

United States Senate
WASHINGTON, DC 20510

October 13, 2021

VIA ELECTRONIC TRANSMISSION

The Honorable David P. Pekoske
Administrator
Transportation Security Administration

Dear Administrator Pekoske:

On August 2, 2021, I wrote a letter to the Department of Commerce (DOC) relating to serious allegations of misconduct within the DOC's Investigations and Threat Management Service (ITMS).¹ On September 3, 2021, the DOC Office of General Counsel responded to my letter and also released a report titled, "Report of the Programmatic Review of the Investigations and Threat Management Service."² In the report, the DOC found that ITMS did not possess adequate legal authority to investigate an array of criminal activity it sought to address.³ For example, ITMS neither had the authority to submit or execute search warrants nor conduct counterintelligence investigations, yet it did so anyway.⁴ As a result of the totality of ITMS's conduct, the DOC recommended the elimination of the entire ITMS unit and to redistribute the remaining responsibilities to other units within the DOC.⁵

The DOC report also found that, based on a July 2019 report from the Department of Commerce Inspector General (OIG), "ITMS agents flew armed without a required flying-armed policy, in violation of Transportation Security Administration (TSA) requirements."⁶ According to the OIG, although ITMS did not have an official flying armed policy, it applied for and received a Unique Flying Armed Number (UFAN) from the TSA.⁷ In addition to ITMS's apparent lack of qualification as a unit to fly armed, five out of the eleven ITMS "special agents" did not complete the Criminal Investigator Training Program (CITP) at the Federal Law Enforcement Center (FLETC).⁸ According to the FLETC website, the CITP curriculum includes

¹ Letter from Charles E. Grassley, Ranking Member, S. Comm. on the Judiciary, to Gina M. Raimondo, Secretary, U.S. Dep't of Commerce (Aug. 2, 2021), https://www.grassley.senate.gov/imo/media/doc/grassley_to_commerce_dept_investigative_and_threat_management_service_misconduct.pdf. See also Shawn Boburg, *Commerce Department Security Unit Evolved Into Counterintelligence-Like Operation, Washington Post Examination Found*, THE WASHINGTON POST (May 24, 2021), <https://www.washingtonpost.com/investigations/2021/05/24/commerce-department-monitoring-itms/>.

² U.S. DEP'T OF COMMERCE, OFFICE OF THE GENERAL COUNSEL, REPORT OF THE PROGRAMMATIC REVIEW OF THE INVESTIGATIONS AND THREAT MANAGEMENT SERVICE (Sept. 3, 2021), [20210903-ITMS-Report.pdf \(commerce.gov\)](https://www.commerce.gov/20210903-ITMS-Report.pdf).

³ *Id.* at 7-8.

⁴ *Id.* at 11, 14-15, 24. See also, U.S. SENATE COMMERCE COMMITTEE MINORITY STAFF, COMMITTEE INVESTIGATION REPORT: ABUSE AND MISCONDUCT AT THE COMMERCE DEPARTMENT (July 2021), <https://www.commerce.senate.gov/services/files/C4ABC46A-7CB0-4D51-B855-634C26E7CF70>.

⁵ U.S. DEP'T OF COMMERCE, OFFICE OF THE GENERAL COUNSEL, REPORT OF THE PROGRAMMATIC REVIEW OF THE INVESTIGATIONS AND THREAT MANAGEMENT SERVICE at 7, 24 (Sept. 3, 2021), [20210903-ITMS-Report.pdf \(commerce.gov\)](https://www.commerce.gov/20210903-ITMS-Report.pdf).

⁶ *Id.* at 16.

⁷ OFFICE OF INSPECTOR GEN., OFFICE OF INVESTIGATIONS, REPORT NO. 19-0714, OS/ITMD INVESTIGATION OF [ITMS] at 12-13, https://www.oig.doc.gov/OIGPublications/ROI%2019-0714_Redactions%20Applied.pdf.

⁸ U.S. DEP'T OF COMMERCE, OFFICE OF THE GENERAL COUNSEL, REPORT OF THE PROGRAMMATIC REVIEW OF THE INVESTIGATIONS AND THREAT MANAGEMENT SERVICE at 18 (Sept. 3, 2021), [20210903-ITMS-Report.pdf \(commerce.gov\)](https://www.commerce.gov/20210903-ITMS-Report.pdf).

training identified as “TSA regulations: Flying Armed.”⁹ As a general matter, in order to fly armed one must complete a TSA Flying Armed course.¹⁰ Accordingly, it appears that five agents may not have completed the training required to fly armed. Based on the available evidence, ITMS did not have a flying-armed policy and its agents failed to complete the necessary training to qualify for a UFAN; however, the TSA still provided one.

In light of the Senate Judiciary Committee’s jurisdiction over law enforcement and intelligence activities and to better understand TSA’s role in this matter, please answer the following questions no later than October 27, 2021:

1. Please provide all records relating to the Transportation Security Administration’s (TSA) relationship with the Department of Commerce’s Investigations and Threat Management Service (ITMS).
2. How many UFAN applications did ITMS submit with TSA and who were they submitted for? How many of those applications were approved? Please provide all records relating to ITMS’s application and approval for a UFAN.
3. Please provide documentation of all rules, regulations, and guidelines outlining how TSA processes applications for UFANs and how TSA verifies the accuracy of information provided.
4. Before approving ITMS for a UFAN, was TSA aware that five ITMS employees had not received the training necessary to qualify for flying armed? Was TSA aware that ITMS did not have a valid “flying armed policy”? If so, why was ITMS approved for a UFAN?
5. Please provide all records relating to Department of Commerce personnel flying armed. Please include names of the employees, carriers, dates of travel, flight numbers, departure locations, and destinations.
6. Did TSA send any training materials to ITMS to review and complete? If so, when? Please provide all records that were sent to ITMS.

Thank you for your attention to this important matter.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on the Judiciary

⁹ *Criminal Investigator Training Program*, FEDERAL LAW ENFORCEMENT TRAINING CENTERS, <https://www.fletc.gov/criminal-investigator-training-program> (last visited Oct. 12, 2021).

¹⁰ *Law Enforcement: Flying Armed*, TSA.GOV, <https://www.tsa.gov/travel/law-enforcement> (last visited Oct. 12, 2021).