

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074
MINORITY (202) 225-5051

<http://oversight.house.gov>

September 28, 2016

The Honorable Peter Neffenger
Administrator
Transportation Security Administration
601 South 12th Street
Arlington, VA 20598-6020

Dear Administrator Neffenger:

On September 21, 2016, an LSG Sky Chefs employee at Detroit Metropolitan Wayne County Airport (DTW), Gregory Green, allegedly bound and tortured his wife and murdered her two children.¹ Mr. Green reportedly received clearance to work at DTW for the past year, despite having served 16 years in prison after pleading no contest to charges stemming from stabbing and killing his former wife and unborn child.² That incident occurred in 1991—beyond the ten year period defined for disqualifying criminal offenses during the vetting process for applicants for unescorted access to secure areas of an airport.³ Mr. Green was reportedly on probation, however, as recently as 2010.⁴

The effectiveness of TSA's processes for vetting applicants has been called into question before. While TSA facilitates the fingerprint-based Criminal History Records Check (CHRC) for aviation worker applicants, commercial airports maintain the ultimate adjudication authority for each applicant.⁵ In June 2015, the Department of Homeland Security Inspector General (IG) found "TSA did not have an adequate monitoring process in place to ensure that airport operators properly adjudicated credential applicants' criminal histories."⁶ During a Committee hearing on May 12, 2016, the IG testified, "TSA relied on airport operators to perform criminal history and work authorization checks, but had limited oversight over these commercial entities."⁷ TSA inspectors conduct annual security inspections at commercial airports, but those inspections reviewed CHRCs for as few as one percent of aviation workers.⁸

Additional risks remain even after an airport approves a worker for access to secure areas. Airports currently rely on workers to self-report disqualifying crimes, even though

¹ Holly Fournier, *Suspect in Slayings Got TSA Clearance, Worked at Metro*, THE DETROIT NEWS, Sept. 23, 2016.

² *Id.*

³ 49 C.F.R. § 1542.209.

⁴ Holly Fournier, *Suspect in Slayings Got TSA Clearance, Worked at Metro*, THE DETROIT NEWS, Sept. 23, 2016.

⁵ Dep't of Homeland Sec. Inspector Gen., *TSA Can Improve Aviation Worker Vetting* (June 4, 2015) (OIG-15-98).

⁶ *Id.*

⁷ *Examining Management Practices and Misconduct at TSA: Part II: Hearing Before the H. Comm. on Oversight & Gov't Reform*, 114th Cong. (May 12, 2016) (statement of John Roth, Dep't of Homeland Sec. Inspector Gen.).

⁸ Dep't of Homeland Sec. Inspector Gen., *TSA Can Improve Aviation Worker Vetting* (June 4, 2015) (OIG-15-98).

workers have little incentive to do so.⁹ While TSA requires CHRCs to be conducted every two years for each worker, TSA has not established a system for “real time recurrent” criminal history background checks.¹⁰ Furthermore, when you testified before the Committee at a hearing on May 12, 2016, you stated that workers are not physically screened when they report to work in some locations.¹¹

To address the current reliance on aviation workers to self-report disqualifying crimes, you testified that TSA is “piloting a continuous vetting pilot with the FBI.”¹² Under the FBI’s “Rap Back” program, TSA and the airports would receive automated updates from the FBI for new criminal history matches.¹³ Reportedly, TSA also drafted a proposed rule intended to strengthen criminal history vetting in 2015.¹⁴

To help the Committee understand how and why Mr. Green received clearance for unescorted access to secure areas, as well as how TSA prevents dangerous individuals from entering secure areas, please provide the following documents and communications as soon as possible, but no later than 5:00 p.m. on October 12, 2016:

1. All documents referring or relating to Mr. Green, including, but not limited to, those reviewed by TSA for any clearance determination;
2. All documents referring or relating to Mr. Green’s background check, including, but not limited to:
 - a. TSA’s security threat assessment and terrorism check;
 - b. Fingerprint-based Criminal History Records Check (CHRC);
 - c. Evidence of the applicant’s right to work in the United States;
3. All documents referring or relating to TSA’s review of the results from Mr. Green’s CHRC;
4. Documents sufficient to show the secure and sterile areas of access at DTW granted to Mr. Green;
5. All documents referring or relating to policies and procedures for vetting aviation workers, including, but not limited to, security directives and compliance program manuals;

⁹ *Id.*

¹⁰ Jeh C. Johnson, Secretary, Dep’t of Homeland Sec., *Statement by Secretary Jeh C. Johnson on U.S. Airport Security Enhancements* (Apr. 20, 2015), available at www.dhs.gov/news/2015/04/20/statement-secretary-jeh-c-johnson-us-airport-security-enhancements (last visited Sep. 27, 2016).

¹¹ *Examining Management Practices and Misconduct at TSA: Part II: Hearing Before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (May 12, 2016) (statement of Peter Neffenger, Administrator, Transportation Security Administration).

¹² *Id.*

¹³ Dep’t of Homeland Sec. Inspector Gen., *TSA Can Improve Aviation Worker Vetting* (June 4, 2015) (OIG-15-98).

¹⁴ *Id.*

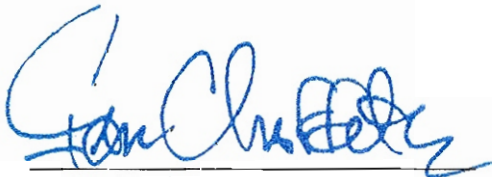
6. All documents referring or relating to aviation worker CHRCs reviewed by TSA inspectors during annual security inspections;
7. All documents referring or relating to the revocation of an aviation worker's credential after a review by TSA inspectors;
8. All documents referring or relating to the physical screening measures in place for screening aviation workers at each Category X airport; and
9. All documents referring or relating to TSA's Rap Back pilot program at commercial airports.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives. Pursuant to House Rule X, the Committee has authority to investigate "any matter" at "any time."

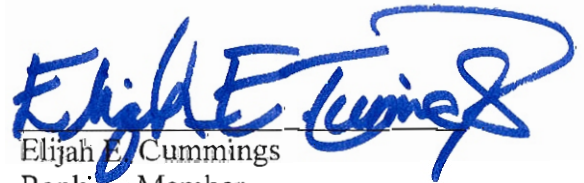
When producing documents to the Committee please deliver production sets to the Majority staff in Room 2157 Rayburn House Office Building and the Minority staff in Room 2471 Rayburn House Office Building. The Committee prefers, if possible, to receive all documents in electronic format. An attachment to this letter provides additional information about responding to the Committees' request.

Please contact Michael Ding of the Committee's Majority staff at (202) 225-5074 or Lucinda Lessley of the Committee's Minority staff at (202) 225-5051 with any questions about this request. Thank you for your attention to this matter.

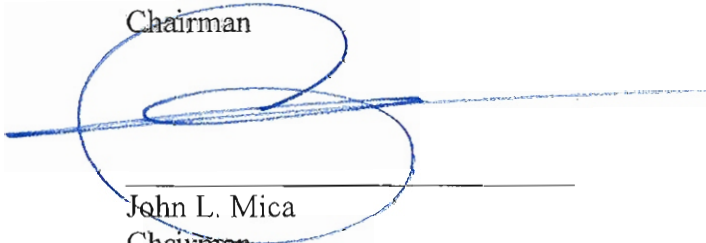
Sincerely,



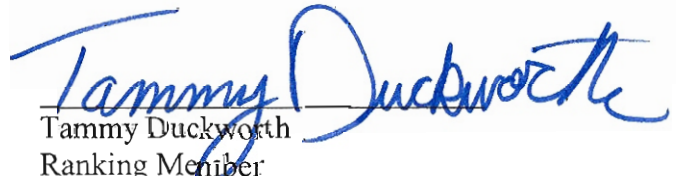
Jason Chaffetz
Chairman



Elijah E. Cummings
Ranking Member



John L. Mica
Chairman
Subcommittee on Transportation
and Public Assets



Tammy Duckworth
Ranking Member
Subcommittee on Transportation
and Public Assets

Enclosure

Responding to Committee Document Requests

1. In complying with this request, you are required to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.
3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
4. Documents produced in electronic format should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
 - (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - (b) Document numbers in the load file should match document Bates numbers and TIF file names.
 - (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - (d) All electronic documents produced to the Committee should include the following fields of metadata specific to each document:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH,
PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE,
SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM,
CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE,
DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,
INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,
BEGATTACH.
6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.

7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when the request was served.
8. When you produce documents, you should identify the paragraph in the Committee's schedule to which the documents respond.
9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.
10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.
11. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you are required to produce all documents which would be responsive as if the date or other descriptive detail were correct.
15. Unless otherwise specified, the time period covered by this request is from January 1, 2009 to the present.
16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.
17. All documents shall be Bates-stamped sequentially and produced sequentially.
18. Two sets of documents shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building.

19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email (desktop or mobile device), text message, instant message, MMS or SMS message, regular mail, telexes, releases, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
4. The terms “person” or “persons” mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.

5. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
6. The term “referring or relating,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.
7. The term “employee” means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, subcontractor, or any other type of service provider.