AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

LAST LINE OF DEFENSE: THE FEDERAL AIR MARSHAL SERVICE 10 YEARS AFTER 9/11

HEARING

BEFORE THE

SUBCOMMITTEE ON TRANSPORTATION SECURITY

OF THE

COMMITTEE ON HOMELAND SECURITY HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

SECOND SESSION

FEBRUARY 16, 2012

Serial No. 112–69

Printed for the use of the Committee on Homeland Security

Available via the World Wide Web: http://www.gpo.gov/fdsys/

U.S. GOVERNMENT PRINTING OFFICE

76–515 PDF WASHINGTON : 2012

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2250 Mail: Stop SSOP, Washington, DC 20402–0001

COMMITTEE ON HOMELAND SECURITY

PETER T. KING, New York, *Chairman*

LAMAR SMITH, Texas
DANIEL E. LUNGREN, California
MIKE ROGERS, Alabama
MICHAEL T. MCCAUL, Texas
GUS M. BILIRAKIS, Florida
PAUL C. BROUN, Georgia
CANDICE S. MILLER, Michigan
TIM WALBERG, Michigan
CHIP CRAVAACK, Minnesota
JOE WALSH, Illinois
PATRICK MEEHAN, Pennsylvania
BEN QUAYLE, Arizona
SCOTT RIGELL, Virginia
BILLY LONG, Missouri
JEFF DUNCAN, South Carolina
TOM MARINO, Pennsylvania
BLAKE FARENTHOLD, Texas
ROBERT L. TURNER, New York

BENNIE G. THOMPSON, Mississippi
LORETTA SANCHEZ, California
SHEILA JACKSON LEE, Texas
HENRY CUELLAR, Texas
YVETTE D. CLARKE, New York
LAURA RICHARDSON, California
DANNY K. DAVIS, Illinois
BRIAN HIGGINS, New York
JACKIE SPEIER, California
CEDRIC L. RICHMOND, Louisiana
HANSEN CLARKE, Michigan
WILLIAM R. KEATING, Massachusetts
KATHLEEN C. HOCHUL, New York
JANICE HAHN, California

MICHAEL J. RUSSELL, *Staff Director/Chief Counsel*
KERRY ANN WATKINS, *Senior Policy Director*
MICHAEL S. TWINCHEK, *Chief Clerk*
I. LANIER AVANT, *Minority Staff Director*

SUBCOMMITTEE ON TRANSPORTATION SECURITY

MIKE ROGERS, Alabama, *Chairman*

DANIEL E. LUNGREN, California
TIM WALBERG, Michigan
CHIP CRAVAACK, Minnesota
JOE WALSH, Illinois, *Vice Chair*
MO BROOKS, Alabama
PETER T. KING, New York *(Ex Officio)*

SHEILA JACKSON LEE, Texas
DANNY K. DAVIS, Illinois
JACKIE SPEIER, California
CEDRIC L. RICHMOND, Louisiana
BENNIE G. THOMPSON, Mississippi *(Ex Officio)*

AMANDA PARIKH, *Staff Director*
NATALIE NIXON, *Deputy Chief Clerk*
VACANT, *Minority Subcommittee Lead*

CONTENTS

Page

STATEMENTS

The Honorable Mike Rogers, a Representative in Congress From the State of Alabama, and Chairman, Subcommittee on Transportation Security 1
The Honorable Sheila Jackson Lee, a Representative in Congress From the State of Texas, and Ranking Member, Subcommittee on Transportation Security 2
The Honorable Bennie G. Thompson, a Representative in Congress From the State of Mississippi, and Ranking Member, Committee on Homeland Security:
Prepared Statement 21

WITNESSES

Mr. Robert S. Bray, Assistant Administrator for Law Enforcement, Director, Federal Air Marshal Service, Transportation Security Administration; Accompanied by Michael Novak, Assistant Administrator, Training and Workforce Engagement, Transportation Security Administration, and Roderick J. Allison, Deputy Assistant Administrator for Law Enforcement, Deputy Director, Federal Air Marshal Service, Transportation Security Administration:
Oral Statement 4
Joint Prepared Statement 6
Mr. Charles K. Edwards, Acting Inspector General, Office of the Inspector General, Department of Homeland Security:
Oral Statement 8
Prepared Statement 10

LAST LINE OF DEFENSE: THE FEDERAL AIR MARSHAL SERVICE 10 YEARS AFTER 9/11

Thursday, February 16, 2012

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

The subcommittee met, pursuant to call, at 2:27 p.m., in Room 311, Cannon House Office Building, Hon. Mike Rogers [Chairman of the subcommittee] presiding.

Present: Representatives Rogers, Cravaack, Turner, Jackson Lee, and Richmond.

Mr. ROGERS. The committee on Homeland Security Subcommittee on Transportation Security will come to order. This subcommittee meeting is today to discuss the important work of the Federal Air Marshal Service. I want to thank every one of our witnesses for being here today and the time and commitment it took for you to prepare your remarks, and the inconvenience of making time for one of these hearings. I can tell you what you have to offer helps us a lot as policymakers. So we appreciate your time and effort.

As a senior Member of this committee since its creation, and in leadership of three unique subcommittees, I have focused my energy on ensuring that we do not just address the past, but that we are adequately equipped to respond to the threats of today and tomorrow. We all know that the outcome of one of the darkest days in our Nation's history could have been very different if we had Federal Air Marshals on those planes. But the reality is the terrorists have adapted to our security measures and changed their tactics. We saw this on Christmas day in 2009 and in other attempted attacks since 9/11.

The threat of an IED being detonated aboard an aircraft is very real. With an annual budget approaching $1 billion, we need to ask the question of whether today's Federal Air Marshall Service is capable of preventing current and future terrorist threats? What new efficiencies can be gained to reduce the cost of the program?

In the aftermath of 9/11, the Federal Air Marshal Service, or FAMS, evolved into the primary law enforcement entity within TSA deploying air marshals on countless domestic and international flights everyday. TSA has undergone many changes since its formation after 9/11, but FAMS has largely maintained its autonomy throughout the years. Both its annual budget and its day-to-day operations and training are separate from the rest of TSA.

Recently Administrator Pistole announced sweeping changes to TSA's internal organization and structure, which included the Federal Air Marshals Service. I want to ensure that this reorganization does not set the air marshals back in any way particularly with respect to training operations or adding unnecessary layers of bureaucracy.

While I can understand TSA's desire to restructure itself amidst all the criticism it gets, it should not make these types of decision in haste. The ultimate goal should be to provide security while reducing the cost to the taxpayer in a tight economy. So if reorganizations such as this do not lead to any cost saving, it is difficult to see the logic behind it or to support it.

From what we have been told, TSA's reorganization will not result in any tangible cost savings. I would urge the witnesses today and other officials at TSA and DHS to look at this committee as a partner in your efforts. The sooner we are informed of the changes you plan to make, the better. Today I look forward to hearing directly the leadership of Federal Air Marshal Service about these recent reorganizational changes, how air marshalls are adapting to the constantly revolving threats we face from terrorists and ways we can reduce the burden on taxpayers.

With that I now recognize the Ranking Member of the subcommittee, the gentlelady from Texas, Ms. Jackson Lee for 5 minutes for her opening statement.

Ms. JACKSON LEE. Good afternoon. Thank you very much, Mr. Chairman. I would like to thank the witnesses for being here today to discuss the Federal Air Marshals Service. I would also like to thank Chairman Rogers who knew of my interest and my request for this hearing for holding this important and timely hearing, and to take a closer look at the Federal Air Marshal program and discuss the recent findings in a report released last week by the Department of Homeland Security inspector general.

The Aviation Transportation Security Act of 2002 designated the Federal Air Marshal Service as a law enforcement organization within the Transportation Security Administration. Prior to September 11, the Federal Air Marshals comprised a workforce of 33 sky marshals. After 9/11, it became clear that a 33-person unit would not be sufficient to protect the American flying public from a new threat. The idea of Federal Air Marshals, I believe, is again, as I have said often in this committee, part of the front line of defense of the American homeland. Our FAMS were vastly expanded to address when our abilities exposed on 9/11. The Federal Air Marshal serves as the last line of defense for thousands of passengers on flights both domestic and international.

While FAMS police our skies and protect passengers, we must wonder what happens when they leave the airport and return to the office. In the last 3 years, we have learned about a hostile work environment epitomized by the use of a crude game to demean FAMS who are women, minority group members, or gays.

Today the inspector general will testify that 47 percent of the survey responders fear retaliation if they speak out about workplace conditions. Today, we will hear from the leadership of FAMS about the plan to correct the workforce issues that have long plagued this organization.

We will also hear from the inspector general about the recommendations he has made to remedy the issues at FAMS. Compounding my concern about the inspector general's report is the fact that the workforce challenges at FAMS are not new. In 2005, the GAO released a report recommended that FAMS developed a communication strategy to change, to share expectations, and report related progress within its workforce.

In 2009, the GAO released another report recommending that the director of FAMS take appropriate actions to increase of the usefulness the workforce satisfaction surveys. Today we will receive testimony from the IG recommending that the director of FAMS provide increased transparency and forms of communication across the organization, particularly between rank-and-file FAMS and management. It seems that every examination of FAMS, whether by GAO or the inspector general, finds a workplace that needs improved transparency, increased communication, and opportunities for upward mobility. Knowing some of the FAMS myself and seeing them at work, I know that they are however dedicated and committed to serving the American people. We must allow everyone to serve in dignity as a FAM on behalf of the American people.

It is also clear that every examination since 2005 has yielded a promise from FAMS management that practices would improve and conditions would change. It appears that those promises have not been kept. They do not want to hear about new promises. Today I want to learn how FAMS leadership will keep its commitment to those Federal Air Marshals who risk their lives everyday to protect the flying public.

I frankly, in conclusion, would like to see FAMS increased and introduce H.R. 71 which would increase the number of Federal Air Marshals for certain flights, require criminal investigative training for such marshals, create an office and employment ombudsman for marshals, and for other purposes.

I am committed to the excellence of FAMS, I want to see the leadership and the team working together, but as well, working together with a diverse force, if you will, that can work harmoniously on behalf of the American people. I look forward to hearing from Director Bray on what actions he intends to take to direct workforce challenges once and for all. With that Mr. Chairman, thank you so very much and I yield back.

Mr. ROGERS. I thank the gentlelady and other Members of the committee are reminded their opening statements can be submitted for the record. We are pleased to have several distinguished witnesses before us today on this important topic. Let me remind the witnesses that their entire statements will appear in the record and you will be given 5 minutes to summarize it, so we can get to the Q&A.

First witness is Mr. Robert Bray, he currently serves as the assistant administrator for law enforcement and the director for the Federal Air Marshal Service, TSA. Mr. Bray began his career with FAMS in 2003 as an assistant special agent in charge of the mission operation center at the FAA, technical center in Atlantic City, New Jersey. Mr. Bray is joined by two of his TSA colleagues, Mr. Michael Novak who currently serves as the assistant administrator for training for workforce engagement, and Mr. Roderick Allison

who currently serves as a deputy assistant administrator for law enforcement.

Mr. Bray will be offering an opening statement on behalf of himself, Mr. Novak, and Mr. Allison. He is now recognized for 5 minutes.

STATEMENT OF ROBERT S. BRAY, ASSISTANT ADMINISTRATOR FOR LAW ENFORCEMENT, DIRECTOR, FEDERAL AIR MARSHAL SERVICE, TRANSPORTATION SECURITY ADMINISTRATION; ACCOMPANIED BY MICHAEL NOVAK, ASSISTANT ADMINISTRATOR, TRAINING AND WORKFORCE ENGAGEMENT, TRANSPORTATION SECURITY ADMINISTRATION, AND RODERICK J. ALLISON, DEPUTY ASSISTANT ADMINISTRATOR FOR LAW ENFORCEMENT, DEPUTY DIRECTOR, FEDERAL AIR MARSHAL SERVICE, TRANSPORTATION SECURITY ADMINISTRATION

Mr. BRAY. Good afternoon and thank you, Chairman Rogers, Ranking Member Jackson Lee, and distinguished Members of the subcommittee. Thank you for the opportunity to testify today about the Transportation Security Administration's office of law enforcement, Federal Air Marshal Service, and our mission to detect and deter terrorist threats to the Nation's transportation systems. With me today is former FAMS Deputy Director Mike Novak, who is now TSA's assistant administrator for the Office of Training and Workforce Engagement. Mr. Novak was a former assistant director of training for the FAMS.

In addition, I also want to introduce Mr. Roderick Allison, who was recently named as the deputy director of FAMS and has most recently served as our assistant deputy director for flight operations.

I would also like to introduce Joe Samuels and Mel Caraway, they are respectively, the new supervisory air marshals in charge of the Orlando and Dallas office.

Mr. ROGERS. Welcome.

Mr. BRAY. Before 9/11, the FAA employed just 33 air marshals who flew primarily international missions. Following the passage of the Aviation and Transportation Security Act, FAMS was officially transferred to TSA. Today Federal Air Marshals are the primary law enforcement entity within TSA and are deployed on flights with the United States and around the world, and Federal Air Marshals make great personal and professional sacrifices every day in the performance of their vital mission to our Nation.

Transformation within the Department of Homeland Security led to a period in which the FAMS transition to the U.S. Immigration and Customs Enforcement Agency, ICE, before returning to TSA in 2005. Today OLE/FAMS serves DHS in a variety of critical roles. We operate the Freedom Center, which contains the transportation security operation center also known as the TSOC, as well the K–9 training program.

Within TSA's office of security operations, we administer the visible intermodal prevention and response program, which is also known as VIPR, which is aimed at enhancing transit security.

Additionally, we manage the personnel security clearance process for TSA, and conduct both joint vulnerability assessments for air-

ports as well as man portable air defense systems, or MANPADS assessments. Ten years after 9/11, our mission is no longer separate from TSA's other transportation security missions.

Today our responsibilities make us a key component of TSA's transportation security counterterrorism strategy. As you know, TSA is currently implementing an agency-wide transformation initiative. The plan reflects a fully integrated FAMS realigned and operational divisions that support and enhance the TSA law enforcement mission. This new structure will enable TSA to more efficiently and effectively execute its day-to-day National security mission imperatives, establish a meaningful and realistic strategic vision for its law enforcement programs and maintain the flexibility needed to address evolving and emerging threats to the Nation's transportation systems.

A highly trained workforce is essential to the success of TSA. Transitioning the FAMS training center and other FAMS training programs to the newly established office of training and workforce engagement under Mike Novak is an important step toward reaching that goal.

FAMS training will remain an independent division under the Office of Training and Workforce Engagement continuing to serve our specific mission needs while TSA benefits from the professional experience of former FAMS executives like Mike Novak.

Law enforcement is our essential function and this transformation will enhance FAMS' ability to focus on what it does best, providing TSA with an agile responsive and professional law enforcement component that compliments the overall TSA mission.

FAMS will streamline from five divisions to three: We will have the flight operations division; the security services and assessment division; and the field operations division. Remaining functions from the former administrative and technical services and training and workforce programs directorates will transfer to the appropriate TSA division, and some supporting elements will transfer to the FAMS business office.

This model supports a field-centric approach allowing branch managers and staff to focus solely on the needs and management of the local field offices.

This approach also provides the ability to consider field office consolidation issues within our concept of operations. This alignment will also contribute to correcting some issues noted in the report by the Office of Inspector General. The OIG investigated allegations of misconduct and illegal discrimination and retaliation in the FAMS, and the report found those allegations to be unfounded. The OIG did find, however, that the FAMS suffered from a lack of management cohesion, negative workforce perceptions, and a lack of compliance with headquarters' direction in the matters of office operations and philosophy. Changing this management structure and reinvigorating the office of field operations addresses some of the OIG's concerns by creating a foundation for a real, positive, cultural change to our workforce.

We welcome the OIG review, and will continue working closely with them going forward. We realize there is work to be done as we continue to mature and advance our organization. We look forward to working with Congress and the OIG to ensure the agency's

continuing improvement. Additionally, as the OIG report noted, these challenges have not and will not interfere with the mission of the FAMS. Chairman Rogers, Ranking Member Jackson Lee, we thank you for the opportunity to appear before you today, and look forward to answering your questions.

[The joint prepared statement of Mr. Bray, Mr. Novak, and Mr. Allison follows:]

JOINT PREPARED STATEMENT OF ROBERT S. BRAY, MICHAEL NOVAK, AND RODERICK J. ALLISON

FEBRUARY 16, 2012

Good afternoon Chairman Rogers, Ranking Member Jackson Lee, and distinguished Members of the subcommittee. Thank you for the opportunity to testify today about the Transportation Security Administration (TSA)—Office of Law Enforcement/Federal Air Marshal Service (OLE/FAMS) and how the changes we are implementing will help us achieve our mission to detect, deter, and defeat terrorist threats to the Nation's transportation systems while streamlining our operations.

I would like to take this opportunity to introduce the former Deputy Director of the FAMS, who is now TSA's new Assistant Administrator, Mr. Mike Novak of the Office of Training and Workforce Engagement (TWE). Mr. Novak was also a former Assistant Director of Training for the FAMS at TSA. In addition, I would like to introduce Mr. Roderick Allison, who was recently named as the new Deputy Director of OLE/FAMS and who most recently served as our former Assistant Director for Flight Operations.

The FAMS was officially transferred from the Federal Aviation Administration to TSA by the Aviation and Transportation Security Act. Over a 4-year period, the FAMS transitioned from TSA to the Department of Homeland Security's (DHS's) U.S. Immigration and Customs Enforcement component, and then back to TSA. It has been about 6 years since our reintegration with TSA. Today, Federal Air Marshals (FAMs) serve as the primary law enforcement officers within TSA and are deployed on both international and domestic flights. Last year, TSA signed 23 international agreements with foreign partners, including nine agreements permitting the deployment of FAMs on flights between the United States and the respective countries and 14 agreements on technical assistance and information sharing. Also of note in 2011, the Military Operations Research Society selected a University of Southern California (one of the DHS Science and Technology Directorate (S&T) Centers of Excellence partners) collaborative project with S&T and FAMS on randomizing Federal Air Marshals (FAMs) flight schedules for the prestigious Rist Award, the first non-Department of Defense winner in history.

Today, OLE/FAMS serves DHS in a variety of critical roles. We are responsible for operating the Freedom Center, which contains the Transportation Security Operations Center (TSOC), the operational communications nexus for all of TSA, and the National Explosives Detection Canine Training Program (NEDCTP). We also manage the personnel security clearance process for TSA and conduct both Joint Vulnerability Assessments for airports as well as Man Portable Air Defense System (MANPADS) Vulnerability Assessments.

In addition to our aviation security responsibilities, in conjunction with the Office of Security Operations, we administer the Visible Intermodal Prevention and Response Program (VIPR), which is aimed at enhancing the intermodal security response of our State and local transit partners. TSA has 25 multi-modal VIPR Teams working in transportation sectors across the country to prevent or disrupt potential terrorist planning activities, and the TSA appropriation for fiscal year 2012 includes funds for an additional 12 new VIPR Teams.

Ten years after 9/11, our mission is no longer separate from TSA's other transportation security missions. Today, our responsibilities make us a key component of TSA's transportation security counterterrorism strategy.

As you may know, TSA has recently undertaken an agency-wide transformation initiative. The OLE/FAMS part of the TSA transformation focuses specifically on transportation law enforcement services across TSA. The transformation plan has created a fully integrated OLE/FAMS, realigned into three operational divisions that support and enhance the TSA law enforcement mission. Under the plan some portion of non-mission elements such as financial and administrative services as well as technology management are transitioning to appropriate centralized TSA entities. This proposed structure will enable TSA to more efficiently and effectively

execute its day-to-day National security mission imperatives, establish a meaningful and realistic strategic vision for its law enforcement programs, and be flexible to address evolving threats to the Nation's transportation systems.

In order to achieve this vision, it's crucial that TSA has a well-trained and highly motivated workforce. Transitioning the FAMS Training Center and other FAMS training programs to the TWE and leveraging the expertise of the men and women who train our FAMs are important steps towards that goal.

Throughout this transition, we will continue to sustain the high level of FAMS training currently underway. FAMS training will remain an independent division under TWE, continuing to serve our mission needs, while TSA will benefit from the professional experience of former FAMS executives like Mr. Novak.

OLE/FAMS STRUCTURE

Law enforcement is our essential function. The OLE/FAMS transformation will enhance FAMS's ability to focus on what it does best—providing TSA with an agile, responsive, and dependable law enforcement component that complements the overall TSA mission. OLE/FAMS will streamline from five directorates to three divisions: The Flight Operations Division, the Security Services and Assessments Division (SSA), and the Field Operations Division (FLD). Remaining functions from the former Administrative and Technical Services and Training and Workforce Programs directorates will transfer to the appropriate TSA division and some supporting elements will transfer to the Business Management Office.

Flight Operations Division

The Flight Operations alignment will remain largely unchanged from its original function. It will maintain the management of FAMS daily deployment, 24/7 incident management, TSA's emergency preparedness functions, the Federal Flight Deck Officer program and other associated programs. Training functions relating to those programs will migrate to TWE while the TSOC and FAMS Systems Operational Control functions will continue as part of Flight Operations.

Security Services and Assessments Division

SSA's structure will also remain similar to the present composition, including the NEDCTP, MANPADS mitigation, airport vulnerability assessments, and physical security. However, some section-level functions will be transformed to permit greater attention to emerging mission areas. These include responsibility for TSA's Insider Threat Section. The Insider Threat Section will enable TSA to better identify and mitigate risks posed by individuals with inside knowledge or access to the transportation system.

Field Operations Division

The FLD will align under four branches, three responsible for the oversight of a roughly equal number of Field Supervisory Air Marshals in Charge (SACs) and organized based on location. The fourth branch will manage all other field-related law enforcement programs, including those which will realign to OLE/FAMS from other TSA components. I am encouraged that this structure will enable us to better serve the men and women in the 25 field offices who protect us every day.

In particular, the Law Enforcement Programs Branch will contain three sections—VIPR/Joint Coordination Center, Tactical Support, and Law Enforcement Information Coordination. The new Tactical Support Section is composed of operational elements which sustain Field Office operational functions.

The Critical Incident Response Program (CIRP), which primarily serves OLE/FAMS Field Operations, offers organization-wide support services in response to any critical incident such as line of duty exposure to traumatic events. CIRP provides assistance to OLE/FAMS employees and their families in times of personal or professional crisis and helps employees meet life's challenges in an effort to remain healthy, engaged, and productive. This branch will also liaise and collaborate with TWE on delivery of OLE/FAMS-focused training products and oversee the provision/compliance of FAMs' recurrent training for headquarters operational personnel.

The Law Enforcement Information Coordination Section (LECS), formerly known as the Information Coordination Division, has become more significant given its increasing TSA duties, particularly as it assumes the role of primary Federal Bureau of Investigation operational contact.

The transformation of OLE/FAMS Field Office management is designed to be consistent with other TSA operational components and to permit future smooth transitions in the field. OLE/FAMS Field Office Branch Chiefs will align congruently with the Office of Security Operations' (OSO) Regional Managers. This model will permit

closer coordination between senior OLE/FAMS and OSO managers, which is expected to improve TSA operational performance and professional collaboration.

The model also enables OLE/FAMS to pursue a "field-centric" approach allowing branch managers and staff to focus solely on supporting the field, and the management of offices/SACs. Moreover, a field-centric approach will also provide the time and space to consider issues of field office consolidation and/or right-sizing congruent with the FAMS Concept of Operations or emerging law enforcement trends/challenges.

In addition, the realignment will contribute to correcting the internal challenges noted in a January 2012 report by DHS's Office of the Inspector General (OIG), which investigated allegations of misconduct and illegal discrimination and retaliation in the FAMS. While the report found those allegations to be unfounded, the OIG did find that the FAMS suffered from a lack of management cohesion, negative workforce perceptions, and a lack of compliance with headquarters direction on matters of office operations and management philosophy. Changing the management structure and re-invigorating the focus of Field Operations addresses the OIG's concerns by laying the foundation for real, positive cultural change to our workforce. We welcome the OIG review and have worked closely with them throughout this process.

CONCLUSION

We believe the changes we are implementing will help strengthen our ability to provide comprehensive transportation security. They are designed to enable TSA to more efficiently and effectively execute our day-to-day operations and cultivate a strategic vision for our law enforcement programs while maximizing the flexibility needed to address unforeseen challenges and threats to the Nation's transportation systems.

Chairman Rogers, Ranking Member Jackson Lee, we thank you for the opportunity to appear before you today. We look forward to answering your questions about the mission and operation of the Federal Air Marshal Service and the organizational changes that may result from the TSA transformation.

Mr. ROGERS. Thank you, Mr. Bray, for your testimony. We appreciate you being here today, and we know your time is valuable.

Our next witness, Mr. Charles Edwards, is the acting Inspector General of the Department of Homeland Security, and no stranger to this committee. I am glad to have you back. Mr. Edwards assumed this position in February 2011. Previously, he served as Deputy Inspector General for the Department of Homeland Security. Mr. Edwards has over 20 years of experience in the Federal Government, and has held leadership positions at several Federal agencies, including TSA, the U.S. Postal Service Office of Inspector General, and the United States Postal Service. The Chair now recognizes the famous Charles Edwards.

STATEMENT OF CHARLES K. EDWARDS, ACTING INSPECTOR GENERAL, OFFICE OF THE INSPECTOR GENERAL, DEPARTMENT OF HOMELAND SECURITY

Mr. EDWARDS. Good afternoon, Chairman Rogers, Ranking Member Jackson Lee, and distinguished Members of the subcommittee. Thank you for the opportunity to testify regarding allegations of misconduct, discrimination, and retaliation in the Federal Air Marshal Service, or FAMS. My office reviewed these allegations and published the results in a recent report titled "Allegations of Misconduct and Illegal Discrimination and Retaliation in the Federal Air Marshal Service."

In early 2010, several Members of Congress reached out to my office requesting a review of FAMS after media reports surfaced regarding misconduct, illegal employment discrimination, and retaliation in the FAMS Orlando field office. Included within the media reports were descriptions of an agency rife with cronyism, age, gen-

der, and racial discrimination; and unfair treatment in promotions, assignments, and discipline. In addition, there were troublesome photographs of a game board modeled after the television show Jeopardy. The game board was created and displayed by supervisors in the Orlando office, with categories using derogatory nicknames to refer to certain individuals' race, gender, and sexual orientation.

My office agreed to undertake an inspection to evaluate these allegations. Our goal was to determine whether the facts confirmed the specific allegations about the conditions in the FAMS Orlando field office, and whether the alleged conditions existed Nation-wide. As part of a review, we looked at applicable laws, regulations, directives, policies, and procedures. Furthermore, we conducted more than 300 interviews of officials, as well as current and former FAMS personnel. Additionally, we performed site visits to FAMS field offices, including Orlando, and reviewed internal FAMS records.

With respect to the Jeopardy game board, this incident was isolated in the Orlando field office, and was not the source of allegations in other offices. All three individuals responsible for the game board's creation are no longer with FAMS. Overall, we determined that although several employees experienced discrimination, a finding of wide-spread discrimination and retaliation within FAMS is not supported. Unfortunately, employees' perceptions of discrimination, retaliation, and favoritism are extensive. During our inspection, we identified many factors that contributed to strained relations and were the basis of allegations of management misconduct. For example, due to the nature of the agency's mission, FAMs have limited interaction with their supervisors. Evaluating FAMs based on such limited interaction is difficult, and may lead to disagreements. We noted inconsistency and the need for greater transparency and expediency in the agency's handling of employee misconduct.

We also found that discipline was perceived as unfair, inconsistently applied, and not at the appropriate severity level for the offense, and used for retaliatory purposes. Several other unclear operational and administrative FAMS policies lead to employees' negative perceptions. As part of our inspection, we also conducted a survey of the FAMS workforce. Approximately 50 percent of the workforce responded. The survey results echoed what we observed during our site visits. One quarter of respondents feel that they have been discriminated against, 47 percent feel retaliation, and 55 percent feel favoritism is tolerated. The survey also revealed that most, but not all, supervisors disagree with the non-supervisory Federal Air Marshals' perception of these issues.

As concerning as these issues are, they do not appear to have compromised the FAMS mission. Despite the concerns expressed in field offices, 76 percent of survey respondents either agreed or strongly agreed that the people they worked with cooperate to get the job done. Nonetheless, these allegations add unnecessary distraction at all levels at a time when mission tempo is high and many in the agency are becoming increasingly concerned about workforce burnout and fatigue. Thus, our report included 12 recommendations to help mitigate these issues. These include identi-

fying other means to evaluate FAMS performance, clarifying and enhancing administration of the discipline process, enhancing guidance for ground-based assignments. We would like TSA to develop a strategy to address perceptions of discrimination, retaliation, and favoritism, as well as the workplace issues identified in our survey.

While TSA and FAMS leadership are committed to addressing these issues, and have implemented several proactive initiatives, we will continue to work with TSA and the Department to identify ways to strengthen communication and increase transparency within the Federal Air Marshal Service.

Mr. Chairman, this concludes my prepared remarks, and I would be happy to answer any questions that you or other members may have.

[The prepared statement of Mr. Edwards follows:]

PREPARED STATEMENT OF CHARLES K. EDWARDS

FEBRUARY 16, 2012

Good afternoon Chairman Rogers, Congresswoman Jackson Lee and distinguished Members of the subcommittee. Thank you for the opportunity to testify on allegations of misconduct and illegal discrimination and retaliation in the Transportation Security Administration's (TSA) Federal Air Marshal Service (FAMS).

In January 2010, CNN reported allegations of misconduct and illegal employment discrimination and retaliation in the FAMS Orlando field office. The reports described an agency rife with cronyism; age, gender, and racial discrimination; and unfair treatment in promotions, assignments, and discipline. Also included were photographs of a game board modeled after the television show "Jeopardy!" created and displayed by supervisors there, with categories containing derogatory nicknames referring to veterans, females, African-Americans, Hispanics, and lesbians and gays. We reviewed the allegations in Orlando and throughout the agency as well as the circumstances surrounding the game board.

In January 2012, we issued an inspection report, *Allegations of Misconduct and Illegal Discrimination and Retaliation in the Federal Air Marshal Service* (OIG–12–28). The purpose of our review was to evaluate allegations of misconduct and illegal discrimination and retaliation in FAMS. Our goal was to determine whether the facts confirmed the allegations in the FAMS Orlando field office and the extent to which the alleged conditions existed Nation-wide. We made 12 recommendations to help TSA mitigate the issues we identified, strengthen communication, and increase transparency. It is important to point out that that these issues do not appear to have compromised the FAMS mission. TSA and FAMS senior leadership are committed to addressing these issues and have implemented several proactive initiatives.

Although individual employees may have experienced discrimination or retaliation, our review does not support a finding of widespread discrimination and retaliation within FAMS. However, employees' perceptions of discrimination, retaliation, and favoritism are extensive, and we heard too many negative and conflicting accounts of events in certain locations to dismiss them. Tension and limited trust between non-supervisory and supervisory personnel, poor communication, and limited transparency are not only damaging morale, but also are at the center of fears of retaliation and perceptions that management is mistreating its workforce.

Although we spent a great deal of time talking to non-supervisory Federal Air Marshals about their individual concerns or situations, we did not conduct investigations of their specific allegations against supervisors. Determining whether one employee retaliated or discriminated against another is a complex matter that may not be resolved until reviewed by the Equal Employment Opportunity Commission, the Merit Systems Protection Board, or a court of law. Beginning in the Orlando field office, we engaged FAMS employees at all levels and at multiple locations around the country to gain a better understanding of how the organization operates and obtain their insights into incidents that have fueled the allegations. One of our challenges was discerning the views of non-supervisory and supervisory Federal Air Marshals and FAMS' senior leadership.

We assessed the circumstances surrounding the game board styled after the television game show "Jeopardy!" and the FAMS Orlando field office's response. The game board existed in Orlando only, and was not the source of allegations of retalia-

tion and discrimination in other field offices. The game board was created by a Supervisory Federal Air Marshal, a Federal Air Marshal, and a civilian training officer in the training office. All three of these individuals have since left FAMS. A former Federal Air Marshal who photographed the game board while it hung in the training office did not show it to Members of Congress or the media until after FAMS removed him in December 2009. He said he drew a second game board, which contained more patently offensive categories, to help the Congressional staff better understand the original game board's categories. Images of both game boards were distributed to several Federal Air Marshals in Orlando and Tampa. The recreated game board generated outrage, anger, and sadness.

We asked personnel in the Orlando field office how management responded to the situation. The Supervisory Air Marshal in Charge (SAC) and the Assistant Supervisory Air Marshals in Charge held a series of briefings describing the game board as an improper, sophomoric joke by training staff. Accounts of managers' attitudes while addressing the matter varied. Managers felt they had responded appropriately. Non-supervisory Federal Air Marshals recalled being disappointed by the briefings because managers came across as insensitive for not expressing accountability, contrition, or appropriate outrage. While we were conducting our site visit, FAMS leadership met with the Orlando SAC at headquarters. In July 2010, the Orlando field office underwent some personnel changes. These included the SAC being reassigned to a position in headquarters. In August 2010, Director Bray met with the entire Orlando field office to address workforce issues. In January 2011, the former Orlando SAC retired from FAMS.

In the past several years, numerous workforce issues have undermined relationships between managers and Federal Air Marshals, created tension and mistrust within the work environment, and led to many complaints and allegations against managers. These issues spawned an "us versus them" mentality among non-managers, immediate managers, and senior managers. We noted different leadership styles and attitudes among managers and supervisors in the field offices we visited, but most acknowledged that relationships could be better and said they are trying to improve communication with the workforce to address these issues. At the same time, many Federal Air Marshals seemed unwilling or unable to adapt to changes or recognize that senior management has made efforts to address work-life issues brought to their attention. The inability of both supervisors and Federal Air Marshals to "let go" of past incidents that were previously addressed was a recurring theme during our review.

We identified other numerous factors that contributed to strained relations and became the basis for many allegations of management misconduct. Due to the nature of the agency's mission, Federal Air Marshals have limited interaction with their supervisors. Evaluating Federal Air Marshals based on such limited interaction is difficult and may lead to disagreements. We noted inconsistency and the need for greater transparency and expediency in the agency's handling of employee misconduct. Discipline was perceived as unfair, inconsistently applied, not at the appropriate severity level for the offense, and as being used for retaliatory purposes. Everyone agreed the process takes too long. In addition, several other operational and administrative aspects of FAMS, such as how it administers ground-based assignments, promotions, and restriction from flying international missions, need more clarity.

We also conducted a survey of the FAMS workforce. Approximately 50% of the workforce completed the survey. The survey results echoed what we observed during our site visits. One-quarter of respondents feel they have been discriminated against, 47% of respondents fear retaliation, and 55% believe favoritism is tolerated. The survey also revealed that most, but not all, supervisors disagree with non-supervisory Federal Air Marshals' perceptions of these issues. Negative perceptions are also prevalent regarding discipline and favoritism, even among managers and respondents who do not believe they are victims of discrimination, retaliation, or unfavorable treatment. Employees who fear retaliation are also less likely to report misconduct or illegal activity.

These issues do not appear to have compromised the FAMS mission. Despite the concerns expressed in field offices, 76% of survey respondents either agreed or strongly agreed that the people they work with cooperate to get the job done. However, these allegations add unnecessary distraction at all levels at a time when mission tempo is high and many in the agency are becoming increasingly concerned about workforce burnout and fatigue.

Management has been addressing workforce issues for several years, and continues to address them. Initiatives include the creation of the SAC Advisory Council, FAMS Advisory Council, and several working groups. In addition, all-hands meetings were held to discuss and identify workplace issues, develop recommended

courses of action, and designate committees to plan for implementation of the agreed course of action based on operational requirements. These initiatives have provided useful forums for increasing communication and collaboration between senior leadership and the workforce, particularly the field offices, and addressing workplace issues. To promote a common culture within FAMS and address the "us versus them" perceptions, the Director accepted and implemented many of the FAMS Advisory Council's recommendations. In addition, the Director met with headquarters personnel to discuss changing the cultural mindset at all levels of the organization from one of a top-down management structure to one of solving problems for Federal Air Marshals who protect flights worldwide every day.

The report contained 12 recommendations aimed at strengthening communication, increasing transparency, and mitigating the issues identified in our review. TSA concurred with the recommendations. We recommended that TSA:

- identify other means to obtain information on Federal Air Marshals' performance that could assist supervisors when preparing evaluations;
- provide guidance regarding the types of incidents FAMS should and should not report to the Office of Inspection in an incident tracking report;
- provide additional guidance and clarification regarding employee ineligibility for favorable personnel actions when there is a pending disciplinary matter that spans performance cycles;
- provide guidance and clarification regarding how long prior corrective or discipline actions should be considered and for which types of incidents;
- develop a comprehensive system to track all stages of the discipline process;
- establish additional guidelines that set forth selection criteria for Federal Air Marshal ground-based positions;
- provide additional guidance and clarification for awards and in-position increases, including whether they can be rotated among staff and given to the same employee in back-to-back years, and to what extent managers should consider discipline issues;
- evaluate whether FAMS should remove specific limits on the number of Senior Federal Air Marshals allowed in each office and establish eligibility criteria for designation as a Senior Federal Air Marshal based on specific mission and length-of-service achievements, in addition to the performance requirements already in place;
- communicate specific application criteria to all J-band promotion applicants at the beginning of each promotion cycle;
- review evaluation and assessment procedures for the J-band promotion process and revise as necessary to ensure that certification lists contain the best qualified candidates;
- develop guidelines to define when Federal Air Marshals can be removed from international flight schedules, including what performance and conduct issues can cause a Federal Air Marshal to be removed and the duration of the restriction; and
- create and implement an action plan to address workplace issues identified in our survey.

The Office of Inspector General looks forward to continuing to work with the Department to identify ways to strengthen communication and increase transparency through our audit and inspection work.

Mr. Chairman, this concludes my prepared statement. Thank you for the opportunity to testify and I welcome any questions from you or Members of the subcommittee.

Mr. ROGERS. Great. I thank you. The Chair now recognizes himself for questions. I want to start, Mr. Bray, you know, everybody knows what the economic situation in this country is right now, and particularly the economic situation of this Government. We are broke. I was frankly pleased to see the budget number that the President tendered for Homeland overall, because it wasn't as bad as it could have been, and it wasn't nearly as bad as what we are dealing with in the Armed Services. I serve on the House Armed Services Committee. So thankful for what we have got. But having said that, we still have the reality of budgets being tight for a while.

So in thinking forward about what we are going to be dealing with, I look at your organization, and you are right at $1 billion

right now. That is a huge amount of money. Can you point to one or two things that you are proud of that have been cost-saving measures that you have taken recently, let's say, in the last year?

Mr. BRAY. Sir, I think we have many cost-saving measures I can point to. The ones that I speak about are associated with many different things that we look at throughout the years as being more efficient and trying to provide as effective a layer of security that we can. We always work, we have all of our employees—the vast majority of our costs when we travel is for the cost of the hotels.

So we work with both the GSA and our own people to try to bring down those costs. We are always studying the costs of the hotels when our people have to stay overnight or when they travel overseas. Obviously, a significant portion of our costs involve when we travel overseas. So we focus on that on a very regular basis. I have weekly meetings with our budget staff to look at our costs. If you look at the model that we have for our organization, and you go to our field offices, we have a different model for our field offices as far as the overhead costs. Where we had one central training facility in each field office, we have decentralized training for our field offices. We have very few offices. We use the hoteling concept, where people share a cubicle—because obviously our FAMs, their job is to be in the air, not to be in the office except for on a very regular basis when they are training, or when they are in there for certain other administrative duties, or to meet with their supervisors on that infrequent basis when they are able to do that. So we try to save costs there. We are always looking for other ways to save costs.

Mr. ROGERS. What I would like to ask you, I know the President has asked you all to come up with proposals to cut your budget by a certain number next year or maybe the year after, I would like to ask that you provide for the committee a proposal that would show us—I know that my friend and colleague over here wants to give you a whole lot more people, and I may go along with her on that. I haven't decided. But just for our edification and to help us prepare for what may come. You know, next year, we may be the Defense Department, where we are being told to take a big hit. I would like for you all to tender a proposal to this committee showing that if you had to reduce 5 percent of your budget each year for the next 5 years, this is what you have to give up. It would just force you to prioritize and say now we are doing this, we think it is important, we want to keep doing it, but if you take 5 percent of the money away, this is what is going to drop off.

If you would do that for me, I would appreciate it. Can you tell me what kind of time frame would be reasonable? Because I don't want to put too much on you. Everybody is looking at each other: Who is going to do this?

Mr. BRAY. Sir, if it is agreeable with you, how about 30 days? That would give us time to go through it.*

Mr. ROGERS. That is fine. That is very fine. I appreciate that. As I talked about in my opening statement, the threat has changed significantly since 9/11 because terrorists have modified their tactics based on security measures we have put in place. To the extent

*The information was retained in committee files.

that you can discuss this in an opening setting, what is FAMS doing to adapt to the evolving threat to stay ahead of the terrorists? For example, are air marshals prepared to deal with the threat of an IED? I will take that, Mr. Allison or Novak, whichever one of you all.

Mr. NOVAK. I will take that. Yeah, that is something that we train for. So the way the training academy works is we train to general tenets, if you will, principles about how to conduct themselves on a plane. So you can take that from anything from an unruly passenger all the way up to an IED, if you will, on a passenger, or someone trying to take over the plane. So we do train to those things.

Mr. ROGERS. So what would you do if you had a suspected bomber on the plane? Let's say the Christmas day bomber, somebody tipped off to you they saw him going into the restroom and he had an explosive in his hand, whatever. Can you talk about that in open session?

Mr. NOVAK. Not really. We don't like to discuss tactics. But we do have those scenarios, those very scenarios that you talk about.

Mr. ROGERS. Thank you. My time has expired. The Chair now recognizes the Ranking Member for any questions she may have.

Ms. JACKSON LEE. Thank you very much, Mr. Chairman. I think, if you could, tell me what the President's budget, Mr. Bray, has submitted for your agency? What are the cuts from 2012, fiscal year 2012?

Mr. BRAY. For 2012 the proposal from the President is—for 2011 we received $927 million. The proposal is $966 million for 2012.

Ms. JACKSON LEE. What did you receive in 2011? I didn't hear you. What did you receive?

Mr. BRAY. Our enacted appropriation in 2011 was $927 million.

Ms. JACKSON LEE. Okay. You are now at?

Mr. BRAY. Nine hundred sixty-six million.

Ms. JACKSON LEE. Okay. So you went up, if I am hearing your numbers correctly.

Mr. BRAY. Yes, ma'am.

Ms. JACKSON LEE. Do you foresee—I think we can generally ask you for the numbers—do you foresee cuts in FAMs, working FAMs besides management?

Mr. BRAY. I think we would, yes, ma'am. Under the current proposal.

Ms. JACKSON LEE. I am not asking for any numbers. Let me move to the points that I made in my opening remarks. I think in 2009, you testified regarding two initiatives that were going to be implemented in fiscal year 2010 with the goal of improving FAMS workforce issues and morale. You called one program the FAM mentoring program, and you also referenced a promotion restructure as the Senior Federal Air Marshal title change across FAMS. Now, again our IG points to low workforce morale stemming from the Senior Federal Air Marshal program, as I can recollect from his testimony and report. Can you brief me as to why you believe this program seemingly has had an opposite effect, this introduction of the Senior Federal Air Marshal program?

Mr. BRAY. The purpose of the Senior Federal Air Marshal program is to recognize those flying FAMs who have served for a cer-

tain period of time and they have served well. It is a recognition of their effort and dedication and professionalism towards our Nation. There is no monetary sums to that. There is no other sums for promotion or anything else. It is just a recognition of their service. So we have a certain percentage of FAMs that are eligible for that. We are reviewing that. We have a FAM Advisory Council that has made some recommendations to us. We have worked with our supervisory advisory council. I believe in the very near future, we are going to make some changes to that program that I think are based on the recommendations from the FAM Advisory Council.

Ms. JACKSON LEE. Does it also take into consideration the comments made or the report made by the Inspector General?

Mr. BRAY. Yes, it does.

Ms. JACKSON LEE. Let me ask the Inspector General, you indicate in your testimony that you didn't seem to find the widespread discrimination and retaliation supported. Explain that to me. What methods did you use to determine that they were not supported? We are still getting emails indicating that people are still seemingly treated in a disparate manner.

Mr. EDWARDS. Thank you, ma'am. We visited five sites. We conducted interviews from everybody who wanted to talk to us, either at the office or at an off-site. We also did a survey where 50 percent of FAMs from all demographics responded to the survey. The perception of discrimination was widely there. But when we looked at it, when we went out to do this inspection, we did not want to address individual complaints because there is a process for that. There is the Equal Employment Opportunity Commission, the MSPB, and also court of law.

So a lot of these were already in litigation. So we looked to see, there was so much distrust between supervisory Federal Air Marshals and non-supervisory air marshals. However, we did not find a widespread discrimination.

Ms. JACKSON LEE. Which one of your recommendations points to trying to cure that problem?

Mr. EDWARDS. If you look at recommendations 2 and 4——

Ms. JACKSON LEE. Of the 12?

Mr. EDWARDS. And 12?

Ms. JACKSON LEE. No, I said of the 12?

Mr. EDWARDS. Of the 12, 2 and 4 talks about the discipline process. And 10 talks about the promotion. People feel that there is not a fair process there. Then 12 we talk about an action plan for the survey.

Ms. JACKSON LEE. So you are suggesting this is what needs to be done, what needs to be implemented?

Mr. EDWARDS. Right away, yes.

Ms. JACKSON LEE. Have you had any response back on your report from the agency?

Mr. EDWARDS. Yes. They concurred. Recommendation 9 is already closed even before our report could be issued. So they are working with us.

Ms. JACKSON LEE. In your report, you include charts that isolate various workplace issues by office. One in particular happens to fall in the State of Texas. It seems that the Dallas office leads for workplace problems. Would it be possible for your office do an in-

depth review of the Dallas office to determine what is going on in that office? If that was occurring in one or two other offices, which has come to our attention, would that be possible?

Mr. EDWARDS. It is possible. But however, ma'am, I would like to point out that we spent nearly 1½ weeks in Dallas field office. We interviewed around 60 personnel, including managers, supervisors, and FAMs. We collected a lot of survey data. So we believe since we need to give time for FAMS leadership and for the recommendations to work its way through. I will be glad to look at the Dallas field office. Also they have new leadership there. So we want to give some time for that. Even the five sites we picked up, we looked at the MSPB data to see where the most complaints were. Of course, Dallas was one of them. But I feel that we need give some time for this recommendation to take effect.

Ms. JACKSON LEE. Let me close by, since I have a lot on this particular issue, let me ask, Mr. Bray—thank you very much, Mr. Edwards—I am looking at your diversity, I am looking at the participation of women. I see some progress has been made in the number of women working in FAMS. A lot of work remains to be done, particularly when it comes to the SES positions. For instance, there are only four women serving in SES positions. What I would just want to hear from you, Mr. Bray, is your outreach in recruiting women and minorities. Also in my H.R. 71, I talk about criminal investigative training, and how that would—how would you welcome that kind of training coming to FAMS?

Mr. BRAY. Thank you for the opportunity to respond to that. We have a very strong outreach to the diversity groups that we work with, whether it is the National Organization of Black Law Enforcement, the Women in Federal Law Enforcement. I would just like to say that the current active president for Women in Federal Law Enforcement is a Federal Air Marshal. We also work with them on diversity in recruiting. As I said, we have a very strong program to attend the conferences every year. I try to attend at least two or three conferences every year.

We have senior leadership at every conference to put forth the word that we want to hire a diverse workforce and to maintain that workforce. As far as the criminal investigator training program, I believe it is essential that we continue to look at our training. As we see terrorism evolve, as we see them adapt and evolve, we—and I, it is incumbent upon me to make sure that my employees have the most forward-thinking and advanced training they can get as far as being able to respond. We all know that when FAMs are in the air, there is no chance of backup for them. So it is incumbent upon me to make sure they have the most advanced training we can. We work with Federal Law Enforcement Training Center on some of those initiatives.

Ms. JACKSON LEE. Thank you, Mr. Chairman.

Mr. ROGERS. I thank the gentlelady. The Chair now recognizes the gentleman from Minnesota, Mr. Cravaack, for any questions he may have.

Mr. CRAVAACK. Thank you, Mr. Chairman. Mr. Bray, thank you for your testimony today. One of the things, as a Federal Flight Deck Officer and an airline pilot for 17 years, one of the things that we learned after 9/11, you can't have a single point security check.

It is a layered approach. It takes a lot of people to make sure that from when you initially buy your ticket to when you enter the aircraft there is all types of layers of security. In regards to, and I will try to say this very gently, yesterday we had Secretary Napolitano here, and she said the last line of defense was the cockpit door. In view of the layered security, how would you go about with the Secretary's comment? Would you like to redefine her remarks?

Mr. BRAY. I think I would like to say that——

Mr. CRAVAACK. Or do you want to take a pass? Feel free.

Mr. BRAY. I think what I would say is I think it is very important that all the layers of security are strong and vibrant. I think as far as the FFDO program, they are an important layer of our security. I personally appreciate all the work and professionalism and dedication they have, and all the time they volunteer to help us in our very important role in aviation security.

Mr. CRAVAACK. Did the Secretary ask you at all in regards to the budgetary cuts for FFDOs? Were you involved in that at all?

Mr. BRAY. We do have discussions. I had discussions through my chain of command about that, yes, sir.

Mr. CRAVAACK. Okay. Can you give us an idea of who decided to cut the FFD program in half, basically?

Mr. BRAY. I don't have personal knowledge on that. But as was referred to earlier, we all have to make some very challenging decisions in the current economic climate and going forward. So we always make decisions based on the risk base and the intelligence that we receive.

Mr. CRAVAACK. Sure. I understand risk-based. I understand that correctly. But I am assuming, and we won't talk numbers, but I am assuming that the numbers in regards to the budget, the number of FAMs are going to stay relatively the same. Would that be a correct statement or an incorrect statement?

Mr. BRAY. I think that is generally correct.

Mr. CRAVAACK. Okay. A generally correct statement. Now, cutting the program in half, we have what, 29,000 flights a day I think, cutting that program in half with the same amount of FAMs, but basically cutting the program for FFDOs in half, that is going to leave a lot of open sky, in my opinion. I am just very concerned on especially one of the most efficient programs that I can see in the Federal Government. I think it costs $15 for every flight to have an FFDO on in comparison to other flights.

For example, FFDOs take their personal days off for training. They pay for their own lodging. They pay to go to training. I think it is one of the most efficient programs that we have, and provides one of the most essential last-ditch efforts. Plus, it is an extremely covert program. You are not going to be able to tell if there is an FFDO in that cockpit or not. It is one of the chief deterrents that I can see. They are seamless with the FAMs. The majority of people don't know FAMs are on board as well. It is very disconcerting to me to see that this program was cut in half. Quite frankly, it is peanuts in the overall spectrum of things, $23 million, they cut it down to $12 million.

I think the other questions that I would have would probably be best suited for a more secure environment. But I just wanted to get

your comments on do you think that with a cut in the program, the FFDOs right now, do you think it would affect our security overall?

Mr. BRAY. We are still examining the proposals. But what we hope to do with the proposed cuts is to really look at the overhead that we have in the program as far as some of the training support contracts we have and the requalification areas. We hope to look at some of the overhead we have within our program as far as the number of training sites, to cut that possibly, to really try do what we can to minimize the impact on the flying FFDOs. So we are looking at that first. So I would like to defer any further comment on that until we really study it.

Mr. CRAVAACK. Unfortunately, as I understand it, there hasn't been any new FFDOs in the program for what, over a year now? Would that be a correct statement? They have not had a training class for over a year for new FFDOs.

Mr. ALLISON. Mr. Congressman, I believe we were scheduled to have 200 or so FFDOs this year.

Mr. CRAVAACK. How many?

Mr. ALLISON. Two hundred or so.

Mr. CRAVAACK. Two hundred? Okay. That would be new information for me then. Thank you very much. My time has expired. I will yield back negative time.

Mr. ROGERS. I thank the gentleman. I have just got a couple of more questions before we go into secure session. This is for Mr. Bray. As a result of TSA's transformation initiative, I understand that law enforcement officials had their titles changed from regional directors to branch managers, which is a title more common for a bank or an insurance company or whatever. You know, these are high-performing law enforcement, well-trained personnel. We have heard about the morale problems. Is this something you have been getting feedback on about this title? No problem at all?

Mr. BRAY. Sir, Mr. Chairman, I would respond to that by a couple years ago, based on some advice that—I guess it is about a year and a half ago now—based on advice from our FAM Advisory Council, I started changing the titles for some of our supervisors. Previously, they used to be called special agents in charge. That I think caused a gulf between the Federal Air Marshals and the supervisors. So now when I introduced the Supervisory Federal Air Marshals from Orlando and Dallas, they are now called Supervisory Federal Air Marshals. So we have been undertaking that initiative, that transformation for a while as far as changing of titles. I have not heard any feedback that that has affected anyone's morale in the leadership or in the organization.

Mr. ROGERS. Good. We have heard significant concern about the decision to merge FAMS training with the training of Transportation Security Officers, TSOs. The responsibilities of these two groups are very different. Notably, air marshals are law enforcement officials, whereas TSOs, who conduct passenger screening, are not law enforcement. What is your view on the decision to merge TSA's training programs, thereby shutting down separate FAMS' training operation? I guess that would be Mr. Novak?

Mr. NOVAK. Yeah, I would be happy to talk about that. So what you are saying is correct. But when you look at it, there is actually a separate law enforcement division and a separate Transportation

Security Officer division. So the training won't actually be the same.

Mr. ROGERS. The same training.

Mr. NOVAK. Yeah. So the FAMS training center in Atlantic City will remain as such, and the FAMS will go there for their training. So nothing really will impact the way we train FAMS.

Mr. ROGERS. Okay. So you don't see that training suffering any?

Mr. NOVAK. I don't.

Mr. ROGERS. Mr. Novak, you are the first person to assume the role of assistant administrator for the newly created Office of Training and Workforce Engagement. Why was the decision made to establish the new office?

Mr. NOVAK. So, what I think when Mr. Pistole came in as the administrator from his previous time at the FBI, he looked at the organization, and there were actually training departments in different sections of the organization. It just brought out the obvious question, why would there be training departments in other programs? So effective, efficient, here we are about efficiency, is it better suited to move things together and combine forces?

Mr. ROGERS. So what are your responsibilities?

Mr. NOVAK. My responsibilities are coordinating all the training that happens throughout the organization. So consolidating all those folks to make sure the messaging is the same—the training tactics are different, but the messaging for the organization is the same, and making sure—okay.

Mr. ROGERS. Mr. Edwards, you talked a little while ago about widespread perception problems. Even though your investigation didn't find the problems that were alleged, you said that there were extensive perception problems. Why do you think that is?

Mr. EDWARDS. Well, based on the interviews, Chairman, and the survey responses, there is a perception because the non-supervisory FAMs and the supervisory FAMs, they don't trust each other. There is also a perception that senior leadership doesn't hold supervisory FAMs accountable. So there is so much of mistrust. In terms of getting awards, there is no common criteria. Every office kind of determines it differently. When so little time is spent of a flying FAM with their supervisor, how are they going to measure their performance?

So we recommend that TSA provide guidance on awards and promotions, even promoting getting promoted to a supervisory FAM. There needs to be transparency in the application process. You know, there should be some criteria. So we have made a number of changes, and FAMS leadership and TSA have accepted that.

Mr. ROGERS. Thank you very much. The Chair now recognizes the Ranking Member for any additional questions she may have.

Ms. JACKSON LEE. Chairman, your line of questioning raises several questions. Mr. Novak, the role that you play deals with training for all of the TSO personnel, including TSO officers?

Mr. NOVAK. That is correct.

Ms. JACKSON LEE. So you coordinate for everyone, including FAMS?

Mr. NOVAK. Correct.

Ms. JACKSON LEE. You have obviously structured training that differs from TSO officers to FAM officers. Is that correct?

Mr. NOVAK. Correct.

Ms. JACKSON LEE. In your training, are supervisors involved in the training?

Mr. NOVAK. It is funny you mentioned that. I am actually preparing a course for supervisory TSOs. There is supervisory training right now. But one of the things that I have heard has been that our supervisor training for TSOs could be better. So I have looked at it. I just came into existence January 1 of this year. But I have had a meeting yesterday for 2 hours with the group that is reviewing all that. I am going to release something in the next couple months that will be a 2-week program that will hopefully give them the fundamentals that they need.

Ms. JACKSON LEE. So for FAMS, do you include FAM supervisors in as well as the FAM officers for training?

Mr. NOVAK. Yes. There is a supervisory course that we introduced probably a year-and-a-half ago for FAM supervisors. It touches on a lot of the same things that I am going to incorporate into the TSO training.

Ms. JACKSON LEE. I think you have a wide purview. So how are you going to really answer the question? I probably disagree with my very fine Inspector General. I think the report on its face is a very good report. But you cannot have perception, widespread perception without reality. Somebody is feeling, and there is the reality of discrimination or lack of communication between supervisors and the line officers. What are you going to do about that?

Mr. NOVAK. So I will——

Ms. JACKSON LEE. Because you are in the training and professional development.

Mr. NOVAK. That is right. So I can offer more training. But what we have done is, as I mentioned earlier, this supervisor course that Director Bray implemented is really a great start. Now, that was implemented while the Inspector General was doing their review. So I think we are turning the tide. We are talking about having our folks make sure that our FAMs succeed. We are giving them every opportunity to succeed.

Ms. JACKSON LEE. What did you say Mr. Bray had that you thought was working?

Mr. NOVAK. We introduced a supervisory training course.

Ms. JACKSON LEE. Is that talking to them about communicating and working with the line officers? So what is your mode for assessment? What is your audit to determine that it works?

Mr. NOVAK. Well, that will be surveys like this in the future. But there is an assessment actually that the supervisors take to review what they think their skills are.

Ms. JACKSON LEE. Can I ask you then to be part of—obviously, I don't run your shop, but can I have you see the connection? If you are training and trying to break through on some of the issues that Mr. Edwards has commented on, you need to see whether your training is working, whether people are learning to work together, whether there are barriers, or the walls of discrimination that are perceived through your training can be broken down.

Mr. NOVAK. That is true.

Ms. JACKSON LEE. So I would like to, as I said, the Chairman has given you a request, I note it was 30 days, but I would like

to get a report back on what impact or what are the results of the training on one of the major elements of the Inspector General's report, and whether or not you are crafting training to improve the diversity relationships. Whether or not you have training that allows or says supervisors can supervise people from all backgrounds. Which is obviously you can put it in the terms of the structure of your training. I would like that report back.

Mr. NOVAK. Very well. Thank you.

Ms. JACKSON LEE. Mr. Allison, you are under law enforcement. Would criminal investigation training be helpful to your FAMs?

Mr. ALLISON. Yes, Ms. Jackson Lee, I believe it is, or would be. I was actually hired as a Federal Air Marshal back in 1998 out of the military. I actually attended the criminal investigator training program. There are a number of lesson plans and training attributes there that we believe would be beneficial to our workforce.

Ms. JACKSON LEE. What is your perception of the need for breaking what people perceive to be discriminatory treatment?

Mr. ALLISON. I actually think what Mr. Edwards outlined is right on the money. Clearly, we need to improve our sense of team as an organization. The way we operate and the infrequency of contact between the management and the FAMS that are flying, it is just human nature that unfamiliarity breeds mistrust. So we certainly need to bridge the divide where it comes to the communication aspects. We need to invoke and mandate more transparency on our policies and procedures with respect to the issues that are on the minds of the flying Federal Air Marshals. Also more consistency in our field offices.

Ms. JACKSON LEE. Are you recruiting—where are you mostly recruiting your officers from? Are they retired Federal law enforcement, or do they come from—are you going out in the field and finding—not to reflect on anyone that is retired, but are you looking in other places, colleges, for example?

Mr. ALLISON. Yes, ma'am. I actually, a while back, did a recruiting trip at some HBCUs a number of years ago. But we have representatives across the offices in the field who are recruiters. They go to colleges. They make all folks aware of the announcements when they come out for the vacancies for the Federal Air Marshals. We also work very closely with the different law enforcement groups to actively recruit and give people experiences and sort of a look inside the organization to offer that as a venue for employment. I actually championed an effort recently with NOBLE for summer internship positions. They give opportunities for those who may not would have had them.

Ms. JACKSON LEE. Mr. Chairman, I am going to ask unanimous consent—thank you very much, Mr. Allison—to submit the Ranking Member of the full committee, Mr. Bennie G. Thompson's statement into the record.

Mr. ROGERS. Without objection, so ordered.

[The statement of Mr. Thompson follows:]

PREPARED STATEMENT OF RANKING MEMBER BENNIE G. THOMPSON

FEBRUARY 16, 2012

In July 2009, this committee's Subcommittee on Management, Investigation, and Oversight held a hearing on FAMS personnel issues. Director Bray was a witness

at that hearing and will appear before this subcommittee today. At that hearing in 2009, Director Bray acknowledged that retaliation had been an on-going problem across FAMS. Director Bray promised to fix this problem. Clearly, no remedial action was taken.

Today, 47% of FAMS believe that retaliation is part and parcel of the FAMS workplace. I am not a management expert. But I know that if half of your workforce will admit to believing something, the other half believe it but won't admit to it. So as we begin today's hearing, I need to focus on the practical ramifications of having 47% of your workforce believe that retaliation is a way of life.

In the most recent report released by the Inspector General, he noted that many discrimination complaints had been filed. However, he also noted that the overwhelming majority of those complaints had been resolved in favor of the agency.

I have no doubt that the Director and others will testify that these favorable resolutions mean that the agency is free of discrimination. Luckily, I was not born yesterday. I know that in order to win a discrimination complaint, there must be evidence and there must be witnesses.

That gets me back to the 47% who fear retaliation. In an agency in which almost half of the employees fear retaliation, few will speak up. Few will testify. So few cases will be won by employees. Given these practical considerations, I do not believe that anyone should make proud assertions about a lack of discrimination at FAMS.

Finally, Mr. Chairman, I want to be very clear. The flying FAMS have an exemplary record of protecting the flying public. But I must admit that it may be miraculous that their job performance has not been adversely affected by the dysfunctional environment of the FAMS field offices.

So today, I want to take a moment to commend each flying FAM for the work they do. But we cannot continue to take this work for granted. How much longer are we willing to risk that the well-documented dysfunction of these offices does not affect the performance of the flying FAMS? As Members of this committee, we need to take a long and hard look at this agency and make leadership changes that will preserve and protect the safety of the flying public.

Ms. JACKSON LEE. I have likewise a question that I would like to submit into the record and ask, it will be of Mr. Bray, and I would specifically like a sooner rather than later, like an immediate response. It deals with the issue of FAMS and the hiring of numerous U.S. Secret Service retirees and their annuity. So it is a detailed question. I think it is appropriate for a detailed response. I ask unanimous consent to submit the question into the record in writing, but also to ask for an expeditious response, Mr. Chairman.

Mr. ROGERS. Without objection, so ordered.*

Thank the gentlelady. Mr. Allison, I am glad to hear you all are doing that. By the way, I have three HBCUs in my district. If you want to send some recruiters down to Talladega, Tuskegee, or Alabama State, I would appreciate it.

Ms. JACKSON LEE. You would do well to do so. Come on down to Texas Southern University.

Mr. ROGERS. Mr. Cravaack, do you have one more question before we go to closed session?

Mr. CRAVAACK. Yeah. If you don't mind, I would like to follow up. Minnesota, good central work ethic. I just want to let you know about those guys too. I had a question. It was alluded to, Mr. Allison kind of, was the discrimination basically between the front line troops and supervisory? Is that where I am seeing—or not discrimination, but distrust? Is that what we are seeing or——

Mr. ALLISON. Yes, Mr. Congressman. The Federal Air Marshals who are in the field offices flying the missions every day, and then

*The information was not submitted at the time of publication.

the first-line supervisors who are the—principally, the first-line supervisors.

Mr. CRAVAACK. I can understand that, because, you know, usually FAMS are haze gray and underway. I mean, they are gone constantly. They have to introduce themselves to their family every now and then. So, you know, they have about as many flight hours as a pilot. I understand that. So I think I heard that. So it is from the front-line troops, the distrust from front-line troops basically to the head shed.

Mr. ALLISON. To some degree, yes, sir.

Mr. CRAVAACK. Okay. Great. Thank you. I appreciate that. I yield back.

Mr. ROGERS. I thank the gentleman. In discussion with our witnesses, we have agreed that the remainder of this discussion is very sensitive in nature. The information to be discussed, if it were disclosed, could endanger National security or compromise sensitive law enforcement information. Therefore, I consulted with the Ranking Member, and we are in agreement that the remainder of today's hearing should be conducted in closed, classified session.

Pursuant to rule 11 clause 2(g)2 of the U.S. House of Representatives, I ask unanimous consent that the remainder of the hearing be closed to the public. Hearing no objection, we will now recess and go down to the SCIF. By the way, I have a hard stop at 4 o'clock. So if we could walk quickly, I would appreciate it.

[Whereupon, at 3:20 p.m., the subcommittee proceeded in closed session.]

○