

**SECURING AMERICA'S TRANSPORTATION SYSTEMS:  
THE TARGET OF TERRORISTS, AND TSA'S NEW  
DIRECTION**

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**HEARING**

BEFORE THE

SUBCOMMITTEE ON TRANSPORTATION  
SECURITY

AND INFRASTRUCTURE PROTECTION

OF THE

COMMITTEE ON HOMELAND SECURITY  
HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

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# 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	
Mr. John S. Pistole, Administrator, Transportation Security Administration:	
Oral Statement .....	9
Prepared Statement .....	10
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 National Treasury Employees Union .....	3
APPENDIX	
Questions From Chairwoman Sheila Jackson Lee of Texas for John S. Pistole .....	29
Questions From Honorable Dina Titus of Nevada for John S. Pistole .....	40



# SECURING AMERICA'S TRANSPORTATION SYSTEMS: THE TARGET OF TERRORISTS, AND TSA'S NEW DIRECTION

Thursday, September 23, 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 2:06 p.m., in Room 311, Cannon House Office Building, Hon. Sheila Jackson Lee [Chairwoman of the subcommittee] presiding.

Present: Representatives Jackson Lee, DeFazio, Titus, Thompson, Dent, and Olson.

Also present: Representative Al Green of Texas.

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

The subcommittee is meeting today to receive testimony on "Securing America's Transportation System: The Target of Terrorists, and TSA's New Direction."

Our witness today will testify about his plans and objectives for positioning TSA to meet the challenge of securing the Nation's transportation systems against terrorist attacks. This hearing will also provide Members of the subcommittee with an opportunity to communicate their priorities and concerns about the TSA programs and policies to administrator.

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

We are here today to discuss critical programs and policies designed to protect our Nation's transportation systems from terrorist attacks, and to welcome to the subcommittee the new transportation security administrator, John Pistole.

Mr. Pistole, we welcome you for many reasons, because this is an important assignment. Secondly, we want to applaud you for committing your life to the service of the American people, for the years that you have served in the Federal Bureau of Investigation and the years of commitment to the security of this Nation.

With responsibility for ensuring the security of the Nation's airports, railways, roadways, transit systems, and pipelines, TSA's mission is critical and immense. Administrator Pistole comes to TSA in the wake of several events that have demonstrated to the American public and to Congress that the terrorist threat to transportation systems is persistent and evolving, and particularly so because terrorism has franchised. Unfortunately, terrorists seem to

be lacking in creativity and seek to utilize the same targets to create the greatest havoc.

Marching through this decade since the 9/11 attacks in 2001, we have seen attacks on rail systems in Madrid, London, Mumbai, Moscow; the plot to destroy several commercial aircraft simultaneously over the Atlantic; the plot to attack the New York City subway system; and the attempted attack to destroy Northwest Airlines Flight 253 in the skies over Detroit on Christmas day of last year; the scare of last year that occurred at the Newark airport, where the airport was shut down because of a belief that someone had entered incorrectly; and, certainly, the unfortunate circumstances that occurred at Newark airport again in the last couple of days.

Then, of course, with respect to the transit systems, Mr. Administrator, you are aware of H.R. 2200, which, with the leadership of Chairman Thompson and this subcommittee, we have passed an immensely constructive legislative initiative that now sits in the United States Senate. We recognize the crisis of which we are involved in.

You need not be a security expert to understand that our transportation systems are indeed the targets of attack. How do we remain vigilant? How do we continue to meet the very real and significant challenges of protecting our transportation systems, which are critical to our economy and essential to our way of life?

Today, the administrator will share with us his views and vision for accomplishing the mission.

Let me start the discussion by laying this framework: We are a Nation of people who thrive on independence and deeply value personal liberty and personal privacy, justice, and equality. We are also a Nation that has been attacked and plotted against by terrorists wishing to end the American way of life.

Mr. Pistole, while we were waiting for the confirmation of a TSA administrator during most of this Congress, this subcommittee has not been idle in its oversight of transportation security issues. The subcommittee has conducted rigorous oversight hearings on security programs for air cargo, aviation repair stations, general aviation, passenger checkpoints, surface transportation inspectors, and the Registered Traveler program.

The full committee held an important hearing on the Flight 253 Christmas day attempted bombing. Of course, the committee reported and the House passed H.R. 2200, the TSA Authorization Act.

We have looked closely at the air marshals and determined that additional scrutiny and support is very much needed. In H.R. 2200, Congress gave direction to TSA on important security matters, including general aviation, security grants, codification of the Aviation Security Advisory Committee, improvements to the Federal Air Marshals Service, and the Federal Flight Deck Officers Program, and a realignment of surface transportation programs which have been underfunded and have lacked priority positioning within the TSA.

While the Senate did not act on this important legislation, we will certainly seek your input in crafting a new authorization bill in the next Congress.

Let me just add that we have seen over the years since 9/11 the enhancement of the sensitivity of the traveling public, particularly as it relates to aviation. One maybe less publicized incident occurred that was told to me by a bystander on the street, how they wrestled to the ground an individual on an airplane headed to Las Vegas who was banging on the pilot's door and seeking to escape. That may have not been a terrorist intention, but, certainly, it would have been a frightening and devastating act if that individual had been able to open the air door, as they were attempting to do, which speaks to the importance of aviation issues as well as the importance of air marshals.

In addition to security programs, the new administrator also has to address workforce issues. Questions have been raised about TSA's training programs for transportation security officers, and morale among the TSA workforce is among the lowest in the Federal Government. With new deployed technology and screening procedures, training, and workforce morale issues are more important than ever and form the crux of implementing an effective security program for our transportation systems.

On the international front, the administrator and the Secretary of Homeland Security are our negotiators in developing stronger security measures at airports throughout the world. Aviation, in particular, is a global, interconnected system. Securing the weakest link, wherever it may be, will help to make the whole system more secure. I understand the administrator and Secretary will be in Montreal next week working on these international aviation security efforts, and we strongly support the effort.

Mr. Administrator, your charge is significant, but this subcommittee stands ready to work with you to improve security throughout every mode of transportation.

In closing, I do want you to know that we thank you again for your long career of Federal service. As a Judiciary Committee member, I know for sure the work that you have done at the FBI, and we have now been reacquainted again in your new capacity. I welcome you to the subcommittee and look forward to your testimony and our discussion.

At this time, without objection, I would like to enter into the record a statement from the National Treasury Employees Union.

Hearing no objection, it is so ordered.

[The information follows:]

STATEMENT OF THE NATIONAL TREASURY EMPLOYEES UNION

SEPTEMBER 23, 2010

Madam Chairwoman, thank you for allowing me to offer a statement at today's important hearing about the Transportation Security Administration. As National President of the National Treasury Employees Union, I represent several thousand Transportation Security Administration Officers at TSA. The problems that were anticipated when TSA was created in a hurry after 9/11 have now become more apparent and more troubling. The employees have little or no voice in how things happen at TSA, and too often intimidation is used as a management technique. We hope that the administration will change this situation by granting collective bargaining rights by directive in the very near future. In addition, we look forward to passage of H.R. 1881, co-sponsored by you and Rep. Lowey and Chairman Thompson, for a permanent change to full Title 5 protections for our TSA Officers.

There are six areas that we believe need immediate attention:

*Collective Bargaining.*—A workforce that is engaged and feels valued is in everyone's best interest. NTEU's No. 1 priority is in achieving collective bargaining rights for TSA Officers. There have been so many misconceptions of what collective bargaining would mean at TSA, that I feel I should address the topic. Chapter 71 of Title 5 of the U.S. Code sets out a detailed system for Federal employee labor-management relations. The system is designed so that the business of the Federal Government can carry on with as little disruption as possible when there is a dispute. Strikes are expressly forbidden by statute. A union that has anything to do with even suggesting a strike is not allowed to represent Government workers. Management retains the right to hire, assign, lay off, retain, promote, suspend, and/or remove employees. These are excluded from collective bargaining. Management has the right to unilaterally determine what qualifications are required for any assignment.

Federal labor relations are set up so that the mission of every agency is of paramount importance. Employees can bargain about the procedures an agency uses, but it cannot bargain about the mission. Chapter 71 specifically states that management has the right to take whatever actions may be necessary to carry out the agency mission during emergencies.

Customs and Border Protection Officers have had collective bargaining rights for 30 years, and work in the same airports as TSA employees, doing similar work, without ever weakening National security. In addition, private sector employees that currently provide screening functions at several U.S. airports have retained broader private sector collective bargaining rights since before the creation of TSA.

NTEU recently conducted a survey of TSA Officers which found that 85 percent of TSA employees believe that collective bargaining rights would improve the effectiveness of TSA. Collective bargaining would give TSA Officers a voice in their workplace and allow them to work jointly with TSA leadership to devise uniform, fair, and transparent personnel procedures that will improve overall job satisfaction and morale of the workforce. Collective bargaining would provide TSA with a tested and well-defined process for ensuring fair treatment, addressing issues with appraisals, evaluations, testing and pay, provide for a fair and transparent scheduling process, and give employees a hand in improving workplace safety.

*Pay.*—The pay system at TSA, the Performance Accountability and Standards System (PASS) must be eliminated. Every year, when the PASS payouts have been distributed, my office is flooded with calls from TSA Officers who are surprised and confused about how their ratings were determined and demoralized by the arbitrary nature of the payments. In addition, since most of the workforce has very low base salaries, the "merit" increases are insignificant. The yearly certification test, upon which part of PASS is based, fails to measure an officer's true on-the-job performance and skills and needs to be completely rethought. We believe that TSOs should be under the same General Schedule system as most other Federal employees.

A significant part of the PASS rating is based on the Practical Skills Evaluations (PSE) testing. The problems with the PSE testing are myriad and on-going. Officers are generally told whether they passed or failed, but they typically are not told why. First time failure rates are high—70 to 80 percent at many locations—yet almost everyone passes the second time. This leads to the conclusion that PSEs are not designed to test skills at all (at least not the first time), but to reduce PASS payouts because the first-time failures negatively impact the overall year-end PASS score, which determines bonuses. Many officers report that they have failed PSEs, when they have followed the pat-down, or baggage search protocol that they been taught and used for years. Most importantly, officers believe that the PSE tests do not accurately reflect the real-life conditions and therefore are not an accurate assessment of their skills and knowledge.

*Training.*—TSA must standardize and improve training and remediation efforts. Given the importance of their jobs, it is hard to believe that the training system at TSA is as haphazard as it is. Most of the training is on-line, without benefit of the experience of a more senior officer. Often, the training center is far from the actual workplace, and training often happens on the employee's own time. Training and testing on image recognition do not reflect real-life conditions, rendering it ineffective and sometimes useless.

When tests are done in baggage screening, the results are not shared with the testees. They may be told they have flunked, but they are not told why, or what they missed, or how to do a better job the next time. Before the annual recertification tests, (the PSEs), there is always a rush to train. Again, the training is often inadequate. Standard Operating Procedure at one airport is not the same as at another. During the last round of PSEs, there were many arguments about whether a person had passed the test or not. TSA should be providing clear guidance and assistance to help its employees improve performance.



*Leave.*—At TSA, if an employee takes sick leave or leave under the Family and Medical Leave Act (FMLA), even if the reason is unquestionably legitimate and approved by his or her supervisor, it is deemed an “occurrence”. Occurrences count against your PASS score, and too many occurrences result in leave restriction.

Although FMLA is a National law, at TSA, interpretation of the law depends on who is in charge. Some Federal Security Directors make sure the law is followed. Some do not appear to understand the law at all. NTEU had to teach local managers about FMLA, but new problems continue to crop up. In some airports now, TSA Officers are routinely put on leave restriction if they are taking FMLA. We are working to overturn these decisions. Another new wrinkle is that TSA Officers who have been on FMLA are being forced to undergo new background checks in order to return to duty. We believe this is against the law and are trying to find out if this is a TSA directive or one of the many byzantine rules implemented by local airport TSA personnel.

*Worker’s Comp.*—At TSA, managers and supervisors have found that the best way to reduce injuries is to stop the employees from reporting them. The situation is so bad that NTEU has issued a paper on Workers Compensation for TSA Officers that starts out, “Do not let anyone in supervision talk you out of filing (the initial form). It is not discretionary on their part”. Statements of injury are often questioned, and in many airports, the person who reports an injury is treated as a pariah. In some cases, TSA Officers continue to “work hurt” because a TSO who is injured on the job is often told to just find another job. There are even reports that contacting OSHA with a safety concern can result in a suspension or demotion.

*Labor-Management Relations.*—The recent dismal showing of TSA in the “Best Places to Work” survey serves as a confirmation of what I have heard from my members about conditions at TSA. Out of 224 agencies, TSA ranks 220—almost at the bottom. Very low scores for effective leadership and a family-friendly culture emphasize that major changes need to take place at TSA. Employees’ perceptions are that senior leaders (FSDs, AFSDs, and Security Managers) misuse their authority, exercise it inconsistently, and show little regard for employees’ ideas about how to do the work better. There is also a sense that work rules are too rigid, not taking into account personal emergencies or other circumstances beyond an employee’s control.

The good part of the “Best Places” survey is that it shows that TSA Officers believe in their mission and love what they do. Many TSA Officers came to the agency after 9/11, instilled with a passion to keep our Nation safe. They go to work every day wanting to contribute to our security. We welcome Mr. Pistole to TSA and hope that we can work together to make the agency better. No organization would be happier than NTEU to find that, in next year’s survey, TSA is in the top 10 in The Best Places to Work.

Ms. JACKSON LEE. Without objection, upon his arrival—and he has arrived—the gentleman from Texas, Mr. Green, a Member of the full committee, is authorized to sit for the purpose of questioning witnesses during the hearing today.

Hearing no objection, it is so ordered.

Let me acknowledge the presence of Mr. Green; our Chairman of the full committee, Mr. Thompson; and a Member of the minority, Mr. Olson from Texas, who are present here today.

The Chairwoman will now recognize the Ranking Member, the gentleman from Pennsylvania, Mr. Dent, for an opening statement.

Mr. DENT. Good afternoon, Madam Chairwoman and Members of the subcommittee, and to our distinguished guest today, Assistant Secretary John Pistole.

Before I begin, I would like to thank Chairwoman Jackson Lee for scheduling this hearing today. This is an important one. Our subcommittee undertook a vigorous schedule in the 111th Congress, and, much like the TSA, we have a great deal of accomplishments but also a great deal of work that has yet to be addressed. I sincerely appreciate this opportunity to have Assistant Secretary Pistole testifying before our subcommittee today.

This is Assistant Secretary Pistole’s first visit before this subcommittee during open testimony. However, this is not his first

visit before the committee, we should note for the record. In his previous role as deputy director of the FBI, he would occasionally brief the committee regarding on-going terrorist threats to the homeland.

Hopefully, your testimony today will be slightly more uplifting.

The TSA is an agency with vital importance to the security of our Nation, and it languished without leadership for far too long as the administration struggled to find a nominee who the Senate would confirm. Despite that delay, the nomination of Assistant Secretary Pistole thankfully brought a candidate with the valuable law enforcement, counterterrorism, and leadership experience necessary to lead the TSA.

Mr. Pistole spent 27 years with the FBI, rising from the position of special agent to become the FBI's deputy director. Furthermore, he gained first-hand experience in the operation and management of a large agency with thousands of employees responsible for a complex set of missions that continually required outreach to State and local officials as well as the private sector.

As the Ranking Member of this subcommittee, you know, I welcome your testimony here today. We have a plethora of issues to address, but I believe that we can only be successful if TSA and this committee continue to work in a close partnership that relies upon regular and strong communication. As the senior Republican on this subcommittee, I can assure you that we will work with TSA in a constructive and positive manner. We will provide strong oversight of your activities, but I commit to you that we will always be fair, open, and honest.

In the field of aviation security, TSA has accomplished a great deal of progress but much work remains. We still endeavor to find the mix of technology, intelligence, and manpower that will provide optimal security, while respecting privacy and civil liberties.

I have been and continue to be a strong supporter of the Advanced Imaging Technology, AIT, systems. These systems, as you know, give screeners the opportunity to identify non-metallic threats concealed on a person. The terrorists are finding new and interesting ways to get around our security infrastructure, and we need to adapt our technology and our process accordingly.

However, regardless of what technology we use or what processes we mandate, much of our security solutions still require a dedicated workforce and a strong public-private partnership. All of these individuals must be just as committed as our TSA checkpoint personnel in protecting our traveling public.

With surface transportation, it seems that the work is really just beginning. Securing surface transportation systems will provide a daunting task, given the enormity of freely accessible infrastructure inherent to those systems.

Additionally, there are a significant number of overdue regulations that TSA was supposed to issue since the Congress passed the Implementing Recommendations of the 9/11 Commission Act of 2007. These include regulations requiring railroad carrier vulnerability assessments, security plans, training programs, as well as public transportation and over-the-road bus security training programs. Some of these regulations are more than 3 years overdue,

so we would like to work with you to see what TSA needs to finish them in a timely manner.

There is also a great deal of work to be accomplished between TSA and this committee on the Transportation Security Grant Program. The TSA contemplates fundamental alterations in the manner of the TSGP and evaluate risk. So let's make sure that you are aware of the concerns that we hear regularly from our constituents, many of who operate the most vital infrastructure in the United States. So, as we approach the next grant cycle, it is my hope that we can strengthen cooperation between the committee and TSA and avoid many of the pitfalls to which we have fallen prey in past years.

So, Madam Chairwoman, we have a lot to cover today, and we will continue to have a full agenda going forward in the 112th Congress, so cooperation is the key. The more we act in partnership with TSA and are made aware of the programmatic issues, the more we can do to make TSA successful.

Again, Madam Chairwoman, thanks for holding this important hearing, and I will yield back.

Ms. JACKSON LEE. I thank the Ranking Member for his thoughtful statement.

I want to acknowledge the presence of Mr. DeFazio of Oregon.

The Chairwoman now recognizes the Chairman of the full committee, the gentleman from Mississippi, Mr. Thompson, for an opening statement.

Mr. THOMPSON. Thank you very much. I would like to first thank you, Chairwoman Jackson Lee, for holding this important hearing.

I also want to congratulate and thank Mr. Pistole for his willingness to lead one of the most important agencies in our Government.

Although TSA has only been in existence for less than 10 years, its impact on the worldwide traveling public, particularly here in the United States, cannot be understated. TSA's mission makes it one of the most critically challenging agencies to lead.

I am confident that you can lead the agency effectively, and I look forward to working to improve it in any way.

One of the things I want to talk about is, since the start of this Congress, as you know, this subcommittee has held several hearings addressing transportation security issues. We have encouraged TSA to devote more attention and resources to surface transportation security, the implementation of cargo screening programs, and the efficient development and deployment of checkpoint technologies. As a result, we have learned valuable information from TSA and stakeholders regarding successful programs and the need to improve others.

We have also had many conversations about TSA's need to work collaboratively with other agencies and stakeholders. I hope you will continue to strengthen the agency's relationships with stakeholders.

One of my chief concerns with TSA has been the need to update security checkpoints with adequate technology and enhanced processes that afford greater security and efficient passenger throughput. The deployment of technology must be done with thorough consultation.

Last March, this committee requested that TSA submit an AIT deployment plan for this year, and I understand that we just received it this morning. But better late than never. But from March until almost October is too long.

Because of this, it appears that TSA has deployed AIT to airports on an ad-hoc basis, without considering threat or risk-based approach. Because if you don't have a plan, the experience that we have seen as a committee, if there is an airport with available space, they get a machine. Now, that might not be threat- or risk-based, but they have the space. We don't think it should be like that.

I will say, we will look at the plan, Mr. Assistant Secretary, and the plan might not have that. But in the absence of a plan to roll out AIT, that is probably what we have been getting.

With regard to TSOs, TSA must empower its workforce and find ways to improve morale across the agency. The TSA workforce has endured unfavorable working conditions for too long. This has led to low morale, a lack of trust between them and supervisors and agency officials.

One of the things I would ask that you look at, Mr. Secretary, is how you pay your TSOs. They absolutely hate that system of pay. Their comment to me most of the time is, "Why can't we get paid on the GS system like every other Federal employee?" Then they say, "You are the Congressman. We are looking to you to answer." Well, I say, you are the assistant secretary; you run the agency. We want you to help us with that answer.

Those employees deserve a better system of pay. Not pay, but they need to know what to expect, as men and women who are doing a good job. I am eager to work with you to find a solution that will empower our TSA workforce and provide them with the best available training and workforce development.

But I would be remiss if I only mentioned the problems at TSA and not the successes. First Observer—a good program. The motor carriers and others who are involved in it think the world of it. So you are to be congratulated, as an agency, for putting that together.

This office has played a critical role also, the Office of Global Strategies, particularly after the attack of December 25. We are only as good as our foreign neighbors are. You know that. They are doing a good job.

So, all in all, we want to welcome you to TSA, and we look forward to working with you in the future.

I yield back, Madam Chairwoman.

Ms. JACKSON LEE. I thank the Chairman for his constructive remarks.

It is now time to welcome the witness for what, Administrator Pistole, will probably be frequent visits, because it is key that we interact and perform our obligations and responsibility of oversight.

Before I introduce you, other Members of the subcommittee are reminded that, under committee rules, opening statements may be submitted for the record.

As TSA administrator, John S. Pistole oversees management of a 60,000-person workforce, the security operations of more than 450 Federalized airports throughout the United States, the Federal

Air Marshals Service, and the security for highways, railroads, ports, mass transit systems, and pipelines.

Administrator Pistole came to TSA as a 26-year veteran of the FBI, with extensive National security and counterterrorism experience. After the tragic events of September 11, 2001, he was put in charge of the FBI's greatly expanded counterterrorism program, eventually becoming the FBI's executive assistant director for counterterrorism and counterintelligence. In 2004, Mr. Pistole was named deputy director for the FBI.

As noted by the Ranking Member, Mr. Pistole has been before this committee on a number of occasions, explaining, unfortunately, incidents that have occurred since 2001 that evidence that our vigilance in securing the homeland should be without comparison.

Without objection, the witness's full statement will be inserted in the record.

We welcome you, Administrator Pistole. Please summarize your statement for 5 minutes.

**STATEMENT OF JOHN S. PISTOLE, ADMINISTRATOR,  
TRANSPORTATION SECURITY ADMINISTRATION**

Mr. PISTOLE. Well, good afternoon, and thank you, Madam Chairwoman Jackson Lee and Chairman Thompson, Ranking Member Dent, and distinguished Members of the committee. It is an honor to be here for the first time for this hearing as the administrator of TSA, and I appreciate your kind words. I look forward to deepening the relationship between the committee and TSA and pledge my cooperation in doing that.

I would like to share some of my thoughts about how I see the need to sharpen TSA's counterterrorism focus and supporting the 60,000-member workforce. These goals support my efforts to lead TSA to the next level of its development by using intelligence-driven security solutions.

As we know, we just earlier this month commemorated the ninth anniversary of the 9/11 terrorist attacks. It really is a constant reminder for the men and women of TSA as to what their mission is all about.

A key lesson I took from that day and from my career at the FBI is that one of the best tools to combat terrorism is accurate and timely intelligence. So my day and that of the senior leadership team at TSA begins with an intelligence briefing. We are continually honing our counterterrorism focus by working with our law enforcement and intelligence community partners to better operationalize that intelligence. We do that through a number of different ways, including the watchlisting and the Secure Flight program, which I will be glad to take questions about.

The best intelligence, though, is that which is shared with the rank and file—the TSOs, the Federal air marshals, the explosive specialists, and behavior detection officers—to help terrorists from harming the traveling public. So a greater number of these front-line employees will now have a Secret security clearance. In fact, it was just approved where we will be going to 10,000 TSA employees that will have a Secret security clearance, to push that intelligence to as many people as possible.

We are also encouraging our citizens across the country to be vigilant. The Secretary and I recently announced expansion of the “If You See Something, Say Something” campaign designed to raise public awareness of all types of illegal activity but particularly focused on terrorism.

We continue to reach out to our foreign partners, as was mentioned, to strengthen the global aviation system. It was noted, we will both be in Montreal next week for the International Civil Aviation Organization Assembly in Montreal, where 190 member-states will be participating, in an effort to shore up our civil aviation defenses and efforts.

As we continue to use our intelligence, we need to be informed by the latest technology. I want to make sure that we are not using yesterday’s technology or even today’s technology to address yesterday’s threats. We need to be mindful of those threats, but we also need to try to anticipate, with the best intelligence, what the next terrorist attack may look like and how we can use our intelligence in forming the technology and our tactics in training and techniques to do the best possible job.

We have now deployed 224 AIT machines to 56 airports around the country. Our goal is to have nearly 1,000 AIT machines deployed by the end of next year. We are working to enhance the efficiency of using AIT, particularly the training aspects, and working to address all the concerns that have been raised, whether that is privacy or safety.

So, any intelligence-driven agency must use that best technology to accomplish its mission. There are a number of initiatives that I will be glad to talk about in more detail. As I engage the workforce, I have done a number of town-halls around the country to hear from the workforce. I have asked them two questions: What is working well to make TSA a good place to work? What are the barriers to keep TSA from being a great place to work?

So, with that, I have done one other thing that I will announce, and that is the creation or the establishing of an Office of Professional Responsibility. One of the things I have heard from the TSOs and FAMS is the apparent subjectivity of the disciplinary process within TSA. So I am establishing this Office of Professional Responsibility, which will adjudicate significant disciplinary actions taken with respect to all employees.

So, again, thank you for the opportunity to appear before the subcommittee today to speak with you about TSA’s on-going efforts to ensure the safety and security of the transportation domain. I look forward to taking your questions.

Thank you, Madam Chairwoman.

[The statement of Mr. Pistole follows:]

PREPARED STATEMENT OF JOHN S. PISTOLE

SEPTEMBER 23, 2010

Good afternoon, Chairwoman Jackson Lee, Ranking Member Dent, and distinguished Members of the subcommittee. I am honored to appear before you and this subcommittee for the first time since my confirmation as the Assistant Secretary of the Department of Homeland Security (DHS) for the Transportation Security Administration (TSA). Madame Chairwoman, I appreciate the time I spent with you in Houston and I look forward to deepening the partnership between TSA and this committee as we work together to improve transportation security.

Today I want to share some thoughts with you about improving TSA's counterterrorism focus through intelligence and cutting-edge technology, and supporting TSA's 60,000-member workforce. These goals support my efforts to lead TSA through the next stage of its development as it matures into a truly high-performance, world-class organization that facilitates travel by using smart, intelligence-driven security solutions that do not compromise the safety, privacy, or civil liberties of the American people.

#### INTELLIGENCE-BASED COUNTERTERRORISM

Earlier this month, we commemorated the ninth anniversary of the 9/11 terrorist attacks and the devastation they wrought in New York City, at the Pentagon, and due to the brave intervention of passengers, a field in Pennsylvania. The memory of that day is seared into our psyches, and is a constant, somber reminder that we must be ever vigilant against those who would attack our freedoms, our economy, and our way of life, and who would disrupt our Nation's transportation system.

A key lesson I took from that day and from my 27 years at the Federal Bureau of Investigation (FBI) is that one of the best tools we possess in our effort to combat terrorism is accurate and timely intelligence. It is with this in mind that I begin my day at TSA with an intelligence briefing with my senior staff—we are constantly honing our counterterrorism focus by working with DHS and our Federal partners to better operationalize this intelligence.

For example, through better watchlisting capabilities and the implementation of our Secure Flight program, we continue to improve our efforts to prevent terrorists from boarding flights. Under Secure Flight, TSA uses name, date of birth, and gender to vet airline passengers against terrorist watch lists before those passengers are permitted to board planes. Passengers who are potential watch list matches are immediately identified for appropriate notifications and coordination. Secure Flight vets 100 percent of passengers flying on U.S. airlines domestically and internationally, as well as passengers on many foreign airlines, and we are working hard toward the goal of fully implementing the program for remaining covered foreign air carriers by the end of 2010. Counting both U.S. and foreign carriers, Secure Flight currently vets over 97 percent of all airline passenger travel to, from, and within the United States.

Even the best intelligence, however, does not always identify in advance every individual who would seek to do us harm. So we also rely on the security expertise of our frontline personnel—Transportation Security Officers (TSOs), Federal Air Marshals, explosive specialists, and Behavior Detection Officers, among others—to help prevent terrorists from harming Americans.

That reliance means that valuable intelligence must be distributed widely and rapidly to our employees in the field. One way we are improving this process is through the extension of secret-level security clearances to a greater number of TSA employees. This change significantly enhances TSA's ability to leverage the best intelligence and elevate our security practices across the board.

But our Nation's security also is a shared responsibility. So we are encouraging our citizens, our communities, and our security and law enforcement partners across the country to remain vigilant and continue to build a National culture of preparedness and resiliency. As you know, Secretary Napolitano recently announced the expansion of the "If You See Something, Say Something" campaign. This simple and effective program was started by the New York Metropolitan Transportation Authority (MTA) to raise public awareness of indicators of terrorism, crime, and other threats and to emphasize the importance of reporting suspicious activity to the proper transportation and law enforcement authorities. In transportation sectors, I have joined Secretary Napolitano to launch "If You See Something, Say Something" with Amtrak and the general aviation community this year.

In addition to engaging those in our own country, we also continue to reach out to our foreign partners. Secretary Napolitano and I will be attending the International Civil Aviation Organization (ICAO) Assembly in Montreal next week with our partners from the Department of Transportation and the Federal Aviation Administration, and we look forward to working with the international community in our joint efforts to strengthen the global aviation system.

#### CUTTING-EDGE TECHNOLOGY

As we improve our use of intelligence, we also know that effective technology is an essential component of our arsenal to detect and deter threats against our Nation's transportation systems. TSA is deploying a range of next generation equipment—bottled liquid scanners, Advanced Technology X-Ray systems, and Explosive Trace Detection (ETD) units—to enhance our efforts.

The most effective technology for detecting small threat items concealed on passengers is Advanced Imaging Technology (AIT). AIT safely and effectively screens passengers for both metallic and non-metallic threats, including weapons and explosives, without physical contact. As of September 17, 2010, TSA has deployed 224 AIT machines to 56 airports Nation-wide, and our goal is to have nearly 1,000 AIT machines deployed by the end of calendar year 2011.

TSA is seeking to enhance the efficiency of using AIT, while also reducing privacy concerns related to this technology, by working with manufacturers, the DHS Science and Technology Directorate, the security industry, and foreign government partners to develop automated threat detection software, also known as Automated Target Recognition (ATR). This is software used with AIT to display a computer-generated generic human image, going even further than the privacy-protected actual image of the passenger as the current technology does. On-going ATR testing is designed to ensure effective detection with minimal false alarms.

#### STRENGTHENING THE WORKFORCE

An intelligence-driven agency using sophisticated technological tools to root out terrorists will not succeed without a professional, highly trained, fully engaged, and respected workforce. As I stated above, the men and women of TSA are on the front line in detecting and defeating the terrorist threat. Since becoming the administrator for TSA, I have logged thousands of miles to meet with them. I have been impressed by their professionalism, work ethic, and enthusiasm. I have listened carefully to their suggestions on improving operations and opportunities, and have learned from their insights. I also have challenged them to hold themselves to the highest standards of hard work, professionalism, and integrity that already are intrinsic parts of TSA's fabric.

I also am working to hone the workforce development strategy and to develop an environment of continuous learning for TSA employees that will help them meet both individual and organizational goals. As we continue to implement new technology to meet emerging threats, TSA routinely evaluates, updates, and upgrades its technical training curriculum. Over the next 3 months, technical training priorities include an update to procedures at the passenger screening checkpoint and support for the deployment of new technologies such as Advanced Imaging Technology.

We are also working on improving the training for the Transportation Security Inspector (TSI) workforce. Along with revision of the TSI Basic Course on multi-modal training, we are developing and delivering additional courses targeted to specific transportation modes. TSA also recently expanded the Surface Transportation Training Center located in Pueblo, Colorado, which I visited in July. This is an impressive facility that is significantly improving the training we are able to provide.

Through these efforts, we are finding opportunities to integrate elements that not only enhance technical skills, but also contribute to professional development.

We are also engaged in efforts to address and resolve workplace issues. The Ombudsman at TSA is one of many avenues through which TSA employees may raise workplace issues and concerns to see them resolved. As I travel around the country meeting with employees, I have invited employees to raise issues and concerns to me directly, and I have learned that many employees also place great value in established communications channels, such as the National Advisory Council, the Idea Factory, and local Employee Advisory Councils. Nevertheless, I also know from my experience at the FBI that an effective Ombudsman program is a valuable resource for unfiltered, candid feedback on the state of the workplace environment, and I am committed to its advisory role to me and the rest of the TSA leadership team.

#### CONCLUSION

Thank you for the opportunity to appear before the subcommittee today to speak with you about TSA's on-going efforts to ensure the safety and security of the transportation domain. I look forward to your questions.

Ms. JACKSON LEE. Thank you very much, Mr. Pistole. I look forward to us engaging over a period of time.

At this time, I will remind each Member that he or she will have 5 minutes to question the witness. I will now recognize myself for 5 minutes of questioning.

Mr. Administrator, before I begin my line of questioning, could I get a response for the record that you will work with the committee in the next Congress on a TSA authorization bill that will



help give you the tools to move the agency forward on a number of issues?

Mr. PISTOLE. Yes.

Ms. JACKSON LEE. Thank you for both succinctness and great enthusiasm, as well.

Let me start by asking you about the state of the transportation security report. I think you should be noted and complimented for the on-the-road trip that you have taken to many, many airports. You might want to share with us how much progress you have made. I appreciate your visit to Bush Intercontinental Airport in Houston, Texas, one of the top 10 airports in the Nation, and for seeing the TSO officers there.

As you have been touring the assets in this short time, noting that you will be in Montreal in the next week, give us the 30,000-foot view of what you have and what your priorities are for TSA. My time is short, so if you could be—30,000 view and get whatever you think is most instructive.

Mr. PISTOLE. Thank you, Madam Chairwoman.

My three top priorities are to ensure that all the men and women of TSA look at their mission as a counterterrorism-focused National security mission enabled by the latest technology intelligence. The second is supporting the workforce, and third is to engage external stakeholders, especially the traveling public.

There are three things that I am telling every TSA employee that I expect of them: That is hard work, professionalism, and integrity.

Ms. JACKSON LEE. Thank you very much.

You heard me give a rendition of an incident that occurred, a bystander, an acquaintance, in fact, a lawyer that came up to me and indicated how two passengers wrestled down this individual on a flight into Las Vegas. So it was not one of our air marshals because it was not a plane that had one.

Air marshals provide a critical layer of security. The Federal Air Marshals Service has come under fire for personnel misconduct issues, the most disturbing of which is the incident in the Orlando office that involved a mock Jeopardy board with racial and otherwise insensitive remarks. I understand this incident is currently under investigation by the inspector general.

But what can you tell us today about what your plans are for reducing personnel problems at FAM, including establishing the Office of Professional Development you mentioned in your testimony?

Let me also add, while there are some high-profile incidents with FAMs, I believe they provide a critical layer of security, and, frankly, we should increase their presence on the flight. I want to thank them for their service publicly. I believe that the majority of the men and women of FAMs are outstanding public servants.

I have introduced legislation that would double the presence of FAMs on inbound international flights, which, as we have seen, is a vector that terrorists have tried to exploit, most recently on Christmas day. Please provide your comments on this legislation, which would also provide criminal investigative training to FAMs and codify the FAMs ombudsman.

So those two-pronged questions, please. I apologize for my raspy voice.

Mr. PISTOLE. Thank you, Madam Chairwoman.

I, too, applaud the work of the FAMs. I have met with a number of them, and it is a very difficult assignment to be a flying Federal air marshal, not on the road but in the air the time that they are.

I am very concerned about any serious allegation of misconduct, whether by a FAM or any TSA employee. That is the reason that I am creating this Office of Professional Responsibility, to ensure that adjudication of the investigation of allegations provides a firm, fair process for that adjudication.

That being said, there are a number of opportunities for engaging the workforce. Tomorrow I am holding my first senior leadership team retreat to focus on a number of things, including what our leadership team's vision is for TSA 10 years from now. I refer to that as the "2020 vision" for TSA: What do we want to look like as an agency? How should we act? How should we operate? How do we engage the stakeholders? So I have asked a number of employees for their vision for the next 10 years.

Critical in that and an integral part is a fair disciplinary process. So, any time there is an allegation, I want to make sure that there is a high level of confidence, not only among TSA employees but you and the subcommittee, the full committee, and the American public, that if somebody does engage in improper activity, they are held accountable.

I would just add onto your—the training issue, I believe that it is a good thing for the Federal air marshals to have the criminal investigative training. That is something that I am pursuing.

Ms. JACKSON LEE. You are monitoring the investigation of the Jeopardy board and the racist comments?

Mr. PISTOLE. Yes. I—without going into personnel issues, but I believe you are aware that the Federal air marshal special agent in charge is no longer there, has been removed, and other personnel actions are pending.

Ms. JACKSON LEE. I didn't hear you specifically. The language in the legislation talks about doubling the presence of FAMs on inbound international flights. I know we have worked with TSA and believe we have drawn some of the best input from them. So my question is, your reflection on the importance of that aspect, to be able to work with FAMs.

Mr. PISTOLE. Right. Thank you, Madam Chairwoman.

The presence of FAMs on many international flights is a critical component in our layered security. Given the current threat stream, the intelligence that we know is out there about terrorists, al-Qaeda particularly, and affiliates, interest in still striking aviation as on 12/25, the FAMs may be the last line of defense when it comes to that. So we appreciate your support for those additional FAMs on international flights.

Ms. JACKSON LEE. I thank you.

With that, let me recognize the Ranking Member for his 5 minutes of questioning.

Mr. DENT. Thank you, Madam Chairwoman.

Secretary Pistole, the Aviation Transportation Security Act authorized TSA to establish trusted passenger programs and use available technologies to expedite the security screening of passengers who participate in these programs.

The concept was to allow for the focus on individuals who, at no cost to the Government, voluntarily provide biographic and biometric information for the purpose of background checks, which would free up resources at checkpoints to focus on those passengers for whom little is known. To meet this statutory provision, TSA created the Registered Traveler program. Unfortunately, the last RT vendor ceased operations last year, partly because of TSA's rejection of the RT program concept.

Former TSA Administrator Kip Hawley, for whom I had a great deal of respect—I really liked working with him, but he was never fond of the RT program. Mr. Hawley was concerned about what he called “clean-skinned terrorists.” Can you describe to us what a clean-skinned terrorist is?

Mr. PISTOLE. Thank you, Ranking Member Dent.

A clean-skinned terrorist is somebody with no pedigree, any derogatory information about him or her that would indicate that that person is a threat to aviation or anything else.

Mr. DENT. Okay. As you know, too, the clean-skinned terrorist theory never really resonated with many Members of the committee, because you have always believed in a risk-based approach to homeland security matters. You can never assure, you know, zero percent risk. TSA's aviation security layers are rooted in the principle of a risk-based approach to security.

Has TSA deviated from the risk-based principle when it comes to the Registered Traveler program?

Mr. PISTOLE. Well, first, let me say, Ranking Member Dent, that I am open to the Registered Traveler program. I think it is a question of the business model and the viability of that business model. So I am open to businesses trying to develop that. If that helps reduce risk, I am all in favor of that.

I do have the concern that a person such as the Times Square bomber, who would have had very limited, if any, derogatory information but for one or two very innocuous items, in many respects, could have become one of those trusted travelers. So there is always that possibility. But it does come down, as you say, to managing risk, and how can we allocate our resources against that risk in the best possible fashion.

Mr. DENT. Another question I have, too, that—you know, TSA has often taken the position that every individual entering a sterile area of an airport must go through a thorough screening and that a background investigation, much like that conducted for security clearances, isn't necessary. However, Federal security directors and TSA personnel, as well as airport personnel and maintenance workers, receive background checks and are able to bypass security screening.

I understand you are examining the merits of the RT program. When do you expect to complete your review? Will you commit to keeping an open mind as you review the program?

Mr. PISTOLE. Yes, I do have an open mind to it.

I don't have a specific time frame. What I have looked at, I am open to the business propositions and the opportunities that are there. I know there are several airports that have the equivalent of a Registered Traveler program. A number of other airports, I be-

lieve it is 51, have something for their elite travelers, which is similar to a trusted traveler, Registered Traveler program.

Mr. DENT. Okay. Then, also, some airports have been waiting to get reimbursed by TSA for their investments made to improve in-line baggage handling and explosive-detection equipment. Congressman Bilirakis I don't think is going to be here today, but he requested I ask this question on his behalf.

What plan does TSA have in place to reimburse airports for their costs of installing explosive-detection systems?

Mr. PISTOLE. I have conducted a review of that and found that there are a number of airports around the country that did work shortly after the 9/11 attacks, as you described. There is approximately \$400 million of that work that was done. So, the issue that I am dealing with is, is the traveling public in a better situation if I apply that money to airports that do not have the improved security equipment in theirs, or do I take that money and apply it to those which already do? So, again, it gets back to the risk-management issue.

Mr. DENT. My final comments and questions are, as you are aware, there was an exposé conducted by the New York TV station earlier this week showing what appears to be sloppy security at Newark Liberty International Airport. I would note that Chairwoman Jackson Lee and I were there earlier this year when there was a security checkpoint breach that resulted in the dump of the entire terminal, which we remember very well.

Have you seen the video footage? Can you tell me if you have any concerns of what you saw? Also, while I understand TSA may conduct its own review of the Newark incident, can you commit the TSA's continued cooperation in our Congressional review?

Mr. PISTOLE. "Yes" to the last question.

"Yes" to the video that was on Fox News. It is quite disturbing to see what could be significant vulnerabilities in perimeter security and access points.

Mr. DENT. Thank you very much.

I yield back.

Ms. JACKSON LEE. Thank you very much.

Mr. Administrator, we are now in the midst of six votes. We ask for your indulgence. We will now recess this committee and return after votes.

[Recess.]

Ms. JACKSON LEE. This hearing is called to order.

I now recognize the gentleman from Texas for 5 minutes of questioning.

Mr. AL GREEN of Texas. Thank you, Madam Chairwoman. I especially thank you and the Members of the committee for the unanimous consent for my participation with this august body.

I would also, Madam Chairwoman, if I may, like to thank the staff. I have had an opportunity to peruse the memo, and I want the staff to be well aware that I consider it a very fine piece of intelligence.

To this end, I would like to confine my comments to the last 16 words in the last paragraph on the last page. The sentence reads, "Due to numerous delays, the TWIC reader pilot program's conclusion has been postponed until spring 2011."

Let me welcome you to the committee. I am honored that you have chosen to help your country in this time of need. I thank you, Mr. Administrator, for your service that you have rendered. I am especially grateful that you will be working with us.

The TWIC card, as it is called, has been a concern that has been raised by a number of my constituents. The concern that has been raised by persons on the committee has been that of deployment of the reader. The card was deployed before the reader was deployed. As I understand it, we have a pilot program that is currently under way.

The question, I suppose, is: Will we make this deadline? I have to ask in this fashion—and this is not to demean you in any way, but we have given deadlines previously that have not been met. My hope is that we can get a final deadline, if I may say so.

So I would like your response, and then I have a couple of other questions. So if you can be as terse as possible, it would be greatly appreciated.

Mr. PISTOLE. Thank you, Congressman.

I do not have a specific deadline that I would give you because I do want to manage expectations as I review the TWIC program and the card readers, as you have indicated. As I understand, there have been a number of both technological issues and funding issues as it relates to the deployment of both the readers in a number of areas.

So I am reviewing that whole process, and I pledge to work with you and the committee to come back with a better date rather than the spring of 2011.

Mr. AL GREEN of Texas. Thank you.

Another concern is one that relates to replacement cards. As you know, these are difficult times, and many of the workers that find themselves having to get a new card for various and sundry reasons have to pay for the new card out of pocket.

Is there a means by which you plan to have a process that will allow a worker to contest the requirement that it be replaced at the worker's expense so that workers can have a belief that, if the card malfunctions, then the worker shouldn't have to pay for the replacement? But I am not sure that the process exists now.

If it does exist, then I would like to know what it is. If it doesn't, can we develop a process that will give us some reasonable assurance that there will be some sort of ascertainment as to whom it is should bear the cost of replacement?

Mr. PISTOLE. Yes, Congressman. It seems to me that fundamental fairness dictates that, if a card is not working through no fault of the person themselves, that there should be some mechanism for that person having a replacement card without additional costs.

That being said, I don't have the facts here with me today to be any more definitive about that. But I will look into that also and get back with you.

Mr. AL GREEN of Texas. Thank you.

If you would, I would welcome a written word on this as a response. That way, I can share it with my constituents and let them know that, indeed, you and I are trying to resolve this issue. I am sure there many other things that are pressing, but if you hap-

pened to be one of the persons who has had to bear the cost of replacing a card, for you, it is an issue of paramount importance.

I thank you for the friendly way that you have approached it. My hope is that we will be able to resolve this.

Finally, in my last 2 seconds, the establishment of an Office of Professional Responsibility, I would like to commend you for doing so. I think that can be meaningfully done. My hope is that it will work to the advantage of the people who find themselves having challenges.

Thank you very much. I yield back, Madam.

Ms. JACKSON LEE. I thank the gentleman for his thoughtful questions, and we will follow up with the gentleman, as well, as the subcommittee.

I would ask the administrator to send the letter to the committee for its records. We will work with the gentleman on, I think, a crucial issue for his constituents and other constituents.

Thank you.

The gentleman from Pennsylvania.

Mr. DENT. No questions.

Ms. JACKSON LEE. Mr. Administrator, if I can pose some additional questions.

We recently had what I feel was a profound hearing in July on the Surface Transportation Inspection Program. In addition, you have heard some recounting of H.R. 2200, which is an overall comprehensive bill on transportation security, among other issues. You have been making your rounds and have seen surface systems across the country, including exposure to some facilities in Houston.

Please tell me your vision for TSA's surface security program, including, if you will, addressing the committee's concern and the inspector general's concern with the current organizational structure of the Surface Transportation Inspection Program.

Mr. PISTOLE. Thank you, Madam Chairwoman.

I believe the surface security program for TSA is an integral part of the layered security that we apply across the non-aviation sector. To that end, the IG's reports have been noteworthy in terms of the areas of improvement for TSA as it relates to surface transportation.

So I have reviewed the reports. Looking at the best construct within TSA for how that—the surface transportation—the inspector should report, I know there are different opinions on that, and I have not reached a final conclusion on that at this point. But I appreciate the subcommittee's interest in the issue.

As you indicated, my visit to Houston, where both the bus demonstration, in terms of security measures implemented there, and then on the light rail, was illuminating for me in terms of opportunities that we have in TSA to assist State and local providers of surface transportation, to assist them in their efforts to provide the best possible security.

Ms. JACKSON LEE. So let me just determine where you are. You are in a study mode?

Mr. PISTOLE. Yes. In response to your question about the reporting, there are at least two different constructs which I have seen: The one being the assistant Federal security director, whether it is

for law enforcement or for inspection; and then the other is out of the actual inspection office.

So, what I am reviewing is what makes the best business sense, both internally to TSA but equally to the providers of the service at the local level. So I don't have a resolution of that yet.

Ms. JACKSON LEE. So, in essence, there is no firm organizational structure now; you are reviewing.

Mr. PISTOLE. There is the existing structure, but, given the IG's report, that is what I am reviewing.

Ms. JACKSON LEE. Yes. Let me be clear: There is no new firm organizational structure.

Have you put a time line for your review and implementation of a new structure in response to—or enhanced structure in response to the inspector general?

Mr. PISTOLE. I do not have a specific time line on that, but I will be glad to get back with you and the subcommittee in the near future as to that.

Ms. JACKSON LEE. Would you?

Would you also—what is the status of the TSA executive level? Do you have in place all of the positions that fall under your particular leadership?

Mr. PISTOLE. There is at least one assistant administrator position that is open that we are trying to fill right now. That is the—if that is what you are referring to.

Ms. JACKSON LEE. I am.

Mr. PISTOLE. Yes.

Ms. JACKSON LEE. And others. That is a Presidential appointment?

Mr. PISTOLE. No, that is not. That is simply a—

Ms. JACKSON LEE. Civil service?

Mr. PISTOLE [continuing]. Civil service hire, yes.

Ms. JACKSON LEE. So how many of those civil service at that level do you have remaining vacant?

Mr. PISTOLE. I would be estimating. Approximately six involving headquarters and field staffing.

Ms. JACKSON LEE. What about FSDs around the country?

Mr. PISTOLE. Right, so I am including those as part of that. So we have one assistant administrator, and that is for intelligence. Then there are—I am trying to think of the number of either FAM SACs, the special agents in charge, or FSDs. That is why I am giving a ballpark.

Ms. JACKSON LEE. Why don't you get us that information in writing? It is very important.

Mr. PISTOLE. Yes.

Ms. JACKSON LEE. In fact, why don't I broaden the question? Just give us the structure of the TSA with all of the leadership positions and a number of FSDs and a number of vacancies—

Mr. PISTOLE. Sure.

Ms. JACKSON LEE [continuing]. That you are working on. It would be helpful if you would give it some considerable thought and you have a time line as to how you are progressing with that.

One of the issues, of course, in security is man- or woman-power. I think that is an enormous challenge, as well, in what we are doing.

Let me continue. We have been told that the TSA ombudsman lacks the independence and authority to get personnel issues resolved. As a result, employees often avoid the ombudsman and withhold their complaints, for fear of retaliation.

To give this office the independence and weight it needs to resolve personnel problems, do you agree that the ombudsman should either be moved out of TSA to DHS headquarters under the Deputy Secretary, like the citizenship and immigration services ombudsman, or should it have its own in TSA that reports directly to the administrator?

Where is the firewall and the comfort level for employees to be able to provide the necessary information to this particular ombudsman?

Mr. PISTOLE. Thank you, Madam Chairwoman.

I believe the ombudsman needs to be an office and person who is empowered with the authority to look into complaints, issues that are raised by all members of TSA. I believe it should be within TSA, rather than DHS writ large, because of simply the size of TSA, with 60,000 employees. I would not that ombudsperson's office to be diluted by being at a Department level rather than agency level.

So my plan is to take the ombudsperson position out of its current construct in the Office of Special Counsel, which is an assistant administrator level, and raise that up so it is a direct report to the deputy administrator and myself.

Ms. JACKSON LEE. Does that mean you will physically have that office in a location that is secure and comfortable for individuals who need to utilize the services of the ombudsman?

Mr. PISTOLE. Yes.

Ms. JACKSON LEE. Again, these questions that you are saying "yes" to, if you can provide us with a time line in writing as to when you expect that to be up and running, I think that is an important part of professional development.

Competition is critical to ensuring our security system is as cost-effective and efficient as possible. When will TSA provide airports and airlines the opportunity to select from qualified vendors in submitting biometric and biographic information for criminal history records checks and security threat assessments, as directed in the TSA Reauthorization Act?

The committee is concerned because TSA has just extended a no-bid, sole-source contract for two other aviation channeling programs, even though there are qualified service providers.

Mr. PISTOLE. Without knowing the specifics of the issue that you are referring to, Madam Chairwoman, my commitment to you and the subcommittee and to the full committee is to ensure that in each and every opportunity that there are opportunities for all small businesses, minority-owned businesses, anybody who is qualified to equally compete for contracts with TSA.

So I would be glad separately to get the details that you are referring to and look into those and get back with you and the subcommittee.

Ms. JACKSON LEE. We should probe it just a little bit more, Mr. Pistole. It appears here that the TSA extended the contract in a no-bid, sole-source contract for the channeling. You still may not have



all the facts, but I think you should dwell on sole-source and you should dwell on the challenges that we have—that was brought to our attention, of the ability of small, minority, women-owned businesses to even get an opportunity to respond.

Frankly, I think this is going to be something that is required in writing. I simply want to know why. Why does this have to be that approach, when—all of us who serve on this committee probably have more small businesses offering various new technology and capabilities. As we have these hearings and as they are able to reach our offices, there seems to be an abundance of these individuals and small businesses. I think you know that it is the President's commitment that we give opportunities to small businesses in the fair and legally sound manner of which the procurement process has to operate under.

Can you just provide me with your thinking? What kind of leadership will you have, No. 1, to answer the question I have just given—and you may have to do that in writing—that will give us a better approach and give us a better attitude that TSA is serious—because TSA's business is around America—about the opportunities for the same kind of technology or the same kind of services to be rendered by small, medium, minority, and women-owned businesses?

Mr. PISTOLE. Right. Thank you, Madam Chairwoman.

My philosophical approach, as you say, is, I am a strong proponent of equal opportunities for small businesses, minority-owned, women-owned businesses that can compete. I want to make sure that there is an even playing field for that, recognizing the challenges that on major acquisitions, such as AIT and others, small businesses simply would not be able to compete because of their capacity development issues. Some contracts obviously require a classified background in order to get into that, and so that can pose a challenge to a small business oftentimes. But for all those vendors that we can do business with, I support that notion wholeheartedly. I know the Secretary does.

I just saw figures, I believe, last week on the percentage of contracts that the Department and TSA let to small business, minority-owned business, women-owned businesses, and it is above the Government average. So I am a strong supporter of that.

Ms. JACKSON LEE. Well, let's probe this just a little bit more. I do understand that. That is why I would like you to give some thinking to this. That is, when you have that kind of sophisticated technology in AIT, there are possibilities of utilizing the larger, more stable or experienced company, or company with the technology, and then require percentages of MWBs to subcontract for a variety of needs that the installation may call for or other aspects.

I would ask you to—or let me just ask you to muse on that, to give your thoughts about that. Because I think we should ask very long and hard questions on how we can best serve the American public, how we can be secure, and how we can answer this question of participation.

Mr. PISTOLE. I agree wholeheartedly, Madam Chairwoman. So it is something that, frankly, to this point, I have not been into the details on any acquisition, and I don't necessarily plan to be in-

volved in any particular ones, but I can set the tone from the top, as to what I expect. If there are subcontract opportunities in those large acquisitions, then I fully support that.

Ms. JACKSON LEE. I appreciate it. Again, why don't we take all these questions in note for writing and submission back to the committee?

Let me also add that TSA is one of the more prolific users of technology. One of the hearings that this committee has held is the transition of approval from S&T, Science and Technology, out to the users of the technology.

What kind of efforts will you utilize to have a connection, have a collaboration with Science and Technology to ensure that products that might be helpful in securing the Nation move quickly?

I know you have meetings with the Secretary. You all have your own internal meetings. But that is something that we need the users of the technology to be very vocal about, on how that process works.

Mr. PISTOLE. Yes, Madam Chairwoman. I agree in terms of—and I have met, as you have mentioned, with Dr. Tara O'Toole several times from S&T. My issue is wanting to make that what S&T does is all requirements-driven from TSA, from my perspective, and that we are working collaboratively to come up with the best solutions to the gaps that we currently have. So that is the perspective I bring to the job.

Ms. JACKSON LEE. Another issue I find very important—let me go back to airports and security of airports and focus on several issues.

I have a lot of friends and colleagues, and so let me say to them, all my friends in New Jersey, my colleagues in New Jersey, this is not a pointed effort to highlight the assets that are there. But I think my Ranking Member indicated that we were personally in Newark airport when the first incident occurred where there was a questioning of who went through the wrong direction. At that time, the airport was literally shut down.

We have had now another incident in Newark airport regarding inspections over the last 48 hours. We have had, certainly, a history of concerns that may not have been directly terrorist-related but they are inspection-related in Miami airport with drug-running, if you will.

So airports are still in the eye of the storm. Do you view it necessary within your area to have a focused task force, maybe small in size, that raises the red flags as to what directions we can give to airports so that we are not looking at a tragedy because we overlooked mishaps or failures in security? I am concerned about that.

Airports are cities. People are there almost 24 hours a day, to their dismay. They have their own mayor and personnel that come and go to work, and then they have the guest that comes, of whom they have to determine their legitimacy for being there, our passengers, the traveling public.

But it seems that we are always looking beyond the airlines and the incidents that take place in-flight, which we now have done and made major changes, but the airports are appearing to be so vulnerable. I don't see the sense of urgency in dealing with the security in the airports.

Mr. PISTOLE. You have touched on a significant issue, Madam Chairwoman.

In terms of the layered security that we in the U.S. Government apply to aviation security, recognizing that we cannot be all places at all times in all instances and for all people, and so many of the services that you describe are contracted out, as in the case of Newark with the access points and perimeter security, which the airport authority contracts out.

That being said, we provide security directives and instructions to each of the 450-plus airports in terms of what their security perimeter and access points should look like, and so we are reviewing that Newark situation.

My question coming out of that review is, is this a systemic issue going beyond Newark airport? Are there other airports similarly situated that perhaps have lax security that could expose some vulnerabilities and gaps in this layered security that this news report apparently uncovered?

So when I get those facts, I will look at the propriety of establishing this small task force, as you suggest. If it appears there are systemic issues, then we have to roll up our sleeves and have quite a bit more work to do in working with those airports that may have those vulnerabilities.

Ms. JACKSON LEE. It is a very difficult divide that you have to work with because there are airport authorities, there are State authorities, there are city governments. The question becomes whether or not some of these contracts that are directly related to the security of the traveling public and/or personnel on the grounds of the airport have to be scrutinized even more.

Newark is a very large area, and it is located in a very unique area, as some airports are. We certainly appreciate—I have just spoken about small businesses, but I think we have to ask the question whether that is where they should be.

We made the decision on TSO. Certainly, that is a financial burden on this Government. But I think, by and large, Members have agreed and the traveling public has agreed, as we have developed the professionalism of TSO officers and their pride in the position, that we should look to be looking at some other options as well.

I want to continue that line of reasoning, and I just have one or two other questions. But I want to pursue the incident more thoroughly with the Jeopardy board that was noted, and you have that under investigation. But that deals with racial issues. I think it is important for you to add to your report what efforts you are utilizing, in a very diverse workforce, to go ahead on into discriminatory practices.

I would like to get, again, a report to this committee on the demographics of TSO officers and the percentages of supervisors and managers, which is one of the concerns we hear, as part of the traveling public, that there is not enough promotion opportunity and growth opportunity for women and minorities and others, if you will. That is extremely important.

Mr. Pistole.

Mr. PISTOLE. Yes, thank you, Madam Chairwoman. It is extremely important to me also, both in my prior job and now in this job as the administrator for TSA.

I have been pleased to see the diversity at TSA, not only in the traditional diversity sense, where there are about 40 percent of all employees are women. I believe it is 45 percent are minorities, including women, blacks, Hispanics, and others. So it is a high percentage.

I also am focused on the leadership team. I have a chart that I got when I first started, just the top 19 executives at headquarters, basically for name familiarization, to figure out who is who and where their areas are. I got that on my first day. I glanced at that again today in anticipation of this hearing, and, out of those 19, eight are minorities. So that is obviously a much higher percentage than most areas of the Federal Government and in many businesses, of course. So I am looking at that and, again, pleasantly surprised by those numbers and perspectives.

The other part of the diversity, though, is, because TSA is a new agency, in the last 9 years, I have been very impressed with the diversity of experiences in backgrounds that people, both TSOs and in leadership positions, bring to TSA. So there is a richness and wealth of experience from many different agencies and outside the U.S. Government, from aviation, from surface, all these different areas. So it is, again, a rich tapestry of individuals who compose the TSA workforce.

Ms. JACKSON LEE. Do you have under your jurisdiction that are out in the field office personnel that come under TSO, or are they all screeners?

Mr. PISTOLE. So the—

Ms. JACKSON LEE. The TSO personnel that is out in the field, are they predominantly screeners?

Mr. PISTOLE. Yes.

Ms. JACKSON LEE. You don't have any office types that are in the—

Mr. PISTOLE. Oh, I see. No, all the transportation security officers are security officers who perform the screening function, right.

Ms. JACKSON LEE. Have you made accommodations for those individuals who have to wear certain headdress and have some religious practices that they need to advance?

Mr. PISTOLE. I am not aware of that, and I will have to get back with you on that.

Ms. JACKSON LEE. I will be more specific: Religious headdress that they have to wear. Religious prayer practices, I need to know whether you are addressing that question, as well.

So let me just be very, very clear. I do want to have a good, strong review as it relates to discriminatory practices and some record of strong messages that will go out from you, as the leader of the agency, that this is unacceptable, intolerable behavior. Because sometimes individuals can be reprimanded and they take it lightly. But I think it is important, because we are dealing with security issues, that there is a certain camaraderie that is going beyond anyone's difference.

Mr. PISTOLE. Right.

Ms. JACKSON LEE. Several key rules for surface modes required by the 9/11 Act are now more than 2 years overdue. TSA has decided to write a consolidated rule for rail, transit, and intercity bus

employees, as well as a consolidated rule to govern security assessments and plans for the same three modes.

What is the status of those rules? When will TSA issue the NPRM for each rule?

Mr. PISTOLE. I will have to defer on the specifics in terms of each rule.

It is a concern to me, as it relates to the 9/11 recommendations, that many have been completed but many have not, for various reasons. I have appointed an accountable executive within my leadership team to focus on those recommendations that have not been completed and the reasons why on a weekly basis.

So I will have to look at the specifics. I mean, I have a chart of what has been done. I know the rulemaking process can be cumbersome at times, given comments and things. So I owe you a get-back on that, Madam Chairwoman.

Ms. JACKSON LEE. I think the simple question is: What is the status of the rules? In particular that I am asking about, surface transportation.

Mr. PISTOLE. Okay.

Ms. JACKSON LEE. They may not have even begun, and you need to let us know if that is the case. They are over 2 years due. So they may not have even begun. So I just want to make sure that we get that.

I want to pursue the comments that were made in the Chairman's opening statement. As I do that, be thinking of this question, as well, which is sort of connected to the smooth operations between the FSD and the airport personnel. Many airports we go to, it is a smooth relationship.

But I would like to question whether there are directives coming from headquarters as to how that relationship should be formed, how often should they be meeting, and the issues that they should be discussing.

To give you an example in point—I have mentioned it at this committee. I think—and I will just be very clear—equipment at Houston Intercontinental, as of last week, 10 days ago, apparently was not in place. It was not in place because of local permitting issues.

This is in no reflection of the excellent team there. But I am speaking because there might be a team in Nashville, there might be a team in Denver, there might be a team in Philadelphia who are having the same local issues that are even beyond the boundaries of the airport, because permitting is done way downtown, away from most airports.

Let me pause and ask, are you developing some way of ensuring that the team is working together, that if they have these kinds of concerns, what is the—not concerns, issues—what reach do they have? Who do they have to call?

You are not going to find the FSD trying to reach to the local permitting office, the local building permits office. So they are at a disadvantage. How are you working through those issues?

Mr. PISTOLE. So the process, Madam Chairwoman, is, as the Office of Science and Technology works with the FSD to identify airports that are ready for the deployment, in terms of a physical layout, the footprint, and all those things, then they work from the Of-

fice of Science and Technology to acquire the permit to do the process, so it is not incumbent upon the FSD to do that. They have other responsibilities, and this is really a technology deployment issue. So there is an infrastructure, a team in place to do that.

I learned of the situation in Houston after our visit there and was disappointed to hear that that had not been anticipated, and, not pressure, but just reason brought to bear to get that permitting process done on time, so, as the equipment is available, then that can be deployed immediately.

My concern with the whole process, which I know you share, is that that is a potential vulnerability or a gap that we have. Every day that that equipment is in our possession and could be deployed but is not is a potential vulnerability and a gap we have. So I have asked that the review be done on what happened there and are there lessons learned that we can apply to other situations. I am not aware of other airports where that is currently on-going.

Ms. JACKSON LEE. That is what I hoped that you will do, and I would appreciate it greatly.

The President has indicated his support for affording collective bargaining rights to TSA employees. Secretary Napolitano said last December before the Senate Commerce Committee that she thought it should be done without sacrificing—or thought it could be done without sacrificing security. During your confirmation, you said you would conduct your own review of the issue.

TSA employees have been very patient in waiting for this decision to be made. What is the status of your review on this issue? We in this committee and the subcommittee have submitted this language previously in a number of bills. Do you support collective bargaining rights for TSO officers, transportation security officers? When will we see some movement on this issue?

Mr. PISTOLE. Thank you, Madam Chairwoman.

I have been conducting a review, as requested by the Secretary, and that has taken a two-fold approach. One is through my town hall meetings, my personal engagement with all employees, both at headquarters and the field. Then the other is an outside group that has come in and done a number of interviews of leaders in other agencies, primarily in the Government but also those in the private sector, to assess whether collective bargaining would or could have a negative impact on the security operations.

That report is nearly complete. I will review that report and then make a decision. I will, obviously, discuss it with the Secretary. But the bottom line is whether collective bargaining has an adverse impact on security. If that is not the case, then the decision tree becomes, one, is it in the best interest of the TSOs? As you know, a number of them are already union members without collective bargaining rights.

What I have heard in my town halls is a frustration on several levels, as identified by the Chairman, in terms of pay and supervision and performance evaluations and things that may or may not be addressed by collective bargaining. So that is part of what I am looking at.

I should have my—I want to get this review. Then my review will be in the near future. I don't have a specific date for completion.

Ms. JACKSON LEE. Can you give us some rounded time frame, weeks or 2 weeks or next week?

Mr. PISTOLE. Definitely not next week, because I will be in Montreal for the ICAO. I would say weeks rather than months, if that is what you are talking about, yes.

Part of that is, obviously, discussing it with the Secretary. Then, whether she makes the decision or I make the decision, I am not sure on that.

Ms. JACKSON LEE. Well, let me indicate to you that we can't argue with thoughtful, constructive review. What I will say to you, for those of us who came before you, we have actually been discussing this issue since 9/11, since the creation of TSO and the Transportation Security Administration and TSO officers. We have been discussing this issue since that time.

So I would say that we have been somewhat delayed. We now have an administration, as we understand it, that both the President and the Secretary have gone on official record for their support. I cannot imagine that there will be much delay.

I am not going to get into the discussion of which union. You have some direct conversation with TSO officers. We are not privy to that. But I think the overall issue is the right for an opportunity to engage and to be able to raise issues of your work conditions.

You have already made the point, as the Chairman made, and that is that there is an unhappiness with the pay scale. It is not equal to, as I understand it, the civil service. Equally, the part-time structure is a very challenging structure, and frustrating. Certainly, we are glad people are working, but if it doesn't create a pathway of growth, professionalism, then I really think you need to look at it, and I think you need to seriously look at this question of not engaging.

I didn't hear you say that you—did you say that you had opposition, while you were out on your tour, to this idea?

Mr. PISTOLE. Well, I have asked for the pros and cons from, again, the TSOs, from the managers, the supervisors, the executives. So I have received both pros and cons from different people that I have talked to.

If I could say, Madam Chairwoman, I greatly appreciate your personal interest in and the subcommittee's interest in the well-being and benefits of the TSOs, because I know you appreciate the work that they do every day, often without any acclaim or recognition, often with complaints. So that is important to me, to know that you and the subcommittee and the full committee are as interested in and support the men and women of TSA as you do. So, appreciate that.

Ms. JACKSON LEE. Well, we look forward to working with you.

I know that the reporters will probably pause on this analysis. I thought that you had mentioned—and you just said that you got the pros and cons. I was going to use this example, and I think I will go ahead and do so, knowing that I am probably way beyond jurisdiction of this committee.

But we have been debating Don't Ask, Don't Tell. There has been a lot of representation as to what the troops would want and not want. I only raise the question—you don't know until the process

is implemented. You won't know about the opportunities for engagement on work issues until it is implemented.

We have seen it implemented in the police and fire, particularly, where we have something called a "meet and confer." I am not suggesting that, but what I am saying is—and jurisdictions have survived when public employees have had the ability to have a discussion.

I would imagine that, as you review this, you will look at it and be engaging in the unions and find the best commonality that you can to protect America and also to provide for these very, very important workers who are on the front lines.

My simple message is: We won't know until we try it. I just think it is important. I urge you to have a review that is as expeditious and thorough so that we can try it and have an opportunity for workers to be able to feel both appreciated and, as well, able to communicate their concerns to their management.

So let me thank you very much. I think we have given you a litany of questions and reports, all of which will not be due next week. We recognize the work that has to be done. But I will say to you that I can't think of a more serious responsibility within the DHS, which most people now recognize has really become the armor against terrorists who may come from anywhere. You are very keenly engaged in the transportation area, where so many view it as a target that is attractive to terrorists. That was the title of this hearing. So, we thank you for contributing to it.

There being no further questions for our witness, I thank Administrator Pistole for appearing before the subcommittee today and for your patience. The Members of the subcommittee may have additional questions for you, and we ask that you respond to them expeditiously in writing.

This hearing is now adjourned.

[Whereupon, at 4:47 p.m., the subcommittee was adjourned.]



## APPENDIX

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QUESTIONS FROM CHAIRWOMAN SHEILA JACKSON LEE OF TEXAS FOR JOHN S.  
PISTOLE

*Question 1.* When airports send personnel information to TSA and the FBI for a determination on whether they can issue an employee an airport security credential they use the clearinghouse operated by the American Association of Airport Executives (AAAE). As this is a sole source contract, some airports have complained that there are other channeling service providers that could do the same function for less than what AAAE charges. What is the status of TSA opening up this channeling service to other vendors?

Answer. The Transportation Security Administration (TSA) supports allowing choice in channeling for airport and aircraft operators, and, as a part of its Aviation Channeling Services Project, is working diligently to create a path for additional entities to provide aviation channeling services. On October 28, 2010, TSA released a draft copy of the Project's technical requirements on the website for Federal business opportunities, "FedBizOpps.Gov" to provide an opportunity for review and comment. Specifically, the modified pre-solicitation states:

"The Transportation Security Administration (TSA) is seeking qualified vendors for its Aviation Channeling Service Project (ACSP) to support the vetting of airport workers and aircraft operators. The estimated population is approximately 2,100,000. The anticipated geographic scope is the United States, and its possessions and territories. TSA is contemplating the establishment of Designated Aviation Channelers (DACs) based on the overall performance of each Offeror's technical solution for meeting TSA requirements. DACs will provide choice to airport and aircraft operators for channeling services for aviation populations. The Government plans to certify not more than three vendors on the basis of the most advantageous proposals. Responses shall be evaluated against the ACSP Solicitation, ACSP Technical Specification, and other identified information. The selection of DACs will be based on factors set forth by the Government. The selected DACs will be required to meet Federal system Certification and Accreditation requirements before providing services to regulated aviation stakeholders. Once selected, the DACs must support and maintain their technology solution during the qualification testing at no cost to the Government, including but not limited to the design, development, maintenance, support, operations, etc. If the Offeror's system passes qualification testing and is deemed acceptable by the Government, the Offeror would be placed on the TSA ACSP DAC List."

Soon after the review and comment period, TSA will issue the final technical specification and solicit proposals for providing the aviation channeling services that the American Association for Airport Executives (AAAE) now exclusively performs under their current Agreement with TSA.

*Question 2.* What efforts is TSA taking to ensure that emerging technologies, especially from small businesses, are being approved and used? When will TSA next review potential air cargo screening technologies?

Answer. The Transportation Security Administration (TSA) and the Department of Homeland Security's (DHS) Science and Technology Directorate (S&T) have several means in place for small businesses to propose emerging technologies. TSA maintains a Broad Agency Announcement (BAA) encouraging submission of new technologies, while also maintaining an on-going BAA specifically for air cargo technology qualification. S&T has its respective BAA soliciting new technologies and also employs the System Efficacy through Commercialization, Utilization, Relevance, and Evaluation (SECURE) and FutureTech outreach programs, as well as the Small Business Innovative Research program. In accordance with the existing TSA air cargo BAA, TSA intends to offer at least one qualification opportunity for products in each of the major technological groups during fiscal year 2011. Through

this process, businesses of all sizes have equal opportunities for qualification; including several small technology vendors whose products have been approved.

*Question 3.* What is TSA doing to include airport authorities early in the planning and deployment process for AIT machines? Would you support giving airport authorities a formal role in the process? Will TSA reimburse airports for terminal modifications associated with AIT installation?

*Answer.* The Transportation Security Administration (TSA) conducts design discussions with key stakeholders. Relevant stakeholders agree upon Advanced Imaging Technology designs prior to deployment. Airport authorities already have a significant role in the deployment process, as TSA works through each airport's permitting process before proceeding with any work. Derived from the "American Recovery and Reinvestment Act" in which \$1 billion was allocated to TSA for aviation security projects (\$734 million of which was allocated for checkpoint explosives detection technology), TSA funds construction costs associated with deploying new technologies into a space provided by the airports. TSA does not plan extensive terminal modifications in conjunction with AIT installations.

*Question 4.* Since TSA is now planning to deploy about 10 new technologies to passenger checkpoints, how will it ensure that these different technologies are successfully integrated? Has TSA updated its passenger checkpoint program strategy to reflect the increased use of AIT?

*Answer.* The Transportation Security Administration (TSA) has integrated the Advanced Imaging Technology (AIT) into its passenger checkpoint screening protocols and has updated its standard operating procedures to include the AIT. TSA has worked closely with the Department of Homeland Security's Science and Technology Directorate to develop comprehensive technology roadmaps that guide the agency's security technology acquisition activities and timelines. The integration of AIT systems into the checkpoint strategy is a key component of those technology roadmaps.

*Question 5.* Over the past few years, TSA has increased the number of Behavioral Detection Officers at airports Nation-wide. Does TSA have any way to measure the effectiveness of its Behavioral Detection Officers to justify this expansion? Does TSA perform covert testing on Behavioral Detection Officers like it does with passenger and baggage screeners? Since GAO's report on SPOT was released in May, has TSA considered any of the recommendations provided in the report?

*Answer.* The effectiveness of the Transportation Security Administration's (TSA) Screening of Passengers by Observation Techniques (SPOT) program can be measured in both scientific and practical terms.

TSA is currently working with the Department of Homeland Security's (DHS) Science and Technology (S&T) Directorate to complete a study to scientifically validate the effectiveness of the SPOT program. Preliminary analysis indicates strong support for SPOT as an effective aviation security measure. A final report is expected in December 2010 and may contain Sensitive Security Information (SSI). TSA would be pleased to share the results of this study in a closed meeting with the committee.

From a practical standpoint, the SPOT program has significantly increased TSA's ability to detect potential suspicious behavior and activities at our Nation's transportation venues. TSA maintains records of and performs analysis on the outcomes of each instance where an individual is referred for additional screening or scrutiny by Behavior Detection Officers. From January 2006 through July 2010, TSA has documented over 25,000 cases of individuals referred by Behavior Detection Officers who were found to be in possession of prohibited and/or illegal items. During that same time frame, more than 1,600 individuals referred by Behavior Detection Officers were subsequently arrested by law enforcement agents.

TSA has concurred with each recommendation provided in the GAO's report on SPOT. Specific projects are currently underway that include the implementation of eight of the eleven recommendations. TSA continues to explore solutions that address the remaining recommendations.

*Question 6.* Following the August 3, 2010 deadline for screening 100% of cargo on passenger aircraft, has the cargo industry experienced any supply dislocations due to the 100% screening mandate?

*Answer.* Based on information provided by airlines and freight forwarders, industry has not experienced supply chain dislocations. The Air Forwarders Association and Express Logistics Association have conducted surveys of their membership and have reported no issues as a result of the August 3, 2010 deadline.

*Question 7.* How is TSA verifying that C-C-S-P participants are properly screening the cargo within their jurisdiction?

*Answer.* The Transportation Security Administration (TSA) Office of Security Operations (OSO) has developed a Compliance Work Plan, which requires that all Certified Cargo Screening Program (CCSP) participants, specifically Certified Cargo

Screening Facilities (CCSF), receive two separate and comprehensive regulatory compliance inspections per year. Included in these inspections are reviews of cargo screening requirements. Transportation Security Inspectors (TSI) also use outreach visits with new CCSFs to discuss all regulatory requirements.

Additionally, TSA's Cargo Compliance Program requires risk-based inspections. Any entity with past findings of non-compliance or investigations into alleged or actual non-compliance is required to be inspected more frequently.

TSA's Cargo Compliance Program has provided training specific to screening procedures and technology familiarization for current TSIs. In-depth procedural and hands-on technology training is taught at the basic multimodal inspector course. TSA plans to provide further training to existing TSIs, which will also support planned cargo screening testing for this fiscal year.

*Question 8.* In TSA's evaluation of products and technology for use by C-C-S-P private sector cargo screeners, the agency encouraged companies to submit technology for approval. Yet, the standards by which the companies' products were being evaluated were classified. Please tell me the exact steps that TSA took to ensure that small businesses were given the necessary clearances to participate in the evaluation process.

*Answer.* The standards used to evaluate the Certified Cargo Screening Program (CCSP) proposals were not classified as defined by various Executive Orders (including Executive Order 13526) and as such security clearances were not necessary to participate in the program. Instead, the CCSP standards were determined to be Sensitive Security Information (SSI) as described in 49 CFR Part 1520. TSA has a documented process to perform security threat assessments on interested parties that require access to SSI during competitive acquisitions as a prerequisite to receiving access to this information. This process ensures that small businesses, as well as large businesses, are able to receive this type of information while also allowing TSA to safeguard sensitive information.

*Question 9.* The charter of the Aviation Security Advisory Committee expired in April 2010. One of the primary functions of the advisory committee was to facilitate stakeholder input across TSA security policies. What is TSA doing to ensure consultation with stakeholders on security policies, and will the ASAC be meeting again and on a regular basis?

*Answer.* Charter renewal and membership activity on all Department of Homeland Security (DHS) advisory committees is under review by DHS to assure the advisory committees are effectively used and an efficient expenditure of resources by the participants. Pending completion of this review the Transportation Security Administration (TSA) continues to engage stakeholders in a number of ways:

- *Networked Approach.*—TSA offices function as the primary points of contact for the transportation sector, practicing regular communication (including intel sharing), conducting security assessments, sharing best security practices, and including stakeholders in security planning activities.
- *Critical Infrastructure Partnership Advisory Council (CIPAC).*—TSA collaborates with stakeholders through the Transportation Systems Sector Government Coordinating Council and Sector Coordinating Council, as part of CIPAC.
- *Transportation Security Information Sharing Plan.*—TSA provides comprehensive sector analysis and has the ability to reach out extensively both within the sector and with other sectors, to share critical information.
- *Regular Outreach and Coordination.*—This occurs through blogs, briefings, regularly scheduled conference calls, auto notification/alert systems, and web boards and other internet portals.

*Question 10.* The Notice of Proposed Rulemaking for the aviation repair station security program lacked specificity on staffing requirements to effectively oversee the repair station security inspection program. Will TSA conduct a staffing study to determine requirements for effectively overseeing a repair station security program?

*Answer.* The Transportation Security Administration (TSA) has conducted a review of staffing requirements for the repair station security inspection program. The study found that additional staffing will be required to fully implement the security program and inspection plan. TSA is developing the strategy needed to carry out and enforce the new regulations that will be promulgated as a result of the rule making.

*Question 11.* Some stakeholders informed the committee that they have not been consulted on the repair station rulemaking in several years. How will TSA reach out to stakeholders for input on how to implement an effective repair station security program?

*Answer.* The Transportation Security Administration (TSA) issued a Notice of Proposed Rulemaking and published it in the Federal Register on November 18,

2009 for public comment. The comment period was extended to make sure that all interested parties had an opportunity to provide comments on the proposed regulations. Throughout the rulemaking process, TSA has engaged the Repair Station operators and associations for both foreign and domestic Repair Station operators, through meetings and site visits. These visits provided valuable insight into the facilities and existing security procedures already in practice. TSA hosted a listening session on October 26, 2010 at which 22 representatives from major repair station associations and security representatives from repair stations had an opportunity to review and provide feedback on a draft of the Aircraft Repair Station Security Program (ARSSP). A second such meeting will be held as an additional event at a repair station convention in Singapore in November 2010. Finally, TSA plans to conduct significant outreach to all affected repair station operators to ensure understanding of and compliance with any new regulations that may be published as a Final Rule in the future.

*Question 12.* How will TSA control the dissemination of Sensitive Security Information in its oversight of repair stations, particularly those in foreign countries?

Answer. The only Sensitive Security Information (SSI) that the Transportation Security Administration (TSA) will initially generate in support of this rule is the Aircraft Repair Station Security Program (ARSSP) document. This document will only be provided to foreign and domestic Repair Stations that will be required to adopt and implement a security program. TSA will follow all appropriate markings, protections, and release protocols required by 49 C.F.R. Part 1520 for each release of the document. Repair stations, both foreign and domestic, will then be required to comply with the SSI regulations regarding protection of the security program. As part of TSA's repair station inspection program, TSA will address whether SSI is treated appropriately.

*Question 13.* What is the status of the final rulemaking for general aviation security programs?

Answer. On October 30, 2008, the Transportation Security Administration (TSA) published the Large Aircraft Security Program (LASP) Notice of Proposed Rulemaking (NPRM). This NPRM proposed security rules for aircraft operators, including General Aviation operators. TSA received over 7,000 comments from the public on this NPRM. TSA is now in the process of developing a Supplemental Notice of Proposed Rulemaking (SNPRM) and anticipates that it will publish the SNPRM for comment during the summer of 2011.

*Question 14.* What steps, if any, has TSA taken to identify and prioritize the need for security enhancements at general aviation airports?

Answer. The Section 1617 of the "Implementing Recommendations of the 9/11 Commission Act of 2007" Pub. L. 110-53, 121 Stat. 266, 488-489 (2007) (codified at 49 U.S.C. 44901(k)) required the Transportation Security Administration (TSA) to develop and implement on a risk-managed basis, a standardized threat and vulnerability assessment program for general aviation (GA) airports. In addition, TSA was required to evaluate the feasibility of a program to provide grants to GA airport operators for projects to upgrade security at such airports. While TSA has determined that a grant program is feasible, the agency has not yet received appropriated funding to implement or develop this program. Furthermore, TSA conducted a survey of approximately 3,000 GA airports to determine a baseline of vulnerabilities as well as to identify possible mitigation measures that are available to GA airports. TSA is currently in the process of validating the results of the survey by visiting a percentage of those participating GA airports. A final report will be provided to Congress upon completion.

*Question 15.* When will foreign carriers operating inbound and outbound international flights, as well as those operating overflights flights in U.S. airspace, be required to participate in the Secure Flight program?

Answer. As of October 20, 2010, Secure Flight has been implemented for 100 percent of all 68 covered U.S. air carriers and 100 out of the 125 covered foreign air carriers. This constitutes 98 percent of all domestic and international enplanements. The Transportation Security Administration (TSA) anticipates that the remaining foreign air carriers will implement Secure Flight by December 31, 2010. As of October 31, 2010, all covered foreign air carriers are required to request and collect Secure Flight Passenger Data (SFPD) which includes full name, gender, date of birth, and Redress Number (if available) for flights into and out of the United States. Beginning November 1, 2010, air carriers that do not provide TSA with SFPD for passengers will be inhibited by the Secure Flight program from issuing passengers their boarding passes until the SFPD is provided.

*Question 16.* Some airports have not been reimbursed for terminal modifications made to install checked baggage explosives detection systems because they made expenditures before a reimbursement program was established by TSA, and now these

airports are at the bottom of the list for receiving reimbursement. What process will TSA establish to reimburse these airports?

Answer. The Transportation Security Administration (TSA) takes a risk-based approach to investing in security programs at airports without optimized baggage screening systems to provide more effective security solutions. After thorough review, TSA does not have information to warrant reimbursement for all or a portion of the in-line baggage screening systems absent prior formal TSA agreements for funding. Within the confines of the budget, any reimbursement of previous efforts outside a formal agreement comes at the cost of advancing current or future security measures.

*Question 17.* Please provide a deployment plan, including timeline, location, and risk assessment analysis, for AIT and all other screening technologies for U.S. airports.

Answer. TSA is available to brief the committee on this subject in a closed setting.

*Question 18.* TSOs continue to complain about the poor training structure in place by TSA, and the committee has been informed that TSOs who fail certification tests are denied remedial training due to the lack of availability of Training Instructors. What steps has TSA taken to address the changes and structure that the TSO training workforce needs to ensure that they are a highly trained and knowledgeable workforce in the field, particularly in light of the deployment of new technology like the Advanced Imaging Technology machines?

Answer. Transportation Security Officers (TSOs) are evaluated annually under the Performance Accountability and Standards System (PASS) that includes meeting standards on all applicable Technical Proficiency assessments. This annual certification is consistent with the Aviation and Transportation Security Act (ATSA) (Pub. L. 107-71) requirement that security screeners (now called security officers) must successfully complete an annual proficiency review in order to maintain employment as a TSO. The Technical Proficiency assessment processes include remediation and reassessment opportunities for an employee to improve his/her performance if he/she does not qualify on an initial assessment.

Employees who do not qualify (receive zero points) on an initial Technical Proficiency assessment are required to receive remediation and must qualify on the applicable reassessment before returning to screening duties. These employees may not perform the screening function in which they initially failed to certify until successful completion of remediation and reassessment.

The Transportation Security Administration (TSA) has established over 600 Security Training Instructors (STIs) to provide the needed training and remediation in the Nation's airports. In addition to the established STI cadre each airport has the tools it needs to establish collateral duty Assistant Training Instructors (ATIs) to support the STIs. TSA continues to evaluate the number of STIs needed, and when necessary and appropriate, adjustments to STI allocations can be made to ensure each airport has a sufficient number of trainers to meet their training delivery needs.

TSA continues to refine and redesign the technical training portfolio for its security officer workforce—from new hire training to in-service training—to ensure that it is designed to effectively teach the basics, continually enhance core skills, and expand overall capabilities. TSA is committed to always enhancing its training portfolio, to include enhancements that will contribute to the effective use of new technologies. TSA works closely with equipment manufacturers as a technology is approved for TSA use, to design and develop a comprehensive training module. A training pilot is held for each new technology in support of the initial limited field deployments to ensure that TSOs can operate the equipment efficiently and effectively. Changes may be made to the curriculum based on the pilots before it is finalized. With technologies that involve image interpretation, such as the Advanced Imaging Technology (AIT), TSA continually develops new images representing clear and suspect/threat items to enhance TSO image interpretation skills. In addition, TSA is refining its strategic plan, curriculum roadmap for technical training design and development, and standardization and performance improvement efforts to identify skills, capabilities, and competencies that will contribute to TSO development and thus, build a corresponding comprehensive training portfolio.

*Question 19.* What is the estimated completion date for the TWIC reader pilot program?

Who will pay to replace a faulty TWIC card, the worker or TSA?

Answer. The estimated date to complete data collection for the Transportation Worker Identification Credential (TWIC) reader pilot program is early 2011. After the data collection is complete the Secretary of the Department of Homeland Security will write and deliver a report on the results of the pilot to Congress as required by the SAFE Port Act of 2006.

TSA's card replacement policy provides that transportation workers must pay for TWIC cards that stop functioning while in their possession.

*Question 20.* What is the timeline for implementing a professional workforce development system for TSA employees?

Answer. The Transportation Security Administration (TSA) has a number of professional workforce development programs currently in place and continually strives to enhance the development of its workforce.

*Question 21.* How will TSA promote the use of small businesses in the procurement process?

Answer. The Transportation Security Administration (TSA) has a very robust Small Business Program and continually strives to improve maximizing small business participation in every contract action either at the prime or sub-contract level. The Congressionally mandated small business goal for the agency is 23% of contractual dollars per the Small Business Reauthorization Act of 1997. In fiscal year 2003, TSA started tracking its small business goal numbers in the Federal Procurement Data System (FPDS). As a start-up agency, the small business percentages were only at 5.33% with small business prime contract obligations at \$116 million. In fiscal year 2010, TSA met its goal by awarding 24.48% of its contracting dollars to small business at the prime level with obligations exceeding \$463 million. In addition, TSA met its Small Disadvantaged Business goal of 10.3%. Lastly, for the first time, TSA exceeded its Service-Disabled Veteran-owned small business goal of 3%, which is a significant accomplishment for a young Federal agency.

These significant small business accomplishments were achieved due to the strict policy and procedures put in place by TSA. Every contractual action over \$150,000 must be coordinated with the Small Business Office before a solicitation is released to ensure small business participation is maximized to the fullest extent, either at the prime or sub-contract level. The Federal Acquisition Regulation (FAR), mandates that all contracts between \$3,000 and \$150,000 be automatically set-aside for small businesses. For large business contracts, TSA reviews every sub-contract plan to ensure compliance with TSA's sub-contracting goal of 40%.

In addition, the Director of TSA's Small Business Office participates in many contractor outreach events across the country, educating small business owners on how to conduct business with the agency and briefing them on future contracting opportunities.

*Question 22.* What are the demographics by gender, ethnicity, and age of the TSO workforce? What percent of managers and supervisors are women or minorities?

Answer. The first two charts show the demographics for the Transportation Security Officer (TSO) workforce by gender, ethnicity, and age. The third chart shows the breakdown of managers and supervisors. All data is as of September 25, 2010.

#### TSO WORKFORCE

Race and National Origin (RNO)	M	F	TOTALs by RNO	Percent by RNO
American Indian or Alaska Native	308	253	561	1.2
Asian .....	1,549	649	2,198	4.5
Black or African American .....	5,368	5,554	10,922	22.4
Hispanic/Latino .....	4,690	2,983	7,673	15.8
Native Hawaiian or Other Pacific Islander .....	122	128	250	0.5
Other/More Than One Race .....	90	62	152	0.3
White .....	17,060	9,836	26,896	55.3
<b>TOTALs by Gender .....</b>	<b>29,187</b>	<b>19,465</b>	<b>48,652</b>	
<b>Percent by Gender* .....</b>	<b>60.0%</b>	<b>40.0%</b>		

\*TOTAL TSA Workforce.

#### TSO Age Distribution

Age	Count	Percent
Less than 20 .....	72	0.1%
20-24 .....	4,474	9.2%
25-29 .....	7,680	15.8%
30-34 .....	5,902	12.2%
35-39 .....	4,646	9.6%

## TSO Age Distribution—Continued

Age	Count	Percent
40–44 .....	4,878	10.0%
45–49 .....	5,867	12.1%
50–54 .....	5,746	11.8%
55–59 .....	4,898	10.1%
60–64 .....	3,322	6.8%
65+ .....	1,167	2.4%
<b>TOTAL .....</b>	<b>48,652</b>	

## TSO Supervisor Age Distribution

Age	Count	Percent
Less than 20 .....	0	0.0%
20–24 .....	25	0.6%
25–29 .....	248	5.5%
30–34 .....	501	11.0%
35–39 .....	545	12.0%
40–44 .....	628	13.8%
45–49 .....	857	18.9%
50–54 .....	740	16.3%
55–59 .....	526	11.6%
60–64 .....	350	7.7%
65+ .....	121	2.7%
<b>TOTAL .....</b>	<b>4,541</b>	

## TSO SUPERVISORS

Race and National Origin (RNO)	M	F	TOTALs by RNO	Percent by RNO
American Indian or Alaska Native	30	21	51	1.1%
Asian .....	150	60	210	4.6%
Black or African American .....	490	301	791	17.4%
Hispanic/Latino .....	364	192	556	12.2%
Native Hawaiian or Other Pacific Islander .....	14	17	31	0.7%
Other/More than one Race .....	.....	1	1	0.0%
White .....	2,031	870	2,901	63.9%
<b>TOTALs by Gender .....</b>	<b>3,079</b>	<b>1,462</b>	<b>4,541</b>	
<b>Percent by Gender* .....</b>	<b>67.8%</b>	<b>32.2%</b>		

\*TOTAL TSO Supervisors.

*Question 23.* What are the checkpoint screening protocols for passengers who wear religious headdresses? Are all TSOs trained in these protocols?

Answer. All headwear, to include religious headwear, must be screened for prohibited items. Typically, headwear is screened via X-ray or physical inspection. Working with various religious community stakeholders, the Transportation Security Administration (TSA) has also developed screening options for passengers who prefer not to remove their religious headwear for X-ray or physical inspection. Detailed procedures for screening headwear are Sensitive Security Information. However, TSA is available to provide a briefing to the committee to discuss specific headwear screening protocols. All Transportation Security Officers (TSOs) working at passenger checkpoints are trained on the screening options available for individuals wearing headwear, including religious headwear, as part of their initial and recurrent training requirements.

*Question 24.* Several key rules for surface modes required by the 9/11 Act are more than 2 years overdue. TSA has decided to write a consolidated rule for sections 1408, 1517, and 1534 to establish training programs for rail, transit, and inter-city bus employees. Similarly, the subcommittee understands that TSA is writing a con-

solidated rule for sections 1405, 1512, and 1531 to govern security assessments and plans for the same three modes. What is the status of these rules, and when will TSA issue a Notice of Proposed Rulemaking (NPRM) for each rule?

Answer. The consolidated proposed rule establishing security training requirements for surface mode employees (sections 1408, 1517, and 1534 of the "Implementing Recommendations of the 9/11 Commission Act of 2007" (Pub. L. 110-53, 121 Stat. 266, 488-489 (2007) (9/11 Act)), Transportation Security Administration (TSA), 1652-AA55-Security Training Programs for Surface Mode Employees (Notice of Proposed Rulemaking (NPRM), is in progress with a planned publication in the second quarter of fiscal year 2011.

After further review, TSA determined that due to substantive differences in the requirements for modal security assessments and plans (sections 1405, 1512, and 1531 of the 9/11 Act), separate rules for each mode in this area would be most effective. TSA's anticipated time line for issuance includes: Mass Transit (expected publication of NPRM first quarter fiscal year 2012), Freight Rail (expected publication of NPRM fourth quarter fiscal year 2011), and Highway Motor Carrier (expected publication of NPRM first quarter fiscal year 2012).

*Question 25.* TSA has proposed changes to the Transit Security Grant Program (TSGP) grant guidance for fiscal year 2011, and the committee is concerned that these changes will have a negative impact on the security of transit systems and the regional partnerships that have developed since the program's inception. Instead of agencies being able to collaborate with TSA, FEMA, and regional partners to make decisions based on the expert knowledge of their systems and the risks they face, it appears that TSA will dictate what assets are eligible for grant funding, while still holding grantee agencies ultimately responsible for securing them. Even more troubling is the suggestion that transit agencies compete for the 10% of funding to be made available for operational costs, which is a clear departure from the risk-based award process required by statute.

What is the status of the proposed changes for fiscal year 2011? Does TSA intend to implement any or all of these changes?

If TSA has made a determination to implement any such changes, how was that determination made? What grounds did TSA find that outweighed the concerns expressed above, as well as significant stakeholder feedback in opposition to the proposed changes?

Answer. Final decisions regarding the fiscal year 2011 Transit Security Grant Program (TSGP) Grant Guidance and Application Kit are pending the passage of a fiscal year 2011 Department of Homeland Security (DHS) appropriation law.

As a risk-based grant program, DHS continually reviews the TSGP in order to evaluate its effectiveness in responding to evolving threats and reducing critical vulnerabilities in the mass transit environment. The proposal for the fiscal 2011 TSGP would focus on proven operational deterrence activities, such as canine teams, training, and public awareness, and initiatives to remediate risk to large critical infrastructure through a dedicated funding stream. Specifically, the proposal on infrastructure would direct security funds to the highest risk areas on the most vulnerable critical infrastructure, increasing the safety and security of the Nation's traveling public.

*Question 26a.* The subcommittee believes that it is critical for TSA and other relevant DHS components to partner with public and private sector stakeholders in order to facilitate development and testing of security technology specifically for surface modes. Moreover, the subcommittee views the Transportation Technology Center (TTC) in Pueblo, Colorado, as an important element in both TSA's endeavor to guide research and development of security technology for surface modes and strengthening TSA's credibility with surface stakeholders.

Please describe all activities involving TSA that have been conducted pursuant to sections 1409, 1518, and 1535 of the 9/11 Act, as well as TSA's plans for carrying out these provisions in fiscal years 2011 and fiscal years 2012.

Answer. The Transportation Security Administration (TSA) and Department of Homeland Security's (DHS) Science and Technology Directorate (S&T) have developed and implemented on-going programs for Research & Development (R&D) and field evaluation/piloting of security technologies across modes, including establishment of on-going test beds. Many of these technologies are effective and suitable for several modes (e.g., standoff detection of Person-Borne Improvised Explosive Devices and Vehicle-Borne Improvised Explosive Devices, under vehicle screening, infrastructure protection, improvements in cyber security, programs to assess effects of chemical, biological, radiological, nuclear, and explosive threats, and programs to collaborate with industry to develop improved rail tank cars). There are also on-going programs which track Toxic Inhalation Hazards (TIH) moving by freight rail, clarify results of rail TIH tank car breaches, and have the means of assessing and



mitigating results of any TIH-related incidents. Both TSA and DHS S&T have planned resources for security technology, R&D and field evaluations/pilots in fiscal year 2011, which will continue on-going programs and explore new technological opportunities.

*Question 26b.* Please describe all current TSA activities and resources involving TTC, as well as TSA's plans to further leverage TTC's experts, training facilities, and testing capabilities in fiscal year 2011 and fiscal year 2012.

Answer. The Transportation Security Administration (TSA), in collaboration with the Federal Railroad Administration (FRA) and the American Association of Railroads established and maintains a test bed at the Transportation Technology Center (TTC) to test and evaluate rail conveyance vehicle-related security concerns. A multi-year modeling/simulation and physical testing validation program was established several years ago and is nearing conclusion. This program assesses explosive destructive effects on mass transit rail cars. Follow-on projects are being planned, with intent that the TTC test bed will continue to be one of TSA's intermodal security test facilities.

TSA began to utilize the TTC in 2006 in order to train its Transportation Security Inspector—Surface workforce on railroad-specific safety and security issues. TSA entered into Memorandum of Agreement with the FRA to build out a portion of the facility to allow for more advanced training capabilities. In fiscal year 2010, TSA continued the build out and expansion of surface-related training at the TTC. The TSA facilitated classroom space modifications and dedicated personnel to the site (6 Full-Time Equivalents) to develop the surface transportation security-related course curriculum, manage facility expansion projects, and to deliver training material.

Current training at the TTC for TSA employees includes coursework focused on orienting field staff to the railroad operating environment and providing related safety awareness. Future courses under development at the facility will provide applicable TSA staff with advanced railroad operating training, Visible Intermodal Protection Response training, and highway motor carrier/over-the-road bus operations. All of these courses include both classroom instruction and on-site practical application and exercises. TSA expects to begin providing these courses to certain field staff in fiscal year 2011. Additionally, throughout fiscal year 2011, TSA will be coordinating with the TTC in the development of an enhanced intermodal yard and passenger transit station, which in the future will be used for practical training.

*Question 26c.* Has TSA considered the potential for housing training materials or courses at TTC in relation to forthcoming regulations for bus, rail, and transit employees?

Answer. The Transportation Security Administration (TSA) has considered the Transportation Technology Center (TTC) as potential source for future stakeholder training that can be used to meet requirements of forthcoming training regulations for surface modes of transportation. However, there are many considerations and details that must first be evaluated before a final decision on this can be made.

*Question 27.* The First Observer program is currently funded through a 3-year grant under TSA's Trucking Security Program (TSP), although it serves multiple transportation sectors, including inter-city buses, school buses, truck drivers, highway workers, law enforcement, and related critical infrastructure employees. However, since the initial grant for First Observer was awarded in 2008, TSP has been zeroed out of all successive DHS budget requests and appropriations legislation. The subcommittee understands that the performance period for this funding ends in July 2011 and considers it an imperative that this cooperative, model program be sustained past that date.

Does TSA have plans to revive TSP in the fiscal year 2012 budget request?

If not, does TSA have plans to extend operations of and resources for the First Observer program beyond July 2011 in some other manner?

Answer. A review of the current 2008 funded Trucking Security Program grant confirms that the First Observer™ program, if necessary, can be continued through calendar year 2011 using current funding. For the out years, the Department of Homeland Security/Transportation Security Administration will work with the administration to determine the course of action for the program and any appropriate funding measures.

*Question 28.* How does TSA plan to address the resource gap between aviation and surface modes?

Answer. The surface transportation sector is significantly different from the aviation sector, requiring strong stakeholder partnerships and leveraging of State and local resources in coordination with Federal requirements and support. There is significant risk to surface transportation with a high level of vulnerability due to the open nature of these modes. Various statutes and executive directives require that transportation risk activities be determined and implemented collaboratively in ac-

cordance with strategic plans developed with security partners. To obtain a more complete picture of system-wide risk and inform a National strategy, the Transportation Security Administration (TSA) has conducted a series of risk assessments on U.S. passenger rail systems and assets, including subway rail, commuter rail, and inter-city passenger rail. Building on these risk assessments, TSA also completed the Transportation Security Sector Risk Assessment (TSSRA) to serve as a comprehensive, cross-modal view and comparative analysis of terrorist risk involving transportation. These combined efforts play an essential role in the Department of Homeland Security's mission to prevent terrorist acts within the United States, to reduce vulnerability to terrorism, to minimize damage from potential attack and disasters, and to improve system resilience after an incident.

In fiscal year 2010, the TSA worked with the administration and Congress to support additional efforts in surface transportation security. TSA received resources to stand up 15 new Visible Intermodal Prevention and Response (VIPR) teams, dedicated to the surface transportation security environment. TSA is now able to conduct thousands of VIPR operations annually in surface transportation modes. TSA also served as the executive agent for decisions on \$300 million in Federal Emergency Management Agency (FEMA) public transportation and railroad security grants.

The President's fiscal year 2011 budget will support TSA's continued efforts to protect the surface transportation system and ensure the freedom of movement for people and commerce, through:

- Partnering with Federal, State, local, and private stakeholders to optimize resources in a risk-based approach to security;
- Conducting inspections of freight railroads, mass transit, and passenger rail facilities;
- Deploying Visible Intermodal Prevention and Response teams;
- Providing canines through the local law enforcement program;
- Performing maritime credentialing activities to provide assistance and oversight of local efforts; and
- Providing technical support for the administration of hundreds of millions of dollars in FEMA Metropolitan Statistical Area (MSA) Preparedness Program grants (including Port Security Grants and Rail and Transit Program Grants).

*Question 29.* Now that Administrator Pistole has had several months to review the program, does TSA have any plans to make changes in STSIP's organization or administration?

Does TSA plan to continue the current practice of requiring surface inspectors to go through aviation and air cargo training? Please explain fully and include a detailed explanation of how the aviation and air cargo training requirements are consistent with the program's authorizing statute, which expressly defines permissible STSIP activities as specifically surface-related.

Does TSA plan to continue implementation of TSI Evolution, whether in general or to the extent that it affects STSIP? Please explain fully the grounds on which TSA has determined to proceed or halt implementation, and include a detailed explanation of how this course of action is consistent with the limits and requirements in section 1304 of the 9/11 Act.

As of September 30, 2010, does the Regional Security Inspector (RSI) have any authority over Federal Security Directors (FSDs), Assistant Federal Security Directors (AFSDs), or Area Directors in the field? Please indicate whether an RSI can—unilaterally or on behalf of the TSA administrator—intervene with or directly overrule an FSD, AFSD, or Area Director with respect to surface inspector activities and hiring in the field.

Please provide a breakdown of all relevant diversity and demographic data for the total number of surface inspectors employed by TSA as of September 30, 2010.

Answer. The administrator is currently reviewing the Surface Transportation Security Inspection Program (STSIP) to ensure it is effectively and efficiently organized to accomplish its surface transportation security mission. Any potential changes are pending the completion of this review.

*Question 30a.* TSA has deployed Federal Air Marshal Service (FAMS) personnel—as well as other non-surface personnel—to lead Visible Intermodal Prevention and Response (VIPR) team deployments in public transit and passenger rail systems.

Since the Federal Air Marshal Service's (FAMS) primary mission, training, and experience are in supporting aviation security, how did TSA determine that FAMS personnel should be deployed in surface VIPR teams?

Answer. The Visible Intermodal Prevention and Response (VIPR) program was originally conceived to deliver two fundamental types of operations, law enforcement and screening. Section 1303 of the "Implementing Recommendations of the 9/11 Commission Act of 2007" (9/11 Act) (Pub. L. 110-53) authorized the Secretary, "act-

ing through the Administrator of the Transportation Security Administration” to develop VIPR teams. and subsection 1303(a)(1) specifically authorizes Federal Air Marshals (FAMs) to be designated as assets for those teams. The Federal Air Marshal Service (FAMS) is TSA’s designated law enforcement arm and therefore, FAMS resources were designated for VIPR involvement. As a foundation of their training, FAMs receive instruction and develop law enforcement skills necessary to perform law enforcement functions in all modes of transportation. FAMs participation in VIPR operations enables TSA to effectively collaborate with State and local law enforcement. It should also be noted that the Congress approved dedicated funding within the FAMS in fiscal year 2008 specifically to establish a permanent VIPR program capability within the Service to support multi-modal deployments.

*Question 30b.* Does TSA have plans for improving or changing this program with respect to its activities in surface transportation systems?

Answer. The Visible Intermodal Prevention and Response (VIPR) program is continually reviewed and refined with the objective of effectively addressing risk in all transportation modes, including surface. The short-term focus is on implementing an annual planning process in which the Transportation Security Administration (TSA) field leaders work, in conjunction with their stakeholders, to determine key locations and deployment frequencies. In addition, strategic stakeholder and venue information from other TSA offices is being combined with the field input to support more effective identification and prioritization of deployment targets. Data from the Transportation Sector Security Risk Assessment (TSSRA) framework is also being introduced to the planning and deployment processes. An information management system is being implemented to integrate the risk, planning, and operational information to further improve the program. Full implementation of the integrated system is anticipated during fiscal year 2012.

*Question 30c.* Does TSA plan to go proceed with creating fifteen new VIPR teams? Please provide the grounds on which this determination was made and address whether TSA has conducted or utilized any risk-based assessment that reflects substantive, qualitative, and surface-specific grounds indicating that fifteen new VIPR teams are the best option for allocating \$25 million to surface transportation security.

Answer. The Transportation Security Administration (TSA) has created the fifteen new Visible Intermodal Prevention and Response (VIPR) teams that were funded within the fiscal year 2010 Surface appropriation. The team locations were identified by considering the surface transportation risks across the country and the mitigation effects of the initial ten VIPR teams formed in fiscal year 2008, which have been focused in high-risk surface transportation areas. To achieve a National footprint and address remaining risk, the fifteen new teams were assigned locations that had not previously been assigned VIPR teams, all of which have identified significant surface transportation risk locations. This assignment strategy enables broader coverage of surface transportation risk and also provides the capability for all resources to adapt to changes in threat levels and respond in a flexible manner to all areas of the Nation.

*Question 30d.* Has TSA developed qualitative performance measures to evaluate the effectiveness and cost vs. benefit of the VIPR program? Please describe these measures or provide an explanation of why they have not been developed or implemented.

Answer. In the first quarter of fiscal year 2010, in order to gauge program effectiveness, the Visible Intermodal Prevention and Response (VIPR) program implemented output metrics that provide insight about data on deployment tempo, risk-based deployment focus, and stakeholder satisfaction. By focusing on all three areas, the program is able to infer program effectiveness. TSA continues to refine these metrics to evaluate and adapt to improve VIPR reporting. In addition, the program has established processes to implement outcome-focused metrics.

In addition, outcome-based metrics currently under development will rely on stakeholder and location information as well as risk measurement information captured from the Transportation Sector Security Risk Assessment (TSSRA) methodology. Transportation Security Administration (TSA) anticipates that the initial implementation of a new information management system during fiscal year 2011 will facilitate the collection of data necessary to establish baselines for the outcome-focused metrics. The information system collecting this data is scheduled for implementation by February 1, 2011, and sufficient initial data should be available by July 1, 2011, to start calculating metric results. Three fiscal quarters of initial data will be used to establish the baseline metrics by January 1, 2012. The metrics will be refined during fiscal year 2012, integrating information anticipated to be available from linkage to the TSSRA methodology, by July 1, 2012. By linking program

inputs to program outcomes, full implementation of the outcome-based metrics will provide an additional tool to evaluate the effectiveness of the VIPR program.

QUESTIONS FROM HONORABLE DINA TITUS OF NEVADA FOR JOHN S. PISTOLE

*Question 1a.* I want to get you on the record on a pilot program that was recently completed Boston's Logan Airport and at Las Vegas McCarran, which is located in my Congressional District. As you know, this pilot involves an enhanced pat-down technique, which I see as being more invasive than the current techniques. I am concerned that word of this pat-down technique will spread amongst travelers. Las Vegas cannot afford to lose any visitors, and I would hate for someone to cancel their trip due to privacy concerns regarding this new pat-down technique. I want to ask you a few questions to garner more details about the pilot and to ensure that TSA did not unnecessarily inconvenience travelers.

How were the two sites (Las Vegas and Boston) selected for the pilot?

Answer. BOS and LAS were chosen for this operational evaluation primarily because of the exceptional working relationship between local Transportation Security Administration (TSA) personnel and their respective Airport Authority and the willingness of airport management to contribute to the evaluation of security screening improvements. Additionally, since some aspects of the new pat-down procedures are prompted by anomalies discovered during Advanced Imaging Technology (AIT) screening, it was important to choose airports that: (1) Had AITs that screened a population that was likely to generate a significant sample size of situations requiring the new pat-downs; and (2) could provide Transportation Security Officers (TSOs) that were highly experienced in screening protocols for both models of the AIT. BOS and LAS satisfied those requirements.

*Question 1b.* Do you anticipate using these sites for future programs of this nature?

Answer. For each type of pilot we utilize a variety of factors for selection of airports, therefore it is difficult to speculate on future venues.

*Question 1c.* I am concerned that this pilot will not necessarily yield tangible results. What metrics are you using to monitor the efficacy of the pilot?

Answer. During the evaluation, a team of data collectors monitored pat-down occurrence rates, reviewed cycle times (the amount of time required to conduct each element of the screening protocols), screening equipment availability and its relationship to pat-down requirements, and passenger reaction to the pat-downs as recounted by the officer performing the search.

*Question 1d.* What opportunities were afforded to passengers to voice their opinions of the pilot? How are you incorporating this feedback?

Answer. Since the evaluation was targeted to measure operational impacts of the new procedure, passenger feedback was not actively solicited during this evaluation. However, as indicated above, where a passenger did react to the application of a new pat-down during the evaluation, TSA collected the information and evaluated it. All feedback provided by passengers—whether through Transportation Security Officers, the data collectors, TSA's Got Feedback or Talk to TSA Program, or to the TSA Contact Center—was reviewed and evaluated.

*Question 2.* On separate issue, in previous hearings you indicated that the Department believed that canines play an important role in the cargo inspection program. You further indicated that the Department was developing standards for expanding the use of explosive detection canines to include private sector canines and that a pilot test will be conducted. Has the pilot test been scheduled? What is the timetable for the pilot?

Answer. The Transportation Security Administration (TSA) currently has more than 600 canine teams in the Aviation sector available to screen cargo bound for passenger aircraft.

The pilot program to evaluate private sector canine teams in the cargo environment is anticipated to start in the second half of January 2011 and run approximately 120 days.