

Calendar No. 191

114TH CONGRESS
1ST SESSION**H. R. 719****[Report No. 114-111]**

 IN THE SENATE OF THE UNITED STATES

FEBRUARY 11, 2015

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Read twice and referred to the Committee on Commerce, Science, and
Transportation

AUGUST 4, 2015

Reported by Mr. THUNE, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italie*]

AN ACT

To require the Transportation Security Administration to conform to existing Federal law and regulations regarding criminal investigator positions, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “TSA Office of Inspec-
5 ~~tion Accountability Act of 2015~~”.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) Consistent with Federal law and regula-
4 tions, for law enforcement officers to qualify for pre-
5 mium pay as criminal investigators, the officers
6 must, in general, spend on average at least 50 per-
7 cent of their time investigating, apprehending, or de-
8 taining individuals suspected or convicted of offenses
9 against the criminal laws of the United States.

10 (2) According to the Inspector General of the
11 Department of Homeland Security (DHS IG), the
12 Transportation Security Administration (TSA) does
13 not ensure that its cadre of criminal investigators in
14 the Office of Inspection are meeting this require-
15 ment, even though they are considered law enforce-
16 ment officers under TSA policy and receive premium
17 pay.

18 (3) Instead, TSA criminal investigators in the
19 Office of Inspection primarily monitor the results of
20 criminal investigations conducted by other agencies,
21 investigate administrative cases of TSA employee
22 misconduct, and carry out inspections, covert tests,
23 and internal reviews, which the DHS IG asserts
24 could be performed by employees other than criminal
25 investigators at a lower cost.

1 (4) The premium pay and other benefits af-
2 forded to TSA criminal investigators in the Office of
3 Inspection who are incorrectly classified as such will
4 cost the taxpayer as much as \$17 million over 5
5 years if TSA fails to make any changes to the num-
6 ber of criminal investigators in the Office of Inspec-
7 tion, according to the DHS IG.

8 (5) This may be a conservative estimate, as it
9 accounts for the cost of Law Enforcement Avail-
10 ability Pay, but not the costs of law enforcement
11 training, statutory early retirement benefits, police
12 vehicles, and weapons.

13 **SEC. 3. DEFINITIONS.**

14 In this Act:

15 (1) **ADMINISTRATION.**—The term “Administra-
16 tion” means the Transportation Security Adminis-
17 tration.

18 (2) **ASSISTANT SECRETARY.**—The term “Assist-
19 ant Secretary” means the Assistant Secretary of
20 Homeland Security (Transportation Security) of the
21 Department of Homeland Security.

22 (3) **INSPECTOR GENERAL.**—The term “Inspec-
23 tor General” means the Inspector General of the De-
24 partment of Homeland Security.

1 **SEC. 4. INSPECTOR GENERAL REVIEW.**

2 (a) REVIEW.—Not later than 60 days after the date
3 of the enactment of this Act, the Inspector General shall
4 analyze the data and methods that the Assistant Secretary
5 uses to identify employees of the Administration who meet
6 the requirements of sections 8331(20), 8401(17), and
7 5545a of title 5, United States Code, and provide the rel-
8 evant findings to the Assistant Secretary, including a find-
9 ing on whether the data and methods are adequate and
10 valid.

11 (b) PROHIBITION ON HIRING.—If the Inspector Gen-
12 eral finds that such data and methods are inadequate or
13 invalid, the Administration may not hire any new em-
14 ployee to work in the Office of Inspection of the Adminis-
15 tration until—

16 (1) the Assistant Secretary makes a certifi-
17 cation described in section 5 to the Committee on
18 Homeland Security of the House of Representatives
19 and the Committee on Commerce, Science, and
20 Transportation of the Senate; and

21 (2) the Inspector General submits to such Com-
22 mittees a finding, not later than 30 days after the
23 Assistant Secretary makes such certification, that
24 the Assistant Secretary utilized adequate and valid
25 data and methods to make such certification.

1 **SEC. 5. TSA OFFICE OF INSPECTION WORKFORCE CERTIFI-**
2 **CATION.**

3 (a) **CERTIFICATION TO CONGRESS.**—The Assistant
4 Secretary shall, by not later than 90 days after the date
5 the Inspector General provides its findings to the Assist-
6 ant Secretary under section 4(a), document and certify in
7 writing to the Committee on Homeland Security of the
8 House of Representatives and the Committee on Com-
9 merce, Science, and Transportation of the Senate that
10 only those employees of the Administration who meet the
11 requirements of sections 8331(20), 8401(17), and 5545a
12 of title 5, United States Code, are classified as criminal
13 investigators and are receiving premium pay and other
14 benefits associated with such classification.

15 (b) **EMPLOYEE RECLASSIFICATION.**—The Assistant
16 Secretary shall reclassify criminal investigator positions in
17 the Office of Inspection as noncriminal investigator posi-
18 tions or non-law enforcement positions if the individuals
19 in those positions do not, or are not expected to, spend
20 an average of at least 50 percent of their time performing
21 criminal investigative duties.

22 (c) **PROJECTED COST SAVINGS.**—

23 (1) **IN GENERAL.**—The Assistant Secretary
24 shall estimate the total long-term cost savings to the
25 Federal Government resulting from the implementa-
26 tion of subsection (b), and provide such estimate to

1 the Committee on Homeland Security of the House
2 of Representatives and the Committee on Commerce,
3 Science, and Transportation of the Senate by not
4 later than 180 days after the date of enactment of
5 this Act.

6 (2) CONTENTS.—Such estimate shall identify
7 savings associated with the positions reclassified
8 under subsection (b) and include, among other fac-
9 tors the Assistant Secretary considers appropriate,
10 savings from—

11 (A) law enforcement training;

12 (B) early retirement benefits;

13 (C) law enforcement availability pay; and

14 (D) weapons, vehicles, and communications
15 devices.

16 **SEC. 6. INVESTIGATION OF FEDERAL AIR MARSHAL SERV-**
17 **ICE MISCONDUCT.**

18 Not later than 90 days after the date of the enact-
19 ment of this Act, or as soon as practicable, the Assistant
20 Secretary shall submit to the Committee on Homeland Se-
21 curity of the House of Representatives and the Committee
22 on Commerce, Science, and Transportation of the Sen-
23 ate—

24 (1) any materials in the possession or control of
25 the Department of Homeland Security associated

1 with the Office of Inspection's review of instances in
2 which Federal Air Marshal Service officials obtained
3 discounted or free firearms for personal use; and

4 (2) information on specific actions that will be
5 taken to prevent Federal Air Marshal Service offi-
6 cials from using their official positions, or exploiting,
7 in any way, the Service's relationships with private
8 vendors to obtain discounted or free firearms for
9 personal use.

10 **SECTION 1. SHORT TITLE.**

11 *This Act may be cited as the "TSA Office of Inspection*
12 *Accountability Act of 2015".*

13 **SEC. 2. FINDINGS.**

14 *Congress makes the following findings:*

15 (1) *Consistent with Federal law and regulations,*
16 *for law enforcement officers to qualify for premium*
17 *pay as criminal investigators, the officers must, in*
18 *general, spend on average at least 50 percent of their*
19 *time investigating, apprehending, or detaining indi-*
20 *viduals suspected or convicted of offenses against the*
21 *criminal laws of the United States.*

22 (2) *According to the Inspector General of the De-*
23 *partment of Homeland Security (DHS IG), the*
24 *Transportation Security Administration (TSA) does*
25 *not ensure that its cadre of criminal investigators in*

1 *the Office of Inspection are meeting this requirement,*
2 *even though they are considered law enforcement offi-*
3 *cers under TSA policy and receive premium pay.*

4 *(3) Instead, TSA criminal investigators in the*
5 *Office of Inspection primarily monitor the results of*
6 *criminal investigations conducted by other agencies,*
7 *investigate administrative cases of TSA employee*
8 *misconduct, and carry out inspections, covert tests,*
9 *and internal reviews, which the DHS IG asserts could*
10 *be performed by employees other than criminal inves-*
11 *tigators at a lower cost.*

12 *(4) The premium pay and other benefits afforded*
13 *to TSA criminal investigators in the Office of Inspec-*
14 *tion who are incorrectly classified as such will cost*
15 *the taxpayer as much as \$17 million over 5 years if*
16 *TSA fails to make any changes to the number of*
17 *criminal investigators in the Office of Inspection, ac-*
18 *cording to the DHS IG.*

19 *(5) This may be a conservative estimate, as it*
20 *accounts for the cost of Law Enforcement Availability*
21 *Pay, but not the costs of law enforcement training,*
22 *statutory early retirement benefits, police vehicles,*
23 *and weapons.*

24 **SEC. 3. DEFINITIONS.**

25 *In this Act:*

1 (1) *ADMINISTRATION.*—*The term “Administration” means the Transportation Security Administration.*
2
3

4 (2) *ASSISTANT SECRETARY.*—*The term “Assistant Secretary” means the Assistant Secretary of Homeland Security (Transportation Security) of the Department of Homeland Security.*
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7

8 (3) *INSPECTOR GENERAL.*—*The term “Inspector General” means the Inspector General of the Department of Homeland Security.*
9
10

11 **SEC. 4. INSPECTOR GENERAL AUDIT.**

12 (a) *AUDIT.*—*Not later than 60 days after the date of*
13 *the enactment of this Act, the Inspector General shall ana-*
14 *lyze the data and methods that the Assistant Secretary uses*
15 *to identify Office of Inspection employees of the Administra-*
16 *tion who meet the requirements of sections 8331(20),*
17 *8401(17), and 5545a of title 5, United States Code, and*
18 *provide the relevant findings to the Assistant Secretary, in-*
19 *cluding a finding on whether the data and methods are ade-*
20 *quate and valid.*

21 (b) *PROHIBITION ON HIRING.*—*If the Inspector Gen-*
22 *eral finds that such data and methods are inadequate or*
23 *invalid, the Administration shall not hire any new em-*
24 *ployee to work in the Office of Inspection of the Administra-*
25 *tion until—*

1 (b) *EMPLOYEE RECLASSIFICATION.*—*The Assistant*
2 *Secretary shall reclassify criminal investigator positions in*
3 *the Office of Inspection as noncriminal investigator posi-*
4 *tions or non-law enforcement positions if the individuals*
5 *in those positions do not, or are not expected to, spend an*
6 *average of at least 50 percent of their time performing*
7 *criminal investigative duties.*

8 (c) *PROJECTED COST SAVINGS.*—

9 (1) *IN GENERAL.*—*The Assistant Secretary shall*
10 *estimate the total long-term cost savings to the Fed-*
11 *eral Government resulting from the implementation of*
12 *subsection (b), and provide such estimate to the Com-*
13 *mittee on Homeland Security of the House of Rep-*
14 *resentatives and the Committee on Commerce,*
15 *Science, and Transportation of the Senate by not*
16 *later than 180 days after the date of enactment of this*
17 *Act.*

18 (2) *CONTENTS.*—*Such estimate shall identify*
19 *savings associated with the positions reclassified*
20 *under subsection (b) and include, among other factors*
21 *the Assistant Secretary considers appropriate, savings*
22 *from—*

23 (A) *law enforcement training;*

24 (B) *early retirement benefits;*

1 (C) law enforcement availability and other
2 premium pay; and

3 (D) weapons, vehicles, and communications
4 devices.

5 **SEC. 6. INVESTIGATION OF FEDERAL AIR MARSHAL SERV-**
6 **ICE MISCONDUCT.**

7 Not later than 90 days after the date of the enactment
8 of this Act, or as soon as practicable, the Assistant Sec-
9 retary shall submit to the Committee on Homeland Security
10 of the House of Representatives and the Committee on Com-
11 merce, Science, and Transportation of the Senate—

12 (1) materials in the possession or control of the
13 Department of Homeland Security associated with
14 the Office of Inspection’s review of instances in which
15 Federal Air Marshal Service officials obtained dis-
16 counted or free firearms for personal use; and

17 (2) information on specific actions that will be
18 taken to prevent Federal Air Marshal Service officials
19 from using their official positions, or exploiting, in
20 any way, the Service’s relationships with private ven-
21 dors to obtain discounted or free firearms for personal
22 use.

23 **SEC. 7. STUDY.**

24 Not later than 180 days after the date that the Assist-
25 ant Secretary submits the certification to Congress under

1 *section 5(a), the Inspector General of the Department of*
2 *Homeland Security shall submit to the Committee on*
3 *Homeland Security of the House of Representatives and the*
4 *Committee on Commerce, Science, and Transportation of*
5 *the Senate a study—*

6 (1) *reviewing the employee requirements, respon-*
7 *sibilities, and benefits of criminal investigators in the*
8 *TSA Office of Inspection with criminal investigators*
9 *employed at agencies adhering to the Office of Per-*
10 *sonnel Management employee classification system;*
11 *and*

12 (2) *identifying any inconsistencies and costs im-*
13 *plications for differences between the varying em-*
14 *ployee requirements, responsibilities, and benefits.*

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[Report No. 114-111]

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To require the Transportation Security Administration to conform to existing Federal law and regulations regarding criminal investigator positions, and for other purposes.

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