

United States Senate

WASHINGTON, DC 20510

January 6, 2010

Ms. Nancy D. Hogan
Special Assistant to the President and Director of Presidential Personnel
Executive Office of the President
1800 G Street, NW
Washington, DC 20502

Dear Ms. Hogan:

We are writing today to express our serious reservations about the nomination of Mr. Erroll Southers to head the Transportation Security Administration (TSA), and request answers to several important questions. As you know, Mr. Southers inappropriately gained access to a Federal Bureau of Investigation (FBI) criminal database resulting in his being censured by the agency.

Mr. Southers' nomination was considered by members of the Senate Homeland Security and Governmental Affairs Committee and the Senate Commerce, Science and Transportation Committee. The Ranking Republican Member of the Homeland Security Committee, Senator Susan Collins, questioned Mr. Southers about this matter at his nomination hearing and requested a copy of the FBI censure letter from the White House Counsel's office. However, the details of the FBI censure letter did not match the description of the incident provided by Mr. Southers. For this reason, Senator Collins then requested Mr. Southers provide a more complete account of this incident, and Mr. Southers submitted a letter that acknowledged his inaccurate representations after the Committees considered his nomination.

We believe that Mr. Southers submitted erroneous, and possibly misleading, information regarding ethical violations during his service with the Federal Bureau of Investigation. In light of this, there are a number of questions that must be answered so the Senate can effectively render its Constitutional responsibility to advise and consent. Please answer the following questions and provide the following information:

1. When did Mr. Southers first make the Office of Presidential Personnel aware of his censure by the FBI?
2. In addition to a letter of censure, did the FBI take any additional steps to discipline Mr. Southers as a result of his conduct?
3. In his November 20, 2009 letter to the Senate Homeland Security and Governmental Affairs Committee, Mr. Southers stated that after submitting an inaccurate questionnaire to the Senate he "reviewed the documents associated with [his] censure" to refresh his recollection. Please provide a copy of the documents Mr. Southers referred to in that letter.
4. Did Mr. Southers provide those documents to the Office of Presidential Personnel? If so, on what date, and who read them?
5. After he submitted his questionnaire to the committee, did Mr. Southers inform the Office of Presidential Personnel that the information it contained was inaccurate? If so, when and to whom?
6. Please provide a copy of all documents associated with the Office of Presidential Personnel investigation of Mr. Southers' improper use of law enforcement databases.
7. Please provide a copy of all documents associated with the FBI investigation of Mr. Southers' improper use of law enforcement databases.
8. Please provide a copy of any unofficial or official questionnaires—such as staff-generated forms or the SF-86—that Mr. Southers prepared in advance of his background check by the FBI.
9. For any staff of the Office of Presidential Personnel, please list names of anyone who reviewed Mr. Southers' FBI personnel file, including the letter of censure, in advance of the submission of responses to questionnaires from Senate committees, and the date on which it was reviewed.

10. Please provide a copy of any internal research files or documents generated by the Offices of Presidential Personnel, General Counsel, or Political Affairs related to Mr. Southers' candidacy.
11. In his biographical questionnaire submitted to the two Senate committees, Mr. Southers indicated that he transmitted the results of the database search to a law enforcement officer in a local police department. Please name the police officer and the department for which he worked.
12. Mr. Southers left the FBI in 1988, the same year he unlawfully accessed the databases, to join the Santa Monica Police Department. Did Mr. Southers leave the FBI either involuntarily or by mutual agreement as a result of his unlawful access of confidential law enforcement information?
13. Was a United States Attorney ever consulted regarding Mr. Southers' unlawful access of law enforcement information?
 - A. If not, why not?
 - B. If so, please provide all documents regarding the United States Attorney's consideration and disposition of the matter.

It is conceivable that some of the information requested above may require Mr. Southers' consent to release. If that is the case, we request that you work with Mr. Southers to execute all of the necessary authorizations to release the information.

Lastly, we understand that Senators at times have access to FBI personnel files, though this information is not made public. In light of this, we would request the opportunity to privately review the contents of the censure letter as a part of our review.

We look forward to your prompt reply.

Sincerely,














