



**Statement of Colleen M. Kelley**

**National President**

**National Treasury Employees Union**

**Before the**

**Subcommittee on Federal Workforce, Postal Service and the**

**District of Columbia**

**U. S. House of Representatives**

**On**

**“Are Agencies Playing It Safe and Secure: An Examination of**

**Worker Protections Pre- and Post-Injury”**

**July 21, 2010**

Chairman Lynch, as National President of the National Treasury Employees Union, I would like to thank you for holding this hearing on safety and health issues that affect federal employees. Since the hearing is focusing on high-risk occupations, I will speak mainly about the experiences of Transportation Security Officers at the Transportation Security Administration, although many of the problems faced by employees there, particularly when attempting to access the Federal Employees' Compensation Act, are problems faced by many federal employees at agencies throughout the government.

Executive Order 12196 and the Occupational Safety and Health Act of 1970 (Public Law 91-596) require federal agencies to provide a safe and healthful workplace for their employees. TSA has its own Occupational Safety and Health Manual, and I would refer to it today, except we were told that it is not public information. While TSA headquarters has issued detailed directives on health and safety, I am sorry to report that at the airport level, concerns about safety and health are routinely ignored or, worse, punished.

## **HEALTH HAZARD CONCERNS**

Shortly after TSA was formed, the National Institute for Occupational Safety and Health (NIOSH) received several requests from TSA employees and from TSA itself to assess the work practices and procedures of screeners and to determine the extent of radiation exposure. The agency looked at 12 airports. The data NIOSH collected led to a series of recommendations:

- Improve training on radiation issues and proper work practices;
- Improve Explosive Detection System (EDS) equipment maintenance;
- Add frequent monitoring of machines for radiation leaks; and
- Conduct additional personal dosimetry on screeners to evaluate radiation doses.

In 2007, NIOSH investigated potential exposure to emissions from forklifts and tugs in the air cargo area. They found that the airport terminal services employees were overexposed. In addition, NIOSH found that whenever there was a baggage jam, there was an increased risk of high radiation exposure. NIOSH issued a series of recommendations that included:

- Replace fuel-driven forklifts and tugs with electric ones;
- Increase ventilation in the warehouse;
- Conduct emission testing on fuel-driven forklifts and tugs;
- Ask drivers to turn off vehicle's engine when at dock doors; and
- Monitor employees' exposure to carbon monoxide.

Our members are very concerned about radiation levels. They have not seen any dosimetry studies done. Many TSOs at the checkpoints suffer from headaches and nosebleeds if they're at certain machines for too long. The machines are maintained, but superficially. At one of our airports, the checkpoint machines were recently taken apart and cleaned, the first time any TSOs had seen that happen. Many gathered around when it was up and running, marveling at how sharp the images were when five years of dirt had been taken out.

Baggage screening areas in airports are noisy, dirty, and in need of maintenance. Many times there is no potable water available. Bathrooms are not cleaned regularly. Because most of these areas rely on outside air to ventilate the space, temperatures are very high in the summer. TSOs report that fans are often out for repair for months at a time. Eyewash stations remain unfilled. Nets that are supposed to catch bags are in shreds. Water coolers are empty and management refuses to provide bottled water, even when the temperature reaches 90 degrees and above. Tugs are frequently left idling near the TSOs while airline employees load and unload bags, filling the air with exhaust fumes. When our members meet with management about these conditions, they offer solutions – lowering air ducts, installing air duct deflectors, providing drinking water, working with airlines to turn off tugs while loading and unloading. Nothing happens and nothing changes.

## **WORKERS COMPENSATION**

TSA received the 2009 Theodore Roosevelt Workers Compensation and Disability Management Award for its work in reducing the cost of injuries to employees while on the job. The award was given by a company that seeks business in this area to process third-party claims in workers compensation. Perhaps TSA's interest in reducing costs was based on a 2007 DHS IG report. That office conducted a review of TSA's management of its FECA program. DHS was concerned about an estimated future liability to TSA of FECA cases that would hover around \$600 million. After the report (OIG-07-45) was published, TSA began working very diligently to reduce its claims and

its injury rates. Unfortunately, at the airport level, managers and supervisors have found that the best way to reduce injuries is to stop the employees from reporting them. The situation is so bad that NTEU has issued a paper on Workers Compensation for TSOs that starts out, “Do not let anyone in supervision talk you out of filing (the initial form). It is not discretionary on their part. Do not let management intimidate you into not filing.”

The Department of Labor states that in order to be eligible for FECA, the injured employee must provide evidence that:

- The claim was filed within the time limits set by FECA;
- The injured or deceased person was an employee of the U. S. government at the time of the injury;
- The injury, disease, or death did occur;
- The employee was in the performance of duty when the injury, disease, or death occurred; and
- The medical condition found was causally related to the claimed injury, disease, or death.

At TSA, there are often additional requirements that result in no claim being filed at all. These are not easy jobs. In baggage, particularly, there is repetitive lifting, standing, bending and stooping. At one airport, however, several employees advised us that they did not file a claim for their injuries in baggage because the supervisor told them that TSA had them on videotape using an improper lifting technique.

When TSA changed its Management Objective Reports, used to assess the effectiveness of Federal Security Directors, to include specific performance targets to meet in injury reduction and associated costs, it was following “good manager” protocol. At the FSD level, however, it means that every statement of injury is questioned, and the person who reports an injury is treated as a pariah. A TSO who is injured on the job is often told to just find another job. Even contacting OSHA with a safety concern can result in a suspension or demotion.

#### **OTHER SAFETY AND HEALTH ISSUES**

On June 13<sup>th</sup> of this year, LAX instituted a new leave policy that would be in effect for the entire summer. The policy stated that employees at TSA would be required to provide “administratively acceptable evidence” for all use of sick leave, both scheduled and unscheduled. This was a change from previous policy which only required such documentation in requests made for more than three days of sick leave. Our members came to us to ask our help in overturning this policy. It seemed to them, and to us, that this policy would encourage employees to report for work even when they were sick to avoid AWOL penalties. In addition, it would require them to seek and pay for medical treatment even if it was unnecessary for them to do so. I am happy to report that several Members of Congress from the Los Angeles area, some on this committee, agreed with us that the policy was troubling enough to insist that it be stopped. With their help, we were able to reinstate the previous policy.

As the above story implies, staffing levels at many airports are not sufficient, and as the vacation season becomes busier, officers who are only certified in passenger screening are being moved into baggage screening areas to load bags. These officers have not been trained, and as the practice increases, so do the injuries.

At one of our larger airports, TSOs now have to be seated to operate the X-ray machine. The machines require pressure to be applied to foot mats, not easily done from a sitting position. In addition, TSOs are forced to contort their bodies on chairs borrowed from the break room and tilt their heads to observe the monitor. It strains the neck, the back and the legs. When the TSOs showed the manager how awkward this new mandate was, the manager asked if any of them had a note from a doctor. If not, they were to get back to work.

I hear stories every day about TSOs who need to seek medical attention but their request for assistance is either delayed or denied. For instance, one TSO has high blood pressure. She began to feel dizzy while on her break. She went to her checkpoint and asked her supervisor to call for medical assistance. The supervisor told her she didn't look sick and refused to do so. After repeated requests, help was called for. The TSO spent the next three days in the hospital. Another member began to choke on his lunch one day in the break room and then was unable to swallow. He went to his supervisor and asked him to call for medical assistance. The supervisor told him to drive to the hospital himself. The TSO did, stopping several times because he couldn't breathe. Once at the hospital, surgeons performed an emergency tracheotomy.

As you know, NTEU also represents Customs and Border Protection Officers (CBPOs). These officers have been represented by us for over 30 years. Through collective bargaining, we have been able to address many safety and health problems. I'm not saying we always agree on how to handle those issues, but the employees at CBP have a voice and a forum for their concerns. Until TSOs have collective bargaining rights, they will not have their needs met in the safety and health areas.

This is a time of great change for the agency. Technology is advancing; a new leader is now on board. With full collective bargaining rights, TSA can figure out how to create safe and healthful work areas. In the meantime, we would like to see a program implemented immediately to perform dosimetry tests at several airports. We would like to see ergonomic testing done in the baggage areas, and investigation into new technology that allows machines to do the heavy lifting. We would like to see better air, cleaner conditions, and unlimited water available in baggage areas. Our TSOs have many good ideas for improving health and safety at airports. A program should be set up whereby TSOs' suggested changes can be reviewed and implemented locally. Once again, thank you for the opportunity to discuss these important matters. I would be happy to answer any questions.