

United States Senate  
WASHINGTON, DC 20510

August 20, 2024

**VIA ELECTRONIC TRANSMISSION**

The Honorable David P. Pekoske  
Administrator  
Transportation Security Administration

Dear Administrator Pekoske:

Many times in recent years, I've sounded the alarm on the weaponization of the federal government against presidential candidates, members of Congress and their staff, and—just as importantly—ordinary Americans from all walks of life.<sup>1</sup> Quite simply, no citizen should ever be targeted for investigation, surveillance, harassment, or arrest based upon their political party or expressions of political, religious, or other views, no matter which party is in power. In recent days, however, troubling reports have surfaced that the Transportation Security Administration (TSA) appears to have done exactly that to former Representative and current Army Lieutenant Colonel, Tulsi Gabbard, under its “Quiet Skies Program.” More than that, TSA whistleblowers who came forward to disclose the abuse of the “Quiet Skies Program” and the apparent political targeting of Lt. Col. Gabbard have themselves been targeted by TSA for investigation.<sup>2</sup> To maintain the trust of Congress and the people we serve, TSA must recognize the seriousness of these allegations and swiftly provide answers to Congress and the American people.

The “Quiet Skies Program” is a program that subjects people, including U.S. citizens not suspected of any crime or on any terrorist watch list, to surveillance and collection of information about their movements and behavior when flying.<sup>3</sup> According to Ms. Sonya LaBosco, the Executive Director of the Air Marshal National Council (AMNC), TSA added Lt.

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<sup>1</sup> See, e.g., letter from Senator Charles E. Grassley, Ranking Member, Comm. on the Budget, to the Hon. Michael Horowitz, Inspector General, Dep't of Justice (November 2, 2023) (asking for a thorough investigation of the DOJ after revelations it obtained phone records of members of Congress and their staff), [https://www.grassley.senate.gov/imo/media/doc/grassley\\_to\\_doj\\_oig\\_-\\_congressional\\_subpoena1.pdf](https://www.grassley.senate.gov/imo/media/doc/grassley_to_doj_oig_-_congressional_subpoena1.pdf); press release, *Grassley: FBI Credibility Demands Immediate Cooperation with Congressional Oversight*, (discussing how the Durham report showed FBI top brass caved to political bias in its Russia probe) (May 15, 2023), <https://www.grassley.senate.gov/news/news-releases/grassley-fbi-credibility-demands-immediate-cooperation-with-congressional-oversight>; prepared floor remarks, *Grassley: Democrats Offer a Political Resolution That Ignores Their Past Political Weaponization of the FBI* (April 25, 2023), <https://www.grassley.senate.gov/news/remarks/grassley-democrats-offer-a-political-resolution-that-ignores-their-past-political-weaponization-of-the-fbi>.

<sup>2</sup> Letter from Tristan Leavitt, President, Empower Oversight, to The Hon. Charles E. Grassley, Chair, U.S. Senate Whistleblower Protection Caucus, et al. (August 13, 2024) (noting whistleblower revelations that, “TSA ha[s] opened a retaliatory investigation into the so-called ‘leak’ of Sensitive Security Information (SSI)” related to Ms. Gabbard), <https://empowr.us/wp-content/uploads/2024/08/2024-08-13-TL-to-Congress-FAMS-Gabbard-surveillance-redacted.pdf>.

<sup>3</sup> Jana Winter, *Welcome to the Quiet Skies*, Boston Globe (July 28, 2018), <https://apps.bostonglobe.com/news/nation/graphics/2018/07/tsa-quiet-skies/>.



Col. Gabbard to the Quiet Skies program on July 23, 2024, the day after she criticized Vice President Harris, President Biden, and the “National Security State” in an interview on Fox, and federal air marshals were assigned to her first flight after this, on July 25.<sup>4</sup> Ms. LaBosco also said whistleblowers disclosed TSA has assigned two explosive detection canine teams, one transportation security specialist in explosives, one plainclothes TSA supervisor, and three federal air marshals to surveil Lt. Col. Gabbard every time she flies.<sup>5</sup> If accurate, TSA’s monitoring of Lt. Col. Gabbard and subjecting her to additional and invasive scrutiny is an outrage. In addition to concerns about politically-motivated surveillance, TSA’s actions appear to be a complete waste of taxpayer resources given that Lt. Col. Gabbard is a well-known and trusted figure with decades of service to her country in the U.S. Military, and service in Congress. According to additional protected whistleblower disclosures to my office, Lt. Col. Gabbard to date has been subject to this heavy scrutiny on at least eight flights, requiring a significant allocation of taxpayer resources.<sup>6</sup> The Biden-Harris administration appears to have given surveilling Lt. Col. Gabbard more effort and focus than stopping terrorists from entering our Southern Border.<sup>7</sup>

TSA must explain why it’s using taxpayer resources in this manner at a time when the FBI has stated that threats from international terrorism, domestic terrorism, and state-sponsored terrorism are all simultaneously elevated.<sup>8</sup> Even more alarmingly, the AMNC has also disclosed that the TSA is, “improperly classifying innocent Americans as ‘Domestic Terrorists’ on internal TSA/FAMS [Federal Air Marshal Service] databases and watchlists,” and that, “[m]ost of these classifications occur in the absence of any investigation or even any follow up.”<sup>9</sup> All of this, if true, is an abuse of government authority, a waste of taxpayer money, and a clear indication that TSA requires more exacting congressional oversight.

Whistleblowers have also disclosed troubling information about TSA’s response to these revelations. According to lawyers for the FAMS whistleblowers, “TSA has initiated an investigation into what it considers a ‘leak’ of Sensitive Security Information (SSI) regarding the

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<sup>4</sup> Wendi Straunch Mahoney, *Federal Air Marshal Whistleblowers Report Tulsi Gabbard Actively Under Surveillance via Quiet Skies Program*, UncoverDC (August 5, 2024), <https://uncoverdc.com/2024/08/04/fams-whistleblowers-report-tulsi-gabbard-on-quiet-skies-list>.

<sup>5</sup> *Id.*

<sup>6</sup> Notes of interview with whistleblower on file with Committee staff.

<sup>7</sup> Staff Report, U.S. Comm. on the Judiciary, *Terror at Our Door: How the Biden-Harris Administration’s Open Borders Policies Undermine National Security and Endanger Americans* (reporting the Biden-Harris Administration released at least 99 illegal aliens on the terrorist watchlist into U.S. communities, whom Border Patrol encountered between FY 2021 and FY 2023) (August 5, 2024) at 8, [https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/FILE\\_6538.pdf](https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/FILE_6538.pdf).

<sup>8</sup> The Hon. Christopher Wray, Director, Federal Bureau of Investigation, hearing statement for U.S. Senate Comm. on Appropriations, hearing, *A Review of the President’s Fiscal Year 2025 Budget Request for the Federal Bureau of Investigation* (June 4, 2024), [https://www.appropriations.senate.gov/imo/media/doc/download\\_testimony80.pdf](https://www.appropriations.senate.gov/imo/media/doc/download_testimony80.pdf).

<sup>9</sup> Letter from David Londo, President, Air Marshal National Council, and Sonya Hightower-Labosco, Executive Director, Air Marshal National Council, to the Hon. Kevin McCarthy, Speaker, U.S. House of Reps., The Hon. Rick Scott, Comm. on Homeland Security and Govt. Aff., The Hon. Mark Green, Chairman, House Homeland Security Comm., The Hon. Jim Jordan, Chairman, House Comm. on the Judiciary, and the Hon. James Comer, Chairman, House Oversight Comm. (January 16, 2023), [https://mr.cdn.ignitedcdn.com/client\\_assets/uncoverdc\\_com/media/attachments/6559/236e/f57c/cd0e/d85c/ee42/6559236ef57ccd0ed85cee42.pdf?1700340590](https://mr.cdn.ignitedcdn.com/client_assets/uncoverdc_com/media/attachments/6559/236e/f57c/cd0e/d85c/ee42/6559236ef57ccd0ed85cee42.pdf?1700340590).



surveillance of Ms. Gabbard.”<sup>10</sup> I’ve spent much of my career working with whistleblowers, and shoring up legal protections for them. I’ve also fought for the public’s right to know as much as possible about the workings of our government and particularly the vast bureaucracy in the executive branch that is all too often insulated from transparency and accountability. Legally protected whistleblower disclosures aren’t a “leak,” rather they’re lawful acts under the Constitution and federal law. TSA must comply with the law and immediately cease its retaliatory investigation of these FAMS whistleblowers.

Based on the allegations provided to Congress and without further explanation from the TSA, it appears the Quiet Skies program has been weaponized against Lt. Col. Gabbard. The TSA’s actions raise serious questions about whether it has done the same with other U.S. citizens and for how long. The federal government exists to protect the people, not harass and surveil them. So that Congress may conduct thorough and independent oversight of TSA’s apparent abuse of authority, waste of resources, and whistleblower retaliation, answer the following requests no later than September 3, 2024 and provide a briefing to my office by September 10, 2024:

1. Provide all records related to the decision to place Lt. Col. Gabbard in the Quiet Skies program, including all records referencing Lt. Col. Gabbard’s appearance on Fox News.<sup>11</sup>
2. Describe in detail the taxpayer resources used to monitor Lt. Col. Gabbard, including the number of government employees assigned to her, broken down by position, and provide all records sufficient to document the full scope of the government’s surveillance of Lt. Col. Gabbard.
3. Has TSA interfaced, communicated and/or worked with other government agencies to surveil Lt. Col. Gabbard? If so, which agencies?
4. Why was the decision made to include Lt. Col. Gabbard’s congressional portrait in the TSA database rather than her passport photo? Who made this decision?
5. In the past five years, how many unique U.S. citizens have been in the program and for what reasons? Currently, how many U.S. citizens are in the Quiet Skies program and for what reasons? In your answer, provide data showing the length of time all existing individuals in the Quiet Skies program have been in the program, broken down by number of individuals within the following time ranges: less than a month, 1-3 months, 3-6 months, 6 months to 1 year, 1-2 years, 2-4 years, or more than four years.

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<sup>10</sup> Letter from Tristan Leavitt, President, Empower Oversight, to The Hon. Joseph V. Cuffari, Inspector General, U.S. Dep’t of Homeland Security (August 7, 2024), <https://empowr.us/wp-content/uploads/2024/08/2024-08-07-TL-to-DHS-OIG-re-TSA-investigation.pdf>.

<sup>11</sup> “Records” include any written, recorded, or graphic material of any kind, including letters, memoranda, reports, notes, electronic data (e-mails, email attachments, and any other electronically-created or stored information), calendar entries, inter-office communications, meeting minutes, phone/voice mail or recordings/records of verbal communications, and drafts (whether or not they resulted in final documents).



6. What criteria are applied to determine who is placed in the Quiet Skies program? Does TSA's criteria for the Quiet Skies program take into account honorable military service or congressional service? If not, why not? If so, how was it factored in with respect to Lt. Col. Gabbard? In your answer, explain whether an articulable basis that an individual is a threat must exist before placing an individual in the Quiet Skies program. Provide all records.
7. What criteria are applied to remove persons from the Quiet Skies program in a timely manner?<sup>12</sup> Provide all records.
8. Name all TSA employees who were provided information obtained through surveillance of Lt. Col. Gabbard. Was that information shared outside TSA? If so, which agencies?
9. When a subject is given additional scrutiny under the Quiet Skies program, does this in any or all cases lead to their spouses, family members, and/or associates being placed in the program? In what percentage of cases currently entered in the Quiet Skies program is one or more family members or known associates also in the program?
10. Please provide the number of current or former members of Congress and current or former cabinet-level officials who are currently monitored through the Quiet Skies program, and separately the number of those who have been in the program in the past five years, broken down by year.
11. Does TSA use artificial intelligence (AI) or any kind of algorithm to determine or aid in the determination of whom to target for further surveillance?<sup>13</sup> If so, what human supervision and review is involved in scrutinizing the work of AI, and in what percentage of cases flagged by AI or algorithms for surveillance or placement on a watch list did the human review result in the person being removed or not selected for further scrutiny or surveillance?
  - a. Please provide records sufficient to document the number of passengers placed on federal aviation watch lists or selected for surveillance, in the Quiet Skies program or any other TSA list, based in whole or in part on AI analysis, and describe in detail what actions TSA has taken to prevent AI from incorporating biases of any kind, to include biases against individuals because of their religious or political beliefs.
  - b. If TSA uses AI analysis, what data does TSA use to train the AI system?

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<sup>12</sup> See Dep't of Homeland Security, Office of Inspector General, Report, *TSA Needs to Improve Management of the Quiet Skies Program* (November 25, 2020) at 7 (finding "TSA may not have always removed passengers from the Quiet Skies List as required by its [implementation plan]"), <https://www.oig.dhs.gov/sites/default/files/assets/2020-11/OIG-21-11-Nov20-Redacted.pdf>.

<sup>13</sup> See, e.g., ACLU, News & Commentary, *TSA Darkens the Skies With Secret Surveillance of Americans*, (July 30, 2018) (noting TSA appears to be using algorithms to decide who to target for the Quiet Skies program and pointing out the risk of artificial intelligence incorporating human biases), <https://www.aclu.org/news/national-security/tsa-darkens-skies-secret-surveillance-americans>.



12. Is TSA investigating or in any way seeking the identity of the whistleblowers who provided information to Congress related to Lt. Col. Gabbard or the Quiet Skies program? If so, who ordered this investigation or review? If TSA has initiated such an investigation or review, provide all related records.

Should you have any questions about this inquiry, please reach out to James Layne on my Budget Committee staff at (202) 224-0642. I look forward to your prompt and thorough reply.

Sincerely,



Charles E. Grassley  
Ranking Member  
Committee on the Budget

cc: The Hon. Joseph V. Cuffari  
Inspector General  
Department of Homeland Security