



July 2013

TRANSPORTATION SECURITY

TSA Could Strengthen Monitoring of Allegations of Employee Misconduct

GAO Highlights

Highlights of [GAO-13-624](#), a report to congressional requesters

Why GAO Did This Study

DHS's TSA employs approximately 56,000 personnel to ensure security at about 450 TSA-regulated airports nationwide. News media have reported allegations of misconduct by TSA employees, including theft. GAO was asked to review TSA's policies and procedures for addressing employee misconduct. This report (1) summarizes data on TSA employee misconduct cases, and (2) examines the extent to which TSA has taken actions to manage and oversee the investigations and adjudications process. Adjudication is the process through which TSA determines whether the evidence is sufficient to propose and sustain a charge of misconduct, and determines the appropriate penalty. GAO reviewed TSA procedures, analyzed TSA misconduct data from fiscal years 2010 through 2012, and analyzed a random, nongeneralizable sample of 50 allegations referred from the DHS OIG to TSA to identify follow up actions.

What GAO Recommends

GAO recommends, among other things, that TSA establish a process to conduct reviews of misconduct cases to verify that TSA staff at airports are complying with policies and procedures for adjudicating employee misconduct, develop and issue guidance to the field clarifying the need for TSA officials at airports to record all misconduct case outcomes in the Integrated Database, and develop reconciliation procedures to identify allegations of employee misconduct not previously addressed through adjudication. DHS concurred with the recommendations and TSA is taking actions in response.

View [GAO-13-624](#). For more information, contact Stephen M. Lord at (202) 512-4379 or lords@gao.gov.

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What GAO Found

According to Transportation Security Administration (TSA) employee misconduct data that GAO analyzed, TSA investigated and adjudicated approximately 9,600 cases of employee misconduct from fiscal years 2010 through 2012. From fiscal years 2010 through 2012, the annual number of TSA misconduct cases increased from 2,691 to 3,408. In that same period, TSA's workforce of Office of Security Operations employees at the airport level grew by about 3,200 employees. Two offense categories accounted for about half of all cases—(1) attendance and leave, which accounted for 32 percent, and (2) screening and security, which accounted for 20 percent. Charges for screening and security related incidents pertain to violating standard operating procedures, including not conducting security or equipment checks, and allowing patrons or baggage to bypass screening. TSA's guidance delineates common employee charges, along with a suggested range of penalties. Forty-seven percent of the cases that GAO analyzed resulted in letters of reprimand, which describe unacceptable conduct that is the basis for a disciplinary action; 31 percent resulted in suspensions of a definite duration; and 17 percent resulted in the employee's removal from TSA. The remaining cases covered a variety of outcomes, including indefinite suspensions.

While TSA has taken steps to help manage the investigations and adjudication process, such as providing training to TSA staff at airports, additional procedures could help TSA better monitor the investigations and adjudications process. For example, TSA does not have a process for conducting reviews of misconduct cases to verify that TSA staff at airports are complying with policies and procedures for adjudicating employee misconduct. Without a review process, it is difficult to determine the extent to which deficiencies, if any, exist in the adjudications process. Further, TSA does not record all misconduct case outcomes, including cases that resulted in corrective action or no penalty, in its Integrated Database (TSA's centralized case management system) because the agency has not issued guidance requiring the recording of all outcomes. Issuing guidance to TSA staff at airports about recording all case outcomes in the database would emphasize management's view of the importance of staff including such information to provide a more complete record of adjudication decisions. Moreover, TSA does not have reconciliation procedures—that is, procedures to follow up on completed misconduct investigations to ensure that the agency has identified cases requiring adjudication. According to a random sample of 50 allegations referred from the Department of Homeland Security Office of Inspector General (DHS OIG) to TSA in fiscal year 2012, GAO found that 2 were not adjudicated by TSA. As a result of GAO's review, TSA made adjudication decisions on these allegations, 1 of which resulted in a 14-day suspension for the employee because of disruptive behavior in the workplace. The results from GAO's sample cannot be generalized to the entire population of over 1,300 allegations referred from DHS OIG to TSA in fiscal year 2012; however, they raise questions as to whether there could be additional instances of allegations referred to TSA in this population that the agency has not adjudicated. A senior TSA official agreed that establishing reconciliation procedures would help TSA identify allegations of misconduct that require adjudication.

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Abbreviations

AIM	Airport Information Management system
DHS	Department of Homeland Security
ER	Employee Relations
FSD	federal security director
OIG	Office of Inspector General
OOI	Office of Inspection
OPR	Office of Professional Responsibility
OSO	Office of Security Operations
SOP	Standard Operating Procedures
TSA	Transportation Security Administration
TSO	transportation security officer

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July 30, 2013

Congressional Requesters

The Transportation Security Administration (TSA), a component of the Department of Homeland Security (DHS), employs approximately 56,000 transportation security officers (TSO) and other TSA personnel to ensure the security of the traveling public at more than 450 TSA-regulated airports nationwide.¹ News stories in recent years have highlighted several high-profile allegations of misconduct by TSA employees, including TSOs being involved in theft and drug-smuggling activities, as well as circumventing mandatory screening procedures for passengers and baggage.² For example, in 2011, a TSO at the Orlando International Airport pleaded guilty to federal charges of embezzlement and theft for stealing more than 80 laptop computers and other electronic devices, valued at \$80,000, from passenger luggage. TSOs engaging in misconduct raise security concerns because these employees are charged with helping to ensure the security of our nation's aviation system. The potential impact on aviation security underscores the importance of controls to help prevent and detect instances of misconduct within the TSA workforce.

The process of addressing TSA employee misconduct involves various components within DHS. For example, depending on the facts and circumstances of a case, the DHS Office of Inspector General (OIG), TSA Office of Inspection (OOI), or TSA Office of Security Operations (OSO) may conduct an investigation into allegations of TSA employee

¹The total number of TSA employees at TSA-regulated airports represents personnel within the Office of Security Operations, such as TSOs, supervisory TSOs, lead TSOs, transportation security managers, transportation security inspectors, and behavior detection officers.

²This review is focused on TSA personnel at TSA-regulated airports. We excluded from our review TSA employees at headquarters, the Federal Air Marshal Service, regional offices, and other nonairport locations, and do not include private sector screeners employed by contractors providing screening services at airports participating in TSA's Screening Partnership Program. For purposes of this review, employee misconduct is generally job-related or off-duty behavior that does not meet expected standards described in laws, regulations, rules, and other authoritative policies and guidance. Misconduct may represent an intentional refusal to perform or a negligent failure to perform acceptably because of inattention to duty. Categories of employee misconduct include drugs and alcohol and screening and security, among others.

misconduct. OSO generally adjudicates misconduct cases at airports, which is the process through which TSA determines whether the evidence is sufficient to propose and sustain a charge of misconduct, and determines the appropriate penalty. The TSA Office of Professional Responsibility (OPR), an independent office that TSA established in 2010 to provide greater consistency in misconduct penalty determinations, adjudicates a more specialized set of cases, such as misconduct involving senior-level employees and other TSA employees. TSA has policies and procedures for investigating and adjudicating employee misconduct and strives to follow the progressive discipline model, which is the process of taking progressively more severe action, when appropriate, until the unacceptable conduct is corrected or the employee is removed from the agency. TSA requires removal for certain TSO offenses, such as theft and intentional serious security breaches, and allows removal for the first violation for other offenses, such as sleeping while assigned to a security activity.

You asked us to review TSA's procedures for addressing employee misconduct, including the potential risks associated with conduct issues. This report (1) summarizes data on TSA employee misconduct cases, and (2) examines the extent to which TSA has taken actions to manage and oversee the investigations and adjudications process.

To summarize data on TSA employee misconduct cases, we reviewed program documentation.³ For example, we reviewed standard operating procedures, policy statements, and guidance for staff charged with investigating and adjudicating allegations of employee misconduct. Further, we conducted trend analysis on TSA misconduct case data from fiscal years 2010 through 2012. As part of this work, we assessed data reliability by testing data for potential gaps and anomalies and interviewing TSA officials to discuss the mechanisms in place to ensure data quality. We identified some instances of missing and inaccurate data, including lack of data about employee pay bands and incorrect job titles. We also determined that TSA does not consistently track all employee misconduct cases, which we discuss later in the report. While we identified such limitations, we found the data sufficiently reliable for

³For the purposes of this review, employee misconduct cases refer to allegations for which TSA has completed an investigation and adjudication.

providing general information on the nature and characteristics of employee misconduct.

To determine the extent to which TSA has taken actions to manage and oversee the investigations and adjudications process, we reviewed TSA's standard operating procedures for addressing employee misconduct through various types of investigations, including an administrative inquiry, which is a formal investigation requested by a federal security director (FSD) or designee, as well as TSA's procedures for making adjudication decisions, including providing alleged offenders with certain due process opportunities.⁴ We reviewed TSA's Table of Offenses and Penalties, which provides guidance for officials to follow in making adjudication decisions, such as a list of potential offenses and penalty ranges. We compared TSA processes for investigations and adjudications with TSA policies and procedures, as well as with criteria in *Standards for Internal Control in the Federal Government*.⁵ We used fiscal year 2012 complaint data from DHS OIG's Enforcement Data System as the population from which to randomly select a nongeneralizable sample of 50 TSA employee misconduct allegations referred from DHS OIG to OOI.⁶ We requested that OOI provide us with the status and outcome of each of the 50 allegations, including whether TSA had a record of the allegations and had taken action to investigate and adjudicate each allegation.

To address both objectives, we interviewed senior officials from TSA. We also selected a sample of 7 airports from the approximately 450 TSA-regulated airports nationwide and conducted site visits or telephone interviews with TSA officials responsible for investigating and adjudicating

⁴FSDs are the ranking TSA authorities responsible for leading and coordinating TSA security activities at TSA-regulated airports. Not every TSA-regulated airport has an FSD dedicated solely to that airport. Most large airports have an FSD responsible for that airport alone. Other, smaller airports are arranged in a "hub and spoke" configuration, in which an FSD is located at or near a hub airport but also has responsibility over one or more spoke airports of the same or smaller size.

⁵GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: Nov. 1, 1999).

⁶DHS OIG's Enforcement Data System is an electronic case management and tracking system used to manage information related to DHS OIG investigations.

cases of employee misconduct.⁷ Further, we interviewed senior officials from OOI and DHS OIG field offices with oversight responsibilities for the airports included in our sample. Specifically, we interviewed criminal investigators from 4 of the 6 OOI field offices.⁸ We also interviewed criminal investigators from 5 of the 13 DHS OIG investigative field offices.⁹ We selected these airports and OOI and DHS OIG field office locations based on number and type of past cases of employee misconduct and geographic dispersion. As we did not select a probability sample of airports and OOI and DHS OIG field offices to interview, the results of these interviews are not generalizable to all TSA-regulated airports nationwide, OOI's 6 field offices, and DHS OIG's 13 field offices. However, the interviews provided us with the perspectives of DHS and TSA officials responsible for conducting TSA employee misconduct investigations or adjudications, including their views on potential internal control weaknesses, lessons learned, and any challenges airports and field offices have faced in addressing employee misconduct. Appendix I presents more details about our objectives, scope, and methodology.

We conducted this performance audit from September 2012 to July 2013 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on the audit objectives. We believe that

⁷We interviewed TSA officials at Hartsfield-Jackson Atlanta International Airport, Miami International Airport, Southwest Florida International Airport, John F. Kennedy International Airport, Newark Liberty International Airport, San Francisco International Airport, and Chicago O'Hare International Airport. While the focus of our review was on TSA employees, we met with TSA officials from San Francisco International Airport, which maintains contract screeners under the Screening Partnership Program, in order to better understand TSA's processes for addressing both contractor and employee misconduct at the airport. Under the Screening Partnership Program, which is overseen by TSA, TSA-regulated airports may apply to have a private screening company under contract to TSA perform screening services at the airports, provided, among other considerations, that the level of screening matches or exceeds that of federal screeners. See GAO, *Screening Partnership Program, TSA Should Issue More Guidance to Airports and Monitor Private versus Federal Screener Performance*, [GAO-13-208](#) (Washington, D.C.: Dec. 12, 2012) and 49 U.S.C. § 44920 for more information on the program and related requirements.

⁸We interviewed officials from OOI field offices in Atlanta, Georgia; Philadelphia, Pennsylvania; Detroit, Michigan; and San Francisco, California.

⁹We interviewed officials from DHS OIG field offices in Atlanta, Georgia; Miami, Florida; Philadelphia, Pennsylvania; Chicago, Illinois; and San Diego, California.

the evidence obtained provides a reasonable basis for our findings and conclusions based on audit objectives.

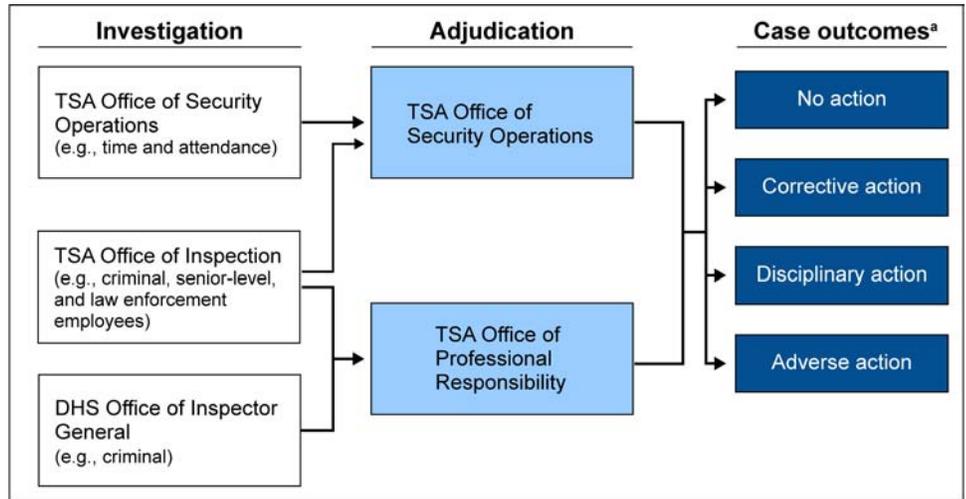
Background

Pursuant to the Aviation and Transportation Security Act, the TSA Administrator sets the conditions of employment for screener personnel, including disciplinary measures, as the TSA Administrator determines to be necessary.¹⁰ To help implement this authority, a TSA management directive specifies the steps the agency must take in investigating and adjudicating employee misconduct.¹¹ Figure 1 below summarizes the process of investigating and adjudicating employee misconduct.

¹⁰See generally Pub. L. No. 107-71, 115 Stat. 597 (2001). See also 49 U.S.C. § 44935; 49 C.F.R. §§ 1544.101-1544.111. On November 9, 2012, TSA ratified a collective bargaining agreement with the American Federation of Government Employees, which covers TSA's nonsupervisory screening workforce; however, according to TSA, this contract does not affect TSA's range of possible penalty actions to use in addressing employee misconduct.

¹¹See *TSA Management Directive: Addressing Unacceptable Performance and Conduct*, 1100.75-3, Feb. 2, 2012, and *TSA MD 1100.75-3, Handbook, Addressing Unacceptable Performance and Conduct*, Dec. 20, 2012.

Figure 1: TSA Employee Misconduct Investigations and Adjudications Process



Source: GAO analysis of TSA employee misconduct policies and procedures.

^aCase outcomes represent potential adjudication decisions, including the various types of penalties. For example, corrective actions are administrative or nondisciplinary actions, such as a letter of counseling. Disciplinary and adverse actions include penalties that range from a letter of reprimand to removal. In some cases, no action is taken based on available evidence.

Investigations Process

TSA receives allegations of TSA employee misconduct from a variety of sources, including air passengers, DHS OIG, and Members of Congress. For example, air passengers may submit a complaint directly to a TSA manager at the screening checkpoint or may provide airport staff with a customer comment card describing the alleged misconduct.¹² The investigations process involves engaging in fact-finding to the extent necessary to make an informed decision on the merit of an allegation. For example, TSA supervisors or managers at airports review evidence, such as video footage, and obtain a statement from the alleged offender to determine what happened during the incident and the extent to which the employee may have been at fault—for example, whether a screener violated TSA standard operating procedures (SOP), or behaved unprofessionally or inappropriately toward an air passenger.¹³ In some instances, such as issues of a complex or sensitive nature, including

¹²See GAO, *Air Passenger Screening: Transportation Security Administration Could Improve Complaint Processes*, GAO-13-43 (Washington, D.C.: Nov. 15, 2012).

¹³For the purposes of this review, TSA staff, supervisors, managers, and senior management at airports refers to OSO employees.

possible misuse of position or abuse of power, TSA senior management at airports may appoint an independent employee, known as an inquiry officer, to conduct an administrative inquiry into allegations of employee misconduct. Inquiry officers conduct administrative inquiries at the direction of TSA's FSDs or their designees, according to specific policies and procedures.¹⁴ TSA staff at airports are required to elevate misconduct allegations involving senior-level and law enforcement employees, as well as issues of a criminal nature, to OOI.¹⁵ Per DHS policy, OOI must provide the DHS OIG with "right of first refusal" on certain misconduct cases, such as criminal violations, which allows the DHS OIG to either open an investigation or send the allegation back to TSA for action.¹⁶ OOI maintains a Hotline Database to record information on allegations related to TSA employee misconduct, such as the date of the alleged incident, source of the allegation, and a description of the alleged misconduct.

Adjudications Process

TSA management officials at airports or OPR adjudicate misconduct cases, depending on the source of the investigation and type of case.¹⁷ TSA management officials at airports adjudicate the majority of misconduct cases, such as attendance and leave, security and screening, and alcohol-related violations. OPR adjudicates (1) all TSA misconduct cases handled by DHS OIG, (2) all cases involving TSA senior-level and law enforcement personnel, and (3) any matter that the Assistant Administrator for OPR determines should be reviewed and adjudicated by OPR. Depending on the preponderance of the evidence, adjudication

¹⁴See *TSA Management Directive: Informal Administrative Inquiries*, 700.2, February 23, 2004. An inquiry officer should be at a level equal to or higher than the alleged offender and typically works in a separate organizational unit at the airport than the alleged offender. The duties of an inquiry officer are expected to take priority over the individual's regular daily duties.

¹⁵Senior-level employees within OSO include all persons in the Transportation Security Executive Service, K through M Pay Bands, FSDs, Deputy FSDs, Assistant FSDs, and Deputy Assistant FSDs.

¹⁶See *DHS Management Directive: The Office of Inspector General*, 0810.1, June 10, 2004.

¹⁷Adjudication is the process through which TSA determines whether the evidence is sufficient to propose and sustain a charge of misconduct, and determines the appropriate penalty.

decisions may or may not result in a penalty for the alleged offender.¹⁸ Cases in which TSA is unable to substantiate that misconduct has in fact occurred are closed with no action against the employee. If TSA substantiates the allegation, it employs one of the following three types of penalties:

- **Corrective action:** This is an administrative or nondisciplinary action, such as a letter of counseling or a letter of guidance and direction, that informs an employee about unacceptable performance or conduct that should be corrected or improved. TSA policy specifies that a letter of counseling should include a statement informing the employee that if he or she does not correct the misconduct, more severe disciplinary or adverse action may be initiated.
- **Disciplinary action:** This includes actions resulting in a letter of reprimand to a suspension of 14 days or less. A letter of reprimand describes the unacceptable conduct that is the basis for a disciplinary action, and represents the least severe form of disciplinary action. Suspensions in this category involve the placement of an employee in a nonduty, nonpay status for up to 14 days.
- **Adverse action:** This involves a suspension of more than 14 days, including an indefinite suspension, an involuntary demotion for conduct, or a removal. An indefinite suspension is appropriate when evidence exists to demonstrate misconduct of a serious nature, such as an employee has been indicted or has been arrested pursuant to a judge's warrant for a crime involving potential imprisonment, or an allegation of misconduct that, if proven, represents a threat to life, property, safety, or the effective operation of the workplace. A demotion is a voluntary or involuntary change to a lower pay band or rate of pay. A removal is involuntary separation from TSA employment in order to promote the efficiency of the federal service.

TSA may use an expedited process, known as one-step, for certain allegations of TSO misconduct, such as allegations that may result in indefinite suspensions or removals involving theft and intentional serious security breaches, among other things. The one-step process allows TSA

¹⁸Per the *Handbook to TSA Management Directive 1100.75-3*, TSA defines preponderance of the evidence as that degree of relevant evidence that a reasonable person, considering the record as a whole, would accept as sufficient to find that a purported fact is more likely to be true than untrue.

to impose appropriate disciplinary or adverse actions in an expeditious manner to address specific employee offenses. In the one-step process, TSA must hold a pre-decisional meeting with the employee to discuss the allegation, advise the employee of the possible consequences, and provide the employee with an opportunity to respond to charges prior to deciding the action. In other cases, a TSA management official issues a notice of proposed action, including the evidence used to support the charge, to provide the affected employee with an opportunity to respond orally and/or in writing, and issues a notice of decision after weighing input from the affected employee. The affected employee may be represented by an individual of the employee's choosing in preparing and presenting a response. In addition to offering the opportunity to respond to charges through a pre-decisional meeting or other means, TSA provides alleged offenders with other due process opportunities, such as the ability to file a grievance, engage in alternative dispute resolution, and make an appeal on adverse actions.

TSA uses its Table of Offenses and Penalties as the framework for corrective, disciplinary, and adverse actions, and this table provides guidance to management officials for determining appropriate penalties. Management officials are expected to consider applicable mitigating and aggravating factors in determining an appropriate penalty. Such factors can determine whether a penalty should be in the lower or upper end of penalty ranges. Examples of mitigating factors include self-reporting of the offense, efforts to remedy wrongdoing, and a long period with no prior discipline. Examples of aggravating factors include prior warning, failure to report the offense, and impact on TSA's reputation.

Misconduct Oversight and Case Management

TSA Employee Relations (ER) in the Office of Human Capital is responsible for overseeing administrative inquiries, reviewing disciplinary actions handled by TSA management at airports, and managing the Integrated Database. TSA uses the Integrated Database to track specific elements of misconduct case information. The Integrated Database contains several modules, including investigative case information from OOI, and information used by OSO staff at airports and OPR to make

adjudication decisions.¹⁹ The agency uses information from the database to facilitate monitoring of the investigations and adjudications process, allow for internal reporting, and enable the agency to respond to data requests from Congress and other stakeholders.

TSA Investigated and Adjudicated Approximately 9,600 Misconduct Cases from Fiscal Years 2010 through 2012

According to TSA employee misconduct data that we analyzed, TSA investigated and adjudicated 9,622 employee misconduct cases from fiscal years 2010 through 2012.²⁰ From fiscal years 2010 through 2012, the annual number of TSA misconduct cases increased from 2,691 to 3,408.²¹ In that same period, TSA's workforce of OSO employees at the airport/field level grew by about 3,200 employees.

As highlighted in table 1, two offense categories accounted for about half of all cases—attendance and leave, which accounted for 32 percent of the cases, and screening and security, which accounted for 20 percent of the cases.

¹⁹The Integrated Database contains documentary evidence used to make penalty determinations, such as witness statements, and investigative reports. The database includes fields to capture misconduct case information, such as employee name, employee position, employee pay band, employee work location, category or type of misconduct, case status, disciplinary action, and case disposition.

²⁰Our analysis includes closed misconduct cases involving OSO employees at the airport/field level that were adjudicated by either OSO or OPR, and resulted in a disciplinary or adverse action. We excluded from our analysis cases open at the time of our review; cases involving the Federal Air Marshal Service; cases involving TSA employees at headquarters, regional offices, and other nonairport locations; and cases with missing data fields. Cases resulting in a corrective action (i.e., those that are administrative or non-disciplinary in nature), or no penalty, which TSA does not track consistently in the Integrated Database, are discussed later in the report.

²¹The number of cases may exceed the number of employees as one employee may have been involved in multiple cases of misconduct.

Table 1: Offense Categories and Examples of Possible Charges in TSA Employee Misconduct Cases, Fiscal Years 2010 through 2012

Offense categories and examples of possible charges	Number and percentage of cases	
Attendance and leave		
Unexcused or excessive absences or tardiness, absence without leave, failure to follow leave procedures	3,117	32%
Screening and security		
Failure to follow standard operating procedures, bypassing screening, sleeping on duty	1,936	20%
Failure to follow instructions		
Insubordination, ignoring policies, disrespectful conduct	1,548	16%
Inappropriate comments or conduct		
Inappropriate or sexual misconduct, fighting, abusive language, or abusive use of authority	949	10%
Drugs and alcohol		
Use of drugs or alcohol on duty, refusal of drug test, positive drug or alcohol test, driving under the influence, use or sale of drugs	456	5%
Neglect of duty		
Inattention to duty resulting in a loss of property or life, careless inspection	426	4%
Integrity and ethics	384	4%
Bribing, conflicts of interest, criminal conduct, nepotism, charge card abuse, misuse of government identification, accepting a gift, improper association		
Falsification	312	3%
Lack of candor, forgery, unauthorized recording, time and attendance fraud		
Appearance and hygiene	155	2%
Uniform violations, keeping an unprofessional appearance		
All other categories of misconduct	339	4%
Other (113); property damage (97); unauthorized taking/theft (56); safety/security/health (30); inquiries and investigations (17); reporting responsibilities (15); safeguarding information (8); and mishandling of classified information (3)		
Total cases	9,622	

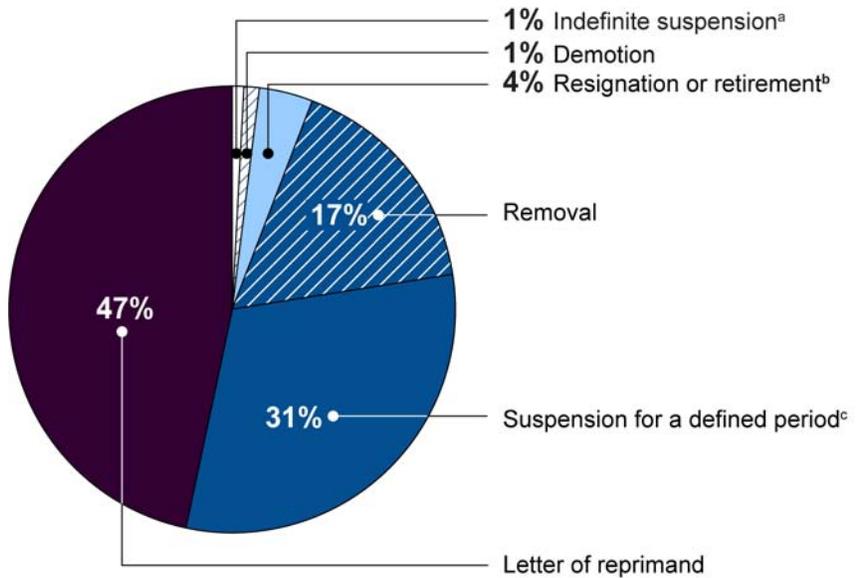
Source: GAO analysis of TSA employee misconduct data.

Attendance and leave cases may involve employees who were absent without leave for 1 to 5 days or may have violated leave procedures. Charges for screening- and security-related incidents pertain to violating SOPs, including failing to conduct security or equipment checks, and allowing patrons or baggage to bypass screening. For example, at one airport checkpoint, a TSO was observed on the airport's closed circuit television system intermittently running passengers' property through an X-ray baggage conveyor belt without stopping the conveyor belt to review each image, as required by TSA's SOP. A subsequent investigation and adjudication resulted in the employee being suspended for 30 days. In

addition, a TSO at another airport left the TSO's assigned checkpoint to assist a family member at an airline ticket counter with a carry-on bag. The TSO assumed control of the bag and instructed the family member to go through the screening checkpoint without the bag, bypassed required screening of the bag, and then returned the bag to the family member. However, a TSA supervisor stopped the TSO in order to screen the bag—which was found to contain numerous prohibited items. A subsequent investigation and adjudication resulted in the employee being suspended for 7 days for intentionally allowing property to bypass required screening.

The Table of Offenses and Penalties delineates common employee charges, along with a suggested range of penalties that includes letters of counseling, letters of reprimand, suspensions that range from 1 day to an indefinite period, demotions, and removals. As shown in figure 2, 47 percent of the cases that we analyzed resulted in letters of reprimand, while 31 percent of the cases resulted in suspensions of a definite duration. Additionally, in 17 percent of the cases, the employee was removed by TSA.

Figure 2: Final Outcomes for 9,622 TSA Employee Misconduct Cases Closed in Fiscal Years 2010 through 2012



Source: GAO analysis of TSA employee misconduct data.

Note: Percentages do not add to 100 percent because of rounding.

^aIndefinite suspensions are for an open period of time based on conditions such as an employee being indicted or arrested pursuant to a judge's warrant for a crime involving potential imprisonment.

^bThese cases involve instances in which the employee resigned or retired while a final adjudication decision was pending.

^cSuspensions in this category are for a defined period of time and range from 1 to 31 days.

TSA Has Taken Steps to Help Manage the Investigations and Adjudications Process, but Could Develop Additional Procedures to Better Monitor Employee Misconduct Cases

TSA Has Taken Steps to Help Manage the Investigations and Adjudications Process

TSA has taken steps to help manage the process of investigating and adjudicating employee misconduct. First, TSA has established personnel misconduct policies and procedures, which outline the agency's responsibilities for addressing job-related or off-duty behavior that violates standards described in laws, regulations, rules, and other authoritative policies and guidance.²² According to these policies and procedures, TSA must assess the incident or allegation of employee misconduct, including but not limited to interviewing the employee who is the subject of the allegation and witnesses, in determining whether adverse, disciplinary, or corrective action is appropriate. In making a penalty determination, TSA must consider factors such as the seriousness and nature of the offense and the relationship of the offense to the employee's position and responsibilities. Second, in 2010, TSA created OPR to provide greater consistency in misconduct penalty determinations and a more expeditious and standardized adjudication process because prior to the creation of OPR, some disciplinary actions experienced delays due to unavailability of adjudicating officials and extended decision consideration. OPR has 10 case managers that review reports of investigation including reviewing the facts of each case based on investigative results and determining a penalty that matches the severity of the offense. In addition, OPR developed the Table of Offenses and Penalties as a framework to help TSA officials determine appropriate disciplinary actions involving misconduct.

²²See *TSA Management Directive*, 1100-75-3 and *Handbook*.

Finally, TSA has provided a series of training classes for its staff at airports to enhance their ability to investigate and adjudicate employee misconduct. For example, in 2012, ER conducted training for TSA managers and supervisors at airports on employee misconduct topics, such as TSA policies and procedures for addressing employee misconduct, management and employee rights, and use of the Table of Offenses and Penalties to determine appropriate penalties. ER has also provided training to staff at the airports on how to conduct administrative inquiries, including techniques for conducting interviews of witnesses and alleged offenders, and collecting and documenting evidence to determine whether misconduct has occurred, among other things.

**Weaknesses in Procedures
Impede TSA's Ability to
Monitor Employee
Misconduct Cases**

TSA has taken steps to help manage the investigations and adjudications process, but developing and implementing procedures in four areas could help the agency better monitor misconduct cases: (1) verifying that misconduct adjudications are compliant with policies and procedures, (2) recording case information on all adjudication decisions, (3) tracking the time to complete all phases of the investigations and adjudications process, and (4) identifying allegations not adjudicated by the agency.

Verifying that misconduct adjudications are compliant with policies and procedures. TSA does not have a process for reviewing misconduct cases to verify that TSA staff at airports are complying with policies and procedures for adjudicating employee misconduct. ER has responsibility for overseeing misconduct adjudications completed by TSA staff at airports, including conducting training on the adjudications process for TSA supervisors, managers, and other staff at airports responsible for addressing employee misconduct. According to a senior ER official, ER periodically reviews TSA case files at airports using a document checklist to ensure that paperwork is included in the file, such as evidence that the employee has been afforded an opportunity to respond to misconduct charges. However, the official indicated that ER is not currently conducting many of these reviews because of resource constraints, and the official is unsure of the frequency or the results of these reviews.

Consistent with TSA policies and procedures, adjudicating officials need to collect sufficient evidence to support penalty charges, consider aggravating and mitigating circumstances when determining a penalty, and take certain actions, including removal, based on the nature of the offense. However, TSA does not have a review process to verify that TSA staff at airports are consistently following these requirements. A review process might include evaluating misconduct case files on a regular basis

to identify compliance issues with the adjudications process and develop corrective actions based on the findings. A senior OPR official noted that some cases have been overturned or the penalties reduced through the appeals process because staff at airports had not supported the charges with sufficient evidence or did not properly apply penalty factors. For example, from January 2011 to June 13, 2013, the OPR Appellate Board, which reviews appeals made by TSOs on certain adverse actions, either overturned or reduced the penalty in 125 out of 836 cases (15 percent). Specifically, of the 125 cases, the OPR Appellate Board overturned the penalty in 79 cases because the charges had not been proven by preponderance of the evidence. Additionally, the OPR Appellate Board reduced the penalty in 34 cases because, among other things, the adjudicating official did not consider mitigating factors. Further, while TSA policy requires the removal of employees that have committed an intentional serious security breach, such as intentionally allowing persons or property to bypass screening, the agency does not review misconduct cases to verify that TSA staff at airports are properly adjudicating cases involving an intentional breach of security. Moreover, our evaluation of TSA's fiscal year 2012 data on cases involving sleeping while engaging in security duties adjudicated by TSA staff at airports indicates that 50 percent of the cases resulted in a lower penalty than the range included in the Table of Offenses and Penalties.²³

A senior ER official agreed that TSA would benefit from a review process to help verify that TSA staff at airports are making adjudication decisions in conformance with policies and procedures. The official noted that TSA's focus has been on other priorities such as development of the Integrated Database. However, internal control standards state that internal controls should generally be designed to ensure that ongoing monitoring occurs in the course of normal operations and that monitoring is performed continually.²⁴ Without a review process to verify that TSA staff at airports are complying with policies and procedures for adjudicating misconduct, it is difficult for TSA to provide reasonable assurance that cases have been adjudicated properly and that risk to the

²³Sleeping while engaging in security duties has a penalty range spanning from a suspension of 14 days to removal, which indicates the gravity of this offense. We found that 50 percent of the cases resulted in penalties ranging from a letter of reprimand to a suspension of 1 to 3 days.

²⁴[GAO/AIMD-00-21.3.1](#).

agency is mitigated accordingly. Furthermore, a review process could allow TSA to gain knowledge regarding areas of noncompliance and identify the potential causes, such as gaps in training or guidance, so that it could address such gaps.

Recording case information on all adjudication decisions. TSA does not record the results of all misconduct cases that have been adjudicated by TSA airport staff in its Integrated Database, which could help the agency oversee efforts at the airport level to address employee misconduct. Specifically, the agency does not record all employee misconduct case outcomes in the database, including cases that resulted in a corrective action, which are actions that are administrative or nondisciplinary in nature, such as a letter of counseling. As discussed earlier, the Integrated Database is TSA's centralized case management system used by staff to track and manage employee misconduct cases. TSA strives to follow a progressive discipline approach in adjudicating employee misconduct cases, which means that managers must have access to information on an employee's disciplinary track record in a centralized location.

However, we found that five out of the seven airports included in our sample do not consistently track corrective actions in the Integrated Database. A senior ER official stated that ER was unaware that TSA staff at airports are not consistently recording corrective actions in the Integrated Database, and there is a strong need for TSA to clarify that TSA staff at airports should record corrective actions in the database. The official stated that while TSA has communicated through training that staff at airports should record corrective actions in the Integrated Database, there is not a written policy or procedure requiring such tracking. Of the airports that do not consistently record corrective actions in the Integrated Database, three use the Airport Information Management (AIM) system to record corrective actions because there is not a policy or procedure requiring airports to use the Integrated Database. However, AIM is not designed to be the central database for information on outcomes resulting from employee misconduct investigations, and it would be inefficient for TSA to extract information on corrective actions from this system in addition to the Integrated Database. For example, this system stores employee information used for the management of day-to-day activities, such as work schedules and controlling property, including issuance of uniforms, among other activities.

Further, TSA's policy on administrative inquiries states that it is as important to back findings of no fault, no loss, or no wrongdoing with

documentary evidence as it is to document findings resulting in disciplinary action. According to the policy, the investigative report must include sufficient documentation to convince the appointing authority and others who may review the matter that the evidence is appropriate. While TSA's data indicate that OPR and some TSA officials at airports record cases that resulted in no penalty in the Integrated Database, we found that all seven airports in our sample do not consistently record case outcomes that result in no penalty in the database, which are instances in which TSA investigated an allegation of misconduct, but could not substantiate the misconduct based on available evidence. These airports are not recording case outcomes that result in no penalty in the database because TSA has not provided guidance requiring such tracking. However, internal control standards state that control activities should be established to help ensure, among other things, that all documentation and records are properly managed and maintained, which facilitates monitoring and resource management.²⁵ Recording corrective actions and no-penalty outcomes in the Integrated Database would help provide a centralized, institutional record on past misconduct, and enable managers to follow a progressive discipline approach because all case outcomes would be documented. For example, according to the senior ER official, in situations where an employee transfers between airports, lack of information on previous corrective actions taken against the employee would hamper TSA's ability to follow progressive discipline at the new airport. In fiscal year 2012, about 2,100 TSA employees transferred between airports. Developing and issuing guidance for TSA staff at airports on the need to record all misconduct case outcomes in the Integrated Database would emphasize management's view of the importance of staff including such information to provide a complete record of adjudication decisions.

Tracking the time to complete all phases of the investigations and adjudications process. TSA does not consistently track the cycle time associated with completing the misconduct investigations and adjudications process. TSA policies and procedures state that investigations should generally be completed within 30 days of an allegation of employee misconduct, and the notice of proposed action to an alleged offender should generally be issued within 30 days of

²⁵[GAO/AIMD-00-21.3.1.](#)

completing the investigation.²⁶ Further, TSA's administrative inquiry policy states that administrative inquiries should generally not exceed 15 calendar days. Our review of TSA data from the Integrated Database on misconduct cases handled by TSA airport staff identified that TSA does not capture information on the amount of time to complete the investigations and adjudications process, including the number of days to complete an investigation and issue a notice of proposed action. While TSA has established standards for cycle times, according to a senior ER official, the agency has not required TSA staff at airports to track their performance against the standards because the amount of time to complete the investigative and adjudications process can vary based on the complexity of the case. However, internal control standards state that agencies need to compare actual performance with planned or expected results throughout the organization and analyze significant differences. Tracking cycle times would provide TSA with operational information, such as the variance in processing time by type of case and geographic location. For example, according to an OOI senior official, OOI, which typically investigates cases of a complex nature, tracks the cycle time associated with its misconduct investigations to allow headquarters to look across OOI field offices to evaluate patterns, and make resource management and other decisions. Specifically, the OOI senior official stated that paying attention to investigative timelines allowed OOI to identify that theft cases were staying open in the Integrated Database for an excessive amount of time due to a process issue, which OOI resolved based on cycle time tracking.

We found that TSA officials at two of the seven airports in our sample have established a process to track the cycle time for active employee misconduct cases. For example, TSA staff at one of the airports in our sample track the following time frames: (1) completion of the investigation; (2) review of the proposed decision by various organizational units, such as the Office of Chief Counsel; and (3) issuance of the decision letter to the offender. Tracking the cycle time for active employee misconduct cases provides a number of benefits for the airport, including allowing the airport to identify cases that are delayed, uncover where the delay is in the process and specific reasons for the delay, and make adjustments to expedite the cases. Specifically, tracking

²⁶According to an OOI senior official, OOI's investigations generally take longer than 30 days to complete because of the complexity of the cases.

cycle times would provide TSA with an opportunity to identify delays associated with evidence collection. For example, misconduct investigations must be completed as quickly as possible because evidence has a finite life span. According to a senior TSA official at an airport in our sample, TSA officials at airports often have to rely upon video footage to substantiate whether misconduct has occurred, such as alleged theft of a passenger's property. The official stated that it can be challenging for TSA to obtain video in a timely manner given that a third party, such as an airport authority, generally controls an airport's closed circuit television system, so it is important for TSA to view video footage prior to a third party taking steps to archive or destroy the content. Establishing a policy to track cycle times for misconduct cases handled by airport staff could help TSA ensure that this information is consistently recorded to identify how long it is taking for misconduct cases to progress through the investigations and adjudications process. TSA senior officials agreed that tracking cycle times for investigations and adjudications completed by airport staff would provide valuable information on the differences across airports related to case processing, and that instituting a tracking process would not be cumbersome for the agency.

Identifying allegations not adjudicated by TSA. Our review indicates that OOI has not established procedures to reconcile completed misconduct investigations against OSO or OPR adjudication decisions to identify cases not resolved by OSO or OPR. Specifically, OOI is not matching its completed investigations against OSO and OPR adjudication decisions to identify any gaps, following up with OSO and OPR to help resolve these outstanding cases, and updating the status of the cases in the Integrated Database. Previously, OOI matched its completed records of investigation against OSO or OPR adjudication decisions to ensure that OSO or OPR had received the record and made an adjudication decision. According to an OOI senior official, the previous Assistant Administrator for OOI determined that this type of reconciliation process was too resource intensive and discontinued the process because OOI had to manually sort through open investigations listed as "pending an adjudication decision" and then contact OSO or OPR to determine the status of each case. However, the OOI senior official stated that although the process was manual in nature, it was beneficial in identifying allegations that had not been adjudicated by TSA. For example, we reviewed a random sample of 50 allegations of employee misconduct referred from DHS OIG to TSA in fiscal year 2012 and found 2 out of 50 allegations that were not adjudicated by TSA. Specifically, OOI investigated the allegations and referred the cases to OSO staff at the airport for adjudication; however, at the time of our review, OSO had not

made adjudication decisions on the cases because the investigative reports were either never received or were missing because of record-keeping issues. As a result of our review, TSA subsequently made adjudication decisions on these allegations; 1 of the adjudication decisions resulted in a 14-day suspension for the employee because of disruptive behavior in the workplace, and the other adjudication decision resulted in no penalty. The results from GAO's sample cannot be generalized to the entire population of referrals from DHS OIG to TSA; however they raise questions as to whether there could be additional instances of allegations that TSA had not adjudicated in the population of over 1,300 allegations of TSA employee misconduct that DHS OIG referred to TSA for action in fiscal year 2012. A senior TSA OOI official agreed that since TSA does not have reconciliation procedures, there may be other allegations the agency is unaware of that TSA OOI has investigated, but have not been adjudicated by OSO or OPR, and a reconciliation process would offer benefits to TSA.

TSA has a contract in place to develop reporting capabilities in the Integrated Database that may allow OOI to match its completed investigations against adjudication decisions made by OPR and OSO, thereby helping to maximize TSA's resources. As of May 2013, the contractor has modified the database to allow TSA to match OOI's completed investigations against OPR's adjudication decisions, and plans to develop the same capabilities related to OSO's adjudication decisions. However, according to a senior OOI official, OOI is not leveraging the capability to match OOI's completed investigations against OPR's adjudication decisions because the agency has not identified the staff or developed protocols for conducting a reconciliation process. Moreover, the agency does not currently have procedures to reconcile OOI's completed investigations against OSO's adjudication decisions while the database is under development. Internal control standards advise agencies to establish monitoring activities, such as reconciliations, to ensure that management's directives are carried out and risks are mitigated.²⁷ Developing reconciliation procedures could help TSA ensure that it identifies allegations of employee misconduct not previously addressed through adjudication.

²⁷[GAO/AIMD-00-21.3.1.](#)

Conclusions

TSA has taken actions to help manage the investigations and adjudications process, but procedural weaknesses have hampered the agency's ability to monitor employee misconduct cases. Specifically, TSA does not have a process to conduct reviews of misconduct cases to verify that TSA staff at airports responsible for adjudicating employee misconduct comply with policies and procedures, nor does the agency record the outcomes of all cases or track the cycle time to complete the investigations and adjudications process. Consistent with internal controls, conducting reviews of misconduct cases and consistently recording all outcomes could provide TSA with reasonable assurance that cases have been adjudicated properly and there is a complete institutional record of adjudication decisions. In addition, tracking cycle times would provide TSA with operational information, including helping the agency identify how long it is taking for misconduct cases to progress through the investigations and adjudications process. Moreover, developing reconciliation procedures could help reduce the risk that TSA does not address all allegations of employee misconduct not previously adjudicated.

Recommendations for Executive Action

To improve TSA's management and oversight of efforts to address allegations of employee misconduct, we recommend that the Administrator of TSA take the following four actions, consistent with standards for internal control, to

- establish a process to conduct reviews of misconduct cases to verify that TSA staff at airports are complying with policies and procedures for adjudicating employee misconduct,
- develop and issue guidance to the field clarifying the need for TSA officials at airports to record all misconduct case outcomes in the Integrated Database,
- establish an agency-wide policy to track cycle times in the investigations and adjudications process, and
- develop reconciliation procedures to identify allegations of employee misconduct not previously addressed through adjudication.

Agency Comments and Our Evaluation

We provided a draft of this report to DHS for review and comment. DHS, in written comments received July 18, 2013, concurred with the recommendations and identified actions taken, under way, or planned to implement the recommendations. Written comments are summarized below, and official DHS comments are reproduced in appendix II. In addition, DHS provided written technical comments, which we incorporated, as appropriate.

In response to our recommendation that TSA establish a process to conduct reviews of misconduct cases to verify that TSA staff at airports are complying with policies and procedures for adjudicating employee misconduct, DHS concurred with the recommendation. DHS stated that TSA is currently taking steps to provide increased auditing of disciplinary records to help ensure that airport staff are complying with policies and procedures for adjudicating employee misconduct. TSA expects to complete these actions by March 31, 2014. These actions, once implemented, should help address the intent of our recommendation. In response to our recommendation that TSA develop and issue guidance to the field clarifying the need for TSA officials at airports to record all misconduct case outcomes in the Integrated Database, DHS concurred with the recommendation. DHS stated that TSA plans to develop and disseminate additional guidance to the field to ensure that all corrective and disciplinary actions are recorded in the database. TSA expects to develop and disseminate additional guidance to the field by August 30, 2013. We believe that this is a beneficial step that would address our recommendation once it is implemented, provided that the guidance also specifies that cases resulting in no penalty should be recorded in the database.

In response to our recommendation that TSA establish an agency-wide policy to track cycle times in the investigations and adjudications process, DHS concurred with the recommendation, and stated that TSA will develop a process and mechanism to track airport cycle times for misconduct cases. TSA expects to develop a process and mechanism by March 31, 2014. This action, once implemented, would address the intent of our recommendation. In response to our recommendation that TSA develop reconciliation procedures to identify allegations of employee misconduct not previously addressed through adjudication, DHS concurred with the recommendation. DHS stated that TSA will implement a reconciliation process to ensure that OOI investigations are adjudicated by OSO, and noted that OPR currently has a process to communicate adjudication decisions to OOI. TSA expects to implement a reconciliation process by March 31, 2014. We believe that these are beneficial steps

that would address our recommendation once implemented, provided that TSA develops a process to reconcile OOI's completed investigations against adjudication decisions made by both OSO and OPR. It is unclear whether the process TSA plans to develop would involve matching completed investigations against adjudication decisions made by OPR, including identifying the staff and developing the protocols for the process.

We are sending copies of this report to the Secretary of Homeland Security, the TSA Administrator, appropriate congressional committees, and other interested parties. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions concerning this report, please contact me at (202) 512-4379 or at lords@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are listed in appendix III.

A handwritten signature in black ink that reads "Stephen Lord". The signature is written in a cursive, flowing style.

Stephen M. Lord
Director
Homeland Security and Justice Issues

List of Requesters

The Honorable John L. Mica
Chairman
Subcommittee on Government Operations
Committee on Oversight and Government Reform
House of Representatives

The Honorable Michael T. McCaul
Chairman
Committee on Homeland Security
House of Representatives

The Honorable Jeff Duncan
Chairman
Subcommittee on Oversight and Management Efficiency
Committee on Homeland Security
House of Representatives

Appendix I: Objectives, Scope, and Methodology

This report (1) summarizes data on Transportation Security Administration (TSA) employee misconduct cases, and (2) examines the extent to which TSA has taken actions to manage and oversee the investigations and adjudications process.

To summarize data on TSA employee misconduct cases, we reviewed program documentation, collected data on TSA employee misconduct cases from fiscal years 2010 through 2012, and interviewed officials from the Department of Homeland Security (DHS) and TSA. In particular, we reviewed TSA documentation, such as standard operating procedures, policy statements, and guidance for staff charged with investigating and adjudicating allegations of employee misconduct. To understand the magnitude of previous cases of TSA employee misconduct, we obtained information presented in TSA and Federal Bureau of Investigation press releases, and interviewed criminal investigators from the TSA Office of Inspection (OOI) and DHS Office of Inspector General (OIG). We also collected information from TSA on resources, such as staffing numbers, and protocols for information management. Specifically, we reviewed information on TSA's Integrated Database, which comprises misconduct case data and supporting documentation, such as evidence used to support a misconduct penalty.¹

We also conducted an analysis of TSA misconduct case data from the Integrated Database from fiscal years 2010 through 2012 to identify trends related to both misconduct offenses and penalties. As part of this work, we assessed the reliability of data in the Integrated Database by interviewing TSA officials to discuss the mechanisms in place to ensure data quality and tested the data for potential gaps and anomalies. We identified some instances of missing and inaccurate data, including lack of employee pay band and incorrect job title. For example, we evaluated TSA's data to identify instances in which cases involving senior-level employees may have been adjudicated by OSO rather than OPR, as specified by policy. As a result of that analysis, we identified data entry and other issues related to 14 cases. We also determined that TSA does

¹The Integrated Database is a tracking system composed of case management information for OOI, the Office of Professional Responsibility (OPR) and Office of Security Operations (OSO). OOI inputs investigative information into the database, while OPR and OSO input the results of adjudication decisions, including supporting evidence. The Office of Employee Relations oversees information inputted by OSO staff at airports across the nation.

not consistently track corrective actions and cases adjudicated with no penalty, which we discuss in the report. While we identified such limitations, we found the data sufficiently reliable for providing general information on the nature and characteristics of employee misconduct.

Moreover, we interviewed TSA officials to identify information that the agency collects about the nature and magnitude of cases of employee misconduct. We met with senior officials from TSA, including the Assistant Administrator for the Office of Professional Responsibility (OPR), the Executive Advisor to the Assistant Administrator for OOI, the Senior Advisor to the Assistant Administrator for the Office of Security Operations (OSO), and the Director for Employee Relations (ER). We also selected a sample of 7 airports from the approximately 450 TSA-regulated airports nationwide and conducted site visits or telephone interviews with TSA officials responsible for investigating and adjudicating cases of employee misconduct. We conducted site visits with Hartsfield-Jackson Atlanta International Airport, Miami International Airport, Southwest Florida International Airport, John F. Kennedy International Airport, and Newark Liberty International Airport, and conducted telephone interviews with officials from San Francisco International Airport and Chicago O'Hare International Airport.² Further, we interviewed senior officials from OOI and DHS OIG field offices with oversight responsibilities for the airports included in our sample. Specifically, we interviewed criminal investigators from 4 of the 6 OOI field offices. We conducted a site visit with OOI's Atlanta field office, and conducted telephone interviews with OOI field offices in Detroit, Philadelphia, and San Francisco. Further, we interviewed DHS OIG criminal investigators from 5 of the 13 DHS OIG investigative field offices. We conducted site visits with DHS OIG's Atlanta and Miami field offices, and conducted telephone interviews with DHS OIG field offices in Philadelphia, Chicago, and San Diego. We selected these TSA airport locations, and OOI and

²While the focus of our review was on TSA employees, we met with TSA officials from San Francisco International Airport, which maintains contract screeners under the Screening Partnership Program, in order to better understand TSA's processes for addressing both contractor and employee misconduct at the airport. Under the Screening Partnership Program, which is overseen by TSA, TSA-regulated airports may apply to have a private screening company under contract to TSA perform screening services at the airports, provided, among other considerations, that the level of screening matches or exceeds that of federal screeners. See GAO, *Screening Partnership Program, TSA Should Issue More Guidance to Airports and Monitor Private versus Federal Screener Performance*, [GAO-13-208](#) (Washington, D.C.: Dec. 12, 2012) and 49 U.S.C. § 44920 for more information on the program and related requirements.

DHS OIG field office locations based on the number and type of past cases of employee misconduct and geographic dispersion. As we did not select a probability sample of TSA airport locations, OOI, and DHS OIG field offices to interview, the results of these interviews cannot be generalized to all TSA-regulated airports nationwide, OOI's 6 field offices, and DHS OIG's 13 field offices. However, the interviews provided us with the perspectives of DHS and TSA officials responsible for collecting information on TSA employee misconduct investigations or adjudications.

To determine the extent to which TSA has taken actions to manage and oversee the investigations and adjudications process, we analyzed the processes TSA uses to (1) conduct investigations of allegations of employee misconduct, and (2) make adjudication decisions, including determining any relevant penalties. In particular, we analyzed TSA's oversight and monitoring processes for investigations and adjudications handled by TSA staff at airports. As part of our effort to evaluate these processes, we reviewed the Aviation and Transportation Security Act, pursuant to which TSA implements its human capital management responsibilities.³ We also reviewed TSA's standard operating procedures for addressing employee misconduct through various types of investigations, including an administrative inquiry, which is a formal investigation requested by a federal security director or designee, and making adjudication decisions, including providing alleged offenders with certain due process opportunities.⁴ We reviewed TSA's Table of Offenses and Penalties, which provides guidance for officials to follow in making adjudication decisions, such as a list of potential offenses and recommended, mitigated, and aggravated penalty ranges. We compared TSA processes for investigations and adjudications with TSA policies and procedures, as well as with internal control standards.⁵

³See generally Pub. L. No. 107-71, 115 Stat. 597 (2001).

⁴FSDs are the ranking TSA authorities responsible for leading and coordinating TSA security activities at TSA-regulated airports. Not every TSA-regulated airport has an FSD dedicated solely to that airport. Most large airports have an FSD responsible for that airport alone. Other, smaller airports are arranged in a "hub and spoke" configuration, in which an FSD is located at or near a hub airport but also has responsibility over one or more spoke airports of the same or smaller size.

⁵GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: Nov. 1, 1999).

We used complaint data from DHS OIG's Enforcement Data System as the population from which to randomly select a nongeneralizable sample of 50 TSA employee misconduct allegations referred from DHS OIG to OOI in order to evaluate whether TSA had addressed the allegations.⁶ We focused our analysis on fiscal year 2012 misconduct allegations that DHS OIG referred to TSA for follow-up action. We requested that OOI provide us with the status and outcome of each of the 50 allegations, including whether TSA had a record of the allegations and had taken action to investigate and adjudicate each one. While not generalizable to all allegations referred from DHS OIG to OOI, the results of our review provided insight about TSA's procedures for ensuring that allegations are addressed.

In addition, we interviewed senior officials from TSA, including the Assistant Administrator for OPR, the Executive Advisor to the Assistant Administrator for OOI, the Senior Advisor to the Assistant Administrator for OSO, and the Director for ER to determine the extent to which TSA has developed internal controls for addressing allegations of employee misconduct. We also interviewed senior officials from our selected airport locations and corresponding OOI and DHS OIG field offices to obtain their views on TSA's efforts to investigate and adjudicate employee misconduct.

We conducted this performance audit from September 2012 to July 2013 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

⁶DHS OIG's Enforcement Data System is an electronic case management and tracking system used to manage information related to DHS OIG investigations.

Appendix II: Comments from the Department of Homeland Security

U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
Security**

July 18, 2013

Stephen M. Lord
Director, Homeland Security and Justice
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Re: Draft Report GAO-13-624, "TRANSPORTATION SECURITY: TSA Could Strengthen Monitoring of Allegations of Employee Misconduct"

Dear Mr. Lord:

Thank you for the opportunity to review and comment on this draft report. The U.S. Department of Homeland Security (DHS) appreciates the U.S. Government Accountability Office's (GAO's) work in planning and conducting its review and issuing this report.

DHS appreciates GAO's acknowledgment that the Transportation Security Administration (TSA) has taken steps to more effectively manage the investigation and adjudication process. Ensuring the security of the Nation's aviation system requires integrity and vigilance of staff members. When employees engage in misconduct, it undermines the mission and the public trust. TSA takes these matters very seriously and strives to ensure that the actions taken in response to allegations of misconduct are appropriate and timely.

Since its creation, TSA has recognized the impact employee misconduct may have on aviation security and has implemented policies to expedite the disciplinary process. Under the unique personnel management authority set forth in the Aviation and Transportation Security Act of 2001, TSA developed and employs an expedited process to terminate Transportation Security Officers who engage in serious misconduct, including theft, use of illegal drugs, use of alcohol on duty, and intentional serious security breaches.

In 2004, to provide supervisors and managers with the ability and authority to address misconduct, TSA delegated authority to airport management to take disciplinary actions against employees and established a robust Office of Human Capital (OHC)/Employee Relations (ER) training program regarding investigation and adjudication. TSA consolidated its internal investigative functions into one organizational unit, the Office of Inspection (OOI), to maximize resources and enhance its capability to investigate allegations of misconduct.

In 2010, TSA created the Office of Professional Responsibility (OPR) to review and adjudicate allegations of misconduct investigated by the DHS Office of the Inspector General (OIG) and allegations of misconduct involving senior-level and law enforcement employees.

In 2011, TSA consolidated the two case management systems for tracking misconduct investigations and adjudications of disciplinary actions, and are developing a reporting mechanism to capture the results of the investigation and adjudication process. The new reporting capability reflects investigations and adjudications throughout TSA.

The draft report contained four recommendations with which the Department concurs. Specifically, GAO recommended that the Administrator of TSA take the following actions:

Recommendation 1: Establish a process to conduct reviews of misconduct to verify that TSA staff at airports are complying with policies and procedures for adjudicating employee misconduct.

Response: Concur. Currently, a sample portion of airport disciplinary actions and administrative inquiries are reviewed for accuracy and completeness on a periodic basis to ensure policy compliance. OOI is currently developing a more robust process to provide the increased auditing of disciplinary records to ensure that airport staff are complying with policies and procedures for adjudicating employee misconduct. Estimated Completion Date (ECD): March 31, 2014.

Recommendation 2: Develop and issue guidance to the field clarifying the need for TSA officials at airports to record all misconduct case outcomes in the Integrated Database.

Response: Concur. The Integrated Database has the ability to record corrective/disciplinary actions and to upload the supporting documentation for these actions. To ensure consistency of application, additional guidance will be developed by OOI and disseminated to field offices to ensure that all corrective and disciplinary actions are recorded in the database. ECD: August 30, 2013.

Recommendation 3: Establish an agency-wide policy to track cycle times in the investigations and adjudications process.

Response: Concur. OOI currently tracks cycle times of misconduct investigations. OPR also tracks cycle times of cases it adjudicates. OOI will develop a process and mechanism to track airport cycle times on the review and adjudication of misconduct actions for local and administrative inquiries to identify process improvements. ECD: March 31, 2014.

Recommendation 4: Develop reconciliation procedures to identify allegations of employee misconduct not previously addressed through adjudication.

Response: Concur. Currently, OPR forwards written notifications to OOI and OIG of OPR adjudication of their respective investigations to OOI and OIG. TSA will implement a reconciliation process in the integrated database for OOI and OIG investigations to ensure that all such investigations are appropriately adjudicated by OHC/ER and the Office of Security Operations. ECD: March 31, 2014.

**Appendix II: Comments from the Department
of Homeland Security**

Again, thank you for the opportunity to review and comment on this draft report. Technical comments were previously provided under separate cover. Please feel free to contact me if you have any questions. We look forward to working with you in the future.

Sincerely,



Jim H. Crumpacker
Director
Departmental GAO-OIG Liaison Office

Appendix III: GAO Contact and Staff Acknowledgments

GAO Contact

Stephen M. Lord, (202) 512-4379 or LordS@gao.gov.

Staff Acknowledgments

In addition to the contact named above, Jessica Lucas-Judy (Assistant Director), Anthony C. Fernandez, Sally Gilley, Eric Hauswirth, Tom Lombardi, Lara Miklozek, Lerone Reid, and Kelly Rubin made key contributions to this report.

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