

**LOST IN THE SHUFFLE: EXAMINING TSA'S
MANAGEMENT OF SURFACE TRANSPORTATION
SECURITY INSPECTORS**

HEARING

BEFORE THE

**SUBCOMMITTEE ON TRANSPORTATION
SECURITY**

AND INFRASTRUCTURE PROTECTION

OF THE

**COMMITTEE ON HOMELAND SECURITY
HOUSE OF REPRESENTATIVES**

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

JULY 28, 2010

Serial No. 111-78

Printed for the use of the Committee on Homeland Security



Available via the World Wide Web: <http://www.gpo.gov/fdsys/>

U.S. GOVERNMENT PRINTING OFFICE

66-028 PDF

WASHINGTON : 2011

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
Fax: (202) 512-2250 Mail: Stop SSOP, Washington, DC 20402-0001

COMMITTEE ON HOMELAND SECURITY

BENNIE G. THOMPSON, Mississippi, *Chairman*

LORETTA SANCHEZ, California	PETER T. KING, New York
JANE HARMAN, California	LAMAR SMITH, Texas
PETER A. DEFAZIO, Oregon	DANIEL E. LUNGREN, California
ELEANOR HOLMES NORTON, District of Columbia	MIKE ROGERS, Alabama
ZOE LOFGREN, California	MICHAEL T. MCCAUL, Texas
SHEILA JACKSON LEE, Texas	CHARLES W. DENT, Pennsylvania
HENRY CUELLAR, Texas	GUS M. BILIRAKIS, Florida
CHRISTOPHER P. CARNEY, Pennsylvania	PAUL C. BROUN, Georgia
YVETTE D. CLARKE, New York	CANDICE S. MILLER, Michigan
LAURA RICHARDSON, California	PETE OLSON, Texas
ANN KIRKPATRICK, Arizona	ANH "JOSEPH" CAO, Louisiana
BILL PASCRELL, JR., New Jersey	STEVE AUSTRIA, Ohio
EMANUEL CLEAVER, Missouri	TOM GRAVES, Georgia
AL GREEN, Texas	
JAMES A. HIMES, Connecticut	
MARY JO KILROY, Ohio	
DINA TITUS, Nevada	
WILLIAM L. OWENS, New York	
VACANCY	
VACANCY	

I. LANIER AVANT, *Staff Director*
ROSALINE COHEN, *Chief Counsel*
MICHAEL TWINCHEK, *Chief Clerk*
ROBERT O'CONNOR, *Minority Staff Director*

SUBCOMMITTEE ON TRANSPORTATION SECURITY AND INFRASTRUCTURE PROTECTION

SHEILA JACKSON LEE, Texas, *Chairwoman*

PETER A. DEFAZIO, Oregon	CHARLES W. DENT, Pennsylvania
ELEANOR HOLMES NORTON, District of Columbia	DANIEL E. LUNGREN, California
ANN KIRKPATRICK, Arizona	PETE OLSON, Texas
EMANUEL CLEAVER, Missouri	CANDICE S. MILLER, Michigan
JAMES A. HIMES, Connecticut	STEVE AUSTRIA, Ohio
DINA TITUS, Nevada	PETER T. KING, NEW YORK (<i>Ex Officio</i>)
VACANCY	
VACANCY	

BENNIE G. THOMPSON, Mississippi (*Ex Officio*)

THOMAS MCDANIELS, *Staff Director (Interim)*
NATALIE NIXON, *Deputy Chief Clerk*
JOSEPH VEALENCIS, *Minority Subcommittee Lead*

CONTENTS

	Page
STATEMENTS	
The Honorable Sheila Jackson Lee, a Representative in Congress From the State of Texas, and Chairwoman, Subcommittee on Transportation Security and Infrastructure Protection	1
The Honorable Charles W. Dent, a Representative in Congress From the State of Pennsylvania, and Ranking Member, Subcommittee on Transportation Security and Infrastructure Protection	5
The Honorable Bennie G. Thompson, a Representative in Congress From the State of Mississippi, and Chairman, Committee on Homeland Security ..	7
WITNESSES	
PANEL I	
Mr. Lee R. Kair, Assistant Administrator, Security Operations, Transportation Security Administration:	
Oral Statement	8
Prepared Statement	10
Mr. Carlton I. Mann, Assistant Inspector General, Office of Inspector General, Department of Homeland Security:	
Oral Statement	13
Prepared Statement	15
PANEL II	
Mr. Thomas C. Lambert, Chief of Police, Senior Vice President for Public Safety, Metropolitan Transit Authority of Harris County, Texas:	
Oral Statement	26
Prepared Statement	27
Mr. Clyde J. Hart, Jr., Senior Vice President, Government Affairs and Policy, American Bus Association:	
Oral Statement	28
Prepared Statement	29
FOR THE RECORD	
The Honorable Sheila Jackson Lee, a Representative in Congress From the State of Texas, and Chairwoman, Subcommittee on Transportation Security and Infrastructure Protection:	
Statement of the Association of American Railroads	3
APPENDIX	
Questions From Chairwoman Sheila Jackson Lee of Texas for Lee R. Kair	47

LOST IN THE SHUFFLE: EXAMINING TSA'S MANAGEMENT OF SURFACE TRANSPORTATION SECURITY INSPECTORS

Wednesday, July 28, 2010

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
SUBCOMMITTEE ON TRANSPORTATION SECURITY AND
INFRASTRUCTURE PROTECTION,
Washington, DC.

The subcommittee met, pursuant to call, at 4:35 p.m., in Room 311, Cannon House Office Building, Hon. Sheila Jackson Lee [Chairwoman of the subcommittee] presiding.

Present: Representatives Jackson Lee, Thompson (ex officio), Dent, and Lungren.

Ms. JACKSON LEE. The subcommittee will come to order.

The subcommittee is meeting today to receive testimony on "Lost in the Shuffle: Examining TSA's Management of Surface Transportation Security Inspectors."

Let me, first of all, thank the witnesses who are present, thank the first panel for their patience as we had debate and votes on the floor.

I would also like to acknowledge the nomination and confirmation of the new Administrator of TSA Mr. Pistole, who we have been in conversation with. We know that he is with the Secretary, I believe, of Transportation today, and we respect and appreciate his desire to be present today. But we will have a long history of working together, and, as I indicated, we know we will have an opportunity to hear from him in the coming weeks, and we look forward to doing so.

Our witnesses today will testify about TSA's Surface Transportation Security Inspection Program and about how it is organized and staffed to meet the statutory mission of securing surface modes of transportation.

I now recognize myself for 5 minutes for an opening statement.

We are here today to discuss TSA's management of the central piece of its surface transportation security efforts, the Surface Transportation Security Inspection Program. TSA has been tasked with a complex and evolving mission to secure our transportation systems while maintaining the healthy movement of goods, services, and people.

Since it was created nearly a decade ago in the wake of the 9/11 attacks, TSA has focused the vast majority of its resources and assets on aviation security. Clearly the threat to aviation is still

present, but TSA cannot ignore the obvious trend of terrorist attacks on surface transportation assets worldwide.

Attacks in Spain, Great Britain, India, and Russia over the last few years have exposed surface system vulnerabilities, and we must take action to implement the lessons learned in securing our own transportation assets here in America. The attacks we have witnessed abroad have been well executed with devastating consequences. They demonstrate that securing a surface environment presents unique obstacles and vulnerabilities that do not exist in other modes.

The Zazi case, the New York City case, was a chilling reminder that American transit systems, like those in Europe and Asia, are enticing targets for al-Qaeda and other terrorist groups. We must be vigilant. We must be prepared. Our Nation's mass transit and passenger rail systems provide 34 million passenger trips each weekday, compared to the 1.7 million passengers flying daily on commercial, domestic, and international flights. That is why this subcommittee, working with our Chairman, Chairman Thompson, was keenly engaged in the H.R. 2200 surface transportation legislation that we passed effectively out of this committee and on the floor of the House and is now awaiting Senate action.

Yet 85 percent of TSA's resources are dedicated to aviation security, while just over 1 percent is dedicated to surface transportation security. This disparity calls into question TSA's commitment to implementing effective surface security programs. We recognize that the pressure has been on aviation, but this is a drastic and almost devastating distinction and disparity.

TSA's Surface Transportation Security Inspection Program is authorized in section 1301 of the 9/11 Act, which outlines specific parameters for the mission and make-up of surface inspectors. In February 2009, the DHS inspector general released a report on the effectiveness of TSA's surface transportation security inspectors that raised serious concerns about TSA's deployment of surface inspector resources.

The report found that the program was understaffed for a long time, and that an aviation-focused command structure had undermined the quality and morale of the workforce. Although TSA concurred with one of the three IG recommendations, there has been little evidence of progress made by TSA in implementing them.

Largely based on the IG's findings and recommendations, a robust provision addressing the surface inspector program was included in our TSA authorization bill, H.R. 2200, which passed the House by an overwhelming bipartisan majority in June 2009. However, over the past year TSA has implemented new changes to the surface inspector program that ignore these efforts, and further changes are being implemented under an initiative called TSI Evolution, which significantly redefines surface inspector activities and training.

We are concerned that TSI Evolution minimizes the importance of the surface-focused mission and expertise required by statute in order to remake surface inspectors into jack-of-all-trades first responders who will be employed to all transportation modes. Currently new surface inspectors are required to complete 2 weeks of

aviation and cargo training, but are only given 1 week of surface mode training.

Even as it implements these changes, TSA has still not completed a staffing plan or any risk-based assessment to demonstrate how TSI Evolution will enhance security. Further complicating matters is the challenge presented by forthcoming security regulations required by the 9/11 Act. Rules on front-line employee security training and security assessments for surface modes are more than 2 years overdue. These rules will drastically change the security landscape for surface transportation systems and will likely require an expansion of the surface inspector workforce, making the completion of a staffing assessment all the more imperative.

As you can see, I have many concerns about the direction TSA is taking with its surface transportation security program, but I also know that it is a new day at TSA now that the agency has confirmed an administrator. I have met with the new TSA Administrator Mr. Pistole, and I know that he shares my concern about improving our surface security efforts. He has even asked to allow him to begin an assessment and to engage in his own reform and answers to our concerns that we have just expressed.

We will look forward to giving him that ability, but we ask you today to address our questions. I will be asking him to look at this program closely, and I look forward to working with him in addressing the issues that we will be raising today.

At this time, without objection, I would like to enter into the record a statement from The Association of American Railroads. Hearing no objection, it is so ordered.

[The information follows:]

STATEMENT OF THE ASSOCIATION OF AMERICAN RAILROADS

JULY 28, 2010

On behalf of the members of the Association of American Railroads (AAR), thank you for the opportunity to submit this statement for the record concerning the Transportation Security Administration's (TSA) Surface Transportation Security Inspection Program. AAR members account for approximately 72 percent of U.S. freight rail mileage, 92 percent of freight rail employees, and 95 percent of freight rail revenue. Amtrak and several commuter passenger railroads are also members of the AAR.

Assuring the security of the Nation's passenger and freight railroads requires a multi-faceted, cooperative effort that taps the full-range capabilities—in the private sector and at all levels of government—and applies them to best effect to assure preparedness and to deter and respond to acts of terrorism. Our Nation's railroads strive continuously to meet this objective.

Immediately following 9/11, more than 150 officials representing railroads, shippers, suppliers, and other stakeholders came together to complete a comprehensive risk assessment of the rail network and to develop an industry-wide security management plan. Key focus areas included critical infrastructure, operations, hazardous materials, communications and control systems, and military shipments.

In effect by the end of 2001, the industry's security management plan remains the foundation both for individual railroads' security programs and for the industry's proactive approach in this vital area. A standing industry security working committee, supported by AAR's security staff, coordinates the overall effort. Particular emphasis is given to maintaining situational awareness and vigilance through intelligence and security information sharing via an active Railway Alert Network.

Regular exercises, conducted both industry-wide and by the railroads individually, appraise the effectiveness of the industry's security plan. This week, for example, railroad personnel are meeting in St. Louis to train operations and security officials in anticipation of the next industry-wide exercise this October. Lessons learned from

exercises and actual security-related incidents inform reviews and updates and assure that the plan continues to evolve to meet changing circumstances.

Maintaining a constructive relationship with TSA and its Surface Transportation Security Inspectors (STSI) is a top priority of the rail security effort. In this regard, commendable progress has been made:

- In 2006, a joint Government-industry effort produced agreement on security actions that are foundational to effective programs. With distinctive approaches for freight rail and passenger rail, the action items formed the basis for comprehensive security assessments by TSA surface inspectors.
- In passenger rail, the results of Baseline Assessment for Security Enhancement (BASE) reviews inform security grant program priorities and awards, and enable wide dissemination of a compilation of the most effective security practices observed.
- In freight rail, Security Action Item Reviews emphasize mitigating the risks associated with transport of toxic inhalation hazardous (TIH) materials. According to the Department of Homeland Security's Annual Performance Report for 2009, there has been a 53.6 percent reduction in risk against the fiscal year 2006 baseline. This progress reflects an effective public-private partnership: It occurred without regulation (the TIH transport provisions of TSA's Rail Transportation Security Rule did not take effect until well into 2009) and exceeded the 50 percent target rate reduction for the period.
- Over the past year, TSA's Freight Rail Division has initiated vulnerability assessments on the Nation's most critical rail bridges, guided by the industry's prioritization of structures. An integrated assault planning cell views the bridges as a terrorist or saboteur would in evaluating potential threats and their likely effects. Completing the circle, in fiscal year 2010 some 86 percent of funds awarded under the Freight Rail Security Grant Program went to projects to mitigate rail bridge vulnerabilities identified in the TSA assessments.
- TSA's Freight Rail Division has initiated recurring coordination meetings with the railroads. These sessions, long requested by the industry, foster constructive relationships and effective communication. They allow for open and candid discussion of current programs and initiatives, future priorities, and prevailing security issues and concerns. The Freight Rail Division should be commended for establishing these forums and for its willingness to enhance them. One recent noteworthy enhancement is the integration of Amtrak and commuter railroads for the next meeting in September.

The most recent coordination meeting with rail personnel and personnel from TSA's Freight Rail Division took place in St. Louis on May 12–13, 2010, and featured a thorough discussion of TSA's Surface Transportation Security Inspection Program. During a presentation by the agency's Deputy Director of the Compliance Division, the railroads' representatives raised a number of concerns, including:

- Inconsistency and lack of standardization in inspectors' interpretation of, and action on, regulatory requirements, especially with respect to transport of TIH. Many railroads have experienced differing interpretations of specific provisions in the Rail Transportation Security Rule and different guidance regarding the nature and scope of actions deemed acceptable in meeting requirements.
- Disparities between the policies and guidelines issued by TSA's Freight Rail Division and the actions of surface inspectors in the field. Many railroads have encountered situations in which an inspector has been unaware of policy positions expressed by the Freight Rail Division.
- Apparent lack of coordination with TSA Headquarters on decisions concerning letters of investigation or violation served on railroads. As a result, actions accepted as compliant by some TSA field offices produce official citations as violations by others.
- Inspections and related activity seemingly driven more by the need to meet a defined quantity than to advance security enhancement objectives.

Prior to the May 2010 meeting, railroads expressed these concerns through various means to TSA officials. Additionally, these points were reiterated by AAR's Assistant Vice President for Security, who served with TSA for nearly 6 years until March of this year, during a training conference in late June attended by all of TSA's surface inspectors and representatives of the Office of Compliance.

TSA's recent appointment of Regional Security Inspectors (RSIs) as liaison to the Class I railroads offers a potential means to resolve these long-standing issues. With the appointment letters sent to each railroad and through other public statements, TSA officials have ascribed broad responsibilities to the RSIs for outreach and coordination with the railroads and for oversight of compliance-related actions. To their credit, the RSIs have been proactive in engaging the railroads' security and

law enforcement officials to maintain open lines of communications and build constructive relationships. A number of RSIs attended the joint meeting with TSA in May. Each will be invited to attend future sessions. All participated in the surface inspectors' training conference in June.

The railroads see some cause for optimism in the RSI concept, but judgment remains reserved. The RSIs' ability to spur progress, particularly with respect to consistency in inspections, depends upon their authority to oversee and manage the inspectors' activities in the field. In this area, the organizational structure may pose a substantial obstacle—the RSIs are not in the chain of command of the field inspectors. At the joint meeting with TSA in May, the railroads' representatives cited this point as a specific concern, questioning whether the RSIs could practically attain the role described in their appointment letters.

The railroad community welcomes Assistant Secretary John Pistole and looks forward to working with him to meet the full range of security challenges. In furtherance of this commitment, AAR's security staff, acting on behalf of the railroad security committee and joined by the Executive Director of the American Short Line Railroad Association (ASLRRRA), just last week held a thorough, half-day discussion on strategic priorities with TSA's Freight Rail Division. This dialogue will bear fruit in the agendas of future joint meetings of the railroads with TSA and consequent actions.

Again, thank you for this opportunity to address a subject of great importance to the Nation's security.

Ms. JACKSON LEE. The association president Mr. Hamberger could not participate in the hearing today because he is on a trip to the Transportation Technology Center in Colorado with the new TSA administrator. While I am disappointed he could not be here, I am glad to see that he is participating in one of the first trips taken by the new administrator, which happens to be to a facility that conducts rail security, research, and training.

I wanted to have this hearing because I believe when we come back after our work recess, it is very important to put a full-press push on addressing these concerns, but, more importantly, to allow these concerns to be addressed by the administration as many of us are working in our districts. We have got to move on surface transportation, and it has to be done now. Holding this hearing now was imperative so that our instructions and concerns can be taken into consideration by TSA as quickly as possible.

Before I yield to the Ranking Member, let me say quickly for the record that I am concerned that the testimony was late in its submission from TSA. We received the testimony this morning, well past the deadline, and I must say that we hope that we can work together so this will not happen again. We welcome your interaction with the staff on any concerns that you may have.

We have a new administrator, and I know there is some transition occurring, but I also know that he has as high standards as we do, and we expect the committee rules to be respected by the Department.

I am also still waiting for a response to my July 9 letter to TSA about my concerns with the very programs we will be discussing today.

As an aside, let me also say that I believe a letter will be coming or has been drafted to talk about our concerns about collective bargaining as well, and we hope and look forward to responses on that issue.

The Chairwoman now recognizes the Ranking Member, Mr. Dent of Pennsylvania, for an opening statement.

Mr. DENT. First, thank you, Madam Chairwoman. Thank you again for holding this hearing to address TSA's plans to strengthen

its surface inspector workforce and the greater emphasis to surface transportation issues. I think it is something that we all embrace.

We have all become aware of the threat against mass transit, in Moscow in March 2010; in Mumbai in July 2006; in London, July 2005; and in Madrid, of course, in 2004. The threat nearly hit home last year when the plot by Mr. Zazi and his co-conspirators to bomb the New York City subway system was uncovered. A potentially devastating attack was avoided by good fortune and the excellent teamwork between Federal and local law enforcement. The indictment discloses that Zazi's plan was only part of a much larger conspiracy to carry out many more similar attacks.

The threat against surface transportation systems is clear, and they are highly vulnerable due to the open infrastructure and multiple access points. As you know, it is an open system. We cannot secure our surface systems as we have with our air systems.

Nevertheless, TSA funding for surface transportation security remains highly skewed. In TSA's 2011 budget request, the \$8.2 billion total request consisted of \$6.5 billion for aviation security, and contained only \$137.6 million for surface transportation security. Given that homeland security funding needs to be risk-based, we should be evaluating whether that imbalance accurately reflects the current state of risk in our Nation.

I appreciate the recent comments of TSA Administrator Pistole's indicating he will place greater emphasis on surface transportation security. I believe the growth of the surface transportation security workforce is an important step in that process. I am eager to learn greater specifics from the TSA today on how they plan to deploy that additional workforce.

I am also looking forward to hearing from industry what issues should be considered as the role of surface transportation inspectors expands. I am concerned that surface transportation inspectors are being reassigned to airports from time to time, and transportation security officers typically stationed at airports are being used for surface transportation security. I anticipate learning how the TSA plans to divide this labor among its ever-increasing workforce this afternoon.

In our country surface transportation includes more than 100,000 miles of rail, 600,000 bridges, 300,000 tunnels and 2 million miles of pipeline. Clearly the task of securing those open systems is significant. We should make every effort to ensure that the resources we have are used as effectively as possible to fulfill that goal.

So I look forward to hearing from our witnesses today.

Before I yield back my time, I did want to submit for the record testimony from LANTA, a mass transit organization in my district. LANTA comments that they want to improve emergency planning, but lacks staff resources. It is a great opportunity for TSA to work with a small transit agency in Pennsylvania.

With that, I yield back my time, Madam Chairwoman. I will submit this for the record.

Ms. JACKSON LEE. Without objection, so ordered.

The Chairwoman now recognizes the Chairman of the full committee, the gentleman from Mississippi, Mr. Thompson for an opening statement, who has worked with this subcommittee very closely on the issues addressing surface transportation security.

The gentleman is recognized.

Mr. THOMPSON. Thank you very much, Chairwoman Jackson Lee. I compliment you for convening this important hearing and continuing your rigorous oversight into the security of all modes of transportation.

Today we will evaluate TSA's management of the Surface Transportation Security Inspection Program and discuss the role of surface transportation security inspectors. We want to understand how effective this program is in securing our Nation's transit systems, highways, and rail lines against terrorist attacks.

Like the Chairwoman stated, just last year a plot to attack the New York City subway system was uncovered, and in recent years we have seen the horrific attacks of a commuter rail line in Madrid in 2004, and on the London transit system in 2005, and on the Mumbai subway railway in 2006 and 2008, and on Moscow's subway earlier this year. The question in all of our minds is what are we doing here at home to address the terrorist threat on our Nation's highways, transit, and rail systems?

TSA is responsible for the security of all modes of transportation, yet TSA's record to date for implementing functional surface security programs has been poor. For example, two critical surface regulations required by the 9/11 Act to address front-line employee security training and security assessments are more than 2 years overdue.

Earlier this month I met with the new TSA Administrator John Pistole, and I have his assurance that addressing surface transportation security will be a priority for him. The Members of this committee stand ready to work with the new administrator on this very important issue.

Today the inspector general will discuss his critical assessment of how TSA is carrying out its surface transportation security mission, with a particular emphasis on the management of the surface transportation security inspectors. This evaluation will help our Members and Administrator Pistole in developing a roadmap for TSA to improve this program and other surface transportation security programs in the future.

I welcome our witnesses today and look forward to a frank assessment of the problems and potential solutions for moving forward and strengthening TSA's surface transportation inspector program.

Madam Chairwoman, I yield back the time.

Ms. JACKSON LEE. I thank the Chairman very much.

At this time I welcome our first panel of witnesses. Our first witness is Mr. Lee Kair, assistant administrator for security operations at TSA. Mr. Kair was named TSA's assistant administrator for security operations in October 2008 and is responsible for providing executive management of daily field operations for a workforce of approximately 48,000 employees at more than 450 airports Nation-wide.

Mr. Kair is also responsible for regulatory compliance, program planning, partnering with security operators and other transportation modes, and the development of strategic plans for the future operational role of TSA.

Prior to this position, Mr. Kair was a Federal Security Director in Orlando, Florida. That means that he was enormously busy.

The second witness is Mr. Carlton Mann. Mr. Mann has appeared before us before and has served as the Department of Homeland Security's Assistant Inspector General for Inspections since August 2006. In that position Mr. Mann provides the inspector general with a means to analyze programs quickly and evaluate operational efficiency and vulnerability across the spectrum of DHS components.

Mr. Mann was previously a senior program analyst with the Federal Emergency Management Agency's Office of Inspector General.

Without objection, the witnesses' full statements will be inserted in the record. I now ask each witness to summarize his statement for 5 minutes, beginning with Mr. Kair.

First of all, welcome to the committee. We look forward to your testimony.

Mr. Kair, you are recognized.

STATEMENT OF LEE R. KAIR, ASSISTANT ADMINISTRATOR, SECURITY OPERATIONS, TRANSPORTATION SECURITY ADMINISTRATION

Mr. KAIR. Good afternoon, Chairwoman Jackson Lee, Ranking Member Dent and distinguished Members of the subcommittee. My name is Lee Kair, and I am the assistant administrator for security operations. Thank you for the opportunity to speak with you on the Transportation Security Administration's Surface Inspection Program. I look forward to updating you about a number of changes we have made to the program that are beginning to produce solid improvements in security.

First I would like to acknowledge John Pistole's confirmation as TSA's administrator. In his recent confirmation hearings, Mr. Pistole stated that he would assess TSA's surface transportation efforts in concert with State and local authorities. In the mere weeks since he was sworn into office, Administrator Pistole already has initiated that review, and just yesterday visited the Surface Transportation Training Center in Pueblo, Colorado.

So as I discuss the recent improvements to the program, please also be aware that the administrator's review is on-going. This includes the program's organizational structure and role within TSA's overall mission.

Before I highlight the four key improvements we have made, I would like to take a moment to acknowledge the hard work, dedication, and professionalism of the men and women of the Office of Security Operations, including our transportation security officers and inspectors on the front line ensuring the safety of the traveling public.

The first improvement I would like to discuss is the reorganization of the TSI-Surface leadership. First, this past January we realigned the most senior TSA personnel devoted to surface transportation security. This change was designed to promote a Nationally-balanced approach to regulatory compliance activities that recognizes the need for regional and localized strategies.

Keeping the GAO and IG recommendations in mind, we assigned six regional security inspectors, or RSIs, to cover the entire coun-

try. We also assigned each RSI as the single point of contact for each Class One railroad to standardize the application of National policy. The RSIs each average over 25 years of surface transportation experience and are recognized as the subject matter expert in their field. They report to an assistant general manager in our headquarters who has 31 years of surface transportation experience, including experience in running the Transportation Security Center, or TSOC, surface watch desk.

I am pleased to report that these RSIs have quickly developed strong ties with each of their rail security coordinators for these railroads in their respective areas of responsibility. As importantly, these RSIs provide robust oversight of all surface inspection, assessment, and operational activities. They work closely with our local Surface TSIs and Federal Security Directors to drive local accountability for carrying out the National work plan.

This model provides National oversight with local insight and includes strong mentorship of our TSIs as well. Often the RSIs will spend time on-site in demonstrating hands-on how to interpret the nuances of the trade. The RSI framework allows us to enhance security across modes by leveraging strong professional networks and relationships with local security officials and operators within the industry. It is also essential in supporting the local framework, where we emphasize consistent and clear reporting lines from Surface TSIs to FSDs.

Second, expanded role of TSI–Surface in the VIPR Program. The second improvement I would like to discuss is the expanded role of Surface TSIs in the Visible Intermodal Prevention and Response, or VIPR, Program. We have added one primary senior TSI to each VIPR team. Their role is to provide invaluable surface transportation expertise and force multiplication to these teams.

The TSI involvement varies by location from acting as the designated VIPR coordinator for non-aviation VIPR activity to participating in the planning and our execution of the VIPR operations. This change takes on added significance with the expansion of the VIPR Program from 15 to 25 dedicated teams.

TSA has also expanded the full-time representation of TSIs for National VIPR planning, coordination, and deployment. Three full-time TSI staff are located in the VIPR Joint Coordination Center at the TSOC. These TSIs have greatly increased the level of modal expertise and awareness for the VIPR Program, as well as much-needed insight during the planning and coordination of VIPR deployments.

Third, risk-based TSI–Surface deployment methodology. The third improvement I would like to highlight is the development of a risk-based approach to allocate Surface TSI staff and to open new surface offices in the field. While TSA does not have the resources to assign TSIs to every major city in America, by carefully assessing areas with the greatest risk and defining geographic areas of responsibility, this approach helps ensure both complete access to regulated parties as well as comprehensive VIPR coverage.

Fourth, building the TSI–Surface training infrastructure at Pueblo, Colorado. The fourth and final improvement I would like to discuss with regard to this program is the on-going development and investment in the surface training facility in Pueblo, Colorado.

The Surface Training Center in Pueblo currently orients inspectors to the railroad operating environment and provides safety awareness training. Courses under development for fiscal year 2011 will provide training in advanced railroad operations, VIPR operations, and highway and motor carrier over-the-road bus operations. This facility is essential to our on-going efforts to improve the overall National security posture of the surface transportation in this country.

In conclusion, I want to thank you for the opportunity to provide this update on TSA's on-going improvements to the Transportation Security Inspection Program, and I would be happy to answer your questions.

[The statement of Mr. Kair follows:]

PREPARED STATEMENT OF LEE R. KAIR

JULY 28, 2010

Good afternoon Chairwoman Jackson Lee, Ranking Member Dent, and distinguished Members of the subcommittee. Thank you for the opportunity to testify on the Transportation Security Administration's (TSA's) management and guidance of the surface transportation security inspection program authorized in section 1304 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Act).

The subcommittee's choice of this topic for the hearing today is timely for a number of reasons. The first reason is the need for TSA to continue to focus attention on surface transportation. Secretary Napolitano has demonstrated her commitment to improving surface transportation security, and in his confirmation hearings, our new TSA Administrator, Mr. John Pistole, stated a number of times that, if confirmed, he planned to "assess TSA's non-aviation surface transportation efforts in concert with State and local authorities." Administrator Pistole further noted the terrorist attacks on foreign rail and mass transit systems, the planned but thwarted attacks on U.S. mass transit systems that carry millions of people every day, the content of intelligence reporting that drives TSA efforts, and the challenge of hardening surface transportation systems as reasons for his plans to review TSA surface transportation security efforts. Because of Administrator Pistole's recent arrival at TSA, his review of this vital topic is not complete.

The second reason that this hearing is timely is because TSA has initiated a number of improvements to its surface transportation security inspection program. These changes address concerns expressed by Members of this subcommittee, by Members of the full Homeland Security Committee and others in the Congress, and by the Government Accountability Office (GAO). I will update you on the most significant of these changes in a few moments.

The third reason why this hearing is timely is that it provides us an opportunity to receive guidance from this subcommittee as TSA moves forward to improve surface transportation security. While the statutes drafted and enacted by the Congress provide general guidance, hearings like this provide the opportunity for additional dialogue. During his confirmation hearings, Mr. Pistole heard from members of the Senate on this topic, and this hearing provides TSA with the opportunity to hear from you. Again, this is particularly relevant as Administrator Pistole begins his comprehensive review of TSA's surface transportation security program.

I would like to update you on four important and recent improvements involving the surface transportation security inspection program.

NEW RSI-S POSITIONS ESTABLISHED

In an effort to provide more direct oversight of the surface transportation security program, a realignment of personnel devoted to surface transportation was accomplished in January 2010 pursuant to TSA Operational Directive (OD) 400-54-5. Six Assistant Federal Security Director—Surface (AFSD—Surface) positions that previously reported to Federal Security Directors (FSDs) were abolished, and six new Regional Security Inspectors—Surface (RSIs—S) positions were established. The RSIs—S report directly to the new TSA headquarters Surface Inspection Oversight Assistant General Manager, not to FSDs.

The Surface Inspection Oversight Assistant General Manager, Carl Ciccarello, has 31 years of surface transportation experience, including 17 years in military oper-

ations, 7 years running the port of New York for the U.S. Coast Guard, and 7 years with TSA running the Transportation Security Operations Center (TSOC) surface watch desk. Since then, he has been building, managing, and leading the TSA Surface Transportation Security Inspection Program.

The six field RSIs-S are positioned throughout the country to more easily provide active on-site oversight of surface inspection, assessment, and operational activities. Each of these six RSIs-S are also assigned as TSA corporate liaisons to all Class One and large regional railroads, which promotes a Nationally balanced approach to regulatory compliance activities and operational issues for large railroad corporate entities related to rail security.

The six regional RSIs-S average more than 25 years of surface transportation experience and are recognized as the surface security subject matter experts in the field. The RSIs-S quickly developed strong communication ties with each of the Rail Security Coordinators for Class One and large regional railroads to facilitate continuous dialogue. The work of the RSIs-S thus far has provided consistent application of security regulations across railroad entities. Issues discussed in recent months have included Rail Sensitive Security Materials (RSSM) chain of custody requirements, including location information, paperwork evidence, and U.S. border implications and jurisdiction.

The RSIs-S organizational change, providing direct headquarters surface transportation oversight, already is bearing fruit. Prior to the change in organization, TSA surface transportation inspection programs in both Los Angeles and St. Louis were struggling to meet TSA work plan mandates. The RSIs-S provided audit reviews of each operation's work products, and then worked with and provided on-site assistance and leadership to local TSA staff, who took corrective actions. TSA staff in both of those cities now are meeting or exceeding the work plan requirements for fiscal year 2010.

A COLLABORATIVE SECURITY-BASED WORKFORCE

The Regional Security Inspectors (RSIs) provide day-to-day support to the Area Directors (AD) with overall program direction and supervision being provided by the Office of Compliance Programs at headquarters within the OSO. In addition to other assigned surface transportation duties, RSIs serve as liaisons between TSA OSO and large freight rail corporations whose operations are multi-regional or National in scope and will support regional activity as directed by the AD. RSIs focus on National/corporate level compliance issues, and generally do not have a role in compliance activity that is local in nature (that is, routine compliance and enforcement activity); rather, such compliance activity will fall within the purview of the FSDs. Transportation Security Inspectors—Surface (TSIs—Surface) report to Assistant Federal Security Directors for Inspections (AFSD—Is), who in turn report to the FSD and are responsible for, at a minimum, all inspection, compliance, and enforcement activity within the areas of responsibility of the FSD offices in which they reside.

TSA is currently building a workforce of 404 TSIs—Surface to be employed throughout the Nation. The TSI—Surface workforce conducts comprehensive assessments, inspections, and investigations of surface transportation systems; oversees compliance with applicable transportation security policies, directives, standards, and agreements; identifies potential problem areas or deviations from prescribed standards; and ensures overall adequacy, effectiveness, and efficiency of the security posture of surface transportation systems.

The FSDs are the operational field component of OSO and are charged with the implementation of all field operational activities across all modes of transportation. TSA uses this command structure because FSDs are equipped to leverage the security network in their area. FSDs frequently interact with State and local law enforcement and surface transportation system operators and understand the vulnerabilities and challenges of the surface transportation modes in their backyard, some of which also feed into airports.

TSA has adopted this network decision-making model in all modes of transportation, including its other inspection divisions in aviation and cargo. This approach recognizes the need for regional and localized strategies to enhance cross-modal prevention, detection, response, and recovery efforts based on accurate and thorough domain awareness, strong professional networks and relationships with local security officials and transportation mode operators, and consistent and clear reporting lines to the local FSD.

EXPANDED ROLE OF TSI–SURFACE IN THE VISIBLE INTERMODAL PREVENTION AND
RESPONSE (VIPR) PROGRAM

With the expansion of the FAMS VIPR program from 15 to 25 dedicated teams, TSA has assigned one primary senior TSI–Surface official to each team. Their role is to provide surface transportation expertise to the teams that did not previously exist. The TSI–Surface involvement varies by location, from acting as the designated VIPR coordinator for non-aviation VIPR activity to actively participating in the planning and/or execution of VIPR operations. The TSI–Surface assignments will be rotated among the surface inspectors at each of the 25 TSA dedicated VIPR team locations on a 60- to 90-day schedule. This provides for work role expansion for each of the TSIs while allowing for practical application of inspector skills and training when not assigned to the dedicated VIPR team.

TSA also has expanded the full-time representation of TSI–Surface officials for National level VIPR planning, coordination, and deployment. The full-time TSI–Surface staff is located in the VIPR Joint Coordination Center, and includes two TSI–Surface staff and one Supervisory TSI–Surface official. These officials join the Office of Security Operations VIPR Branch Chief, who was added to the Joint Coordination Center in January 2010.

The addition of these personnel has greatly increased the level of surface transportation experience for VIPR operations, and also adds important surface transportation perspectives into the planning and coordinating VIPR deployments. For example, TSI–Surface staffers assigned to dedicated VIPR teams carry out comprehensive security surveys of rail stations and verify physical security measures already in place. The station profile data are an integral part of an initiative currently underway to enhance and improve the VIPR deployment planning, operations, and reporting processes.

RISK-BASED TSI–SURFACE DEPLOYMENT METHODOLOGY

As the TSA surface transportation security inspection program has expanded and matured, TSA has used a risk-based approach to allocate TSI–Surface staff and to open new surface offices. Other qualitative data also are considered to better serve surface transportation security based on the division of geographic areas of responsibility. While TSI–Surface staff are not assigned to every major city in America, defining geographic areas of responsibility helps ensure both complete coverage of regulated parties as well as comprehensive VIPR coverage.

The risk-based approach considers four key factors before assigning a final risk based score to a city, including:

- location within a high-threat urban area;
- location of a top 100 mass transit/passenger rail system within the home city;
- toxic inhalation hazardous (TIH) materials flow within that city; and
- whether the city is located in the northeast corridor (NEC).

Currently, a total of 54 cities have TSI–Surface staff, including robust coverage in the NEC. Over the coming months, TSA plans to add surface offices and TSI–Surface staff in:

- Austin, TX,
- Baton Rouge, LA,
- El Paso, TX,
- Fresno, CA,
- Honolulu, HI,
- Mobile, AL,
- Nashville, TN,
- Ontario, CA,
- Tulsa, OK,
- Queens, NY,
- Moline, IL, and
- Tucson, AZ.

All surface offices are staffed with at least two persons. Through the use of a new standing National register, TSA has received tens of thousands of applicants for inspector positions, greatly increasing the pool of qualified applicants and reducing the time needed to fill vacancies.

The large number of Risk Reduction Survey (RRS) assessments and inspections that have been conducted by TSIs–Surface since 2006 has provided TSA with additional data on the cities that are the best candidates for new surface offices. The RRS survey program also has been successful in reducing surface transportation risks: Freight rail systems have reduced the percentage of Rail Sensitive Security Materials that pose a toxic inhalation hazard and that are unattended while at rest from over 80 percent in 2006 to approximately 7 percent in 2010.

BUILDING THE TSI–SURFACE TRAINING INFRASTRUCTURE AT PUEBLO, COLORADO

In anticipation of the need to train new TSIs–Surface on railroad-specific safety and security issues, TSA began training the workforce at the Transportation Technology Center in Pueblo, CO in 2006. After realizing the value and potential of this site, TSA entered into Memorandum of Agreement (MOA) with the Federal Railroad Administration to build out a portion of the facility in Pueblo to allow for more advanced training capabilities. TSA also has partnered with other Federal agencies and stakeholders to obtain rail cars for practical training purposes and to build infrastructure at the site. Administrator Pistole visited the facility earlier this week as part of the significant outreach he has been performing since being sworn-in as our new administrator this month.

The development of consistent, thorough training for TSIs–Surface is key to ensuring that TSA has a technically proficient and agile workforce, and to ensure that its inspectors operate safely and appropriately in the surface transportation environment. To further deliver on our commitment to improve surface transportation security training, TSA has assigned personnel to develop the TSI–Surface curriculum and to deliver training material. This team is also responsible for the future expansion of the Pueblo site, and the development of expanded training courses that will cross all surface modes of transportation.

Current training at the Transportation Technology Center for TSI–Surface staff includes coursework focused on orienting inspectors to the specific railroad operating environment and providing safety awareness. Future courses at the facility will provide TSI–Surface staff with an advanced railroad operating course, VIPR training, and a highway motor carrier/over-the-road bus course. All courses will include both classroom instruction and on-site practical application and exercises. TSA is very excited about the future potential of the Surface Transportation Security Training Center.

In conclusion, I want to thank you for the opportunity to provide this update on TSA’s on-going improvements to its surface transportation security inspection program, and I would be happy to answer your questions.

Ms. JACKSON LEE. Mr. Kair, thank you so very much for your testimony.

Mr. Mann, you are now recognized for 5 minutes.

STATEMENT OF CARLTON I. MANN, ASSISTANT INSPECTOR GENERAL, OFFICE OF INSPECTOR GENERAL, DEPARTMENT OF HOMELAND SECURITY

Mr. MANN. Good afternoon, Madam Chairwoman, Ranking Member Dent, Chairman Thompson. Thank you for the opportunity to testify on the Transportation Security Administration’s management of surface transportation security inspectors.

As each Member of the subcommittee noted, terrorist incidents abroad have underscored the need to focus more on mass transit, highway, maritime, pipelines, and freight rail. Surface inspectors play a critical role in helping secure those transportation modes.

Within the last 2 years, we have issued two reports related to surface transportation issues, including the Surface Transportation Security Inspector Program. I would like to highlight briefly the results of those reviews.

In June 2008, we issued a report, TSA’s Administration and Coordination of Mass Transit Security Programs. That report addressed strengths and weaknesses of TSA’s oversight and assistance programs for mass transit rail, including the Surface Transportation Security Inspection, Transit Security Grant, VIPR, and the National Explosives Detection Canine Team Programs. Our goal was to evaluate how well TSA managed those programs and how well the programs met the security needs of the major mass transit rail systems.

We identified important challenges to improve transit rail security and reported that TSA could improve certain aspects of each program. We observed unclear and unduly complex chains of commands, an unclear mission or insufficient guidance, and insufficient communication. We noted that TSA needed to integrate stakeholder expertise further, to implement its oversight of assistance programs and fulfill its responsibility for mass transit security.

As mandated by the 9/11 Commission Act, we conducted a follow-up inspection of the Surface Inspection Program. In February 2009, we issued a report, Effectiveness of TSA's Surface Transportation Security Inspectors. We determined that TSA needed to look critically at how it is deploying resources and assess how planned exercises could use inspectors better.

The program appeared understaffed for the long-term, and an aviation-focused command structure had reduced the quality and morale of the workforce. We sought to convince TSA to integrate surface inspectors and their unique transit and rail expertise into VIPR planning and deployment, and it is good to hear that that apparently is happening.

TSA concurred with our recommendation to examine how many inspectors it needed to perform necessary functions by assessing current and anticipated future duties. TSA did not concur with our recommendation to place the surface inspectors under the direct authority of a TSA headquarters official responsible for surface transportation.

The Surface Inspection Program organization chain of command continues to evolve, but in a manner which is not consistent with our recommendations. Both inspection reports recommended that TSA place the responsibility for the program with an official at TSA headquarters.

TSA did not agree that the transportation security inspection command structure inhibited its effectiveness. TSA indicated that it was taking steps to strengthen communications between the Surface Inspection Program and the Federal Security Directors.

In September 2009, we learned that TSA was planning to restructure its surface resources, and, as my colleague mentioned, in January 2010, TSA executed the reorganization.

Last week we received TSA's reorganization plan. The restructuring plan affected numerous senior staff within the Surface Inspector Program. TSA has abolished positions, established new positions, realigned some functions among positions, and reallocated resources among field offices throughout the country.

Specifically, TSA abolished the position of Assistant Federal Security Director for Surface and assigned those responsibilities to the position of Supervisory Transportation Security Inspector for Surface and a newly created Regional Security Inspector. Supervisory TSIs for Surface report to the Assistant Federal Security Directors for Inspections, who report to the Federal Security Directors.

As we continue to study the reorganization, we remain concerned whether these changes will enhance TSA's relationships and communication with the surface transportation partners. The presence of dedicated Surface Assistant Federal Security Directors afforded

TSA recognizable liaison to transit systems and enabled information sharing. Without further review, we do not know whether this plan will better enable surface resources to operate effectively and adequately in the aviation-centric environment.

We look forward to continuing our work with the Department to identify ways to strengthen the surface transportation mission, and at this point I would be glad to answer any questions that you may have.

[The statement of Mr. Mann follows:]

PREPARED STATEMENT OF CARLTON I. MANN

JULY 28, 2010

Good afternoon Chairwoman Jackson Lee and distinguished Members of the subcommittee. Thank you for the opportunity to testify on the Transportation Security Administration's (TSA) management of surface transportation security inspectors.

When discussing transportation security, people usually think of aviation security first. However, terrorist incidents abroad have underscored the need to focus more on surface transportation modes—mass transit, highway, maritime, pipelines, and freight rail. Surface inspectors play a critical role in helping secure these transportation modes.

The Aviation and Transportation Security Act of 2001 gave the Transportation Security Administration authority and responsibility for security on all modes of transportation. Congress further clarified TSA's oversight role with the 9/11 Commission Act. Beginning in 2004, TSA increased its efforts to mitigate the vulnerability of mass transit rail systems across the United States. This was accomplished by introducing mass transit stakeholder security forums; developing guidance, memorandums, and directives; using its Surface Transportation Security Inspection (STSI) Program to provide voluntary vulnerability assessments; and, providing support through grants and direct operational assistance.

Within the last 2 years, the Office of Inspector General (OIG) has issued several reports related to surface transportation issues, including the STSI program. I would like to highlight the results of those reviews. Most of my statement focuses on our findings and recommendations. However, it is important to point out that we also reported that TSA's surface inspector assessment and domain initiatives have been effective, and have helped the program achieve many of its goals.

In June 2008, we issued an inspection report, TSA's Administration and Coordination of Mass Transit Security Programs (OIG-08-66). This report addressed the strengths and weaknesses of TSA's oversight and assistance programs for mass transit rail, including the STSI Program, the Transit Security Grant program, the Visible Intermodal Prevention and Response (VIPR) program, and the National Explosives Detection Canine Team Program. Later that year, we conducted a follow-up inspection and in February 2009 issued another report, Effectiveness of TSA's Surface Transportation Security Inspectors (OIG-09-24). This report addressed the strengths and weaknesses of TSA's Surface Transportation Security Inspectors. Most recently, in March 2010, the OIG issued a report, TSA's Preparedness for Mass Transit and Passenger Rail Emergencies (OIG-10-68). This report was prepared by the OIG's Office of Audits. It does not directly address issues involving the management of surface inspectors. However, it addresses TSA's effectiveness in supporting mass transit and passenger rail stakeholders with preparing for and responding to emergencies. In total, the OIG made 14 recommendations to TSA to promote more efficient, effective, and economical operations.

In our mass transit report, we identified important challenges to improve transit rail security, meet the needs of mass transit authorities, and comply with legislation which expanded TSA's statutory authority and responsibility. In our review of the Surface Transportation Security Inspector program, we concluded that TSA needed to look critically at how it is deploying resources. The central issue in both reports was the mission, organization, and command structure of its surface inspectors. In particular, its command structure appeared to be aviation-focused.

Subsequently, the Office of Audits evaluated TSA's effectiveness in supporting mass transit and passenger rail agencies in preparing for and responding to emergency incidents. Their audit report overlapped with the inspection reports in one aspect. The inspection reports discussed TSA's use of the Baseline Assessment for Security Enhancement (BASE) program. It pointed out that they have led to security improvements in the mass transit systems reviewed, but did not analyze the BASE

program or processes. The auditors did, and they identified weaknesses in the BASE program's ability to assess passenger rail stakeholders' emergency preparedness and response capabilities.

Following is a more detailed summary of each report.

TSA'S ADMINISTRATION AND COORDINATION OF MASS TRANSIT SECURITY PROGRAMS
(OIG-08-66)

The purpose of our review was to evaluate TSA's four largest oversight and assistance programs for mass transit rail: The Surface Transportation Security Inspection Program, the Transit Security Grant Program, the Visible Intermodal Prevention and Response program, and the National Explosives Detection Canine Team Program. Our goal was to evaluate how well TSA managed these programs and how well the programs met the security needs of the major mass transit rail systems.

The 9/11 Commission Act, which was enacted shortly after we began this review, introduced new mass transit rail standards and responsibilities for TSA. Where we obtained information on the then current status of TSA compliance with standards introduced by the 9/11 Commission Act, we included it in our report. The review did not encompass TSA's responsibilities for freight rail and for intercity passenger rail, or for other forms of mass transit, such as buses. We conducted our fieldwork from June 2007 to October 2007.

We reported that TSA could improve certain aspects of each of these mass transit security programs. We observed unclear or unduly complex chains of command; an unclear mission or insufficient guidance; and insufficient communication. TSA needed more consistency in its interactions with mass transit rail stakeholders—who were at odds over the best approach for allocating funds and prioritizing projects for the Transit Security Grant Program—although it acknowledged and attempted to address some early missteps that strained stakeholder relationships. Nonetheless, we noted TSA should further integrate stakeholder expertise to effectively implement its oversight and assistance programs and fulfill its responsibility for mass transit security. We reported considerable satisfaction among mass transit agencies using the National Explosives Detection Canine Team Program.

The report contained seven recommendations aimed at improving TSA's oversight and assistance programs for mass transit rail. TSA concurred, or concurred in part, with recommendations to direct its Transportation Security Network Management office to provide Transportation Security Inspectors (TSI) information and updates on the rail-related programs; develop procedures for incorporating asset-specific risk and vulnerability assessments, including information provided by TSIs, into the grant decision-making process and grant guidance; include in its annual report to Congress on how it used grants to implement its transportation security goals each grant recipient's assessment of the grant application and award process; seek Memorandums of Agreement with all relevant transit authorities regarding VIPR deployments; and revise grant program eligibility criteria to allow start-up funds for mass transit systems that do not already have a canine explosive detection unit.

TSA did not concur with two recommendations: Place the Transportation Security Inspectors—Surface under the direct authority of a TSA headquarters official who is responsible for surface transportation, and develop specific, feasible security standards for mass transit systems.

A few of the report's recommendations are not yet resolved, pending additional information from TSA and the resolution of recommendations in the follow up STSI report.

EFFECTIVENESS OF TSA'S SURFACE TRANSPORTATION SECURITY INSPECTORS (OIG-09-24)

The 9/11 Commission Act directed the OIG to evaluate the performance and effectiveness of TSA's Transportation Security Inspectors—Surface and whether there is a need for additional inspectors. The act stated: "Not later than September 30, 2008, the Department of Homeland Security Inspector General shall transmit a report to the appropriate congressional committees on the performance and effectiveness of surface transportation security inspectors, whether there is a need for additional inspectors, and other recommendations." We conducted our fieldwork from February to July 2008.

We determined that TSA needed to look critically at how it is deploying resources, and assess how planned exercises could better use the inspectors and their activities. The program appeared understaffed for the long term and an aviation-focused command structure had reduced the quality and morale of the workforce.

TSA agreed that TSIs and their unique expertise in mass transit and rail should be integrated into VIPR planning and deployment. TSA stated that it has addressed the potential role of TSIs in its VIPR Team Capabilities and Operational Deploy-

ment guide. TSA did not agree that TSIs' comprehensive inspection activities, such as BASE and SAI reviews, should be integrated into VIPR operations.

TSA concurred with our recommendation to examine how many inspectors it needed to perform necessary functions by assessing current and anticipated future duties, and then expand the TSI workforce to ensure that each field office has sufficient staffing. However, at the time of our report we did not agree with the approach TSA proposed to take to carry out this recommendation.

TSA did not concur with our earlier recommendation, which we repeated in this report, to place the Transportation Security Inspectors—Surface under the direct authority of a TSA headquarters official who responsible for surface transportation. TSA did not agree that the TSI command structure inhibited TSI effectiveness and we were unsuccessful in persuading TSA to carry out this recommendation. Ultimately, in the absence of a commitment from TSA management to modify its command structure, we retracted our original recommendation and instead recommended that TSA eliminate practices that undermined efforts to establish a more transparent chain of command. In its last update, TSA indicated that it was taking steps to strengthen communication between the STSI program and Federal Security Directors and their staffs in the field.

TSA'S PREPAREDNESS FOR MASS TRANSIT AND PASSENGER RAIL EMERGENCIES
(OIG-10-68)

The purpose of this audit was to evaluate TSA's effectiveness in assisting passenger rail and mass transit stakeholders with preparing for and responding to emergencies. The Office of Audits conducted this performance audit between April and August 2009, and the OIG issued its final report in March 2010.

The OIG determined that TSA can better support passenger rail agencies by improving its assessments of emergency preparedness and response capabilities. The agency can also improve its efforts to train passenger rail agencies and first responders, and ensure that drills and exercises are live and more realistic to help strengthen response capabilities. The agency has focused primarily on security and terrorism prevention efforts, while providing limited staff and resources to emergency preparedness and response. As a result, passenger rail agencies and the first responders that rely upon may not be adequately prepared to handle all emergencies or mitigate their consequences.

The report made four recommendations. TSA concurred with, and took corrective actions for, all four recommendations.

EVOLUTION OF THE SURFACE TRANSPORTATION SECURITY INSPECTOR PROGRAM

The STSI program's organization and chain of command continues to evolve, but in a manner which is not consistent with our recommendations. As discussed above, we reported our concerns twice about the organization and authority for the program and in both reports recommended that TSA place the responsibility for the STSI program with an official at TSA headquarters. After considering TSA's comments on the STSI report, we revised our recommendation to TSA to eliminate practices that undermined efforts to establish a more transparent chain of command.

In December 2006, TSA shifted from a system where TSIs reported to surface-focused supervisors to a system where TSIs reported to aviation-focused supervisors. TSA reorganized the program to match the field command model for aviation and cargo inspectors. Supervisory TSIs became Assistant Federal Security Director—Surface (AFSDs—Surface) who reported to the local Federal Security Director (FSD). The FSD was the administrative manager, but the STSIP headquarters office still set the priorities and provided the budget resources for the inspectors in the field. AFSDs—Surface, therefore, effectively had two chains of command.

In May 2008, TSA made further changes. In primary field offices that have an AFSD—Surface, TSIs were reporting to that individual. In satellite field offices without an AFSD—Surface, inspectors were reporting to the local Assistant Federal Security Director—Inspections (AFSD—Inspections). However, the AFSD—Surface at the nearby primary field office still mentored and advised all surface inspectors within that area, even when they were not under his or her direct command. Under this structure (at the time of our report), 55 (37%) of TSIs were reporting to an AFSD—Surface, and the remaining 95 (63%) were reporting to an aviation-focused AFSD—Inspections.

At the time, we also observed several problems regarding FSDs' involvement with the STSI program that were leading to tension and confusion over the program's chain of command. In response to our STSI report, TSA stated that it chose this command structure because FSDs are better able to use the security network in the area. TSA noted that FSDs frequently interact with State and local law enforcement

and mass transit operators. TSA believes that FSDs understand the vulnerabilities and challenges of the mass transit modes “in their backyard.” In our final report, we maintained that the program continued to operate differently than that outlined in a management directive that TSA cited.

In August 2009, TSA informed us that it was in the process of conducting a formal independent comprehensive staffing study of the entire inspection workforce, to include surface, with the results due in the fourth quarter of fiscal year 2009. TSA has not communicated the results of its study.

In September 2009, we learned that TSA began to implement a multi-phased restructuring of its Office of Security Operations (OSO), Office of Compliance, Surface Inspection and Oversight to meet mission demands and to better utilize resources. TSA planned to abolish positions, establish new positions, realign some functions among positions, and reallocate resources among field offices throughout the country. The restructuring plan appeared to affect numerous senior staff within the surface inspector program.

In January 2010, TSA reorganized the surface program. We requested that TSA update the OIG on any organizational changes that have occurred within the surface program to establish a more transparent chain of command, and last week TSA forwarded details of the reorganization. Specifically, TSA has abolished the position of Assistant Federal Security Director—Surface and assigned those responsibilities to the position of Supervisory Transportation Security Inspector—Surface and to newly created Regional Security Inspectors. Supervisory TSIs—Surface report to Assistant Federal Security Directors—Inspection, who report to Federal Security Directors.

We continue to study the reorganization. We remain concerned whether these changes will enhance TSA’s relationships and communication with its surface transportation partners. The presence of dedicated Assistant Federal Security Directors—Surface afforded TSA recognizable liaisons to transit systems and enabled information sharing. Without further review, we do not know whether this plan will better enable surface resources to operate adequately and effectively in an aviation-centric environment.

Thank you for the opportunity to discuss these matters. I would be pleased to answer any questions you may have.

Ms. JACKSON LEE. Thank you, gentlemen, both of you, for your testimony. We look forward to engaging.

Let me acknowledge and recognize a Member of this committee, Mr. Lungren of California.

I thank the witnesses for their testimony, and I remind each Member that he or she will have 5 minutes to question the panel. I will now recognize myself for 5 minutes of questioning.

To Mr. Mann, your report made recommendations for how TSA could better utilize Assistant Federal Security Directors for surface transportation. In fact, the latter part of your testimony went directly to this systems change.

In fact, these AFSDs provide critical information to the IG, as I understand it, revealing safety and employee morale issues highlighted in your report. In fact, you based a lot of your report on some of the vital information that these AFSDs gave. Yet months after the report was released, TSA removed every sitting AFSD—Surface from their post and terminated the position altogether.

When did TSA inform your office it was eliminating this position? Is it fair to say that because your report specifically suggests utilizing Surface AFSDs to solve problems with the Surface Inspector Program, eliminating this position directly seems to contradict your recommendation?

Might I just add a bit of editorialism and suggest and hope that it might not smack of retaliation. If you could in your answer give how much you relied upon these AFSDs, whether they were an effective source, and what your assessment is on this reorganization plan.

Mr. MANN. Well, we rely heavily on a lot of testimonial evidence that we get from all of the components that we talked with, and certainly the AFSDs were among several people who provided valuable information.

We have no reason to disbelieve, although we don't take sworn testimony from our witnesses and our interviewees—we have no reason to disbelieve them. Frequently it has been our experience to know that the individuals who are most affected typically have the answers and the solutions to what will make their situation better. The horsepower that the inspector general brings to a report often-times gives the organization the impetus to actually make a change.

There is no reason to—I think it would be speculative to believe that the reorganization was a retaliatory move.

Ms. JACKSON LEE. Do you have concern with them being eliminated in totality? You mentioned it in your testimony. Do you have concern?

Mr. MANN. Well, our bigger concern for us is really the reporting chain. We stick by our recommendation that a person responsible for surface transportation in headquarters should run the Surface Transportation Security Program.

Ms. JACKSON LEE. Let me move to TSA. What became of the existing Surface AFSDs when their position was eliminated? Did they simply take over as new AFSDs for Inspection, and can you get us that information for all of the former Surface AFSDs as to what happened to them? Did they retire? What was the basis?

Let me ask the OIG to bring some feedback, if you can follow up to his point or answer. The feedback from surface AFSDs turned out to be very valuable, as I said earlier, in bringing a lot of important issues to light. Have you done your own independent investigating—you said you don't want to speculate—as to what might have been the reason also of the change?

Let me ask Mr. Kair as to what happened to them, and then if you did any further investigation in looking at the chart as to why it was changed that way.

Let me go to Mr. Kair first. Thank you.

Mr. KAIR. Thank you, ma'am.

For the most part, those AFSDs for Surface actually became RSIs that had large geographic regions and/or are now directly aligned to the headquarters, reporting to the Assistant General Manager for Surface there at headquarters.

What I noted, I was a Federal Security Director prior to my current position, and what I noted from the field perspective was that the AFSDs, there weren't very many of them, and they had large geographic regions, but they were reporting to FSDs locally. So it made the lines of authority as they were structured there very difficult to operationalize in the field.

Our new construct is to have those Regional Security Inspectors reporting directly to headquarters to provide broad, strategic, programmatic oversight and, in the day-to-day operational inspection, reporting directly to the Federal Security Director, who does have the most relationships locally with the local stakeholders.

Ms. JACKSON LEE. So did you, in essence, take the same personnel and utilize them in new positions?

Mr. KAIR. I believe we provided line-by-line each of the individuals, what happened to them. For the most part, most of them actually became Regional Security Inspectors, and they were located in the locations with the major Class One railroads.

Ms. JACKSON LEE. Mr. Mann, do you want to answer? Did you do any follow-up when you saw this new chart as to what they had done and whether they had taken into consideration your recommendations?

Mr. MANN. No, ma'am, we have not. We just saw the chart last week. But it is our understanding that the former AFSDs had to compete for the positions that they now hold.

Ms. JACKSON LEE. Will you do a follow-up and analyze the chart, since you just received it recently, to see whether that responds to a lot of the concerns that you made in your report?

Mr. MANN. I am sorry. Say that again, please.

Ms. JACKSON LEE. Will you review the chart to determine whether or not it complies with the concerns that you expressed in your report?

Mr. MANN. Of course we will.

Ms. JACKSON LEE. I would like to have this committee receive a follow-up report from you on the changes that TSA has made.

Mr. MANN. Yes, ma'am.

Ms. JACKSON LEE. I now yield 5 minutes to the gentleman from California, Mr. Lungren.

Mr. LUNGREN. Mr. Mann, on the audit evaluation of TSA's effectiveness in assisting passenger rail and mass transit folks, the stakeholders, in preparing for and responding to emergencies, your general assessment is TSA could better support the passenger rail agencies by improving its assessment of emergency preparedness and response capabilities. You made specific recommendations on that, and corrective action was taken.

Are you satisfied with the corrective action taken by TSA in that, and if you are partially satisfied rather than fully satisfied, what further needs to be done?

Mr. MANN. Well, we are satisfied with the action that TSA has undertaken.

Mr. LUNGREN. That is good news. I am glad to hear that.

The tenor of your comment seems to suggest the real concern about the reorganization in the Security Inspector Program, and you detailed some of that. What I am trying to figure out is whether you just have a specific question about the need for this reorganization, or you fundamentally disagree with the manner in which they have determined they are going to carry it out, or the way it is being implemented?

Mr. MANN. Well, sir, we have not studied that issue, and as I mentioned, without studying it further, we are not certain of whether the plan is going to be appropriate, whether it will be what the doctor ordered in order to resolve any issues that are out there.

Mr. LUNGREN. So you don't have any opinion on that?

Mr. MANN. Not at this time, sir.

Mr. LUNGREN. Okay. That is all the questions I have got.

Ms. JACKSON LEE. The gentleman yields back.

The gentleman from Mississippi, the Chairman of the full committee, Mr. Thompson, for 5 minutes.

Mr. THOMPSON. Thank you very much, Madam Chairwoman.

In my comments I talked about to Mr. Kair that there were two critical regulations required by the 9/11 Act to address front-line employee security training and security assessment, and that those regulations are 2 years overdue. Where are we on that?

Mr. KAIR. Yes, sir. The new administrator has come in. He has expressed that surface transportation, as well as these new rules, are a priority for him, and we are in the process of working those now, sir.

Mr. THOMPSON. Is it your job to do it?

Mr. KAIR. Those regulations would be promulgated from our Office of Transportation Sector Network Management. It is a different part of TSA, and I would be happy to get more detail on that. I do know that it is a priority for TSA, and we are working on those as we speak, sir.

Mr. THOMPSON. It is a priority, and it is 2 years overdue.

All right. Do you handle training of inspectors under you?

Mr. KAIR. Yes, sir, I do.

Mr. THOMPSON. Can you tell me why surface inspectors have 2 weeks of mandatory aviation and air cargo training, and only 1 week of surface training when they are first hired?

Mr. KAIR. Sir, the core curriculum they go through is a 5-week program. The first 2 weeks of that is general training on how to become—you know, what the inspection force actually does. They have 1 week of surface inspection, 1 week of aviation, 1 week of cargo.

Then that is also why we were very excited about this new training facility in Pueblo. There they will also be receiving 1 week of basic rail school and 2 weeks of hazardous material handling for surface, which is 6 weeks of surface-specific training. We are also in the process of developing more advanced training for our surface inspectors in this new Pueblo training facility.

Mr. THOMPSON. So 5 weeks, 6 weeks, how many weeks training?

Mr. KAIR. Right now, sir, they have 6 weeks. A brand new surface inspector has 6 weeks of surface-specific training when they are hired, and we are in the process of developing more advanced training in this Pueblo facility as we go farther.

Mr. THOMPSON. Okay. Well, obviously what we have is the old model. Can you provide us with the current training requirements for your inspectors?

Mr. KAIR. We are happy to do so, sir.

Mr. THOMPSON. Are they still required to have mandatory aviation and air cargo training?

Mr. KAIR. Yes, sir. They still receive 1 week of aviation and 1 week of cargo. The rationale for that is that surface inspectors often times are in multimodal facilities, and they do need to have at least an understanding of what the regulations are in those other modes so that when they do identify issues which are of a multimodal nature, they can highlight other inspectors and understand when there might be a vulnerability.

Mr. THOMPSON. For the record, how many inspectors do we have?

Mr. KAIR. Right now, sir, we have a little over 200 inspectors. We are in the process of hiring up to—in the 2010 budget, we were authorized a little over 400 inspectors. We are in the process of hiring them now.

Mr. THOMPSON. Can you provide the committee where you are along that process?

Mr. KAIR. Yes, sir. In fact, we recently changed the hiring process for our inspectors, which I think is a great improvement. We now have a new program where it started just this spring where we currently have 181 openings on a National Register, so that inspectors can apply anywhere for any position in the country.

For those 181 openings, we had 134,000 applications for those positions. We are in the process now of completing those hiring actions, and we expect that they will be complete this fall, and that we will begin the on-boarding process for these final positions.

Mr. THOMPSON. One of the questions that I am confronted with quite a bit, can you provide me the diversity of those inspectors—

Mr. KAIR. Yes, sir, we will be happy to provide that.

Mr. THOMPSON [continuing]. So that we can look at it?

Mr. Mann spoke of the change in the structure that had just recently been provided to him. Is that something of your doing, or was that passed on, in terms of the direction of the training of the inspectors and the supervision?

Mr. KAIR. The organizational change that occurred was under my watch. That was implemented last January, sir.

Mr. THOMPSON. Can you tell me why that change didn't go as to what Mr. Mann was talking about versus what you did?

Mr. KAIR. Yes, sir. The concern that we had was that we wanted to have the same model that we had for other National transportation programs. So, as an example, we have a National program in our TSNM division. They handle the policy development and the stakeholder outreach for all modes of transportation. Then we have Regional Security Inspectors who have the corporate interaction and the National plan out there for all modes of transportation, if it is airport, airline, air cargo. We wanted to replicate that also for the surface areas as well. So you have National forward-deployed people who do report to headquarters. So it is very consistent, that thinking was very inconsistent with what the IG was recommending.

What we also wanted to ensure was that locally our Transportation Security Inspectors also reporting into the FSDs, who had the primary responsibility for the stakeholder liaison and assessing all vulnerabilities for all modes of transportation in their areas of responsibility.

Mr. THOMPSON. All right. Can you provide the staff and this committee with the study that went into that change or what you did to reach that conclusion?

Mr. KAIR. Yes, sir. We would be happy to.

Mr. THOMPSON. Mr. Mann, I know you received that kind of late in the process, and from the comment that I have understood you to say to the Chairwoman, you plan to review what was sent to you versus what you had suggested.

Mr. MANN. Yes, sir, we will. As long as there are clear chains of command, that TSIs are not being tasked by multiple sources,

which was an issue before, and that TSIs are doing surface work, not handing out plastic bags at airports and some of the other functions that we understand that some of the TSIs were actually doing, I think that is a program that the OIG can buy into.

Mr. THOMPSON. So is it your testimony, Mr. Kair, that they are no longer passing out plastic bags and these other items?

Mr. KAIR. Sir, the items Mr. Mann just described was exactly the reason that we made the change that we did. I was also concerned about lines of authority and clear tasking so that we had a National program that everyone understood with clear lines of authority to implement those things. So that is exactly the reason why we did the reorganization that we did last January.

Mr. THOMPSON. Well, let me be clear. Now, Mr. Mann, you are going to, I guess, provide an addendum to the committee once you have had a chance to review what was submitted, or do we need to get another request to you to look at it?

Mr. MANN. Well, a request would be great, sir.

Mr. THOMPSON. We will get you that request. Thank you.

Ms. JACKSON LEE. The gentleman yields back.

Let me have you complete your answer, Mr. Kair and Mr. Mann, on, I think, two points that were left unanswered. It is my understanding that the new makeover of the AFSD is not in the chain of command. Mr. Kair, if you would just clarify that. While you do that, let me ask as well as to why did TSA begin to implement yet another reorganization of the Surface Inspector Program before issuing the overdue rulemakings on security training and assessments? The rulemakings will significantly impact the role of surface inspectors and likely require a corresponding expansion of Federal interaction with stakeholders, I would think. You might want to answer that, and is TSA putting, in essence, the cart before the horse on this?

In addition, Mr. Kair, OIG has recommended TSA perform a staffing study, which to me seems like a reasonable good Government practice. When can we expect TSA to complete a staffing study for the Surface Inspector Program, and that follows the Chairman's comments about issues dealing with diversity?

First start out, you are not in the same chain of command, so it is really apples and oranges and what reasoning went behind that, and if you can finish with the other two questions. Thank you.

Mr. KAIR. Yes, Madam Chairwoman. First, let me say what I am describing, the current organizational structure, was the thinking at the time that the change was made. As I mentioned in my opening statement, the new administrator has taken the stance that he wants to review how we have structured this, so there may be other changes pending on this after his full review of our organizational chain as well as the role of the TSIs out there.

The way that the program is currently structured after this last change is that the Regional Security Inspectors are responsible for the strategic look across the country and the direct corporate interaction from an inspections standpoint with our major stakeholders out there. So they do provide a mentorship and oversight of the inspectors out there from a programmatic standpoint.

Tactically the Transportation Security Inspectors in the field have the best knowledge of the environment that they are working

in, and they do report in locally to the AFSD for inspection at the local site, who does report to the Federal Security Director.

One of the things that we are working on and including in the job tools for the analysis of the job description for our AFSDs for Inspection is a much more multimodal requirement for filling those positions in the future.

Ma'am, as to your question why not wait until the rulemaking is complete, I thought it was important at the time the decision was made that we did have clear lines of authority, clear tasking, and a clear understanding of what those roles and responsibilities of our inspectors are, and also so that our stakeholders knew who that point of contact was for any issue they had from a corporate perspective, and that we could get those RSIs to provide oversight and leadership to our TSIs in the field. So we wanted to go ahead and make that change in advance of the rulemaking taking place in the future.

As for the OIG's recommendation for a staffing study, we concur with that, and we actually have a third party that is just now completing that staffing study. It is due back in to us imminently. We will be validating that staffing study and will be happy to provide the results of that to the committee.

Ms. JACKSON LEE. We would like to do that.

I would like to yield to the gentleman from Mississippi.

Mr. THOMPSON. Thank you. I will be brief, Madam Chairwoman.

Staff has provided me with the chain of authority for field inspectors. Mr. Mann, is this what you were provided with? Have you seen this?

Mr. MANN. Yes, I have seen that, Chairman.

Mr. THOMPSON. Thank you. I am just concerned that these Regional Security Inspectors are on the policy side of the chart, and their work is over on the field side. Can you just help me out right there?

Mr. KAIR. Is that for me, sir?

Mr. THOMPSON. Yes.

Mr. KAIR. The idea here, sir, is in the field our TSIs will be directly responsible for doing the inspections and report in through the FSD the operational chain. But the program itself, the policy side, will be delivered by the Regional Security Inspectors, and that is actually very consistent with how we are currently structured for air cargo, for airports, for airlines. The way the program is actually delivered, the policy is handled from headquarters, the actual implementation is handled from the field, so that the required responsibilities for the Federal Security Director for all modes of transportation can be fulfilled out in the field.

Mr. THOMPSON. Thank you very much.

Mr. Mann, you will get your letter, I promise you, because we need to kind of clear that up. We are just trying to make sure that the supervision is there, because ultimately it is the people doing the work that really need direction, and if it is not clear on the chart who is supervising, who is doing things, then you can imagine how those individuals who are tasked with trying to actually perform the work, how confused it could be with them.

So, Madam Chairwoman, I will be happy to work with you on making sure we get some additional review on this matter.

I yield back.

Ms. JACKSON LEE. The gentleman yields back. Let me thank the Chairman.

Let me just thank the witnesses and say that this is a query that we would want to continue. This organizational chart could stand additional vetting. We know that the administrator will have the opportunity to review it. Please acknowledge, as we acknowledged on the record, that we have an interest in his assessment. As the Chairman has indicated, a formal inquiry letter will come to the OIG so that we can have a more detailed analysis of the changes. I think the change in command, or the answer to that, brings about more questions. But we would like to be able to allow you to go back and provide us with some of your reasoning.

So, with that being stated for the record, and there being no further questions for our first panel, I thank the witnesses for appearing before the subcommittee today. The Members of the subcommittee may have additional questions for you, and we ask that you respond to them expeditiously in writing.

We now welcome our second panel to the witness table.

This being the time for our second panel, let me suggest to you that we would look forward to a summarizing of your statement in a shorter time if you desire so that we can pose questions to both of you, and that we would have additional time for questions, as we are getting notification that we may be voting. The two of you have been very patient, and I am just delighted to have you today.

So I welcome our second panel of witnesses. Our first witness is Mr. Thomas Lambert, senior vice president and Chief of Police of the Metropolitan Transit Authority of Harris County, Texas. At Houston Metro, Chief Lambert is responsible for directing and managing police operations, traffic management activities, high-occupancy vehicle lane operations, and management emergency preparedness and operations, intelligent transportation systems projects, and safe—system safety.

Before joining Houston Metro in 1979, Chief Lambert served as a senior police officer with the Austin, Texas, Police Department.

I do want to add that as the Houston Metro grows, the responsibility of Chief Lambert is expanding. But more importantly, since I want to welcome a fellow Houstonian, I want the record to note that Chief Lambert collaborates with all other police agencies inasmuch as the Metro system, because of its bus system, really overlaps county and city jurisdiction, more than one county, and he has the responsibility from the surface perspective to be the eyes and ears and the front line of safety in our community. I think as a witness he embodies the issues and concerns we have on surface transportation security.

So you are very welcomed, Mr. Lambert.

We are delighted to have our second witness, who is Mr. Clyde Hart, senior vice president for government affairs and policy at the American Bus Association, where he has served in that capacity since 2001. The American Bus Association represents approximately 1,000 motorcoach and tour companies in the United States and Canada.

Mr. Hart also serves as a member of the Federal Motor Carrier Safety Administration's Motor Carrier Safety Advisory Committee, which advises the administrator on motor carrier safety issues.

We note that one of the severe inadequacies of homeland security is dealing with our bus transportation. We are gratified of your long-standing leadership and your presence here today.

Without objection, the witnesses' full statements will be inserted into the record. I now ask each witness to summarize their statement, beginning with Chief Lambert.

Chief Lambert, you are recognized.

STATEMENT OF THOMAS C. LAMBERT, CHIEF OF POLICE, SENIOR VICE PRESIDENT FOR PUBLIC SAFETY, METROPOLITAN TRANSIT AUTHORITY OF HARRIS COUNTY, TEXAS

Chief LAMBERT. Madam Chairwoman and Chairman Thompson, thank you for the opportunity to appear today. I am going to be brief. I want to highlight several points.

We are very encouraged by Administrator Pistole's comments that he really wants to place greater significance on surface transportation security, and we look forward to working with him to make sure that we strengthen that opportunity and that commitment.

We want to recognize that the Transportation Security Administration has done some very positive things, and I will give a couple of examples. The Peer Advisory Group that represents transit police chiefs and security directors from across the country have had an opportunity for the past several years to meet with TSA mass transit representatives monthly in conference calls to really focus on issues and problem resolution of how we can collectively work together to strengthen the safety and security of the transit systems, both rail and bus modes, across the country, and we want to recognize them for that.

The Safety and Security Roundtables that TSA and the Federal Transit Administration that jointly sponsor, bringing in safety police and security chiefs from across the country, the top 50 properties, that is a great opportunity to really frame issues and problem solve, and so we want to recognize them for that.

But we also think it is very important, the topic today, and the Surface Transportation Inspector Program, that we believe it has lost some focus, and it has lost some clear responsibilities by being associated more with aviation. The view is, we believe, it should be focused back on surface, and I would take the position perhaps mode-specific, and we would look forward to working with TSA.

But look at mass transit. There is an existing structure today under the Mass Transit Division that has already got a stakeholder network, the peer group working with stakeholders every month to talk about issues. Isn't this an opportunity to systematically approach the surface inspector mode-specific to help reinforce that across the country? We think that is an opportunity. So we look forward to working with the administrator as he looks at that.

We also think that mass transit is an opportunity that does not shy away from guidelines, that does not shy away from rule-making. We think this is a great opportunity, but we would encourage using the Peer Advisory Group industry practitioners, folks

that are responsible every day to police and secure our transit systems across the country, to be very active participants in helping to find practical, reasonable rules to make sure they can help us meet those needs.

Madam Chairwoman, with that I will conclude. We look forward to answering any questions you may have.

[The statement of Chief Lambert follows:]

PREPARED STATEMENT OF THOMAS C. LAMBERT

JULY 28, 2010

Good afternoon Chairwoman Jackson Lee, Ranking Member Dent, and distinguished Members of the subcommittee. Thank you for the opportunity to visit with you today on this very important topic. As a mass transit security practitioner, I know all too well the challenges of protecting our riding public, employees, and infrastructure.

Let me begin by stating that we support the efforts of the Transportation Security Administration (TSA) and the intended mission of the Surface Transportation Security Inspector program. We are also encouraged by Administrator John Pistole's commitment to placing mass transit security on the same priority as aviation security. We look forward to working closely with him as he strengthens TSA's leadership in this regard.

TSA has taken some positive steps in helping transit agencies secure their systems. Programs like the Peer Advisory Group and the Transit Safety/Security Roundtable are valuable tools that must continue to be used. The Peer Advisory Group, made up of Transit Police and Security Chiefs, is a great forum for the discussion of transit security issues and initiatives. The Roundtable, a joint effort between TSA and the Federal Transit Administration (FTA), fosters an open exchange of information between Transit Police, Security, and Safety Chiefs. Through this forum both the TSA and FTA maintain a partnership with their mass transit stakeholders.

Another important TSA component is the reason we are here today, the Surface Transportation Security Inspector program. In this program, TSA has committed resources and personnel designed to enhance the security of our Nation's surface transportation system. Surface Transportation Security Inspectors have a presence today that did not previously exist. They act as local liaisons between TSA and transit agencies, conduct needed assessments via BASE reviews, and ensure that transit agencies follow guidelines and rules established by TSA. While we believe the Surface Transportation Security Inspector program to be a necessary and vital part of transit security, we would like to offer some suggestions for enhancing the program that would increase the effectiveness of Surface Transportation Security Inspectors, in our view.

It is our strong opinion that TSA's Mass Transit Division should be responsible for managing, directing, and administering the Surface Transportation Security Inspector program, especially for Surface Inspectors who are responsible for duties related to mass transit. Furthermore, the Surface Inspectors should be modal specific and have a background in transit security or transit policing along with an understanding of their application to a transit environment. The current structure, which dictates that Surface Inspectors report to Federal Security Directors, is not conducive to a focus on mass transit and has fostered a lack of clear and defined roles for Surface Transportation Security Inspectors. We feel that by reporting to Aviation Management the mission, focus, and effectiveness of Surface Inspectors is diluted. Furthermore, we feel that TSA's Mass Transit Division is better suited to understand the specific needs and unique security environment of mass transit agencies, both bus and rail. Additionally, the Mass Transit Division's regular interaction with local transit agencies will allow for enhanced partnerships and networking that will serve to further strengthen the Surface Transportation Security Inspector program. Lastly, we believe that not only will the Surface Inspector's mission focus be better served by reporting to the Mass Transit Division; their training and communication of mass transit security issues throughout TSA will be strengthened and be of greater benefit to all stakeholders. A greater positive impact on transit security can be achieved by deploying well trained and experienced Surface Inspectors who focus specifically on mass transit and answer to TSA Headquarters through the Mass Transit Division.

The final area of TSA's efforts I would like to discuss with you today is rule-making. There is no doubt that many industries shy away from Federal rulemaking, but here we have a great opportunity to establish guidelines and regulations that will strengthen transit security Nation-wide while taking into consideration the uniqueness of various transit operations across this country. We firmly believe that this can be accomplished through an open, honest, and positive dialogue between TSA and the transit industry. We cannot stress enough the importance of establishing a partnership between TSA and local transit police and security chiefs in order to develop rules, regulations, and policies that are realistic and have a true positive impact on transit security. No place is there a better opportunity for this than TSA's Peer Advisory Group. This group of experienced transit police and security practitioners can play a vital role in working with TSA to develop appropriate rules and regulations that will create a win-win situation to enhance the security of our transit systems. Here again the value of the Surface Transportation Security Inspector program can play a key role by bringing a global transportation security view to transit agencies who can then act locally to secure their transit systems.

In closing, I want to reiterate my support for TSA and the mission of the Surface Transportation Security Inspector program. Recent events continue to illustrate that we face a constant threat from those wishing to do us harm. While much of this threat and the security resources to respond have been directed at the aviation sector, history has clearly shown that mass transit continues to be a target of choice for terrorist attacks. We are confident that given the opportunity to work together with TSA on these important issues we can build strong relationships that will serve to greatly enhance the protection of our riding public, employees, and the systems they utilize on a daily basis. Thank you again for the opportunity to appear before you today and I will gladly answer any questions that you may have.

Ms. JACKSON LEE. I thank you very much for your testimony.
Now I recognize Mr. Hart.

**STATEMENT OF CLYDE J. HART, JR., SENIOR VICE PRESIDENT,
GOVERNMENT AFFAIRS AND POLICY, AMERICAN BUS ASSO-
CIATION**

Mr. HART. Thank you, Madam Chairwoman and Chairman Thompson. It is an honor to be here.

First of all, let me say to Chief Lambert, amen. We agree with his statement.

ABA has noted several shortcomings in the way TSA interacts with the private bus industry in fulfilling its security mission. We do appreciate the difficulty of that mission. But we must agree with the conclusions of the GAO report in February 2009 when it said industry officials stated that they generally desire greater communication with TSA. More specifically, the officials noted that they did not fully understand TSA's strategy for securing the commercial vehicle sector or what roles and responsibilities the agency expected from industry.

The lack of communication between TSA and the industry is not limited to the Sector Coordinating Council, which was set up by TSA to bring what the Chief notes as the stakeholders together so that we can together find our way to manage security, but over the years we have noticed that the SCC has withered on the vine for lack of attention by the TSA.

We also, I guess bemoan is a proper word, the lack of communication between TSA and the programs that they set up, Highway Watch, First Observer, and the Homeland Security Information Network.

A further shortcoming in TSA's approach is the failure to complete the Congressionally-mandated threat vulnerability assessments for the motorcoach industry. In the 9/11 Act, Congress mandated new assessments. In January 2009, the ABA worked with

TSA officials on the threat scenario evaluation portion of this project, and to date there has been no sign that the new study is near completion.

The failure to complete this assessment is particularly exasperating to the bus industry, because the Office of Management and Budget has for the last 2 years recommended the elimination of the Congressionally-approved Bus Security Grant program on the ground that any such security funding should await the completion of TSA's threat vulnerability assessment.

As a further irritant, the bus industry is sure that evidence of risk exists, but we won't find it until TSA finishes their threat vulnerability assessment.

Finally, ABA is concerned about the duplication of security efforts that seems to be going on by TSA and the Federal Motor Carriers Safety Administration. ABA perceives that TSA plans to conduct security audits with its own cadre of TSIs, yet the security audits are not that different from the safety and security audits now conducted by the FMCSA. It appears to ABA that it would be far more efficient and less expensive if the FMCSA were to conduct the security reviews with FMCSA personnel who are very familiar with the bus industry rather than to try and train new TSI inspectors on a completely new industry.

That concludes my statement. I would be willing to answer any questions anybody has. Thank you.

[The statement of Mr. Hart follows:]

PREPARED STATEMENT OF CLYDE J. HART, JR.

JULY 28, 2010

Chairman Jackson Lee and Members of the subcommittee, my name is Clyde Hart and I am the Senior Vice President for Government Affairs and Policy of the American Bus Association (ABA). First of all, Chairman Jackson Lee, the ABA would like to applaud your leadership in holding this hearing. Security is our No. 1 concern and we share with you your insistence that we all do everything we can to improve the security of the transportation system and infrastructure that so many of the Nation's citizens depend upon every day.

The ABA is the trade association for the private over-the-road bus and motorcoach industry. The association is comprised of some 3,500 member organizations and companies including 1,000 motorcoach operators. There are approximately 3,800 privately operated motorcoach companies in the United States. The ABA motorcoach companies provide all manner of transportation services to the Nation. These services include scheduled service, charter and tour, commuter services, and airport shuttle operations.

ABA members are large (Greyhound Lines, Coach America domiciled in Dallas, Texas; Coach USA, in New Jersey) but other than a handful, are mostly small family-owned businesses (Transbridge Lines in Pennsylvania and Indian Trails in Michigan with fleet sizes of about 70 motorcoaches). In fact, the vast majority of bus companies operate between two and ten motorcoaches. The motorcoach industry is varied in many other ways. For example, some 28,000 motorcoaches provide access to all critical infrastructure and key resources in the Nation. In addition, there are approximately 1,200 identified station/terminal locations for intercity fixed route operations. Over the past several years there has also been a rapid growth in intercity on-demand/curbside pickup service. A recent New York Times article noted with cuts in airline flights and "ridership on trains . . . relatively flat" bus transportation has grown 15% in the last 2 years ("The Humble Bus Takes Off". New York Times, Sunday, July 25, 2010, Travel Section, pg. 3). A copy of this article is appended to my testimony.* Moreover, these same trends in other transportation

*This document is also available at <http://www.nytimes.com/2010/07/25/travel/25Prac.html>.

modes have fueled growth in charter and tour services which continues to provide the greatest portion of the industry's annual revenue. Finally, over the past decade we have also seen a rapid growth in urban/suburban commuter service. What binds all of the bus operators together is our ability and expertise in safely and efficiently transporting people throughout the Nation. All told in the past year private bus and motorcoach operators provided service to 750 million passenger trips, more than the domestic airlines. And the industry does all of this with only 0.06 percent of all Federal funding for transportation.

As you will imagine, given our responsibilities, safety and security is the industry's first priority and ABA strongly supports the efforts by Congress to enhance security for bus transportation by creating a level playing field, where all bus companies operate under consistent security policies and training standards. ABA and its members are well aware that globally buses and bus facilities are an attractive target for terrorists, as the large number of such attacks over the past decades clearly demonstrates. Most recently, in a March 2010 report entitled: "Terrorist Attacks on Public Bus Transportation: A Preliminary Empirical Analysis" (MTI Report WP 09-01) the Mineta Transportation Institute reported that since 1970 buses and bus stations were the targets of more than 51% of the total number of attacks (p. 19). We note that in the Mineta Report "public bus transportation" also includes the facilities, passengers, and employees of private motorcoach companies.

The ABA, as the voice of the private bus industry has been a partner in providing security with the Federal Government since 9/11. Shortly after the attacks on 9/11 ABA worked with this committee and with the Appropriations Committee to implement an Intercity Bus Security Grant Program (IBSGP). The IBSGP is a small competitive grant program which allows bus operating companies to compete for grants to implement security measures to protect their passengers, employees, and facilities. Since the fiscal year 2002 this program has seen ABA members use these funds, as well as their own money, to provide emergency communications between dispatch and emergency first responders; allowed bus companies to "wand" passengers at larger terminals; install cameras in bus staging areas and maintenance facilities and install engine "kill" devices on motorcoaches. The IBSGP, never funded at over \$12 million each year, is making a positive difference in our ability to protect those who depend on us.

But while ABA is proud of our accomplishments to date we recognize that we have more to do and we are concerned about several aspects of TSA's on-going efforts. Shortly after 9/11 transportation security efforts were conducted under the authority of the United States Department of Transportation (USDOT). One DOT project was a bus security threat/vulnerability study conducted by the Volpe Transportation Center. While the complete content of the study remains classified, it did establish priorities for the hardening of both public and private bus transportation facilities as an aid to security. With the aid of grants from the IBSGP, ABA developed a detailed bus company security training program as well as a company security plan and vulnerability assessment template. Both of these tools are now under TSA control and are being revised. However, one ABA concern is that TSA's revisions are being driven by what is now a 9-year-old study.

Under the 9/11 Act Congress directed TSA to conduct a new threat/vulnerability assessment. In January 2009 ABA worked with TSA officials in the threat scenario evaluation portion of this project. To date there is no sign that this new study is near completion. This is the study that should be driving the forthcoming TSA regulations and any subsequent training or policy changes. I must also note here that for the past 2 years the Federal Office of Management and Budget (OMB) has recommended eliminating the IBSGP on the ground that there is no threat/vulnerability assessment for the motorcoach industry. The ABA continues to argue that the need for such a program is great and other studies have documented the need for such a program, including the GAO's February 2009 report titled, "Risk-Based Approach Needed to Secure the Commercial Vehicle Sector". And as noted above the Mineta report clearly highlights the need for the IBSGP program. Even more fundamentally, ABA and its members believe that the evidence of risk to the industry is unavailable solely due to the lack of movement by TSA to complete the required threat/vulnerability study. TSA must finish this study and do so before there is any further action taken on motorcoach security regulations or the development of training standards. Failure to finish this study before regulations are announced will put the industry at risk of always lagging in security via "out of date" regulations.

In addition to our request for TSA to complete the threat/vulnerability study, ABA also has concerns regarding the lack of information sharing between TSA and the industry. Until 5 years ago ABA and industry operators were kept informed about security issues and emergency matters by DOT and then TSA personnel through initiatives and communications pathways such as HITRAC, Highway Watch, First

Observer (which has no motorcoach module) and the Homeland Security Information Network (HSIN) to name a few. These and other regular sources of information ceased to provide updated security information to the motorcoach industry in the middle of 2007 and have not been reactivated. Our industry now relies solely on information from the Department of Homeland Security Infrastructure Protection private sector liaison officer. But it is ABA's belief that it and its members still lack vital information and no security program can be sustained if it is starved of up-to-date and accurate information. The industry does not receive any information on possible threats in which our expertise would be useful and perhaps vital. As one example, ABA notes a recent incident aboard a private motorcoach in Portsmouth, New Hampshire in which TSA specifically informed ABA that the association would not receive any information relating to the incident. The reason given was that the agency official "did not believe in broadcasting threats". The industry was left to watch the events unfold on the news. The partnership the industry had is now decidedly one-sided and ABA believes this turn of events is a detriment to the industry, the agency, and the public.

Finally, ABA is concerned about the duplicative security efforts by two separate Federal agencies. Motorcoach companies currently undergo safety audits conducted by the Federal Motor Carrier Safety Administration (FMCSA) to determine the carriers' fitness to operate. The TSA intends to establish a separate, parallel program to conduct security audits using its own cadre of TSIs. ABA's concern with this proposal is a matter of the proper use of resources. FMCSA and State safety inspectors operating under the Motor Carrier Safety Assistance Program (MCSAP) conducted some 3,300 so-called compliance reviews on motorcoach companies between 2005 and 2008. In addition, it also conducts Security Contact Reviews (SCRs). This SCR program was previously called Security Sensitivity Visits (SSVs), of which FMCSA conducted approximately 30,000 between October 2001 and April 2002. These SCRs are primarily directed towards hazardous materials carriers that fit certain criteria, but they fundamentally include an assessment and verification of a company's security posture. In 2009, FMCSA conducted 1,958 security contact reviews. The FMCSA is funded at the level of \$400 million per year for safety inspections. Furthermore, the FMCSA and the States' inspectors are generally very familiar with bus company operations. In sharp contrast, only 15 corporate security reviews were conducted by TSA on motorcoach companies from 2005–2008. It is safe to say that TSA inspectors, no matter how well trained, will not have the level of knowledge of the bus industry as their FMCSA colleagues.

From the ABA's perspective, safety and security are not mutually exclusive. Security is a component of safety. ABA made this concern known to TSA through comments submitted to the public docket on this issue in August of 2009, a copy of those comments are appended to this testimony. Also, appended to our comments is a copy of TSA's response to our filing. ABA continues to insist that there is no reason why the Corporate Security review process cannot be incorporated into the FMCSA safety process. It appears to ABA that it would take less funding to increase the scope of the FMCSA program than to fund a new separate program. In addition, the risks attendant with maintaining a separate data base that comes with a separate program is eliminated.

Since 9/11 the ABA has been in the first rank of the transportation industry stakeholders who have put security at the top of the list of concerns. Right after 9/11 the ABA incorporated security as a prime duty of the ABA's Bus Industry Safety Council (BISC), the ABA funded organization that is comprised of the safety and security directors of ABA member companies. Our members never forget that they are transporting someone's children, grandparents, or breadwinner to work, home, medical care or on vacation. We want to do everything we can to ensure that our passengers, employees, and citizens stay as safe and secure as possible. The ABA wants to assure you, Chairman Jackson Lee, and the Members of the committee of our willingness to work with you at every turn.

Thank you and I am happy to answer any questions.

Practical Traveler

The Humble Bus Takes Off

By SUSAN STELLIN

Published: July 16, 2010

HIGH-SPEED rail may be getting lots of attention — and money — from the Obama administration, but it turns out the transportation success story of the last few years is the bus.

[Enlarge This Image](#)



At a time when flights have been cut and ridership on trains has been relatively flat, traveling by bus has been on the rise. Last year, bus service increased 5 percent, and it rose nearly 10 percent in 2008, according to Joseph Schwieterman, a DePaul University professor who has studied the decline and comeback of bus travel. In fact, in 2007, when he and his team of transportation researchers began studying why travelers shunned buses, they found themselves in the midst of a turnaround.

While 18-to-35-year-olds were the first to embrace new bus lines like MegaBus and BoltBus, which offer cheap express service between major cities in the Midwest and Northeast, the appeal of bus travel has expanded to include [business travelers](#) and riders older than 35 who want to avoid the stress of driving.

“Even the older generation has abandoned their disdain for the bus,” Dr. Schwieterman said. “They don’t even think of it in the same vein as Greyhound.”

Gary Petty, a retiree from Alexandria, Va., is among those who have given the new bus lines a try. He and his wife took the Tripper Bus from Arlington, Va., to New York last fall, and described it as a clean, comfortable ride.

“I normally don’t mind driving, but at that particular time the thought of hitting traffic somewhere around the New Jersey Turnpike was really off-putting for me,” Mr. Petty said. “So we took the bus, and I really enjoyed having someone else in charge.”

While the appeal of bus travel has long been low fares (which are still often less than \$25 one way), what has spurred their revival is the focus on improving the entire experience,

from ticketing to arrival. Here are ways new lines like MegaBus and BoltBus have transformed bus service into a cool way to get around.

Online Ticketing

MegaBus and BoltBus primarily sell tickets through their Web sites, and though both companies also sell tickets over the phone, they charge \$3 extra for reservations booked by an agent. BoltBus even has a mobile site so passengers can more easily buy a ticket using a smartphone. Your receipt is sent by e-mail or text message and serves as your boarding pass, which you can print or show to the driver on your phone.

This automated ticketing process not only helps the bus companies keep costs down, it also influences the demographics of who's on board. "With the bus, there's this apprehension about the clientele you'll be surrounded by," Mr. Schwieterman said, explaining that online ticketing leads to a more affluent customer base than many people expect to find riding a bus.

Guaranteed Seats

Worried about having to stand up in the aisle in a crowded bus, or to wait hours for the next departure? The newer lines have overcome such scenarios by guaranteeing a seat to passengers who buy tickets in advance.

"There's no walking up and finding yourself the 70th person in line and there are only 50 seats on the bus," said Dale Moser, president of MegaBus, a subsidiary of Coach USA.

You can still buy a walk-up ticket if there's space available, though you'll pay a slightly higher fare. There is also more flexibility to change your ticket than you get with airline or rail travel. To change the date of your bus trip, you may have to pay more if the new fare is higher. But Tim Stokes, a BoltBus spokesman, said that on your scheduled departure date, you can catch a bus leaving before (or even after) your ticketed time if there's a seat available.

Curbside Departures

One reason bus travel has developed a bad reputation is the location of bus stations, which are often in neighborhoods where fears about crime keep riders away. But BoltBus, MegaBus and other new lines typically avoid those stations and depart from central curbside locations instead.

Pickup and drop-off points are usually near transportation hubs, like Pennsylvania Station in New York City, or the Metro Center subway stop in Washington. The downside of waiting on the curb is that you're not sheltered from snow or rain, but the trade-off is convenience.

“When people get to their destination, they’re either in walking distance of where they want to be or near public transit,” Mr. Moser said.

Express Service

Most trips under four hours are express, so riders are not slowed down by stops in tiny towns along the way. The scheduled travel time from Boston to New York is four and a quarter hours; from Philadelphia to Washington, it’s about three hours; and from Chicago to Madison, Wis., it’s two and a half hours.

Trips under four hours tend to be the sweet spot for express buses, but Megabus has been adding longer routes and now serves more than 40 cities in the Northeast, Midwest and Canada. BoltBus concentrates on five Northeastern cities — New York, Boston, Philadelphia, Baltimore and Washington — while several other lines, like Tripper Bus, DC2NY and Vamoose, focus on the competitive route between the capital and New York City, and sometimes make multiple stops. For those Northeastern routes, BusJunction.com is a useful tool to compare options and prices.

Express bus service has been slower to catch on in the West and South, where the distance between cities is greater and the driving culture reigns. But Amy Veiga, marketing manager for GoToBus.com, which sells tickets on bus routes around the country, said lesser-known companies are popping up to serve those markets, too. “It’s really moving to be more of a nationwide system rather than just focused on the Northeast,” she said.

On-Board Technology

Mr. Schwieterman’s latest research revealed an interesting reason why more people are opting for the bus: the ability to use laptops, cellphones, music players and other gadgets on board. Most express bus lines offer free Wi-Fi and power outlets, and although Internet service can be slow or spotty, Mr. Schwieterman said, “People seem to roll with the punches on that.”

For a 2009 study, his team of researchers counted the number of people using technology on express buses (40 percent of riders), trains (37 percent) and planes (18 percent), concluding that the option to text, talk, surf and listen to music — uninterrupted by rules about shutting down electronics on planes — influenced passengers’ travel choices. Even Greyhound has added free Wi-Fi on some of its newer buses on routes between Boston, New York and Washington, but warns on its Web site that getting a new bus is not guaranteed.

It also helps offset longer travel times on the bus, which are subject to traffic backups and bad weather.

“On the East Coast, the reliability suffers a bit because of the tolls, tunnels and traffic,” Mr. Schwieterman said, pointing out that some of these issues could be alleviated by dedicated lanes for buses, especially leaving Manhattan.

“A big deterrent to the industry’s growth is the lack of meaningful congestion management,” he said. “Their growth would be amazing if there were policies to give them traffic priority.”

A version of this article appeared in print on July 25, 2010, on page TR3 of the New York edition.



American Trucking Associations
950 N. Glebe Road, Suite 200, Arlington, VA 22203

American Bus Association
700 13th Street NW, Suite 575, Washington, DC 20005

August 14, 2009

Via email to ginger.lemay@dhs.gov

Ms. Ginger LeMay
PRA Officer, Office of Information Technology
Transportation Security Administration
601 South 12th Street
Arlington, VA 20598-6011

Re: OMB Control Number: 1652-0036: "Intent to Request Renewal from OMB of One Current Public Collection of Information: Highway Corporate Security Review"

The American Trucking Associations (ATA)¹ and the American Bus Association (ABA) submit these comments in response to the Transportation Security Administration's Intent to Request Renewal from the Office of Management and Budget of One Current Public Collection of Information: Highway Corporate Security Review.² ATA previously commented on the original information collection notice, suggesting that the Transportation Security Administration (TSA) better coordinate its Corporate Security Review (CSR) program with the Federal Motor Carrier Safety Administration's (FMCSA) Security Contact Review (SCR) inspections.³ Our organizations are disappointed that the recommendations, which would have both eliminated redundancies and saved taxpayer funds, were largely ignored. TSA now is presenting its information collection request to the Office of Management and Budget (OMB) unchanged.

We recommend that TSA reconsider its submission to OMB and work to ease the financial and administrative burdens on the taxpayer by adopting ATA's earlier suggestions:

¹ ATA is a federation of motor carriers, state trucking associations, and national trucking conferences that promotes and protects the interests of the trucking industry. Directly, and through its affiliated organizations, ATA represents more than 37,000 motor carriers of every size, type, and class in the U.S., Canada and Mexico.

² See 74 *Federal Register* 28264-5 (June 15, 2009).

³ See 74 *Federal Register* 9620 (March 5, 2009) for original Information Collection Notice. A copy of ATA's comments on that request is available online at <http://www.truckline.com/AdvIssues/Security/Documents/ATA%20CSR%20Comments%20FINAL.pdf>.

Comments of the American Trucking Associations and American Bus Association
 OMB Control Number: 1652-0036
 Page 2 of 4

- TSA should review the data already collected through FMCSA's SCR and other FMCSA programs rather than replicate aspects of other federal security audit programs;
- TSA should leverage the resources identified in its October 2008 Memorandum of Understanding (MOU) with FMCSA and build upon its previous collaboration in the Missouri CSR Pilot project to appropriately incorporate security measures from FMCSA's SCR and other FMCSA-administered review programs; and
- If TSA believes that the SCR is not effective in certifying that trucking companies have established compliant security programs, then TSA should advise FMCSA as to the additional specific information that FMCSA needs to collect in the SCR process.

In addition to the justification offered in our earlier set of comments, we offer two further reasons that TSA should partner with FMCSA rather than compete with its sister agency. These matters go to the very the purpose underlying the OMB review of information collections, namely that the collection is unnecessary and undermines quality and accuracy of federal programs. The two further reasons are as follow:

A Separate Information Collection is Unnecessary

In their Notice, TSA states that they must continue to administer the CSR as a stand alone program in order to support their security mission. Specifically, TSA believes "the relationships these face-to-face contacts foster are critical to the Federal Government's ability to reach out to the surface transportation stakeholders affected by the CSRs."⁴ Despite this assertion, TSA has moved to train State police to perform the CSRs. If TSA conducts CSRs through State police, the agency will be subcontracting out any relationships with stakeholders before they can be formed, much less maintained. Secondly, these State police inspectors are the same personnel who administer the FMCSA's SCR inspections. Thus, TSA is asking the same personnel to inspect the same carriers for virtually the same criteria as a pre-existing FMCSA information collection.

The notice also states that TSA intends to conduct 400 CSRs yearly. According to the Pipeline and Hazardous Materials Safety Administration's (PHMSA) 2008-2009 Registration Data, just under 40,000 companies are registered to transport hazardous materials by highway.⁵ Under this scenario, TSA will need 100 years to perform a CSR for every hazardous materials hauler registered with PHMSA, making return visits to companies that volunteer for CSRs roughly once a century. The frequency and manner in which CSRs are conducted is inadequate for TSA's stated intention of building relationships.

⁴ 74 *Federal Register* 28265 (June 15, 2009).

⁵ Pipeline and Hazardous Materials Safety Administration. Registration Data for 2008-2009. <http://www.phmsa.dot.gov/portal/site/PHMSA/menuitem.ebdc7a8a7e39f2e55cf2031050248a0c/?vgnextoid=d37d8490d52de110VgnVCM1000009ed07898RCRD&vgnextchannel=218a2b91769cc110VgnVCM1000009ed07898RCRD&vgnextfmt=print>.

Comments of the American Trucking Associations and American Bus Association
OMB Control Number: 1652-0036
Page 3 of 4

We also note that TSA has mischaracterized the burden associated with this information collection. The *Federal Register* notice states that each CSR takes two to three hours to complete and that the total annual cost to respondents is zero.⁶ Putting aside the actual time that each visit takes (which can easily exceed three hours), TSA representatives must be escorted by one or more employees while on-site and typically interview several additional employees during their visit. The costs associated with these activities are not zero. TSA must properly include the respondent's employees' costs in the cost burden associated with the CSRs.

Enforcement

TSA's insistence that the same inspectors administer different reviews under multiple programs has already created confusion on the enforcement front. One ATA member carrier reported that an inspector attempted to cite the company for "violating" TSA's *Voluntary Security Action Items (SAI)*, a series of countermeasures recommended to motor carriers that undergo a CSR. When the company's security officer protested that the SAIs are not required by regulation, the inspector instead cited the company for failing to follow their site security plan—even though the SAIs were not incorporated into said plan. This is an example of TSA's failure to provide adequate training on the goals and scope of the program. When multiple programs are subcontracted to the same inspectors, such errors will only proliferate. Combining the programs reduces opportunities for confusion.

Conclusion

TSA and FMCSA are each inspecting motor carriers and each inspection program has significant overlapping criteria. These overlaps are a waste of scarce government resources and create additional administrative burdens for the regulated community. To eliminate these redundancies and waste, TSA should work with FMCSA to broaden the scope of the SCR program and should be privy to the data generated under the program. TSA should also retain the authority to conduct follow-up visits where necessary, but TSA should not be running a largely redundant inspection program. The areas of motor carrier safety and security are inextricably linked and government efforts to encourage safety and security improvements should be standardized to ensure maximum adoption. TSA has already taken the first step by enlisting the State police that assist FMCSA in their inspections. TSA simply needs to take the second step and work with FMCSA to align the security requirements for the two programs. GAO has also suggested this approach, stating:

By leveraging resources with FMCSA, TSA may be able to address other priorities, such as conducting additional vulnerability assessments,

⁶ *Id.* at 28265/1.

Comments of the American Trucking Associations and American Bus Association
OMB Control Number: 1652-0036
Page 4 of 4

improving security mitigation programs beyond the hazardous materials sector, and addressing highway infrastructure protection.⁷

TSA should implement these suggested changes. By working with FMCSA, the State police through the Commercial Vehicle Safety Alliance, and the Highway Motor Carrier Sector Coordinating Council, a truly robust and effective program can be implemented.

Thank you for considering our concerns on this issue. Should you have any questions related to these issues, please contact ATA's Boyd Stephenson at 703-838-7982 or bstephenson@trucking.org or ABA's Norman Littler at 202-842-1645 or nlitter@buses.org.

Respectfully submitted,



Boyd Stephenson
Manager
Security and Cross Border Operations
American Trucking Associations



Clyde J. Hart, Jr.
Senior Vice President
Government Affairs
American Bus Association

cc: Rose McMurray
Acting Administrator
Federal Motor Carrier Safety Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

Kevin Neyland
Office of Information and Regulatory Affairs Acting Administrator
Office of Management and Budget
The White House
1600 Pennsylvania Ave. NW
Washington, DC 20500

⁷ U.S. General Accounting Office. *Commercial Vehicle Safety: Risk-Based Approach Needed to Secure the Commercial Vehicle Sector*. 27 February 2009. <http://www.gao.gov/new.items/d0985.pdf>.

U.S. Department of Homeland Security
Arlington, VA 20598-6028



Transportation
Security
Administration

November 6, 2009

Boyd Stephenson, Manager
Security and Cross Border Operations
American Trucking Associations

Clyde J. Hart, Jr.
Senior Vice President
Government Affairs
American Bus Association

Gentlemen:

I thank you for your joint letter dated August 14, 2009 in which you responded to the Federal Register Notice regarding our application for renewal of the Corporate Security Review (CSR) OMB control number. On behalf of TSA, I would like to respond to your comments, which I believe are shared by many in our stakeholder community.

Since the beginning of the CSR initiative several years ago we have come to rely on the CSR as a valuable tool for identifying stakeholder-driven efforts to address security and to identify a baseline from which we could identify security gaps and begin to address mitigation needs. The extension of the program to motor carriers in 2005, which was a natural and necessary step, has further enhanced its value to TSA, specifically leading to the need for a strategy to encourage surface transportation stakeholders to become diligent in effectuating and maintaining security related improvements.

Congress has given TSA specific responsibilities to assume oversight and compliance on transportation security. As a direct result, the Department of Homeland Security (DHS) and the Department of Transportation (DOT) have signed agreements with DOT and its relevant components to delineate clear lines of authority and responsibility, promote communication and efficiency, and avoid duplication of effort through cooperation and collaboration, including in the area of hazardous materials transportation security, based on existing legal authorities and core competencies. One of these Memorandums of Understanding (MOUs), specifically includes TSA's commitment to coordinating its Corporate Security Review initiative with the Federal Motor Carrier Safety Administration's (FMCSA) Security Contact Review (SCR) program to limit duplicative security reviews of motor carriers, including those who transport, or offer for transport, hazardous materials. These MOUs, however, also acknowledge that DHS has lead authority and primary responsibility for security activities in all modes of transportation and notes that TSA is the lead Federal entity for transportation security.

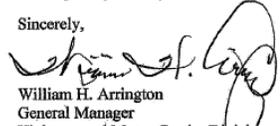
TSA and FMCSA continue to work towards delineating each agency's roles and responsibilities, for both the CSRs/SCRs and other regulatory processes, to avoid duplicating inspections and enforcement activities. TSA is sensitive to the burden on the industry from complying with requests for information from multiple agencies and has taken appropriate steps to avoid overlap where possible. For example, we have reviewed and used information on the CSRs, to the extent it is available and sufficient for our purposes. In addition, we have and will continue to work with FMCSA to avoid requesting a CSR with motor carriers who have had a recent visit from FMCSA for the purposes of a SCR.

While recognizing the success of the Missouri Pilot, TSA considers this use of state officers conducting CSRs as an interim measure. As you noted in your letter, it is important to have CSRs conducted by inspectors who are trained on the goals and scope of TSA's security programs. To that end, TSA has been building a cadre of surface transportation inspectors with one of their duties being to conduct CSRs. Over the last several months we have trained over 200 federal transportation inspectors who will be utilized to reduce risk and build relationships with stakeholders through several TSA surface transportation programs and initiatives, such as the CSR.

Finally, TSA's authority with respect to transportation security is comprehensive and supported, with specific powers related to the development and enforcement of regulations, security directives (SDs), security plans, and other requirements. Some degree of overlap with other federal agency efforts is inevitable to the extent that there will always be a certain degree of overlap between safety and security. It is, however, our intent to eliminate duplication of efforts by federal agencies to the extent that it is possible. I appreciate your expression of support and will be delighted to have you share this campaign with us.

Thank you again for your comments.

Sincerely,



William H. Arrington
General Manager
Highway and Motor Carrier Division
Transportation Security Administration

Ms. JACKSON LEE. Let me thank the witnesses for their testimony. As we proceed with our questions, I would like to remind each of us who are here today that we will have 5 minutes to question the panel. I would like to start by recognizing myself.

Mr. Hart, you caught us by surprise with that innovative suggestion, but that is what Congress is all about, and I look forward to questioning you about that.

Chief Lambert, your transit authority—and we are glad that you accepted our invitation, because we are creating a record that will allow us to proceed in our efforts to pass surface transportation legislation and have the President sign it. Your transit authority operates bus and rail systems in a large metropolitan area, servicing

hundreds of square miles. From what you have observed, do you think TSA has adequate resources in the field to fulfill the mission of the inspection programs?

Chief LAMBERT. No, ma'am, I do not.

Ms. JACKSON LEE. In your thinking of that, you are asking TSA—when I say that, by speaking to Congress—that more inspectors, more resources over a certain period of time or right away needs to be in place?

Chief LAMBERT. Madam Chairwoman, I think a couple of things need to happen. Again, I think you have to look at it from a systems approach. I think really defining roles and responsibilities and the reporting relationship is critical. Again, this is a challenging job, and so I recognize that and fully support TSA in trying to do the right thing. I always want to come from that standpoint.

But I think defining roles and responsibilities, fixing organizational reporting relationships, answering whether or not it should be mode-specific until you get the opportunity to go through cross-training that then can be multimodal in approach. Once you do that, then, in my view, you get the opportunity to get the relationship of what is the right fit and what is the right size, are the staff resources necessary to deliver that core business mission. I think it is very important to make sure that there is clear understanding of that mission and those definitions of roles and responsibilities before you really, in my view, can get to what those resource needs may be.

Ms. JACKSON LEE. I know that you have a number of National organizations that you are involved in. I also know that TSA or DHS has included you on a number of discussions, and I would hope that it would be TSA, but I would think working with surface transportation leaders around the country would be helpful as well on how we can further design a security system.

Chief LAMBERT. Madam Chairwoman, I agree with you. I actually had an opportunity to talk with Mr. Kair before the hearing started, and I look forward to having more discussion with him as well. I look forward to do so.

Ms. JACKSON LEE. We will focus our attention and maybe create opportunities and encourage those opportunities to take place.

Chief LAMBERT. Thank you, ma'am.

Ms. JACKSON LEE. Unlike airports where security is largely Federalized, the local transit and law enforcement agencies bear the brunt of implementing effective security programs for surface transportation. As we discuss moving forward TSA's program, I would like to know what your major resource operational challenges are and how TSA can use inspectors with proper surface experience and expertise to help you.

Would you also comment on trying to wire or make interoperable your buses in Houston with respect to your bus operators and the resources that may be needed in doing that?

Chief LAMBERT. Madam Chairwoman, as you know, I would always take the position that training front-line employees is extremely critical to ensuring the safety and security of transit systems. I think we really understand those individuals that know the nature of what is out of what place when it is out of place is the front-line employee. So TSA in the past did a very good job, I be-

lieve, in fast-track training, giving an opportunity to fund operators, front-line employees that go through training, police employees who go through training. We are now extending that to maintenance employees that we believe should have a role and responsibility in that as well. I would hope that TSA would continue to look at fast-track training opportunities to get that training out to front-line employees.

Second, they have been very good in working with us where we have clearly set a qualitative competitive project to get funding. Cameras on buses, as you know, Madam Chairwoman, give us an opportunity to really leverage the technology and really a multiplying effect of how that assists boots-on-the-ground in securing systems. So we are very supportive of that technology, and continuing to look at that and working with them to get best practices across the country that can be leveraged out to other systems that can be applied and used. So they have been very good with that.

The VIPR Program that exists today came about through the leveraging of the Peer Advisory Group members and working previously with Administrator Hawley. There were some disconnects initially; but at meetings at headquarters, the practitioners in the field came to work with TSA to say, this is how we think it can work better. John O'Connor, the chief from Amtrak, really kind of worked the model that TSA accepted. Now most systems across the country are using that model. So VIPR has been a very important tool.

But the real thrust, in my view, is making sure that before ultimate strategic decisions are made that are going to be applied on the local level, that that global thinking involves practitioners in the field that can help influence win/win situations that have a direct benefit to securing the traveling public. We think that is very important where practitioners stay a part of that process.

Ms. JACKSON LEE. Quickly, bus communication.

Chief LAMBERT. Interoperable communications. As you know, mass transit assists community not just in helping us move people safely and regionally through the community every day, it is a mobility management tool, it is also an emergency management tool.

In our area we have hurricanes and natural disasters. Public transit supports evacuation of community members with special needs. They need assistance to get out of their homes to safe locations and ultimately to areas of last resort where you need to do that. It is critical to have interoperable communications, we believe. So we have worked very hard with the county structure in our region to make sure that our communications system is tied into that interoperable communications network, and we will continue to expand upon that in the future. We think that is the right approach.

Ms. JACKSON LEE. I thank you very much.

I am going to yield to the gentleman from Mississippi, the Chairman. The gentleman is recognized.

Mr. THOMPSON. Thank you, Madam Chairwoman.

One of the things that is a goal of the committee and, we hope, the Department is to make what we do a seamless transaction so there is really no difference between aviation, mass transit, and all of these other things. But as you know, as far as your area, we

have been a little slow out of the chute, to be quite blunt. But what we want to do now after we have put focus on it, we want to do it the right way.

One of the things that we want to be sure, and I think I heard it in your testimony, as an operator, Mr. Lambert, you have been involved in discussions, from a planning perspective, from TSA's perspective, and I would hope that some of your suggestions have been not only solicited, but taken to heart. I would hope that your nodding kind of tells me that you are comfortable with that process at this point?

Chief LAMBERT. Mr. Chairman, again, I want to compliment the Mass Transit Division and the Transportation Security Network staff that I do most of coordination with. They have been a group that has been very open to the industry. They have been very open to, and I guess we have a view that there is a relationship that has been developed that issues are very easily put on the table, and they are challenged, and it is okay to disagree. The end result is by having open dialogue and honest dialogue and candid dialogue, the end result is you get an end resolution that tends to come about for consensus sake. That is a good thing, I think. So I want to compliment them for that. They have allowed us to participate, and we look forward to continuing to do so.

Mr. THOMPSON. Mr. Hart, do you want to respond to what involvement your trade group has had?

Mr. HART. Well, we have tried to work with TSA. We have had less success than Chief Lambert with the Sector Coordinating Council. It seems that they set it up and then largely forgot about us and what we do.

Let me here agree with Chief Lambert. I think it is critically important that the front-line people of any organization, be it private bus or mass transit or train—just as an aside, my brother is a serving police officer and his main mantra always is, “Read the streets,” and only the person on the streets every day can read the streets and know what is there, and that is the frontline personnel of whatever industry we are talking about. I think that is where TSA misses a bet with the private bus industry is we don't hear from TSA.

We have suggestions. We have good people. ABA a couple of years ago did a Train the Trainers Program, which we could at that time under the grant program. That worked very well. We got lots of suggestions. We passed them up the line, but we don't seem to get any feedback from TSA about next steps, what we need to do, what we need to do together. That is missing.

Mr. THOMPSON. I guess that is part of what I am trying to get at. Is this like an effort every day then with your organization, or is there a standard meeting?

Mr. HART. There is a standard meeting. Sector Coordinating Council is a stood-up organization. It meets regularly. But again, we get suggestions, we give suggestions, and then we don't seem to hear from TSA.

Mr. THOMPSON. I think we can help you a little bit with that. If you would, if there is some outstanding issues that you have with TSA, please provide that information to us, and we will be more than happy to work with you on it.

Mr. HART. Thank you.

Mr. THOMPSON. The other point I am trying to get at is, going forward, do you see a need to do anything else from a communications standpoint with TSA?

Mr. HART. We have a couple of issues. One, I agree with Chief Lambert, we don't think that TSA has near enough resources that it needs. I was a little taken aback to realize they only had 200 inspectors. That, to me, is amazing. There are almost 40,000 motorcoaches alone in the United States. There are maybe 150,000 school buses in the United States. It is amazing to think that those 200 inspectors working 24/7 could do the job. So I think that certainly resources are part of the problem.

Also, I think our culture, and maybe the Chief doesn't see it as much as we do, where the private industry is seen like, well, you guys are an irritant; we will call you when we need you. I think that is wrong.

Chief LAMBERT. Mr. Chairman, I would like to build off of that as well, if I may, because there are opportunities in the future. I will use this as a perfect example. I mentioned earlier the Peer Advisory Group that TSA mass transit started several years ago. We actually had a conference call, which was our monthly conference call, today, earlier before the hearing, and we got into a discussion about surface transportation inspectors. What I found fascinating, one of the chiefs on the line made the comment, what is lacking here is the surface transportation inspector focus on the things we were talking about in the peer group.

So I think there is an opportunity. They have to be brought into the mass transit arena of what role they are going to play in supporting mass transit's capability to secure systems. When you get into vulnerability assessments and you get into base assessments, and then you get into the actions to address those problems, they are going to be part of that resolution, and they need to be a part of the conversation collectively, where are we going from there.

Mr. THOMPSON. That is why I think the committee's approach is we want to get it right. There is no better way to get it right than to deal with the people tasked with the responsibility of moving the public and all of that.

I don't want us, TSA, to just be a top-down, tell people what to do, and end of story. I am looking for the back and forth and the sharing of ideas to come up with the best ideas. I hope, Madam Chairwoman, we can continue to promote this.

I asked the question about the 200 inspectors because I know in my heart of hearts it is not enough. The 400 is not enough. So we are still short, and it takes too long even to bring 200 more on. I am not certain what the magic is, but we will get into that a little later. So we will look at that.

We don't want the regulatory burden to become a financial burden on the industry. To the extent we can do best practices and some other things and make that a part of the regimen, I think we are going to accomplish what we want.

I agree with you, the men and women who work for you can probably spot things when they are out of place, but we need to have them know what they need to do once they see it. So that kind of training is, I think, part of the real thing that we have to

do as far as a panic button or communication or something to just let somebody else up the chain know that there is a potential problem. So I hear you.

Madam Chairwoman, I think we are onto something. We need to make sure that as we look beyond aviation, we don't set up some real issues to prevent the traveling public from being as secure with these modes of transportation as we have done with aviation.

Ms. JACKSON LEE. Well, let me just say, Mr. Chairman, thank you. I think you have framed our marching orders, and I want the witnesses to know that you probably provided the most provocative testimony. I made the decision to hold this hearing, albeit that we are in the midst of several overlapping matters to finish up. I wanted this hearing in July so we would be able to spend the next weeks looking seriously at your testimony and looking at the needs. You have indicated that we have to get moving, get going, along with our new administrator.

Mr. Hart, if I can get an answer from you. You said something, and I know that you didn't say it cavalierly, but it needs to be restated: 40,000 motorcoaches and then add on school buses.

Mr. HART. One hundred fifty thousand school buses, and I can't even guess how many transit buses there are.

Ms. JACKSON LEE. There has to be immediate attention given to the number of surface transportation inspectors and the recognition that that represents a vulnerable, if you will, aspect of our security. Is that not right, Mr. Hart? Do you want to comment on that?

Mr. HART. Well, I think you are right on, Madam Chairwoman. We do need to really get on that issue.

During the summer, 1,000 tourist buses, tour buses, come to the District of Columbia alone every summer carrying 53 passengers per bus. That is each summer, 1,000. That is just one city. We have to find better ways to make sure that the infrastructure is protected.

The grant program that Congress has put together is certainly one thing that works very well. We like that. Some of my members have done kill switches on their buses with that. Some have also instituted communications between emergency first responders and dispatch. So there is any number of things we need to try and keep trying that work out, and we just need to start. We need to start somewhere and go from there.

Ms. JACKSON LEE. Mr. Hart, Chief Lambert, you have given this committee—as you well know, this is a record testimony. Let me just say we are going to begin to move the process. I know you have good relationships with TSA. We are not trying to suggest that that is not the case, but we also have a new administrator. We are going to look at some institutionalized ways of those who engage in surface transportation security to have the interaction that is necessary. Certainly, Mr. Hart, on the buses, Chief Lambert is looking at a rail system and a transit—a bus transit system, but certainly on the buses, we know that we have much to do. Needless to say, any of us who have read stories about suicide bombers on bus transportation, maybe not in the United States, we are not trying to give ideas, but it has happened. We need to be conscious, current, and ready to address the needs you have expressed.

Let me thank you gentlemen for your testimony, and certainly we want to express the fact that it is valuable testimony, and we appreciate the questions that have been asked. The Members of the subcommittee may have additional questions for the witnesses, and we ask that you respond to them expeditiously in writing. I would also suggest if you have additional information that you would like to submit to the committee, we would welcome it. We would include it as part of the record.

Hearing no further business, the subcommittee stands adjourned.
[Whereupon, at 5:59 p.m., the subcommittee was adjourned.]

APPENDIX

QUESTIONS FROM CHAIRWOMAN SHEILA JACKSON LEE OF TEXAS FOR LEE R. KAIR

Question 1a. The OIG report made recommendations for how TSA could better utilize Assistant Federal Security Directors for Surface (AFSD–Surface).¹ In fact, these AFSDs provided critical information to OIG, including tasking and morale issues highlighted in the report. Yet, months after the report was released, TSA removed every sitting AFSD–Surface from their post, and abolished the position altogether.

When did TSA inform OIG that it was eliminating this position? Did TSA ever provide OIG with any explanation or analysis explaining how elimination of the AFSD–Surface position would impact resolution of the third recommendation? Please provide all correspondence with OIG relating to this matter.

Answer. The Transportation Security Administration (TSA) informed the DHS Office of the Inspector General (OIG) that it eliminated the position of Assistant Federal Security Director—Surface (AFSD–S) and created the Regional Security Inspector (RSI) for Surface positions in its June 2010 update to the OIG report 09–24 issued in February 2009. The establishment of the RSI positions occurred in January 2010. Therefore, TSA informed OIG of the establishment of the RSI position in the first regular progress report following the decision to implement the restructuring. As a general business practice, TSA keeps OIG updated of its efforts to address OIG report recommendations through the regular reporting process and does not necessarily consult with OIG prior to implementing internal organizational or staffing changes. The elimination of the AFSD–S position, which was done concurrently with the creation of RSIs for Surface, created uniformity in field reporting lines, while also increasing headquarters oversight. These changes directly addressed the thrust of the OIG’s third recommendation to “[e]liminate practices that undermine efforts to establish a more transparent chain of command” for Transportation Security Inspectors—Surface (TSIs–S).

ATTACHMENT

Transportation Security Administration (TSA) Response to Office of the Inspector General (OIG) “Draft Report, Effectiveness of TSA’s Surface Transportation Security Inspectors”, September 2008

Progress Report (July 2010)

TSA generally concurs with and has already taken steps to address several of OIG’s recommendations. TSA’s specific responses to the recommendations contained in this report are:

Recommendation 1.—Assess how Visible Intermodal Prevention and Response (VIPR) exercises can better use Transportation Security Inspectors (TSI) resources and inspection initiatives, then develop and execute a plan to conduct VIPR exercises that integrate inspection activities.

TSA Partially Concurs.—TSA recognizes the importance of integrating the TSIs and their unique expertise in mass transit and rail into VIPR operations. TSIs routinely engage with their mass transit and rail counterparts when conducting Baseline Assessment for Security Enhancement (BASE) reviews in mass transit and passenger rail and Security Action Item (SAI) reviews in freight rail. TSIs enhance the effectiveness of VIPR deployments by sharing their expertise in local transit system security issues during VIPR planning and deployment. TSA has addressed the potential role of TSIs in the *VIPR Team Capabilities and Operational Deployment* guide, which assists mass transit and passenger rail security officials as well as

¹Office of Inspector General, Dep’t of Homeland Sec., Rep. No. OIG–09–24, Effectiveness of TSA’s Surface Transportation Security Inspectors (2009).

FSDs and FAM SACs in the collaborative planning and coordination process for VIPR operations.

TSA agrees that TSI expertise should be used during VIPR planning and deployment. Prior to a VIPR operation, TSIs should brief other VIPR team members on security vulnerabilities that they have identified during the BASE and SAI reviews and interact with mass transit and rail personnel. TSA does not concur with the recommendation that TSIs' comprehensive inspection be integrated into VIPR operations. Doing so would fundamentally alter the nature and meaning of these operations. VIPRs are intended to supplement existing security activities at a mass transit or passenger rail agency by randomly and unpredictably integrating TSA's capabilities for an added deterrent effect.

Update (August 2009)

The TSA has taken additional steps to enhance coordination efforts specific to TSI-Surface involvement in VIPR operations. The TSA has dedicated two TSI-Surface positions to the VIPR Joint Coordination Center (JCC) located at the Freedom Center. The primary responsibility of this position is to coordinate with OLE/FAMS specifically in the reviewing of VIPR Draft Operational Plans (DOPs) that are submitted from the field. In doing so, the TSIs ensure that Surface TSIs are appropriately integrated into surface-related VIPR operations and identifies areas where their expertise would prove beneficial. Additionally, the Office of Security Operations (OSO) is in the process of identifying additional staff, including at the senior level that will be assigned full-time to VIPR Surface operations. This will greatly enhance VIPR planning and coordination efforts specifically as it pertains to the utilization of OSO resources (includes TSIs).

With regard to the TSI-Surface role in VIPR operations, the TSA continues to identify areas where TSIs can provide added value to the team. For example, TSI-Surface has provided Station Profiles, BASE reviews, and other assessment-related documentation pertaining to the transportation entity where the operation is taking place. This assists VIPR team members in enhancing their domain awareness during the operation. Additionally, TSIs continue to provide the surface transportation subject matter expertise to VIPR teams before and during deployments.

Update (July 2010)

With the expansion of the FAMS VIPR program from 15 to 25 dedicated teams in fiscal year 2010, TSA has assigned one primary senior TSI-Surface official to each team. Their role is to provide surface transportation expertise to the teams that did not previously exist. The TSI-Surface involvement varies by location, from acting as the designated VIPR coordinator for non-aviation VIPR activity to actively participating in the planning and/or execution of VIPR operations. The TSI-Surface assignments will be rotated among the surface inspectors at each of the 25 TSA dedicated VIPR team locations on a 60- to 90-day schedule. This provides for work role expansion for each of the TSIs while allowing for practical application of inspector skills and training when not assigned to the dedicated VIPR team.

TSA also has expanded the full-time representation of TSI-Surface officials for National-level VIPR planning, coordination, and deployment. The full-time TSI-Surface staff is located in the VIPR Joint Coordination Center, and includes two TSI-Surface staff and one Supervisory TSI-Surface official. These officials join the Office of Security Operations VIPR Branch Chief, who was added to the Joint Coordination Center in January 2010.

The addition of these personnel has greatly increased the level of surface transportation experience for VIPR operations, and also adds important surface transportation perspectives into the planning and coordinating VIPR deployments. For example, TSI-Surface staffers assigned to dedicated VIPR teams carry out comprehensive security surveys of rail stations and verify physical security measures already in place. The station profile data are an integral part of an initiative currently underway to enhance and improve the VIPR deployment planning, operations, and reporting processes.

Recommendation 2.—Determine how many inspectors are needed to perform necessary functions by assessing current and future duties, then expand TSI workforce to ensure that each field office has sufficient staffing.

TSA Concurs.—TSA has already developed and implemented a prudent, risk-based approach that has produced a flexible, mobile force, affording the agency the ability to maximize TSI coverage around the country while supplementing many FSD staffs that have no surface inspectors. By deploying inspectors to new locations, TSA is crafting a surface security inspection and support network that is better able to respond to local and regional surface incidents and increased assessment work throughout additional cities and regions. Assigning a minimum of two inspectors per

office ensures the capability to meet security assessment, inspection, and support demands while maintaining operational safety.

Update (August 2009)

The TSA has hired a contractor to perform a formal comprehensive staffing study of the entire inspection workforce, to include surface. It was initiated in the second quarter of fiscal year 2009 with the results due to TSA in the fourth quarter of fiscal year 2009 (they are not yet final as of the date of this update). The study has the following objectives: (1) Analyze the current placement of inspectors, supervisors, and Assistant Federal Security Directors (Inspections and Surface) based on location, work volume, and threat; (2) identify optimal placement of inspector resources based on current and future needs; and (3) determine optimal ratios of inspectors and supervisors based on current assignments and predicted future needs. The results of the study will allow TSA to better plan future staffing needs and deployments of TSI-Surface resources, and will inform future budget requests.

The TSA was appropriated funds in fiscal year 2009 to hire an additional fifty TSI-Surface. The TSA continued to use a risk-based deployment approach when determining work locations for these resources. With the exception of two FTE, which were allocated to open one new field office, all other appropriated FTE were used to increase staffing existing field office. The TSA currently only has two one-person offices, with all others having a minimum of two inspectors. However, a majority of the field offices (over two-thirds) have three or more TSI-Surface assigned.

To support one- or two-person offices, the STSIP has successfully been able to augment resources in smaller offices with resources from other larger offices when the need arises. Several of the two-person offices are located in close proximity to other larger field offices, which can provide prompt support if needed. Additionally, the STSIP has a team of TSI-Surface at headquarters that can be deployed to the field if necessary.

The STSIP has also provided training to other TSIs (such as Aviation) and FSDs at the Railroad Operations training course in Pueblo, CO. While this training does not qualify a TSI-A as a TSI-S, it does allow a TSI-A to work alongside a TSI-Surface in the rail environment in order to provide additional eyes and ears for safety reasons, as well as an added presence for operational security purposes. Therefore, should one TSI-Surface from a two-person office not be available to perform field work for some reason, a TSI-A that has been trained at Pueblo could be used in a back-up capacity and support the TSI-S as he/she would have a level of safety orientation to the rail environment. However, it has been the guidance of the STSIP that non-surface TSIs should not perform field activities in rail environments that pose safety concerns without being accompanied by a TSI-Surface.

Update (July 2010)

All modes in the Compliance Office, including the STSIP, recently completed a data analysis in coordination with the Office of Human Capital to determine inspector allocation requirements. The data analysis is in the final stages of development, with an anticipated outcome and corresponding implementation in fiscal year 2011.

The total number of inspectors needed to carry out and enforce new regulations that will be established as a result of 9/11 Act requirements is also evaluated in conjunction with the development of the Notice of Proposed Rule-makings (NPRMs), which are currently in process. Data such as number and locations of entities covered and the depth of the regulatory requirements is a driving factor in determining the inspection numbers required to ensure compliance. Once the NPRMs are published, a final request for additional inspector positions based on the data analysis will be forwarded through official budget channels.

In anticipation of the need to train new inspectors, TSA has partnered with other Federal agencies and stakeholders to obtain buses, rail cars, and build infrastructure at the Surface Transportation Security Training Center (STSTC), located at the Transportation Technology Center in Pueblo, Colorado. TSA has assigned five personnel to develop the curriculum and training material for the STSTC. TSA will be well-positioned to determine the number of inspectors required using the model and provide training once the final rule is established.

Lastly, with the additional surface inspector positions allocated in fiscal year 2010, there will no longer be any field offices that are staffed with only one inspector. All offices will be staffed with a minimum of two.

Recommendation 3.—Place the Transportation Security Inspectors—Surface under the direct authority of a TSA headquarters official such as the Office of Security Operations' Assistant General Manager for Compliance.

TSA Does Not Concur.—As stated in TSA's response to the DHS OIG report titled *Transportation Security Administration's Administration and Coordination of Mass*

Transit Security Programs and as described in this response, TSA does not agree that the present TSI command structure inhibits TSI effectiveness. The reporting line of all TSIs in field assignments is to designated FSDs who report to the General Manager for Field Operations, Office of Security Operations (OSO). The FSDs are the operational field component of OSO and are charged with the implementation of all field operational activities. TSA has chosen this command structure because FSDs are better equipped to use the security network in their area. FSDs frequently interact with State and local law enforcement and mass transit operators. They understand the vulnerabilities and challenges of the mass transit modes in their backyard. TSA has adopted this network decision-making model in all modes of transportation, including its other inspection divisions in aviation and cargo. This approach recognizes the need for regional and localized strategies to enhance prevention, detection, response, and recovery efforts based on accurate and thorough domain awareness, strong professional networks and relationships with local security officials, and consistent and clear reporting lines to the local FSD.

OSO's Office of Compliance oversees the Surface Transportation Security Inspection Program (STSIP) and directs the work plan, training, and other aspects of field inspector activity. The STSIP office informs FSDs of TSI priorities and programs in several ways, including dissemination of an annual work plan written by the STSIP in close coordination with Office of Transportation Security Network Management, and via written directives and communications distributed through the OSO Leveraging Information, Networks, and Communications (LINC) system (formerly Net Hub). Additionally, FSDs are kept informed of key activities and programs of the TSIs Nationally by a written report issued weekly by the STSIP office. AFSDs-Surface participate in weekly or bi-weekly National conference calls hosted by the STSIP office and informs FSDs within their respective regions of new processes in STSIP programs. AFSDs-Surface and local lead TSIs are required to attend FSD meetings and routinely report STSIP activities to FSDs. In summary, the reporting lines are clear, as detailed in Operational Directive 400-54-3 and published specifically for this purpose, and the flow of information from Headquarters to FSDs is efficient and comprehensive on the priority activities of TSIs-Surface in security inspections, assessments, and support.

Update (August 2009)

The TSA continues to enhance the communication and coordination between the STSIP and the FSD and their staffs in the field. The STSIP held a series of twelve regional training sessions from December 2008 through May of 2009. The regional training sessions were held for the FSD inspection staffs which include TSI-Surface, AFSD-Surface, as well as Assistant Federal Security Directors for Inspections (AFSD-Is) that have TSI-Surface assigned to them. The sessions instructed attendees on the latest STSIP programs and initiatives, including the Highway Corporate Security Review (CSR) process, the STSIP Assessment Tool, and 49 CFR Part 1580 (recently issued rail security regulations), among other topics.

Additionally, the TSA continues to send FSDs to the Executive Railroad Operations training course located at the Transportation Technology Center in Pueblo, CO. FSDs that have TSI-Surface assigned to them must attend the course. The course provides FSDs with a detailed overview of STSIP functions, including field activities and performance goals, as well as general background on the rail industry and safety. Seventy-nine FSDs attended this training from 2007 through 2008. At the conclusion of the August session of the Executive Railroad Operations training, TSA will have trained all FSDs and Deputy FSDs at the SES level, as well as all non-SES level FSDs who work in the twenty largest rail/mass transit environments Nation-wide.

With regard to OIG's concern regarding the command structure and specifically the dual tasking of TSI-Surface from STSIP and FSDs, it should be clarified that the STSIP does not directly task FSDs or TSIs in the field. Formal requests for field activity originating from the STSIP are routed up through OSO leadership and are generally disseminated from leadership to FSDs through the OSO Communications Network (formerly the Leveraging Information, Networks, and Communication (LINC) and NETHUB). The STSIP holds monthly teleconferences in an effort to enhance communication with FSDs and Surface Inspector Supervisors. The STSIP continues to communicate significant program information through FSDs to the field via its monthly reports as well as the Office of Compliance's periodic conference calls.

OSO has also taken steps to ensure that significant policy or program decisions pertaining to the TSI-Surface workforce are generally funneled through the FSD Advisory Council for feedback and recommendation. The FSD Advisory Council en-

asures that the FSDs are fully represented in and able to contribute to the decision-making process on such issues.

Lastly, AFSD–Surface, as well as representatives from the STSIP at headquarters, continue to regularly attend regional FSD conferences to brief FSDs on the latest developments and programs relating to the TSI–Surface workforce and its mission.

Recommendation 3 (Revised).—Eliminate practices that undermine efforts to establish a more transparent chain of command. Instruct the STSIP office to direct new policies and actions to FSDs for implementation and require FSDs to solicit comments from AFSDs prior to hiring surface inspectors.

(Indicate TSA Concur: or TSA Non-concur:) If we non-concur, provide reasons why? If we concur, provide what we will do to implement.

June 2010 Update

Response.—TSA Partially Concur. Since issuance of this revised recommendation in February 2009, the TSA has taken steps to establish a more transparent chain of command. In January 2010, the TSA realigned reporting structure of Transportation Security Inspectors—Surface (TSI–S) in the field, placing them under the supervision of the local Assistant Federal Security Director for Inspections (AFSD–I) that reports to the local Federal Security Director (FSD). This resulted in a greater uniformity and clarity in reporting lines from location to location, and further aligned the TSI–Surface position with TSA’s overall field organizational structure. The TSA eliminated the Assistant Federal Security Director for Surface (AFSD–Surface) position, which was source of reporting line ambiguity as some TSI–Surface reported to and AFSD–Surface, while others reported to an AFSD–I. Concurrent with abolishing the AFSD–Surface position, the TSA created the Regional Security Inspector—Surface (RSI–Surface) position. The RSIs are charged with ensuring consistent and effective regional implementation of surface inspection programs.

The TSA does not concur with OIG’s recommendation that the STSIP office direct new policies to FSDs for implementation and require FSDs to solicit comments from AFSDs prior to hiring surface inspectors. The STSIP office does not direct FSD policy, and doing so would not be consistent with agency protocols in place. If such an action were to be performed, generally direction would come from the General Manager for Field Operations (with support provided by the General Manager, Compliance Programs) within the Office of Security Operations. Additionally, the FSD establishes local hiring protocols for his/her area as the senior TSA executive in charge of transportation security. Requiring the FSD to solicit comments from a subordinate AFSD is unnecessary and inappropriate. Often the local AFSD is already involved in the hiring of local inspectors, so generally speaking this recommendation is superfluous. (OSO/Compliance—Carl Ciccarello and Dan Tragesser)

Question 1b. Please explain why TSA abolished the position in direct contradiction to the OIG’s recommendations.

Answer. While TSA did not concur fully with the OIG recommendation, TSA did agree that a more transparent chain of command was needed for TSIs–S. As a result, TSA strongly considered the OIG recommendation in establishing the RSI positions. The RSI position for the surface program is more independent with strengthened modal expertise, compared to the former AFSD–S position. Eliminating the AFSD–S position and concurrently creating RSIs for Surface also produced uniformity in field reporting lines of TSIs–S, eliminated areas of confusion in TSI–S tasking, and increased headquarters oversight of field surface inspection activities. By establishing the position with a direct reporting line to headquarters and a dotted line to the Area Directors (ADs), the RSI for Surface has greater influence over the surface program in his/her geographic Area of Responsibility (AOR). TSA believes this new organizational structure addresses the core concern of OIG’s third recommendation rather than contradicting it.

Question 1c. Please indicate what happened to each of the existing Surface AFSDs when the position was eliminated, including whether each individual assumed the duties and title of the new AFSD–Inspections position; had to re-apply for a different position; retired, early or otherwise; was demoted in pay band, seniority, or responsibility; or any other process or change each employee has undergone due to the abolishment of the position.

Answer.

Former AFSDs-Surface (12 total)	Employment Action	Responsibility Change	New Title
AFSD-Surface No. 1 ...	N/A—Retired	N/A	N/A.
AFSD-Surface No. 2 ...	Demoted in Pay Band—K to J (re-tained pay).	Lost regional responsibilities	Supervisory TSI (STSD) with local responsibilities.
AFSD-Surface No. 3 ...	Remained K Band	RSI w/ regional responsibilities	Regional Security Inspector, North-east.
AFSD-Surface No. 4 ...	Demoted in Pay Band—K to J (re-tained pay).	Lost regional responsibilities	Supervisory TSI (STSD) with local responsibilities.
AFSD-Surface No. 5 ...	Remained K Band	RSI National Coordinator	RSI National Coordinator.
AFSD-Surface No. 6 ...	Remained K Band	RSI w/ regional responsibilities	Regional Security Inspector, South-east.
AFSD-Surface No. 7 ...	Transfer/Remained K Band	Supervise TSI—Surface at Joint Coordination Center (JCC).	VIPR JCC Supervisor.
AFSD-Surface No. 8 ...	Remained K Band	RSI w/ regional responsibilities	Regional Security Inspector, North Central, resigning 9/2010.
AFSD-Surface No. 9 ...	Remained K Band	RSI w/ regional responsibilities	Regional Security Inspector, South Central.
AFSD-Surface No. 10	Remained K Band	RSI w/ regional responsibilities	Regional Security Inspector, North-west.
AFSD-Surface No. 11	Remained J Band (was only J-Band AFSD—Surface).	Lost regional responsibilities	Voluntarily accepted an I Band TSI-Surface Position at new Location.
AFSD-Surface No. 12	Remained K Band	RSI w/ regional responsibilities	Regional Security Inspector, South-west.

Note: A selection board was convened, resumes were reviewed, and interviews were conducted for the RSI positions. Only former AFSD-S personnel were eligible for the RSI positions, with the exception of AFSD-S No. 11 who was not eligible.

Question 2a. With respect to the second recommendation in the OIG report, TSA stated that it has developed and implemented a prudent, risk-based approach that has produced a flexible, mobile force, affording the agency the ability to maximize TSI coverage around the country while supplementing many FSD staffs that have no surface inspectors' in the *Management Comments to the Draft Report*.²

Provide a detailed description of this approach, including an explanation of how this approach accounts for each of the three elements of risk threat, vulnerability, and consequence in order to enhance surface transportation security, and specifically how this approach satisfies or is consistent with subsections (b), (c), (d), (g), and (h) of section 1304 of the *Implementing Recommendations of the 9/11 Commission Act of 2007* (9/11 Act).³

Answer. The Transportation Security Administration's (TSA's) primary approach for allocating Transportation Security Inspectors—Surface (TSIs—S) and opening new surface offices includes a scoring system to prioritize office openings. At times, other qualitative evidence is factored in to better serve surface transportation security, based on geographic division of Areas of Responsibility (AORs). While there are not enough resources to assign surface inspectors to every Federal Security Director (FSD), Area Directors (ADs) are directly involved in working AOR issues to ensure complete oversight of regulated parties and comprehensive Visible Intermodal Prevention and Response (VIPR) coverage. The approach considers four key factors before assigning a final score:

1. Location within a High Threat Urban Area (HTUA);
2. Top 100 mass transit/passenger rail systems within the home city;
3. Toxic Inhalation Hazardous (TIH) materials traffic flow within that city/airport location; and
4. City/airport located in the Northeast Corridor (NEC).

Using the application of these factors, as of September 2010 TSA is adding the additional 179 Transportation Security Inspectors (TSIs) appropriate in fiscal year 2010 to offices throughout the country. The additional positions will allow TSA to expand from 54 to 67 locations Nation-wide.

Additionally, all programs in the TSA Office of Security Operations Compliance Office, including the Surface Transportation Security Inspector Program (STSIP), recently completed a data analysis in coordination with the TSA Office of Human Capital to determine inspector allocation requirements. The data analysis is in the final stages of development, with an anticipated outcome and corresponding implementation in fiscal year 2011. Careful consideration also is given to workload demand. TSA evaluates and appropriately balances both risk and workload demand in making resource allocation decisions.

This is consistent with section 1304 as inspectors have been primarily positioned in locations throughout the country that optimizes the agency's ability to directly support the surface transportation security mission as defined in 1304(b) and under the authorities outlined in 1304(c). With regards to sections 1304(g) and 1304(h) (coordination and consultation), the TSA has periodically consulted with mass transit and freight railroad modes, which are inspected under 49 Code of Federal Regulations (CFR) 1580. TSA holds monthly conference calls with transit police and security officials who represent the broader transit security community on the TSA Mass Transit Peer Advisory Group. TSA also provides forum discussions and training to the mass transit industry twice yearly as part of the National Transit Security Round Table. Further consultation is conducted at periodic meetings of the Transportation Sector Coordinating Council and at regional Transportation Security Grant Working Group meetings. From time to time, the duties, responsibilities, authorities, and mission of the Transportation Security Inspectors—Surface (TSIs—S) and the strategies to improve transportation security to ensure compliance with transportation security requirements are discussed during these activities. In the freight rail environment, the RSIs are specifically assigned as corporate liaisons to all Class I and large regional railroad stakeholders, which promotes a Nationally balanced approach to regulatory compliance activities and operational issues for large railroad corporate entities.

Question 2b. Provide a list and description of all risk assessments, evaluations, consultants, or other formal processes used by TSA to determine that a flexible, mobile force, affording the agency the ability to maximize TSI coverage around the country while supplementing many FSD staffs that have no surface inspectors, was

²Id. at 31.

³6 U.S.C. § 1113(b)–(d), (g)–(h).

the best approach to strengthening security of surface transportation systems under section 1304 of the 9/11 Act.⁴

Answer. The Transportation Security Administration's (TSA's) primary approach for allocating Transportation Security Inspectors—Surface (TSIs—S) and opening new surface offices includes a risk-based scoring system to prioritize office openings. At times, other qualitative evidence is factored in to better serve surface transportation security, based on geographic division of Areas of Responsibility (AORs). While there are not enough resources to assign surface inspectors to every Federal Security Director (FSD), Area Directors (ADs) are directly involved in working AOR issues to ensure complete oversight of regulated parties and comprehensive Visible Intermodal Prevention and Response (VIPR) coverage. The approach considers four key factors before assigning a final score:

1. Location within a High Threat Urban Area (HTUA);
2. Top 100 mass transit/passenger rail systems within the home city;
3. Toxic Inhalation Hazardous (TIH) materials traffic flow within that city/airport location; and
4. City/airport located in the Northeast Corridor (NEC).

Question 3a. Please provide a detailed explanation, including any relevant data collected through stakeholder outreach and other appropriate mechanisms, of why TSA did not concur with the third OIG recommendation, what sources or processes were used to determine that TSA did not concur with the third recommendation, and the extent to which TSA continues not to concur with the third recommendation.

Include a detailed explanation of the grounds on which TSA based the decision to designate surface inspectors to report to Federal Security Directors (FSDs), and state clearly whether any stakeholder outreach or a comprehensive, risk-based analysis was conducted prior to that decision.

Answer. The OIG's third recommendation (as referenced above) was to "Place the Transportation Security Inspectors—Surface under the direct authority of a TSA headquarters official such as the Office of Security Operations Assistant General Manager for Compliance." The Transportation Security Administration (TSA) considered the placement of surface inspectors and decided the best approach to placement of those assets was under the Federal Security Directors (FSDs). The FSDs in the field are responsible for implementation of all operational activities across all modes of transportation. TSA decided to integrate surface inspectors into this command structure because FSDs are equipped to leverage the security network in their areas. Additionally, such a structure allows for maximum efficiencies and reduces duplication of effort and ambiguity and overlap in roles and responsibilities. The organization maintains strong National oversight through the headquarters Office of Compliance and Regional Security Inspector (RSI) positions, but allows local flexibility to address local security concerns. This allows TSA to ensure the mission is completed in the most effective and fiscally responsible manner, with the greatest security benefit.

Question 3b. Include a detailed analysis of why FSDs are better equipped to use the security network in their area for the purpose of strengthening security of surface transportation systems, and why that analysis is the best approach to carrying out section 1304 of the 9/11 Act.⁵

Answer. TSA has chosen this command structure because FSDs are better equipped to leverage the security network in their areas. FSDs frequently interact with State and local law enforcement and mass transit operators and understand the vulnerabilities and challenges of the surface transportation modes in their areas of responsibility. TSA has adopted this network decision-making model in all modes of transportation, including its other inspection divisions in aviation and cargo. This approach recognizes the need for regional and localized strategies to enhance prevention, detection, response, and recovery efforts across the supply chain based on accurate and thorough domain awareness, strong professional networks and relationships with local security officials, and consistent and clear reporting lines to the local FSD. The organization maintains strong National oversight through the headquarters Office of Compliance and Regional Security Inspector (RSI) positions, but allows local flexibility to address local security concerns. This allows TSA to ensure the mission is completed in the most effective, efficient, and fiscally responsible manner, and provides greater security benefits.

Question 3c. Indicate and elaborate on any evaluation programs or assessment mechanisms conducted by TSA or another component of DHS that have been implemented to ensure that surface inspectors are hired, trained, deployed, and managed

⁴ U.S.C. § 1113. See § 1113(h).

⁵ Id.

to the greatest extent possible in a manner consistent with section 1304 of the 9/11 Act.⁶

Answer. Since the program's inception, the STSIP's training program has been one of the agency's training cornerstones. Using the Department of Transportation's (DOT's) Transportation Safety Institute (TSI) and the developing the Transportation Security Administration (TSA) Core inspector class, the training program has remained steady and industry-current. Recently, TSA opened the new Surface Transportation Training Center in Pueblo, Colorado. Two rail safety courses are taught at the new facility and TSA is developing courses in Advanced Rail Operations and Highway Motor Carriers Operations. This new facility will allow TSA to ensure its inspector workforce is well-trained and remains industry-current for years to come.

Question 4. How does the new organizational structure for the STSIP that no longer aligns the inspection program and its chain of command with the surface program offices ensure that the deployment of the surface inspectors, as well as the information and findings they obtain, are linked to the needs of and reported back to the respective surface program offices? Please explain fully and be specific.

Answer. To provide more headquarters-driven oversight of the Surface Transportation Security Inspection Program (STSIP), surface resources were realigned in January 2010, establishing new Regional Security Inspector (RSI) positions for surface. The RSIs report directly to the Surface Inspection and Program Oversight branch within the Office of Compliance at headquarters, instead of Federal Security Directors (FSDs). TSA has adopted this network decision-making model in all modes of transportation, including its other inspection divisions in aviation and cargo, with headquarters providing the policy, guidance, and oversight, and with implementation in the field. There is one headquarters RSI Surface Coordinator and six field Surface RSIs, who are positioned throughout the country to more easily provide on-site oversight of surface inspection, assessment, and operational activities. RSIs review inspection reports in the Performance and Results Information System (PARIS) in an effort to track field office performance in meeting work plan objectives, as well as to address any inconsistencies or quality control issues. RSIs are also responsible for compiling formal Compliance Oversight Reports for airport locations, which provide comprehensive feedback to surface inspectors and their supervisors on issues such as work plan accomplishment, quality control, and overall problem areas that need to be addressed. The RSIs are also assigned as corporate liaisons to all Class I and large regional railroads, which promotes a Nationally balanced approach to regulatory compliance activities and operational issues for large railroad corporate entities.

Question 5a. Surface transportation stakeholders have raised concerns about the lack of consistency and standardization in STSIP field activities, particularly with respect to regulatory interpretation and enforcement. TSA has stated the Regional Security Inspectors (RSIs) appointed for the freight railroads will address this problem.

Describe how often and in what form surface transportation stakeholders have been consulted about TSA's Surface Transportation Security Inspection Program (STSIP), and explain fully whether that record of consultation is consistent with the consultation requirement in section 1304 of the 9/11 Act.⁷

Answer. In accordance with Section 1304(h) of the 9/11 Act, the Transportation Security Administration (TSA) has periodically consulted with mass transit and freight railroad modes, which are inspected under 49 Code of Federal Regulations (CFR) 1580. TSA holds monthly conference calls with transit police and security officials who represent the broader transit security community on the TSA Mass Transit Peer Advisory Group. TSA also provides forum discussions and training to the mass transit industry twice yearly as part of the National Transit Security Round Table. Further consultation is conducted at periodic meetings of the Transportation Sector Coordinating Council and at regional Transportation Security Grant Working Group meetings. From time to time, the duties, responsibilities, authorities, and mission of the Transportation Security Inspectors—Surface (TSIs-S) and the strategies to improve transportation security to ensure compliance with transportation security requirements are discussed during these activities. In the freight rail environment, the RSIs are specifically assigned as corporate liaisons to all Class I and large regional railroad stakeholders, which promotes a Nationally-balanced approach to regulatory compliance activities and operational issues for large railroad corporate entities.

Question 5b. Describe how TSA has deployed surface inspectors in order to carry out the statutory requirement that surface inspectors shall be used to assist surface

⁶Id.

⁷Id. § 1113(h).

transportation owners, agencies, carriers, and operators in strengthening security, other than through compliance, inspection, or enforcement activities.⁸

Answer. A large portion of surface inspector duties are focused on conducting assessments that are not regulatory in nature. These assessments include conducting in-depth Baseline Assessment for Security Enhancement (BASE) reviews with the largest mass transit agencies in the Nation. It also involves risk reduction surveys in the freight rail environment which promote risk reduction of intentional Toxic Inhalation Hazardous (TIH) material releases within major urban areas. Other non-regulatory assessments include corporate security reviews of trucking companies that transport hazardous materials, corridor assessments of the TIH risks within major urban areas, and of course, Visible Intermodal Prevention and Response (VIPR) activity in all modes of transportation.

The Transportation Security Administration's (TSA's) primary approach for allocating Transportation Security Inspectors—Surface (TSIs—S) and opening new surface offices includes a risk-based scoring system to prioritize office openings. At times, other qualitative evidence is factored in to better serve surface transportation security, based on geographic division of Areas of Responsibility (AORs). While there are not enough resources to assign surface inspectors to every Federal Security Director (FSD), Area Directors (ADs) are directly involved in working AOR issues to ensure complete oversight of regulated parties and comprehensive Visible Intermodal Prevention and Response (VIPR) coverage. The approach considers four key factors before assigning a final score:

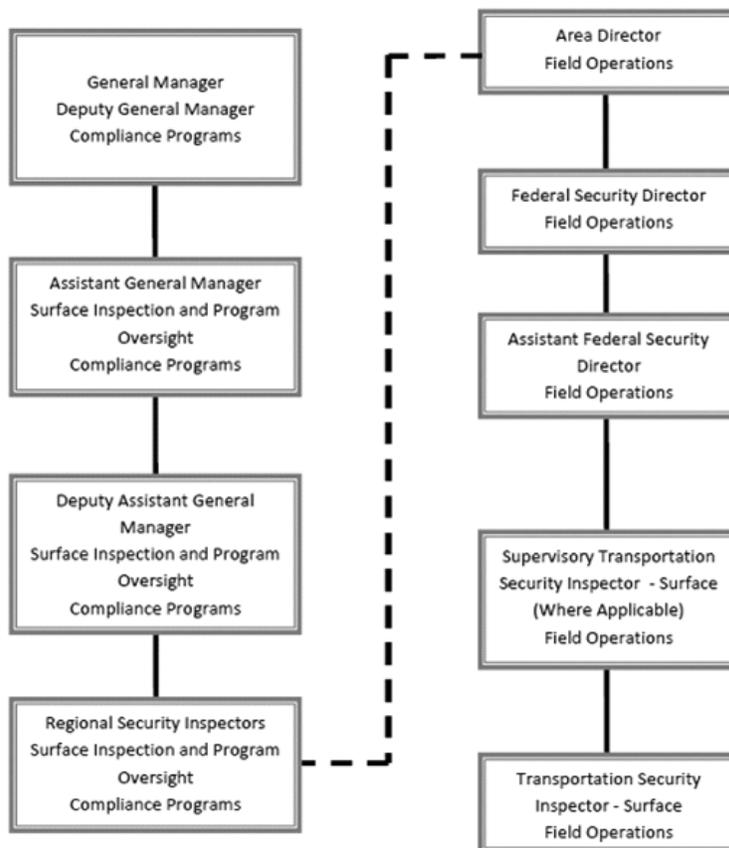
1. Location within a High Threat Urban Area (HTUA);
2. Top 100 mass transit/passenger rail systems within the home city;
3. Toxic Inhalation Hazardous (TIH) materials traffic flow within that city/airport location; and
4. City/airport located in the Northeast Corridor (NEC).

Question 5c. What authority do RSIs have over Area Directors and Federal Security Directors (FSDs)? Be specific about the reporting relationship between RSIs and each of the two field directors positions, as well as how each relationship fits into the broader context of the Office of Security Operations (OSO) at TSA; and include organizational charts depicting each relationship and OSO context.

Answer. RSIs do not have authority over ADs or FSDs. As part of their duties, RSIs are responsible for providing day to day support to the ADs. RSIs are responsible for supporting their assigned regions and for a variety of other assignments and activities as directed by the ADs, including activities within FSDs' staffs to build multimodal security networks that maximize transportation security and incident-response capabilities. The following chart provides an overview of the reporting structure of the RSIs, FSDs, and ADs within the Office of Security Operations (OSO). The RSIs are also assigned as corporate liaisons to all Class I and large regional railroads, which promotes a Nationally balanced approach to regulatory compliance activities and operational issues for large railroad corporate entities.

⁸Id. § 1113(b).

Chain of Authority for Field Inspectors



Question 5d. If RSIs do not have authority over Area Directors or FSDs, how will they be able to address consistency problems effectively from outside of the STSIP chain of command in the field?

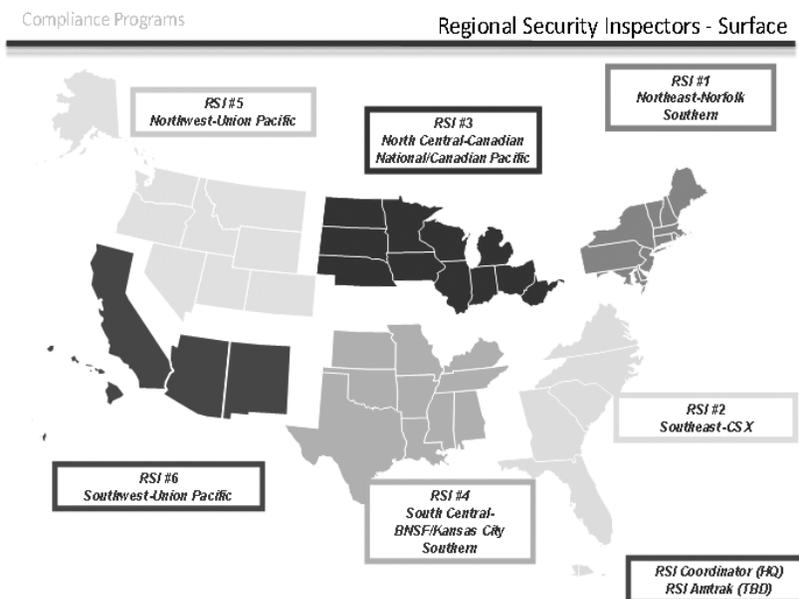
Answer. As part of their regular regional oversight duties, RSIs are responsible for monitoring surface inspection field activities at airports within their Area of Responsibility and for identifying problems of consistency. RSIs then report such issues to Area Directors, Federal Security Directors, and the Surface Inspection and Program Oversight office, as appropriate, for resolution.

Question 5e. Have RSIs been appointed for Amtrak and the public transportation systems for metropolitan areas designated as “Tier 1” by the Transit Security Grant Program (TSGP)? If not, describe the process by which it was determined that Amtrak and the highest-risk public transportation systems would not be assigned RSIs, and explain fully the grounds on which that determination was made.

Answer. A new RSI position for Amtrak has been established and TSA is in the process of filling it as of September 2010. TSA recognizes the need for such a position due to the large geographical area in which Amtrak operates. TSA also realizes the benefits that the new RSI position holds, and is evaluating options for potential future expansion of the program. However, it has not yet determined if TSA will expand the program to include designating RSIs for Tier 1 transit agencies.

Question 5f. Please provide a map or chart indicating the number of RSI positions currently deployed by TSA and the geographical region or area of responsibility covered by each position.

Answer. There are currently seven RSIs for Surface; six of these positions are in the field with regional oversight, and one is at headquarters as the RSI Coordinator. One additional RSI for Amtrak is in the process of being established, which will bring the total number to eight. See the following chart:



Question 6a. Please provide all documents, directives, guidance, memoranda, slides, and other materials distributed or presented to TSA employees relating to the development and implementation of “TSI Evolution,” as well as any related training initiatives, and provide responses to the following: With respect to “TSI Evolution” and its incorporation of multi-modal training and deployment, how does TSA reconcile administering the STSIP in a way that dilutes the focus on surface transportation experience, expertise, and activities with the Federal authorizing statute which requires a specific emphasis on surface systems and carriers?⁹

*Answer.** Transportation Security Inspector (TSI) Evolution does not dilute surface modal expertise. While an introductory orientation to all modes is provided to all inspectors, each inspector spends 80 percent of initial formal instruction in training for their primary mode and core skills. In the initial core training, TSI-Surface receive 2 weeks of general Transportation Security Administration (TSA) training (includes TSA compliance and enforcement philosophy), 3 weeks of modal specialty training (one each in surface, cargo, and aviation), and 1 week of railroad operations training. After completing the initial core classes, surface inspectors receive additional surface specific training including Transportation of Hazardous Material (1 week), Transit Rail Incident Investigation (1 week), and Transit System Security (1 week). The training provided to surface inspectors is robust and comprehensive. Additionally, new inspectors must go through an extensive on-the-job training (OJT) process within mode and be observed and qualified at a National strike. Both of these training processes focus solely on surface inspections and mode expertise over the course of at least 1 year.

All inspectors are then firmly grounded in developing depth of mode expertise. It is only after 3 or 4 years of extensive qualification that inspectors receive an ori-

⁹ Id.

* TSA’s *Compliance Personnel Evolution Handbook* was also submitted in response to this question and retained in committee files.

entation in another mode. As transportation becomes more and more multi-modal, all security inspectors need domain awareness to ensure they have a general understanding of other modes so they can recognize security breaches and summon an inspector with modal expertise. As an example, one multi-modal yard may have aviation Unit Load Devices (ULDs), freight rail cars, and maritime multi-modal containers, and may be required to comply with various security programs. As another example, many airports have mass transit facilities entering or bordering the airport environment. One goal of TSI Evolution is to provide each inspector a level of training that will allow them to be “surge capable” and be a force multiplier in the event of a significant threat or terrorist attack. All inspectors must have domain awareness to recognize security violations; however, no inspector will specialize in more than one mode at any given time to ensure deep subject matter expertise.

Question 6b. On what evaluation or assessment did TSA base the decision to proceed with TSI Evolution? Was any outreach to stakeholders conducted or was any kind of risk assessment performed that demonstrated how de-emphasizing the distinctions between surface and non-surface modes would benefit surface transportation security in a substantive way?

Answer. The decision to proceed with TSI Evolution was based upon the recognition that TSA inspectors could be provided with additional technical and professional development training to increase their proficiency. All TSA inspectors currently gather compliance information using surveillance, interviews, document review, and testing. TSI Evolution training standards focusing on infrastructure protection, fraudulent document detection, and interview skills will enhance the ability of inspectors as they gather perform inspections. TSA inspectors routinely assist with threat mitigation activities, such as Visible Intermodal Prevention and Response (VIPR) deployments, and TSI Evolution training standards regarding terrorist methodology, detecting surveillance, and detecting suspicious behaviors will provide inspectors greater tools to help protect the traveling public. Inspectors also perform investigations and provide incident response, and TSI Evolution training in criminal investigations support and crisis management will increase inspector skills in those activities. While inspection environments differ (aviation, cargo, surface), the inspection methodology is similar across all modes. TSI Evolution will enhance the skills and transportation domain awareness of all TSA inspectors.

Question 7. Has TSA considered an organizational structure for the STSIP that would separate it entirely from aviation and the non-surface inspections, similar to the structure described in section 302 of the TSA Authorization Act of 2009? Please explain in detail the grounds on which this type of organizational structure was or was not considered, and if it was considered, why it was rejected.

Answer. The original organizational structure of the Surface Transportation Security Inspection Program (STSIP), after its establishment in February 2005, was separate from the aviation inspection program and thus was similar to that described in Section 302 of the bill H.R. 2200, the Transportation Security Administration (TSA) Authorization Act of 2009.¹⁰ Under this structure, surface inspectors had a direct reporting line to the headquarters surface program office through twelve Area Inspection Supervisors. However, in December of 2006, TSA decided it would be more effective to restructure the reporting lines and integrate the surface inspectors and area supervisors into reporting lines of the Federal Security Director (FSD) with the other inspection modes.

TSA considered the placement of surface inspectors and decided the best approach for placement of those assets was under the FSDs. The FSDs are responsible for implementing all operational activities across all modes of transportation. TSA decided to integrate surface inspectors into this command structure because FSDs are equipped to leverage the security network in their areas. Also, such a structure allows for maximum efficiencies and reduces duplication of effort and ambiguity and overlap in roles and responsibilities. The organization maintains strong National oversight through the headquarters Office of Compliance and Regional Security Inspector (RSI) positions, but allows local flexibility to address local security concerns. This allows TSA to ensure the mission is completed in the most effective and fiscally responsible manner, with the greatest security benefit.

Question 8a. Explain how, if at all, TSA is implementing a risk-based strategy that clearly links resources to risk in deploying its surface inspectors under the new TSI Evolution structure.

What mechanisms are in place to ensure that surface transportation systems receive security resources and support at a level consistent with the significant threats, vulnerabilities, and consequences of terrorism that they face?

¹⁰Transportation Security Administration Authorization Act of 2009, H.R. 2200, 111th Cong. § 302(b) (as passed by House, June 4, 2009).

Answer. Transportation Security Inspector (TSI) Evolution is a process to develop the professional skills of all Transportation Security Administration (TSA) inspectors through enhanced training and quality control standards; it will not affect the deployment of surface inspectors. With regard to risk, the current TSA inspections program can reduce risk as it directly relates to the stakeholders' ability to implement the regulations and the inspectors' ability to identify anomalies, while performing a regulatory oversight inspection. The training and quality control standards identified in TSI Evolution will enhance the ability of the TSA inspector to detect anomalies, and therefore reduce risk. For example, if a surface inspector is handed forged, altered, or fraudulent documents from a rail operator, they may appear normal to the untrained eye; however, to a surface inspector who has received fraudulent document examination training as required by TSI Evolution, those same documents may be detected as fraudulent. TSI Evolution reduces risk by providing surface inspectors with additional training to increase their proficiency at performing security and regulatory compliance activities.

TSA deploys its surface inspection assets primarily based on the four key factors listed below to ensure that its available resources are efficiently distributed.

1. Location within a High Threat Urban Area (HTUA);
2. Top 100 mass transit/passenger rail system within the home city;
3. Toxic Inhalation Hazardous (TIH) materials traffic flow within that city/airport location; and
4. City/airport located in the Northeast Corridor (NEC).

TSA's grant programs and policy are part of a comprehensive set of measures to strengthen the Nation's critical infrastructure against risks associated with potential terrorist attacks. The programs provide funds to owners and operators of surface transportation systems (transit, intercity bus, passenger rail, freight rail, etc.) to protect critical transportation infrastructure and the traveling public from acts of terrorism. The Department of Homeland Security (DHS) continues to prioritize projects and awards based on their effectiveness in reducing risk. Grant funding focuses on "prevent and protect" operational activities, such as training, drills and exercises, public awareness campaigns, security planning, visible, unpredictable deterrence, and critical infrastructure remediation. Fiscal year 2010 funding priorities also include protection of high-density stations (both multi-user and single-user), key operating asset protection, and other mitigation activities including interoperable communications, evacuation plans, and protection of low-density stations.

Question 8b. What safeguards are in place ensures that surface transportation security funding and personnel are used only for surface activities, and not commingled with non-surface resources?

Answer. TSA obligates resources only after programmatic and financial reviews to certify that each obligation is properly charged against the correct fund and program, project, and activity. TSA maintains financial system data, as well as programmatic data, that support the proper allocation and obligation of resources. This ensures Surface Transportation Security resources are used only on surface initiatives.

Question 9a. Regulations governing public transportation agencies, rail carriers, and inter-city buses required by sections 1405, 1408, 1512, 1517, 1531, 1534, of the 9/11 Act are more than 2 years overdue,¹¹ but TSA has yet to issue Notices of Proposed Rulemaking (NPRMs) for them. The scope and focus of these regulations will affect the operations and planning of surface transportation systems in a considerable way, and will likely require a corresponding expansion of Federal interaction with stakeholders.

In view of these facts, why did TSA change the STSIP command structure and begin implementation of the TSI Evolution initiative before these regulations have been issued? Explain fully and be specific.

Answer. TSI Evolution is a professional development program for all TSIs—S and will not affect enforcement of regulations. There is no linkage between any changes to the Surface Transportation Security Inspection Program (STSIP) command structure and the implementation of Transportation Security Inspector (TSI) Evolution. As discussed above, TSI Evolution provides all Transportation Security Administration (TSA) inspectors with increased professional, technical training, and also institutes quality control standards. TSI Evolution is not centric to the surface inspections program, and it will affect all TSA inspectors—aviation, cargo, surface, and canine.

Question 9b. When will TSA issue NPRMs for these regulations?

Answer. A notice of proposed rulemaking for security training is in the final drafting and review stages within TSA and is expected to be published in the *Federal*

¹¹U.S.C. §§ 1134, 1137, 1162, 1167, 1181, 1184.

Register in early 2011. As required among the various provisions of the 9/11 Act, this rulemaking process has included identification of high-risk tiers, review and consideration of other training programs and best practices, and consultation with a broad range of stakeholders.

TSA has also started developing the framework for the first of the three proposed rules implementing the assessment and planning requirements for surface modes. As required by the 9/11 Act, the rulemaking process has involved, and will continue to involve, a review of other similar programs and extensive consultation with stakeholders.

Question 9c. When will TSA submit a risk-based staffing plan, which specifically incorporates any anticipated expansion or other changes relating to these forthcoming regulations?

Answer. All programs in the OSO Compliance Office, including the STSIP, recently completed a data analysis in coordination with the Office of Human Capital to determine inspector allocation requirements. The data analysis is complete, and corresponding implementation will occur in fiscal year 2011. The staffing model adjusts to account for updated requirements, such as the issuance of new regulations and resulting increase in regulated entities.

TSA will evaluate the total number of inspectors needed to carry out and enforce new regulations that will be promulgated as a result of the Implementing Recommendations of the 9/11 Commission Act of 2007. This evaluation will occur in conjunction with the development of the Notice of Proposed Rule-Makings (NPRM), which is currently in process. Data, such as number and locations of entities covered and the depth of the regulatory requirements, are driving factors in the model.

Question 10a. Over the past 2 years, TSA reported more than doubling the size of surface inspectors, expanding from 93 inspectors in June 2008 to 201 inspectors in April 2010. However, as of April 2010, TSA reported having completed only 5 assessment reviews of transit systems for the year leaving the agency far short of efforts in previous years (49 in fiscal year 2009, 42 in fiscal year 2008, 54 in fiscal year 2007), even though a significant number of new staff were hired.

Please explain this discrepancy between the added resources and the significantly lower productivity in the BASE reviews and please discuss, in light of the above information, how TSA determines the size of its inspector workforce and how TSA plans to allocate inspector resources across the various modes in the future.

Answer. As of August 2010, the Transportation Security Administration (TSA) has completed 15 Baseline Assessment for Security Enhancement (BASE) reviews in fiscal year 2010, and there are several currently underway; therefore, it is yet to be determined how many will be completed by the end of fiscal year 2010. BASE reviews are comprehensive assessments that require a significant amount of time and stakeholder coordination to complete. They are voluntary on the part of the stakeholder, and therefore must be completed with consideration given to the stakeholder's availability and schedule. Fiscal year 2007 and fiscal year 2008 were the years when initial BASE reviews were conducted on many transit agencies, with fiscal year 2009 and fiscal year 2010 focused on BASE revisits.

TSA surface inspectors work in all modes including freight, mass transit, and passenger rail. Workload requirements for inspector activity are developed at the onset of each fiscal year, with consideration given to the priorities established by the TSA Office of Transportation Sector Network Management (TSNM). This is published to the field in the form of an Annual Work Plan.

Question 10b. TSA's fiscal year 2010 inspector workforce plan comments that follow-up action to address performance weaknesses identified by BASE assessment results is an essential component of TSA's continuous improvement process and the implementation of its security strategy for mass transit. What progress has TSA made to set and meet its performance targets for conducting the BASE reviews and for following up with agencies to address areas identified as needing improvement?

Answer. TSA's Surface inspector workforce has conducted 159 BASE reviews and 48 BASE re-assessments since the inception of the BASE program in the latter part of fiscal year 2006. Of the 159 completed BASE reviews, 15 have been completed in fiscal year 2010. For fiscal year 2011, the Surface Transportation Security Inspection Program (STSIP) will continue to conduct BASE reviews focusing on high-risk transit agencies that have a 60,000 or more average weekday ridership. In fiscal year 2011, 32 high-risk transit agencies are scheduled for re-assessment based on previous BASE results. Another 30 transit agencies are outside the high-risk category and may be re-assessed depending upon local workload and resource availability.

In the fiscal year 2010 inspection workforce plan, Transportation Security Inspectors—Surface (TSI-S) personnel did initiate follow-up visits to BASE assessed transit agencies to address performance weaknesses identified by the results; however,

the follow-up visits were not part of a formal performance improvement program. Beginning in fiscal year 2011, TSA is set to introduce a formal follow-up program called the Performance Improvement Action Plan (PIAP). The PIAP program will support and monitor the efforts of transit agencies to improve security vulnerabilities discovered through BASE reviews. TSI-S personnel will evaluate the transit agencies improvement efforts and prioritize lists of security improvements necessary to make public transportation systems, facilities, and passengers more secure. TSI-S personnel will also work closely with transit agencies to offer additional tools and TSA programs to help bolster the low-scoring sections found in the BASE reviews and re-assessments.

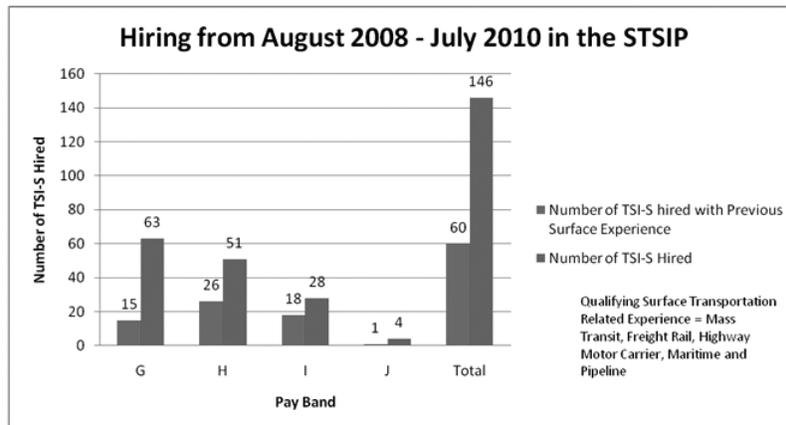
Question 11a. Given how important surface transportation experience and expertise is to maintaining credibility with the surface transportation community, such as with freight railroad and mass transit system representatives what steps has TSA taken in hiring hundreds of new inspectors to ensure that it is hiring individuals with this type of critical surface background?

Provide detailed information identifying the background, including qualifying experience and expertise, for the inspectors that have been hired in the past 2 years.

Answer. The Transportation Security Administration (TSA) has taken steps to ensure that all field offices throughout the Nation hire surface inspectors with relevant surface experience. The hiring process requires surface experience for the highest level positions within surface inspections, including the supervisor and lead positions. There are more candidates hired in at the lower levels without surface experience, but they are high-caliber candidates who have the requisite qualifications and skills to learn the surface inspection processes and be productive within this field.

During the last 2 years (from August 1, 2008 to July 31, 2010):

- Total number of Transportation Security Inspectors—Surface (TSIs-S) hired was 146.
 - Of those 146, 63 were hired at the “G” Band level (lowest level inspector position).
 - 15 of those “G” Band hires had previous surface experience.
- Of the 83 other TSIs-S hired above the G band level, 45 had previous surface experience as detailed below:
- Total “J” Band hires was 4 and of those 1 had surface experience.
 - Total “I” Band hires were 28 and of those 18 had surface experience.
 - Total “H” Band hires was 51 and of those 26 had surface experience.



Question 11b. Provide a detailed explanation of why surface inspectors receive two weeks of mandatory aviation and air cargo training when they are first hired.

Question 11c. In addition, indicate TSA’s view as to whether this practice is consistent with the requirement in the authorizing statute,¹² which states that the Secretary of Homeland Security, acting through the TSA administrator, has the authority to “train, deploy, and utilize” surface inspectors exclusively for statutorily de-

¹² 6 U.S.C. § 1113.

defined mission,¹³ and “shall require that [surface inspectors] have relevant transportation experience and other security and inspection qualifications.”¹⁴

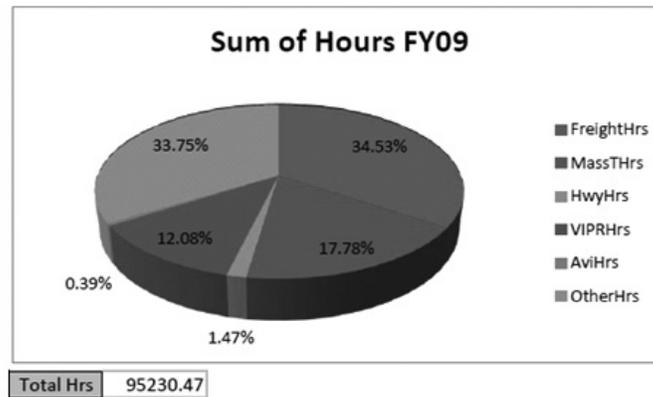
Question 11d. Explain the factors on which TSA bases this view and, specifically, the evidence and process by which TSA determined that training surface inspectors for aviation and air cargo activities is a risk-based, cost-effective use of funding and personnel resources.

Answer. In June 2010, a newly developed TSI Multi-Modal Basic Course was implemented to provide all new TSA inspectors (aviation, cargo, and surface) with 6 weeks of initial training. In the initial training, TSIs-S receive 2 weeks of general TSA training (includes TSA compliance and enforcement philosophy), 3 weeks of modal specialty training (one each in surface, cargo, and aviation), and 1 week of railroad operations training. After completing the initial core classes, surface inspectors receive additional surface-specific training including Transportation of Hazardous Material (1 week), Transit Rail Incident Investigation (1 week), and Transit System Security (1 week). In TSA’s view, the training received by surface inspectors is extensive and overwhelmingly applicable to surface security activities. The Compliance Program also provides multi-modal recurrent training on a quarterly basis for Transportation Security Inspectors that is designed to deliver current information and direction regarding changes in programs, inspection guidance, methods and techniques, and other subjects pertinent to the aviation, cargo, and surface modes.

The reason for giving surface inspectors basic information about aviation and cargo is to enable them to help in the aviation and cargo environments in the event of a significant threat to the traveling public or terrorist attack targeting aviation or cargo; likewise, the reason for giving aviation and cargo inspectors basic information about surface is to enable them to assist in the event of an incident or attack targeting the surface mode. With numerous airports—such as Chicago O’Hare (ORD), Ronald Reagan Washington National Airport (DCA), and Hartsfield Atlanta International Airport (ATL) to name a few—that are multi-modal centers which contain air, rail, bus, etc. in one location, the significance of this capability is magnified. All inspectors must have domain awareness to recognize security violations in other modes. TSIs-S are not expected to perform routine work in other modes. In this way, TSA views this training as risk-based and cost-effective.

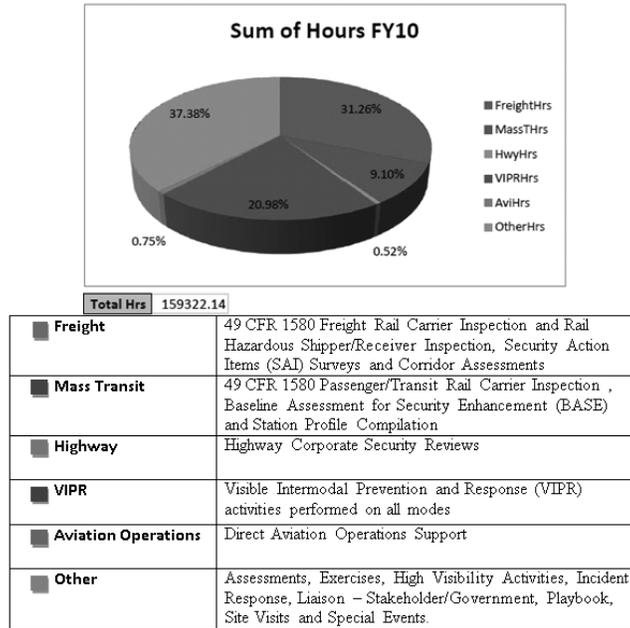
Question 12. Over the course of fiscal year 2009, what portion, as a percentage of total surface inspector work hours, of all surface inspector activities was devoted to freight rail? What portion was devoted to passenger rail and mass transit activities? What portion was used for non-surface activities? What portion was used for Visible Intermodal Prevention and Response (VIPR) activities? Please also provide data for each of the aforementioned categories covering the period October 1, 2009 through July 31, 2010.

Answer.



¹³The statutory mission states that the Secretary, acting through the administrator, “shall use [surface inspectors] to assist surface transportation carriers, operators, owners, entities, and facilities to enhance their security against terrorist attack and other security threats and to assist the Secretary in enforcing applicable surface transportation security regulations and directives.” 6 U.S.C. § 1113(b).

¹⁴6 U.S.C. § 1113(d).



Question 13. Please provide detailed budget data showing how funding and personnel resources appropriated for “Surface Transportation Security Inspectors and Canines” for fiscal year 2008, fiscal year 2009, and fiscal year 2010 were allocated and spent (or are planned to be allocated and spent), including a description of all activities and administration that involved, directly or indirectly, non-surface modes.

Answer.

OLE/FAMS SURFACE TRANSPORTATION/RAIL SECURITY INSPECTORS AND CANINES

	Fiscal Year 2008		Fiscal Year 2009		Fiscal Year 2010*	
	Amount	Amount	Amount	Amount	Amount	Amount
Total Funding Received	\$5,500,000.00	\$5,500,000.00	\$5,500,000.00
Travel		\$42,700.00		\$183,837.00		\$165,578.00
Facility Management		\$0.00		\$1,991.00		\$39,158.00
Contracts		\$7,852.00		\$884,573.00		\$2,366,094.00
COOP Agreements**		\$5,335,000.00		\$2,134,500.00		\$3,761,294.00
IT/Training		\$0.00		\$2,192.00		\$183,313.00
Equipment		\$0.00		\$348,492.00		\$251,760.00
Maritime training lab				\$750,000.00		
Explosive Magazines						
Total Teams at end of fiscal year		85		95		114

Notes: The funding received by the Canine Program does not support Rail Security Inspectors. This funding directly supports State and Local LE teams in the Mass Transit and Maritime transportation venues.

* Fiscal year 2010 had carryover funds of \$1,196,607.

** Fiscal year 2008 amount includes \$2,287,500 that was used for forward funding for fiscal year 2009 activities.

Question 14. Please provide the current number of surface inspectors employed by TSA as of July 31, 2010; the total number of surface inspectors authorized through fiscal year 2010, as well as the number authorized through fiscal year 2011; and the number of surface inspectors TSA is planning to hire by the end of fiscal year 2010, and by the end of fiscal year 2011.

Answer. The Transportation Security Administration (TSA) was authorized a total of 404 Surface Transportation Security Inspector—Surface (TSI-S) positions in fiscal year 2010. TSA's goal is to fill the vast majority of vacant positions by the end of the fiscal year. A National job announcement was closed in June 2010, and several positions have been filled while others are in various stages of the hiring and selection process. As of July 31, 2010, there were 251 surface inspectors employed with the TSA. Authorized levels for fiscal year 2011 are still to be determined.

Question 15. TSA has deployed Federal Air Marshal Service (FAMS) personnel, as well as other non-surface transportation security personnel, to lead VIPR team deployments in public transit and passenger rail systems. Since the FAMS' primary mission, training, and experience are in supporting aviation security, how did TSA determine that FAMS personnel should be deployed as a part of surface VIPR teams?

Answer. The VIPR program was originally conceived to deliver two fundamental types of operations, law enforcement and screening. Public Law 110-53, Section 1303(a) authorized the deployment of the VIPR teams by the Secretary of the Department of Homeland Security and specifically mentions Federal Air Marshals as assets available for use with those teams. This authorization was delegated to the TSA Administrator. The Federal Air Marshal Service (FAMS) is TSA's Law Enforcement Resource; therefore FAMS resources were utilized for VIPR involvement. TSA will continue to monitor improving State and local law enforcement capabilities when determining whether to deploy FAMS resources to VIPR operations.

Question 16a. Recently, TSA has significantly expanded its resources dedicated to deploying VIPR Teams at the Nation's surface transportation systems since establishing the program in late 2005. However, the Government Accountability Office (GAO) previously reported that TSA lacks qualitative performance measures to determine the effectiveness of these operations in enhancing the security of surface transportation systems.¹⁵

Has TSA developed these qualitative performance measures and, if so, what are they?

Answer. Since this GAO report, the VIPR program now has processes in place to implement outcome-focused metrics. In the first quarter of fiscal year 2010, TSA accomplished its goal of establishing metrics for the VIPR Program. TSA though continues to refine these metrics to evaluate and adapt to improve VIPR reporting.

Future metrics will rely on stakeholder and location information as well as risk measurement information captured from the Transportation Sector Security Risk Assessment (TSSRA) methodology.

Question 16b. Has TSA submitted an expenditure plan for the VIPR program to the House and Senate Appropriations Committees, as required by fiscal year 2010 homeland security appropriations legislation?¹⁶

Answer. Yes, TSA submitted an expenditure plan for the VIPR Program to the House and Senate Appropriations Committee on March 2, 2010.

Question 16c. What office or program possesses the budget authority to obligate funding and personnel resources for VIPR teams and activities?

Answer. TSA's Office of Law Enforcement and Office of Security Operations have the budget authority to obligate funding and personnel resources for VIPR teams and activities.

Question 16d. What office or program possesses the budget authority to obligate funding and personnel resources budgeted and appropriated under "Surface Transportation Security Inspectors and Canines?"

Answer. TSA's Office of Law Enforcement and Office of Security Operations have the budget authority to obligate funding and personnel resources budgeted and appropriated under the "Surface Transportation Security Inspectors and Canines" Program Project Activity (PPA).

¹⁵U.S. Gov't Accountability Office, Rep. No. GAO-09-678, *Transportation Security: Key Actions Have Been Taken To Enhance Mass Transit and Passenger Rail Security, But Opportunities Exist To Strengthen Federal Strategy and Programs*, 31-32 (2009). See also *Securing the Nation's Rail and Other Surface Transportation Networks Before the S. Comm. on Commerce, Science, and Trans.*, 111th Cong. 14-15 (2010) (statement of Stephen M. Lord, Director, Homeland Security and Justice Issues, U.S. Gov't Accountability Office).

¹⁶Pub. L. 111-83. See also H. Rep. No. 111-298 (2009); H. Rep. No. 111-157 (2009); S. Rep. No. 111-31 (2009).

Question 16e. What mechanisms are in place to ensure that resources appropriated under “Surface Transportation Security” are not commingled with or used for non-surface VIPR activities or TSA employees other than surface inspectors?

Answer. TSA obligates resources only after a programmatic and financial review which certifies each obligation is properly charged against the correct funding stream. TSA maintains financial system data as well as programmatic data which ensures Surface Transportation Security resources are used only on surface initiatives, including surface VIPR activities and positions in support of securing surface transportation modes. This includes surface inspectors and other positions funded by the appropriation as identified in the Congressional Budget Justification and in subsequent reports to Congress. Staff in the office of TSA’s Chief Financial Officer also stays in close communication with the VIPR Program Manager to ensure that resources are spent properly.

Question 17. In June 2009, GAO recommended that DHS develop a strategy for using surface inspectors to assist in monitoring grant projects funded through TSGP.¹⁷ In June 2010, the Federal Emergency Management Agency (FEMA) reported that it will work toward development of a cost-effective monitoring plan to include the use of TSA surface inspectors when their expertise in transit security would be appropriate for monitoring grant program functions. What efforts, if any, are being made by TSA and FEMA to include surface inspectors in the oversight of TSGP grant projects?

Answer. There is substantial interest in advancing a more effective capability for monitoring progress in the execution of security enhancement projects in mass transit and passenger rail funded under the Transit Security Grant Program (TSGP). The Transportation Security Administration (TSA) and the Federal Emergency Management Agency (FEMA) are working together to develop a program that takes advantage of the two agencies’ respective expertise. To further this effort, two pilot programs using surface inspectors will be conducted in fiscal year 2011; one will take place in the western United States, and another in the eastern United States. The focus will be reviewing transit agency security enhancements that are made with grant funds to determine their level of security effectiveness and/or appropriateness. The pilot programs will not entail an accounting or administrative review of expenditures of funds, which falls within the scope of FEMA’s grant oversight responsibilities. Results from the pilot programs will help shape the final monitoring plan.

Question 18. Please provide a description and salient details of the contract with Lockheed Martin concerning the hiring and recruitment of TSA surface inspectors, including whether this human resources contract is part of a larger contract.

Answer. The Transportation Security Administration’s (TSA) HR services contract was awarded to Lockheed Martin after full and open competition. The service provider is responsible for recruiting, hiring, payroll, personnel transaction, and help desk support under strong Government oversight both at program and contract level. This is a performance-based fixed price contract. The hiring and recruitment of TSA surface inspectors falls under Management, Administrative, and Professional (MAP) support of the contract, however all selection decisions are made by Government officials.



¹⁷U.S. Gov’t Accountability Office, Rep. No. GAO–09–491, *Transit Security Grant Program: DHS Allocates Grants Based on Risk, But Its Risk Methodology, Management Controls, and Grant Oversight Can Be Strengthened*, 40 (2009).