bear in mind that there are more employees at TSA than any other component of DHS. More than 30 percent of all DHS employees work at TSA.

One of the most important facts I would ask you to consider, Madame Chair, is that if TSA's morale scores increased by 20 points—as they did at ICE under Sarah Saldaña from 2015 to 2017—that alone would be sufficient to lift DHS out of last place in the Best Places to Work rankings of large Cabinet departments. That's how important morale is at TSA to improving morale at DHS as a whole.

In the Atlantic Council's report on the Future of DHS, we took a close look at what factors drive morale at TSA. We had the benefit of people who have led TSA, worked at TSA, worked with TSA, and advised TSA. And we had access to detailed data on surveys of TSA employees. The answer quite literally jumps off the page and shows why H.R. 903 can be a key to unlocking TSA's potential to lead a turnaround in morale at DHS.

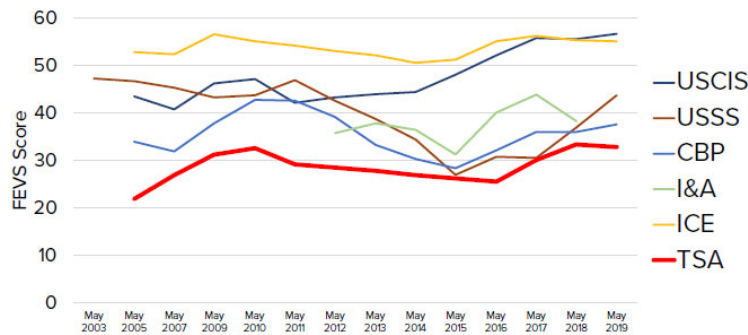
In almost every respect, TSA's morale scores are comparable to other DHS components. There are 3 categories, though, where TSA stands out in a negative way. Morale at TSA can be improved by addressing the 3 issues of pay, promotions and career advancement, and employee empowerment. H.R. 903 will help address all 3.

Figure 7: FEVS scores by Component: Pay

As Figure 7 shows, the most striking problem at TSA is low pay. This shows the level of employee satisfaction with pay. TSA, on this and the charts following, is shown in red.

This disparity cries out for correction. As one of our study group members who knew what he was talking about said, TSA is competing for talent against Amazon fulfillment centers—and losing. TSA's current pay and promotion system simply is not working.

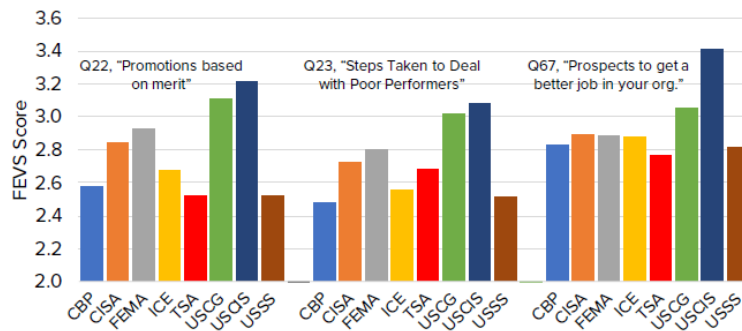
**Figure 8: FEVS scores by Component:
Performance-based rewards and advancement**



Second, as Figure 8 shows, TSA has problems in how performance is evaluated and how its officers are promoted. This is something that H.R. 903 would force TSA to address.

During the Future of DHS Project, we worked hard to develop a deeper understanding of the promotion and evaluation problems at TSA. Figure 9 shows the responses to 3 questions—Are promotions based on merit? Are steps taken to deal with poor performers? Is there a prospect of getting a better job in your organization?

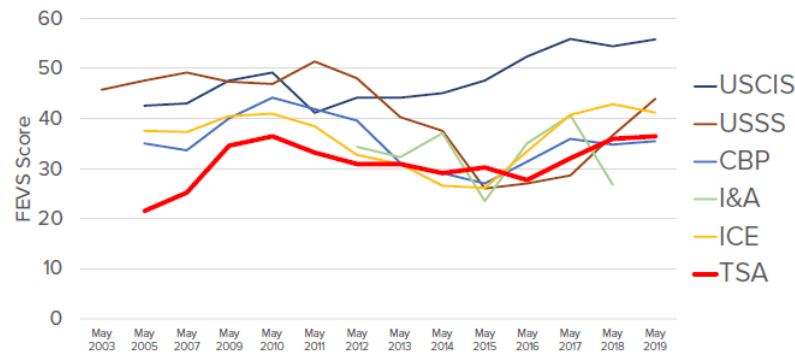
**Figure 9: Response to FEVS Questions 22, 23, and 67
by DHS Component, 2017-19 3-year average**



In each case, TSA is the lowest or among the lowest large DHS components. This points to the need for major reforms to how TSA evaluates and promotes its people. It also highlights that Congress and DHS need to find a way to give TSA employees a pathway to a career in homeland security, even if they decide to leave TSA for careers at places like CBP and ICE, in much the way that service in the military,

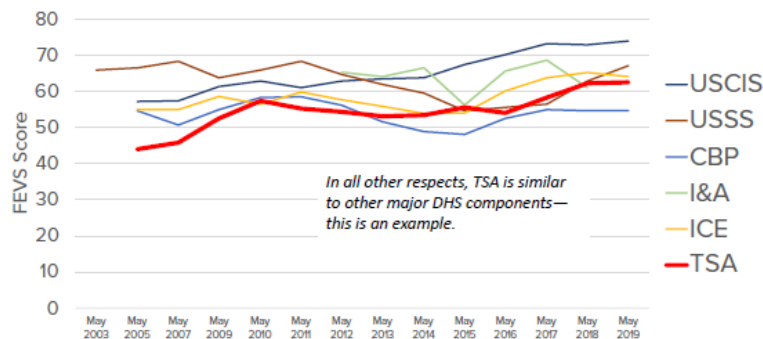
through the veterans' preference, can be a gateway to a long, successful, and satisfying civil service career.

Figure 10: FEVS scores by Component: Effective Leadership: Empowerment



Another historical problem area for TSA, and unfortunately other parts of DHS, is poor employee empowerment. Figure 10 shows the extent of this. Unfortunately, in recent years, other components of DHS have fallen down to TSA's level, rather than TSA joining the ranks of components like USCIS where employee empowerment, through May 2019, has been high.

Figure 11: FEVS scores by Component: Effective Leadership – Supervisors



Finally, Madame Chair, I want to dispel any doubt in the subcommittee's minds that TSA just has low FEVS scores all around. Apart from the issues of pay, evaluations, promotions, and empowerment, TSA's scores are comparable to other DHS components. Figure 11 shows an illustrative category, how employees rate their immediate supervisors.

What this study makes clear is that if the Congress agrees with the idea that low morale at DHS makes it harder for DHS to do its missions, then improving TSA pay, evaluations, and promotions is an absolutely essential step that needs to be taken as soon as possible.

Let me offer 4 other specific comments about H.R. 903, and 2 suggestions for strengthening it.

First, I've studied the Congressional Budget Office (CBO) scorecard on the version of H.R. 903 that was introduced in the 116th Congress. CBO scored the bill as costing \$1.77 billion over 5 years, most of which would go for higher pay for TSA employees. According to the CBO, employees classified at the GS-5 level would see their pay go up by \$900 a year, and employees classified at the GS-7 level would see their pay go up by about \$3,400 a year. This might not be enough to bring TSA pay into line with what it will take to attract and retain a qualified workforce. Deciding how to classify TSA officers needs to be done using a complex set of criteria, but one of those criteria should be what level of pay and responsibility will be required to develop a professional screening workforce with retention rates comparable to other Federal, State, and local security and law enforcement services. The mission of securing America's transportation networks should be able to attract and retain talented individuals who want to make their careers in homeland security.

Second, I recognize that, theoretically, there are other ways to increase TSA's pay and fix the problems with evaluations and promotions. Congress could simply appropriate more money. Congress and TSA could reform TSA's personnel practices. I have no doubt a better personnel system could be devised than what TSA now has. But those changes could have been made years ago. The fact that those changes were not made shows how hard it is to force change into the system. H.R. 903 has the virtue of being a forcing function. If passed and signed into law, it will require everyone—Congress and the Executive—to improve a personnel system that is not working for TSA and its employees.

Third, I recognize that the Title 5 personnel rules and pay scales are not without their flaws and risks. As someone who spent 22 years in Federal service, most of that time in the civil service in 2 National security Cabinet departments, there are certainly aspects of the Federal civil service system that should be reformed and improved. But it would be wrong to think that flaws in the civil service personnel system are a reason not to apply it to TSA. Those reforms and improvements should be made for the benefit of all civil service employees, not just TSA.

Fourth, I know there are past and possibly current officials at TSA who would worry that Congress' answer to a request by TSA to pay its employees more would be to order that cuts be made elsewhere, or that TSA would be told to "make do" with fewer officers. That risks a net loss in security for the United States and is not going to help the problem of employee morale at DHS or TSA.

Madame Chair, in closing, let me offer 2 suggestions for ways in which H.R. 903 could be improved.

First, you may need to extend the 180-day time line to classify all of TSA's positions. It's vitally important to get the classification of TSA officers right if the Nation is to benefit from H.R. 903. I would expect TSA would need to engage outside experts to advise in the process. I would hope TSA would come forward to the subcommittee with a carefully thought-out time table of how long it will take. I respect the subcommittee's desire to hold TSA's feet to the fire by drafting this bill with an ambitious time table. Only TSA can propose an alternative. I hope that discussion occurs soon.

Second, and most importantly, it is vital that TSA retains the ability to issue Security Directives and Emergency Amendments to protect the traveling public, without being subject to delays or negotiations, even with its own employees. My concern is that nothing should limit TSA's ability to take urgent actions under its authority to protect the traveling public and our transportation infrastructure. I know from personal experience working counterterrorism issues at DHS that there will be times when TSA needs to take urgent action—in hours—to put in place rules and procedures to protect the safety of the public and TSA's employees. Some of these might involve matters that in a non-security setting would be entirely appropriate for collective bargaining. I would recommend a short, tightly-focused additional provision so that nothing in this bill would prevent the TSA administrator from taking necessary, urgent actions to protect the traveling public.

Thank you for your attention to the important issue of morale at DHS and the Transportation Security Administration. I will be happy to answer your questions.

Mrs. WATSON COLEMAN. Thank you very much, Mr. Warrick. Finally, Mr. Jeffrey Neal.

**STATEMENT OF JEFFREY NEAL, PRINCIPAL AND FOUNDER,
CHIEF HRO, LLC**

Mr. NEAL. Good afternoon, Madam Chairwoman, Ranking Member Gimenez, and distinguished Members of the subcommittee. My

name is Jeffrey Neal, and I am honored to appear before this subcommittee to discuss the vital issues regarding the work force of TSA.

I was appointed as chief human capital officer for DHS in the early days of the Obama-Biden administration, and in 2019, I chaired a Blue Ribbon Panel chartered by Administrator Pekoske to provide a neutral third-party review of TSA's human capital operations, examine how policy decisions have affected the TSO work force, and make recommendations for improvement.

Thus far, TSA has taken action on implementation of 43 of the 46 recommendations that we made, and completed action on 21 of those recommendations.

I share your respect for the TSA work force, particularly the officers who protect the flying public. The Blue Ribbon Panel's recommendation recognized the need to ensure they have competitive pay and benefits, and effective means of moving up in the organization, and recognition for performance that exceeds expectations.

We recommended that TSA provide officers with a longevity pay, improve use of locality pay, and that they hire an experienced H.R. professional to lead the human capital operation. They did those things, and Ms. Bradshaw has made significant improvements in her role as head of H.R.

I understand the interest in reducing the sweeping authority authorized by ATSA. However, repeal of the personnel flexibilities provided by ATSA is a double-edged sword. The panel actually considered that option, but we saw no evidence that moving to the General Schedule would have the intended result.

The General Schedule, regardless of what anyone might say about it, was designed in 1949 for a work force of a million clerks. Virtually, every good Government organization, including the National Academy of Public Administration, in partnership with public service, has recommended replacing it with a modern pay system.

While the bill rightly provides that no employee shall suffer a loss in pay, there is no guarantee that employees will continue to receive pay increases and benefits that they might otherwise have received, such as split-shift pay differentials and expanded leave transfer options that aren't available under Title 5.

There is also no guarantee that TSOs are going to be classified at any particular grade level, nor is there any guarantee of funding if the jobs happen to be upgraded.

Moving 50,000 employees to a different personnel system, even one that exists in other agencies, is a highly complex process that requires extensive planning. Most TSA employees, TSA managers, and H.R. specialists are not experienced in the General Schedule, and most other aspects of Title 5, nor are the contractors who actually do most of TSA's operational H.R. work.

Likewise, not all TSA IT systems are designed to accommodate the General Schedule. The 6-month transition period in the bill does not provide adequate time to conduct necessary planning, system changes, and training.

My 33 years of Federal H.R. experience tell me that rushing implementation of something so far-reaching almost certainly ensures

it will be done badly, putting TSA employees and the TSA mission at risk.

I urge the subcommittee to actually take this opportunity to consider moving beyond the General Schedule, set minimum pay standards for TSOs that still provide flexibility to raise pay when it is needed, codify a process that provides longevity pay increases that allows high-performing employees to move up the pay scale quickly.

Allow TSA, within prescribed guidelines, to develop a pay system that fits the TSA work force, provides job security, ensures employee appeal rights, pay stability and upward mobility, and allows TSA to compete for the talent it needs, and make all of those changes within a disciplined program management approach that provides a clear understanding of the necessary steps, costs, and risks, and the time it will take to do it right.

Madam Chair, Ranking Member Gimenez, and Members of the subcommittee, thank you for the opportunity to testify before you today, and I look forward to your questions.

[The prepared statement of Mr. Neal follows:]

PREPARED STATEMENT OF JEFFREY NEAL

MAY 4, 2021

Good morning Chairwoman Coleman, Ranking Member Gimenez, and distinguished Members of the subcommittee. My name is Jeffrey Neal and I am honored to appear before this subcommittee to discuss the vital issues regarding the workforce of the Transportation Security Administration.

I was appointed as chief human capital officer for DHS during the Obama/Biden administration. In 2019, I chaired a Blue Ribbon Panel chartered by TSA at the direction of Administrator David Pekoske to provide a neutral third-party review of TSA's Human Capital Operations and examine how human capital policy decisions have affected the transportation security officer (TSO) workforce. During our initial meeting with Administrator Pekoske, it was evident to the Panel that he was seeking solutions to address human capital issues and, specifically, to deal with concerns from transportation security officers. In the time since our report, TSA has taken action to implement 43 of 46 Panel recommendations in 2 major areas:

- Support for the TSO Workforce, and
- Human Capital Service Delivery.

I believe they have made good progress toward accomplishing the recommended changes.

I share the respect that Members of this subcommittee and Chairman Thompson have for the TSA workforce. These men and women are the front-line officers who protect the flying public. The Blue Ribbon Panel recognized the need to ensure that they have competitive pay and benefits, an effective means of moving up in the organization, and recognition for performance that exceeds expectations.

We recommended that TSA provide these officers with longevity pay, similar to that provided to General Schedule employees. TSA implemented that recommendation. We recommended improved use of locality pay. TSA has implemented locality pay at 74 airports, using flexibility provided under the Aviation and Transportation Security Act (ATSA). We also recommended that TSA hire an experienced H.R. professional to lead its Human Capital operation. They did so, and Ms. Bradshaw has made significant improvements.

I understand the interest in reducing the sweeping authorities authorized by ATSA. However, repeal of the personnel flexibilities provided by ATSA is double-edged sword. It will provide Merit System Protection Board appeal rights—a move I believe is in the best interests of TSA and its workforce. It will offer a degree of job security, a move that also has merit. But it will place employees under the General Schedule pay system—a move that I believe may have many unintended consequences.

The Blue Ribbon Panel considered suggestions that TSA transition to the General Schedule to solve pay and hiring problems. We believed there was no evidence that such a change would have the intended results. Agencies that use the General

Schedule complain about its inflexibility and lack of labor market sensitivity. It still takes 18 years to get to Step 10. General Schedule job classification is governed by classification standards that often take OPM years to develop and are infrequently updated. It makes many pay policies dependent on action by the Office of Personnel Management, which does not always agree and is sometimes slow to respond to agency requests.

The General Schedule was an effective pay system when it was designed in 1949. Much has changed since then. Virtually every good Government organization, including the National Academy of Public Administration and the Partnership for Public Service, has recommended replacing the General Schedule with a pay system that is appropriate for today's workforce and labor market. While the proposed Act rightly provides that no employee shall suffer a loss in pay, there is no guarantee that employees will continue to receive pay increases and benefits they might otherwise have received, such as split shift pay differentials and expanded leave transfer options. There is no guarantee that TSOs will be classified at any particular grade level. It is entirely possible that TSOs will be classified at a GS grade that provides for a lower pay range than is currently available to them. It is also possible that they will be classified at a grade level that requires far more funding than TSA currently has.

Moving 50,000 employees to a different personnel system is a highly complex undertaking that requires extensive planning and a clear picture of the consequences of the change. It requires employee, supervisor, and H.R. training, so all stakeholders understand how to operate under the new rules. Most TSA employees, managers and H.R. specialists are not experienced in the General Schedule. Such a change also requires that the H.R. information technology is adapted to the new processes. The requirement to move to Title V rules, yet retain some pay and benefits under ATSA means that the HR information technology systems will need modifications. The 6-month transition period in the proposed Act does not provide adequate time to conduct the necessary planning, system changes, and training, and my 33 years of experience in Federal human capital management convince me that rushing to implement something so far-reaching almost certainly ensures it will be done badly. Botching a transition such as this will put the TSA employees and the agency mission at risk.

Rather than moving the TSA workforce to a pay system that was designed when propeller-driven aircraft were the state-of-the-art in air travel, I urge the subcommittee to consider moving beyond the General Schedule. Consider the recommendations of good Government organizations and the GAO. Set minimum pay standards for TSOs that still provide flexibility to raise pay where needed. Codify a process that combines longevity pay increases, but allows high-performing employees to move up more quickly. Allow TSA, within a set of prescribed guidelines and following recommendations from GAO, NAPA, or other unbiased groups, to develop a pay system that fits the TSA workforce, provides job security, ensures employee rights, pay stability and upward mobility, and allows TSA to compete for talent it needs. And make all of these changes with a program management approach that provides a clear understanding of the costs, risks, and time it will take to do it right. Making these officers GS-5s or GS-7s is not likely to do that.

The proposed Act provides an opportunity to rethink a 72-year-old pay system and provide employees with a modern, flexible, and competitive pay system that retains merit as the foundation of the civil service and makes the United States Government a model employer. The potential benefits of that are tremendous.

Madam Chairwoman, Ranking Member Gimenez, and Members of the subcommittee, thank you for the opportunity to testify before you today. I look forward to your questions.

Mrs. WATSON COLEMAN. Thank you very much for your testimony, and thank you to each of the witnesses for their testimony.

Mr. Warrick, I just wanted to piggyback on something that you mentioned—I think it was you—with regard to being able to make security decisions in a quick and efficient manner. That discussion is taking place in terms of language that may need to be updated in 903 that will not interfere with the ability to make those decisions.

So, thank you for raising it. I knew that I had seen something to that effect, and so I am glad to report that we actually do listen.

So, I would like to remind the subcommittee that we will each have 5 minutes to question the panel, and I will now recognize myself for questioning.

One of this committee's priorities is to obviously improve morale at DHS, and as we know, DHS employees do consistently rank themselves among the least satisfied Federal workers, as Mr. Warrick has pointed out.

But as Mr. Warrick's testimony laid out, the Department is not a monolith, and morale varies widely among different components.

Mr. Warrick, this is for you. Last year, you authored a report on the future of DHS and said, and I quote, "turning around DHS's morale problem starts with the 2 components that drive the Department's lowest scores, TSA and CBP."

You also wrote that by offering better pay, by giving TSA employees the prospect for a meaningful career, and by empowering TSA's employees, TSA can help lead and turn around DHS's morale. Would you please expand on how TSA serves as the tip of that sphere for a turnaround for the whole Department?

Mr. WARRICK. I would be happy to do that, Chairwoman. TSA is the largest component of DHS, and its problems are, for all of the difficulty that H.R. 903 might give, TSA's problems are almost the easiest to solve.

H.R. 903 is one of the most constructive forcing functions to come out of the Congress in years in this area. I am fully aware of the fact that you could simply raise TSA salaries by \$400 million through the appropriations process, but let's be realistic. These problems, as your witnesses have told you, have been known for some time, and yet this problem has not been fixed.

One of the reasons that I welcome H.R. 903 is that it is a forcing function. It will compel changes that will address these problems. So, that is one reason I hope that it moves forward very speedily and in a bipartisan way through the Congress, because this really would show the employees of TSA, and all of DHS, the commitment of both the Legislative and the Executive branch to addressing DHS's morale problems.

Mrs. WATSON COLEMAN. Thank you.

Mr. WARRICK. These really do translate into security.

Mrs. WATSON COLEMAN. Thank you, Mr. Warrick.

Dr. Kelley, from the perspective of AFGE's membership, would you please describe sort-of quickly how the passage of the Rights for the TSA Workforce Act would improve morale?

Mr. KELLEY. Oh, yes. I have to think about how to unmute myself. But we truly believe that it would improve morale, because it enhances the ability to do away with discriminatory practices, especially when it comes to women and people of color. OK? It automatically improve morale.

Unlike, you know, Brother Neal's testimony, we believe that, you know, the system has been tried and proven. It has been substantially modified over the years to make it better. So we just think that it would improve morale all around, you know, from AFGE's perspective.

Mrs. WATSON COLEMAN. Thank you very much.

With a little bit more than a minute, I would like to direct a question to you, Ms. Chaney. During the hearing, you mentioned

that 55 percent of the TSA personnel are people of color, making it one of the most diverse components in DHS, probably the most—

Ms. CHANEY. Yes.

Mrs. WATSON COLEMAN [continuing]. Diverse component. In your testimony, you explain how passing the Rights for TSA Workforce Act is absolutely a matter of equity, and I couldn't agree more.

What message does it send that one of the Government's most diverse workplaces also happens to be among its lowest-paid?

Ms. CHANEY. Well, I think it sends a message that we don't care about this work force, that they are not respected, that they are not valued, that their sacrifices are not valued. I know that is not what we mean, because when we go through the airport, I have seen Members of Congress do it, we say, thank you for your service.

But the way that we thank people here, and in particular, in America, is that we pay them properly. We give them fair benefits. The Federal Government is a great place to work, but if you don't have the benefits of the Federal Government, it is not a great place to work. It is a cruel joke. So we want to restore their rights.

Mrs. WATSON COLEMAN. Tagging on to that for just 30 seconds, what does that say about the issues of equal protection? Does it not point to unequal protection?

Ms. CHANEY. I think that, you know, that is a legal question. I think there are some arguments there. I am sure the union is making that point.

What I think it says is that we have to make the workers at TSA whole. We have to make sure that they are treated the same as we expect all other Federal employees, as we expect all of us to be treated. That is what it says to me, and that is about the spirit of equal protection under the law.

Mrs. WATSON COLEMAN. Thank you. Thank you very much.

So, I am going to recognize the other Members who have questions that they may wish to ask, and in accordance with the guidelines laid out by the Chairman and Ranking Member, in the February 3 colloquy, I am going to recognize Members in order of seniority, alternating between Majority and Minority Members. But I am first going to recognize my esteemed Ranking Member, Mr. Gimenez.

Mr. GIMENEZ. Thank you, Madam Chairwoman, I really appreciate that.

Mr. Neal, do you think that the No. 1 issue concerning the morale for TSO workers is actually pay, that they feel that they are underpaid?

Mr. NEAL. I don't. I think actually, probably the No. 1 issue is quality of leadership in the airports.

Mr. GIMENEZ. The quality of leadership in the airports, what do you mean by that?

Mr. NEAL. Quality of supervisors. When we look at employee survey data at TSA, what we found is there were some airports where the work force had good things to say about TSA and about the work, and there were airports where people who were doing the same work and incredibly unhappy.

Obviously, pay is a factor in that, but the quality of the supervisors is a bigger factor. The fact that you have some airports

where the employees actually say good things about the agency, says that a big chunk of it is the quality of those leaders.

That was one of the recommendations we made, was to improve the quality of supervisors in the airports.

Mr. GIMENEZ. Well, I guess that complies with my theory that 95 percent of the problems are management in nature. Is that correct?

Mr. NEAL. I would say that is true. Usually when you find problems in a workplace, look to management first.

Mr. GIMENEZ. Would moving the TSOs into Title 5, would that solve the issue of management?

Mr. NEAL. No, sir, it wouldn't.

Mr. GIMENEZ. All right. So management is actually something that the administration can deal with by choosing the right managers, by having the right policies in place, and does ATSA give the administration the flexibility to put those procedures in place?

Mr. NEAL. It actually gives them more flexibility than Title 5 would give them to deal with that kind of issue.

Mr. GIMENEZ. So, if we wanted to really take care of the issue at TSA and other agencies, we would direct the administration to put the proper procedures in place, the flexibility that they have under ATSA.

I also believe, wholeheartedly, I think they are underpaid, and we, as Congress, should be appropriating more money for TSO workers so that we can bump them up in pay and bring them up to the level that most Federal employees, you know, are getting. Because I do think that that is part of the problem, but I also think that 95 percent of the problem is management.

Mr. NEAL. I would agree with that. I do think that the pay issues are very significant issues, and those need to be dealt with.

Part of the problem about putting them under the General Schedule, though, is there is no agreement on what grade level they would be. Some of TSA's classifiers said they would be GS-5s. Some of them told us they would be GS-7s or maybe GS-8s.

So nobody knows right now exactly what grade level these folks would be, and this bill could result in them getting large bumps in pay, or it could result in them being put in dead-end jobs where there is not more than a GS-5 or a GS-6 or 7.

Mr. GIMENEZ. Right.

Mr. Warrick, to you. Do you think that just simply by moving the entire work force to Title 5 is going to solve the problem of morale at TSA?

Mr. WARRICK. If the clerk is able to put up figure 11 from my slide set, I would like to show you something. Basically, it is certainly true that the Title 5 approach has its flaws, but the solution is to fix the flaws in Title 5, not to say that TSA employees should somehow be denied the benefits of Title 5 simply because it has flaws.

Mr. GIMENEZ. Sir, I really don't have that much time, so I really can't, you know, look at your slides. So I have some other questions that I have.

Isn't it true, though, that, say, in TSA right now, if you are a part-time employee, you can actually get full-time health benefits, but if you slide over to Title 5, the Title 5 schedule, that if that

happened, that part-time employees of TSA would not be able to get full-time health benefits?

Mr. WARRICK. Dr. Kelley can describe in detail that that depends on the number of hours somebody works, and that a supervisor, by playing games with the hours, can deny people benefits. That doesn't strike me as a fair policy.

Mr. GIMENEZ. No, but I am saying under Title 5, that would be true. But right now, under TSA, part-time workers can get full-time benefits, right?

Mr. WARRICK. It depends on how many hours they work and other factors.

Mr. GIMENEZ. OK. Well, thank you. It looks like my time is about to expire, so I yield back the balance of my time. Thank you, Madam Chair.

Mrs. WATSON COLEMAN. Thank you, Ranking Member.

I now recognize Representative Payne for 5 minutes.

Mr. PAYNE. Thank you, Madam Chair. I apologize. I am in transit, so please bear with me. Let me just say to you, Madam Chair, thank you for this timely hearing. Since your arrival in Congress, you have been consistent on this issue around justification, and a good working environment for these great, great public employees and servants. So I just want to commend you for that.

Mrs. WATSON COLEMAN. Thank you, kind sir.

Mr. PAYNE. Ms. Chaney, I greatly appreciate the perspective that you provided here today. Clearly, TSA is a very diverse agency, and I am sorry I—when things go wrong, they all go wrong, but, you know—however, diversity doesn't always correlate with equity. Would you please explain the difference between diversity and equity, and how providing TSA work force full collective bargaining rights would create a more equitable agency?

Ms. CHANEY. Absolutely. Thank you, Congressman, for the question. I mean, just look at the agency as it currently is. It is diverse, and yet, it is not equitable. Whenever you find a situation where, you know, things look diverse on their face, and yet, it looks like people are getting equal treatment, and yet, in reality, if all of the people working at TSA, if they are predominantly people of color, yet they are not being treated the same as other people in the Federal work force, including other people at DHS, that is not equitable.

So, we have to go and fix that in order to have equity at TSA, and equity for, really as I said in my testimony, the work force that is driving diversity and inclusion at the Department of Homeland Security. So it is absolutely important that we address this.

Mr. PAYNE. Thank you. With respect to, you know, we have seen how the pandemic has disproportionately impacted marginalized groups around the country in a tragic way. Considering these impacts and that the majority of TSA's work force is made up of racial and ethnic minorities, would you conclude that they are also experiencing many of the same challenges?

Ms. CHANEY. Absolutely. What we know is that they are more than likely experiencing a greater number of COVID-related deaths and illness in their families, greater number of economic trouble.

We already know from some of the testimony before that during the pandemic, many of them were living paycheck to paycheck,

were struggling. We know that the same thing that is happening to them is happening to people of color elsewhere.

But the difference is, they work for the Federal Government, and, so, we expect that they would have greater benefits. I am sure when they came to work there, they expected to have greater benefits. So it must be a cruel joke to be representing the United States of America, and being on the front lines and not being paid like it. We have got to fix it.

Mr. PAYNE. Well, thank you.

Madam Chair, I have introduced legislation, the Hazardous Duty Pay for Front-line Federal Workers that would ensure that TSA workers and other servants, who have continued to put their lives at risk during this pandemic, are properly recognized for the danger that they have put themselves in as they continue to keep the traveling public safe. I invite all my colleagues to join me as a co-sponsor of this bill. With that, I yield back.

Mrs. WATSON COLEMAN. Thank you, Mr. Payne.

The Chairman now recognizes Representative Ralph Norman for 5 minutes.

Mr. NORMAN. Thank you, Chairman, and thank each one of the participants today.

Mr. Neal, on your testimony, what was the Congress' intent when it established the TSA after 9/11 in terms of its personnel system?

Mr. NEAL. It was intended to be a very flexible system that could be adapted as the situation changed within the TSA mission.

Mr. NORMAN. So what is so—I guess, what is so important for TSA to have a personnel system that is not like the, I guess, the antiquated Title 5 systems?

Mr. NEAL. The problem with Title 5 isn't the bulk of Title 5. It is the General Schedule pay system part of it, and that is the system is inflexible. It doesn't provide the ability for people to move up quickly; it doesn't provide the ability to adapt the pay to the labor market. So—and it was designed when literally more than half of the Federal employees were GS-5 and below, clerks.

So it was a system designed for a work force full of clerks which we don't have now. It is very inflexible when it comes to assigning grade levels at jobs. Right now, it is possible that if TSOs were put under Title 5, that these officers could come out as GS-5s or 6s, which is the equivalent of a clerk or a secretary.

So there is nothing in the bill that would guarantee a reasonable grade level for the employees. Right now, the classification would be akin to something like a security guard classification standard that OPM has written, and those jobs tend to be just 5s and 6s. So there is no guarantee this will actually help pay for TSOs.

Mr. NORMAN. OK. You know, we have heard about low morale. What test was used to gauge the morale? Was it an internal questionnaire that went to an outside source, or what was used?

Mr. NEAL. They generally are using the Government-wide *Federal Viewpoint Survey*. That goes out to every Federal employee every year, and it is accurate that TSA's morale numbers, based on *Federal Employee Viewpoint Survey*, are quite low.

It is also accurate that CBP, Customs and Border Protection's morale figures, are quite low, and they pay their employees GS—

12 pay. So, they are much higher graded, much higher paid than the TSOs are likely to be, and, yet, they still have significant morale issues that haven't been dealt with by the pay that they have gotten.

Mr. NORMAN. Does the test results point to management, individual management, at each of the airports that you mentioned?

Mr. NEAL. It does tend to show that there are problems with quality of leadership. A significant number of the questions relate to issues that are entirely under the control of managers, and those, they don't score well at all.

Mr. NORMAN. So that is really the administration's—if it really wants to get to the root of the problem and correct it, it is up to the administration to issue guidelines addressing the problems that the morale report shows. Would that make sense?

Mr. NEAL. I would say that the current and the previous 3 administrations should have been doing more to deal with supervisory issues.

Mr. NORMAN. And put guidelines in place?

Mr. NEAL. Yes, sir.

Mr. NORMAN. OK.

Mr. Warrick, you state that H.R. 903 can solve the issues of the low morale with the TSA, but TSA could fix—can it not fix its own hiring, retention, and pay issues under the ATSA?

Mr. WARRICK. It certainly would be possible to be able to do that. However, the fact that it hasn't been done for so many years would lead you to believe that that is just not a workable solution. I think if you appropriated a lot more money, or if you graded the work done at a level to generate enough retention in the TSA work force, you could solve this problem through several ways. But of all the methods available, H.R. 903 is the best one on the horizon right now.

Mr. NORMAN. Would you agree that if the morale studies show that the managers bear a lot of responsibility, should that not be top priority?

Mr. WARRICK. Actually, if you look at figure 11 in my written testimony, TSA ranks its supervisors—the employees rank their supervisors about on a par with other DHS supervisors. So, I don't think the supervisors are the same level of problem that pay, promotions, and empowerment are.

I certainly would hold supervisors to a high standard, and there are improvements that definitely should be made in that area. That is absolutely true.

Mr. NORMAN. OK. Back to you, Mr. Neal, the Blue Ribbon Panel report shows that approximately it took 270 days to hire a TSA screener. Why so long?

Mrs. WATSON COLEMAN. The gentleman's time is up, but you can answer the question quickly.

Mr. NEAL. It is primarily the security clearance process. It is a complicated and lengthy process, and that causes it to be drug out for a long time.

Mr. NORMAN. Thank you.

Mrs. WATSON COLEMAN. Thank you very much.

I now recognize Representative Dina Titus.

Ms. TITUS. Thank you very much, Madam Chairman, and thank you for your indulgence of letting me come back on. I was right in the middle of another question.

I would like to ask Dr. Kelley if he would talk some more about the impact of unions. Las Vegas is a strong union town. We know when unions can negotiate for their workers, they are able to come to a more equitable situation. Unions help people get in the middle class and stay in the middle class. Here is TSA with the inability to unionize like other Government agencies are able to do.

Would you just address some of the problems that you see that have occurred because of that lack of a presence at the table to talk about working conditions, talk about COVID, talk about equitable salary, being safe, being fair, Dr. Kelley?

Mr. KELLEY. There are great advantages in being a part of the union. Now, I have to say that, you know, all of TSA is not absent a union, because the very supervisors that rate and rank these employees, the TSOs, are already unionized. OK. They understand the urgency. They understand the importance. At the same time, these employees that are TSOs don't have that same flexibility.

Now, when it comes to unions' ability to negotiate, right, I think it makes for a good playing field to have those kind of collaborations between the management team and the work force, right? It gives the manager an opportunity to hear from the work force to make a determination as to, you know, at least give management an opportunity to hear the work force, you know, and what they value more than anything.

When it came to the COVID, we all know that we had over, as of yesterday, 7,800 TSOs that was affected by the COVID. We had about 16 that died from COVID. Can we replace that? No. Had we had a union presence that was really talking about, you know, how we can make a safer workplace, how we can prevent deaths and illnesses, you know, it was right there and it was open, clear, and honest debate, I don't think we would have seen that many deaths. I don't think we would have seen that many being contracted with the virus.

So it has such benefit. You talking about morale, right? We can't say that the GS system is a perfect system. I don't think anyone that offers testimony today would say that; but the people do trust it, OK? TSOs trust the system. They want the system. They asked for the system. Pay is their No. 1 issue. I am listening to them every single day, and so many of them barely make ends meet because of that.

Now, again, the GS system is not perfect, but it is certainly better than these inflexible opportunities that are being presented, you know. The employees are asking for the GS system. If you want morale, you know, to be beefed up, you know, they are saying give us better pay, so that we can provide, you know, stability in our homes, and in our communities, and those types of things.

So I hope I answered your question.

Ms. TITUS. You did. You absolutely did, Dr. Kelley.

That also leads to my next question to Mr. Neal and his Blue Ribbon Panel. I am just curious as to why there was no labor representative from TSA sitting on that panel to help come up with the recommendations for redoing the personnel system?

Mrs. WATSON COLEMAN. You are muted, Mr. Neal. You have to unmute.

Mr. NEAL. Sorry. Sorry about that.

We were asked to put together a list of people from outside the Government who were senior people who would understand the issues at TSA, and there was no request to include a union member in the panel, so we did not.

Ms. TITUS. So you were asked and there was no request. Who asked you to do that then, suggested not to include labor?

Mr. NEAL. It was a contract, and so there was a solicitation that said here is what we want to have in a panel, the type of people. They didn't exclude folks who were union officials. They didn't include them. We had a small panel, so—

Ms. TITUS. Would it have been an overall better assessment, if you had some union people at the table, since this is a personnel system that is going to be affecting their daily lives, and they could have had very valuable input to the panel?

Mr. NEAL. I think they would have told us a lot of what we heard from the employees, which was, they didn't like their pay system. They didn't like how they were treated by supervisors. The employees were—one of the great things about TSA's work force is they are vocal, and they are not the least bit bashful about telling you about what they think and what they want don't like. They were very clear about what they didn't like, and our report highlighted that, and highlighted some of the things that the agency needed to do to address those issues.

Ms. TITUS. Well, thank you.

Madam Chairwoman, I would yield back. But I just think it is almost ridiculous to have a Blue Ribbon Panel to look at the personnel system when you don't have any representation from labor when the lack of the labor union to represent your interests is one of the biggest problems.

Thank you. I yield back.

Mrs. WATSON COLEMAN. Thank you, Representative Titus.

A couple of things I heard that I would just like to speak to very, very quickly.

No. 1 is that conceptually, it might have been a great idea for TSA to have the kind of flexibility that we felt we needed at that time, a very heightened time of concern, unprecedented assault upon us, et cetera. So the flexibility has existed to make life better, and fairer, and more predictable, but it hasn't happened. Every administration that came about since that legislation was enacted, there is responsibility for that.

The one thing Title V does is ensures predictability and treatment equal to what other Federal employees get. There is a provision, because I know my Ranking Member, the Ranking Member, was very concerned about pay grade and pay level. But I want you to know that there is a protection in the bill that ensures that no employee would be paid less under Title V. So, this may not be a perfect—but I think that that these employees are crying and screaming and yelling and hollering and stomping for equality and predictability, and the opportunity to see where their careers could possibly lead them.

I now would like to recognize—thank you Congresswoman, for your patience, here—Congresswoman Elaine Luria.

Mrs. LURIA. Thank you, Madam Chair, and thank you for holding this hearing today to talk about TSA as they are, you know, passing the 20-year milestone.

I visited with TSA representatives here at our local airport, at Norfolk International Airport, as they worked through the Government shutdown when I first came into office and as they, you know, endured a year of difficult working conditions through the pandemic. One thing I have heard every time that I visited with them is that they are very interested in transitioning to be under Title V.

I will note that our TSA work force at the Norfolk International Airport has really maintained safety of passengers. They have apprehended 6 firearms this year alone in carry-on luggage through our airport, even with the reduced passenger volume. So they really are removing something that is potentially a threat to passengers in the air.

One of the things that has been argued by people who are detractors from switching to being under Title V say that TSA was provided unique authorities to give it the ability to issue security directives and emergency amendments to protect the traveling public without being subjected to delays or negotiations, even with its own employees.

Dr. Kelley, could you speak to that? Are those valid concerns? How could they be mitigated if employees were placed under Title V?

Mr. KELLEY. You mean as far as TSA being able to take an action in a timely manner?

Mrs. LURIA. Yes. You know, would it change anything about how they could react in a timely manner? You know, like the Chairwoman said, some of the things were put in place in the very early days of the Department of Homeland Security, post-9/11, establishing TSA because it was thought there needed to be some rapid flexibility. But would any of that go away under Title V, or would they still be able to serve in the same way?

Mr. KELLEY. OK. Thank you, Congresswoman Luria, for that question, because there is a misrepresentation of that. It does not go away. TSA still has the flexibility to act in a timely manner to address any issue that it needs to address, you know. While I have just a moment, can I just say this? That, you know, the bill, as it relates to pay, you know, can specify, right, the classification of the job, and that is the thing that we also need to understand, you know. So I just wanted to add that while I had an opportunity, if that is OK.

Mrs. LURIA. Well, no. Thank you, Dr. Kelley.

You know, thinking about this, there is other entities within DHS, CBP, for example, that has a security mission that operates under Title V. Would you agree that, similarly, you know, if CBP can operate under that, that it would show that there is really no reason that TSA couldn't operate as well under that system?

Mr. KELLEY. I totally agree with you on that. That has been tried and proven, once again. You know, over and over, we see that TSA

can operate effectively and efficiently under Title V because, you know, so many other entities have already proven that it can occur.

Mrs. LURIA. Great.

Dr. Kelley, one last question because, you know, I am just trying to dispel some of the things that, you know, maybe critics of this legislation have put forward. But, you know, some people might argue that under current law, you know, TSA can exercise a one-step removal for serious offenses. But would switching to Title V change anything about being able to hold employees accountable, you know, if there was some sort of egregious or misconduct action?

Mr. KELLEY. Again, Title V does not eliminate TSA's ability to act in a timely manner for even up to removal on egregious actions, you know, and Title V does not eliminate that. Matter of fact, it might enhance that in many ways.

Mrs. LURIA. Well, thank you.

You know, I just wanted to bring up some of these points because, you know, in talking about this, these are some of the arguments that people have made against this, and I strongly support this legislation. I co-sponsored it last Congress and look forward to having an opportunity to move it forward this Congress, and just wanted to make sure we could dispel kind-of any of those myths about what a shift to this Title V system for TSA employees would entail.

So, thank you again for testifying today, and to all of our witnesses for being here.

I yield back.

Mrs. WATSON COLEMAN. Thank you, Congresswoman.

I think that we all recognize that this is a very important piece of legislation. It is still in the process. If, as a result of our holding these various hearings, things come up that we recognize would improve, protect, or solidify, we ought to be willing to listen to those things and to incorporate those considerations as we move forward.

We have no more Members who have questions. So if there is no desire to enter a second round of questioning?

Alrighty then.

I want to thank the witnesses. You all have been very, very helpful. I appreciate your commitment to the work that you do and the perspective that you shared with us today. The Members of the subcommittee may have additional questions for you, and we would ask that you would respond expeditiously in writing to those questions.

So without—excuse me. I am having a technical—

I have one more thing to say regarding 903. I think that, by and large, there is bipartisan support for what we are intending to accomplish on behalf of these front-line employees who really had it on the line during the pandemic and had it on the line after January 6 and got it on the line right now. They are confronted with all kinds of possible dangerous situations; but they show up, and their purpose is to keep us safe, and they keep us moving and they keep us safe.

So, I am going to ask that my Republican counterparts on this subcommittee consider signing on to the legislation. You want to help us make it better, you know, please offer your advice. But we

agree that these employees are entitled to greater protections, greater dignity and respect for the work that they do.

As I said, some other Members of the subcommittee might have questions for the witnesses, and they will probably send them to you, and we ask that you would respond expeditiously in writing to us.

Now, without objection, the committee record will remain open for the 10 days.

Hearing no more business, God bless you. Thank you for being with us today and sharing your information.

The committee is adjourned.

[Whereupon, at 3:18 p.m., the subcommittee was adjourned.]

