AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

TSA'S SURFACE INSPECTION PROGRAM: STRENGTHENING SECURITY OR SQUANDERING SCANT RESOURCES?

HEARING

BEFORE THE

SUBCOMMITTEE ON TRANSPORTATION SECURITY

OF THE

COMMITTEE ON HOMELAND SECURITY HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

SECOND SESSION

MAY 31, 2012

Serial No. 112–95

Printed for the use of the Committee on Homeland Security



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

U.S. GOVERNMENT PRINTING OFFICE

78–155 PDF WASHINGTON : 2013

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

COMMITTEE ON HOMELAND SECURITY

PETER T. KING, New York, *Chairman*

LAMAR SMITH, Texas
DANIEL E. LUNGREN, California
MIKE ROGERS, Alabama
MICHAEL T. MCCAUL, Texas
GUS M. BILIRAKIS, Florida
PAUL C. BROUN, Georgia
CANDICE S. MILLER, Michigan
TIM WALBERG, Michigan
CHIP CRAVAACK, Minnesota
JOE WALSH, Illinois
PATRICK MEEHAN, Pennsylvania
BEN QUAYLE, Arizona
SCOTT RIGELL, Virginia
BILLY LONG, Missouri
JEFF DUNCAN, South Carolina
TOM MARINO, Pennsylvania
BLAKE FARENTHOLD, Texas
ROBERT L. TURNER, New York

BENNIE G. THOMPSON, Mississippi
LORETTA SANCHEZ, California
SHEILA JACKSON LEE, Texas
HENRY CUELLAR, Texas
YVETTE D. CLARKE, New York
LAURA RICHARDSON, California
DANNY K. DAVIS, Illinois
BRIAN HIGGINS, New York
CEDRIC L. RICHMOND, Louisiana
HANSEN CLARKE, Michigan
WILLIAM R. KEATING, Massachusetts
KATHLEEN C. HOCHUL, New York
JANICE HAHN, California
RON BARBER, Arizona

MICHAEL J. RUSSELL, *Staff Director/Chief Counsel*
KERRY ANN WATKINS, *Senior Policy Director*
MICHAEL S. TWINCHEK, *Chief Clerk*
I. LANIER AVANT, *Minority Staff Director*

SUBCOMMITTEE ON TRANSPORTATION SECURITY

MIKE ROGERS, Alabama, *Chairman*

DANIEL E. LUNGREN, California
TIM WALBERG, Michigan
CHIP CRAVAACK, Minnesota
JOE WALSH, Illinois, *Vice Chair*
ROBERT L. TURNER, New York
PETER T. KING, New York *(Ex Officio)*

SHEILA JACKSON LEE, Texas
DANNY K. DAVIS, Illinois
CEDRIC L. RICHMOND, Louisiana
RON BARBER, Arizona
BENNIE G. THOMPSON, Mississippi *(Ex Officio)*

AMANDA PARIKH, *Staff Director*
NATALIE NIXON, *Deputy Chief Clerk*
VACANT, *Minority Subcommittee Director*

CONTENTS

Page

STATEMENTS

The Honorable Mike Rogers, a Representative in Congress From the State of Alabama, and Chairman, Subcommittee on Transportation Security 1
The Honorable Sheila Jackson Lee, a Representative in Congress From the State of Texas, and Ranking Member, Subcommittee on Transportation Security 29

WITNESSES

Mr. John O'Connor, Chief of Police, Amtrak Police Department:
Oral Statement 3
Prepared Statement 4
Mr. Howard R. "Skip" Elliott, Vice President, Public Safety and Environment, CSX:
Oral Statement 6
Prepared Statement 8
Mr. Philip L. Byrd, Sr., President, Bulldog Hiway Express, Testifying on Behalf of The American Trucking Association:
Oral Statement 16
Prepared Statement 17
Mr. William C. Blankenship, Chief Operating Officer, Greyhound Lines, Inc.:
Oral Statement 20
Prepared Statement 21
Mr. Doug Morris, Director, Safety and Security Operations, Owner-Operator Independent Drivers Association:
Oral Statement 24
Prepared Statement 25

TSA'S SURFACE INSPECTION PROGRAM: STRENGTHENING SECURITY OR SQUANDERING SCANT RESOURCES?

Thursday, May 31, 2012

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

The subcommittee met, pursuant to call, at 2:35 p.m., in Room 311, Cannon House Building, Hon. Mike Rogers [Chairman of the subcommittee] presiding.

Present: Representatives Rogers, Cravaack, Turner, Jackson Lee, Davis, and Richmond.

Mr. ROGERS. The Committee on Homeland Security, Subcommittee on Transportation Security, will come to order. The committee meeting is to receive testimony on TSA's Surface Transportation Security Inspection Program.

I want to thank all of our witnesses at the hearing today for being here. I know it took a lot of time to prepare for it and to be here, and I do appreciate your willingness to do so. It is very helpful to us.

Less than 2 percent of TSA's nearly $8 billion budget goes toward surface. There are two primary reasons for this: First, we know aviation continues to be a major focus of our enemies. Second, our surface systems are inherently accessible to millions of people every day. They have to remain open for many reasons, not the least of which is to keep our economy on track. No pun intended.

Having said that, terrorists see surface transportation as a very attractive target. Since we can't screen everyone and everything that gets on a train, truck, or bus, intelligence-sharing deterrence and detection measures are extremely important.

Since 9/11 there has been a long list of devastating attacks against mass transit systems worldwide. There have also been a number of plots against our own transit systems. Thankfully, the work of our intelligence community and the vigilance of everyday citizens has helped disrupt these plots. But that does not mean that we can afford to lose focus. Regardless of its failings in providing aviation security, TSA's role is more clearly defined in that environment. On the other hand, local transit agencies and local law enforcement take the lead in providing security for surface transportation. So far TSA has done a good job of making sure it stays that way.

Unfortunately, it looks like one of the few surface initiatives TSA is responsible for has not been well received or well managed. At a hearing held by this subcommittee last year, industry witnesses voiced their concern with TSA's surface inspection program. Their concerns sparked our hearing today.

Over the last several months subcommittee staff has conducted oversight on the surface inspectors. Here are five of the problems we know about:

No. 1, most surface inspectors have no surface transportation experience or surface background whatsoever. Many surface inspectors were promoted from screening passengers at airports.

No. 2, these inspectors report to the Federal security directors at the local airports who commonly also do not possess any surface transportation experience.

No. 3, at least one local TSA official indicated that he is always looking for things for his inspectors to do to occupy their time.

No. 4, most surface inspectors have just two things to look for on a typical day: Whether a transit system is reporting incidents to the TSA and whether there is a security person on duty.

Finally, the work of these inspectors may not be as robust as reported. According to one former inspector, TSA management encourages inspectors to record more activities to make it look like they are busier than they really are. These findings are disturbing to me. Here we have TSA hiring more and more surface inspectors, and yet where is the security benefit?

In the last 5 years, the budget for this program has quadrupled, and in the history of the program only one situation has ever resulted in punitive fines across the entire country as a result of these inspections.

Now, I have already stated that TSA has a very limited amount of money dedicated to surface transportation security. There are some great programs out there, particularly the Transit Security Grant Program administered by FEMA. This grant program allows local transit agencies and law enforcement to fund counterterrorism teams, canine detection teams, and other successful initiatives. We owe it to the taxpayer to look close at the TSA inspectors program and determine whether this is a good use of limited resources or if this funding would be better spent on other surface initiatives that are designed to prevent an attack, keeping in mind that we all want the safest, most secure transit possible.

Today I look forward to hearing from industry stakeholders about how the TSA could do a better job of allocating its surface security resources. No one has more invested in this than you do.

Normally right now, I would yield to the Ranking Member for opening statements. She is, as I told the witnesses, is tied up in the Intelligence Committee and will be in and out. When she arrives we will turn to her for that.

Now I want go ahead and get started with our witnesses. I would advise other Members, if they have opening statements, they can submit them for the record.

We are pleased to have several distinguished witnesses before us today on this important topic. Let me remind the witnesses that their entire statements will appear in the record. Our first witness is Chief John O'Connor who currently serves as the chief of police

for Amtrak. Chief O'Connor has the responsibility for development of security strategies, the implementation of security countermeasures, and the delivery of uniformed investigative and special operations police for Amtrak. Prior to his current position, Chief O'Connor served as chief of patrol which followed his assignment as commanding officer of Amtrak's metropolitan division in New York.

Before joining the Amtrak Police Department in 1998, Chief O'Connor served with the Long Island Railroad Police Department, the largest commuter railroad in the United States, for 25 years. Having risen through the ranks, he retired as chief of police. The Chairman welcomes back Chief O'Connor and you are recognized for 5 minutes.

STATEMENT OF JOHN O'CONNOR, CHIEF OF POLICE, AMTRAK POLICE DEPARTMENT

Chief O'CONNOR. Thank you. Good afternoon, Chairman Rogers and committee Members. It is an honor and a privilege to appear before this committee. In my opinion, the threat against surface-based transportation systems is as high as it has ever been. All too often, we hear news of another overseas attack or, fortunately, a foiled attack in this country.

The Mineta Institute issued a report last year which detailed attacks on transit systems since 9/11. It listed more than 1,800 attacks on bus and rail targets, resulting in over 3,900 deaths and countless injuries. A 2012 Heritage Foundation report states that in the United States alone, more than 50 terror plots have been foiled since 9/11, many of them targeted at surface transportation systems. We know that al-Qaeda continues to urge even more attacks through its magazine *Inspire,* as well as through skillful use of the internet. We must therefore make every reasonable effort to remain vigilant because the threat is real.

Amtrak's approach to providing for the security of those who depend on our system is one of prevention, partnership, and participation. On the prevention side we deploy hundreds of uniformed officers and investigators at more than 30 locations around the country. These efforts are all overlayed by special operations forces which include one of the most skillful canine units in operation today. Many of our canines have been trained at Auburn University, which has developed a technique known as "vapor wake" for detecting the movement of explosives through large crowds such as those found at train terminals.

However, no one department can handle the enormity of the transportation security task at hand. Thus, our emphasis on partnership. Based initially on a Northeast Corridor coalition, first formed by NYPD Commissioner Ray Kelly, Amtrak has worked with the TSA to form a network called RAILSAFE which now coordinates the efforts of more than 200 agencies in over 40 States to protect Amtrak and local transit systems.

Amtrak has also been accepted as an associate member of RAILPOL, a network of European rail police agencies sharing best practices to protect our respective systems. Additionally, we partner closely with the TSA to conduct thousands of joint baggage screening efforts and VIPR deployments throughout our system.

We have also turned to our 19,000 employees and the riding public in an effort to leverage their knowledge and familiarity with our system. Through a variety of training efforts and public outreach, we have given our employees and the public both the tools they need to identify suspicious circumstances and the means to share their observations with the proper authorities.

I would like to say that the TSA has been a good Federal partner. Amtrak's partnership with the TSA has produced significant improvements in transit security. The TSA has been at the forefront in many important developments, including VIPR deployments, joint baggage screening for explosives, the establishment of a peer advisory group of transit police chiefs, assisting in directing funding for infrastructure protection and operational security surges, and the administration of a base program to assist agencies in the application of their security efforts. This is only a partial list, but it is a substantial one.

That being said, in today's tough economic times, I think it would be prudent to ensure that all of the TSA's efforts make the best possible use of their respective budget allocations.

One program in particular that I agree is worth a closer examination is the Surface Inspection Program. Amtrak's experience with this program has been somewhat mixed. On the one hand, the program has been helpful to us in its base assessment of the Northeast Corridor. On the other hand, Amtrak has encountered difficulties over interpretation of regulations by different TSA field offices. Informal inquiry has revealed mission confusion and disconnects with TSA headquarters at times.

Today the program is at least partially overseen by some 58 security directors who often have airline security as a higher priority in their view of their responsibilities. It is not clear to Amtrak that this is the best structure for surface transportation, and it is also unclear whether the program, as funded and structured, continues to add value to the overall security efforts. Our preference would be that the program take on a more operational focus.

In closing, I think the TSA deserves high marks for its surface transportation security efforts, notwithstanding improvements that could be made to the surface transportation and inspection program.

I have submitted a written statement for the record and appreciate the opportunity to share these remarks and would be glad to answer any questions the committee may have. Thank you.

[The prepared statement of Chief O'Connor follows:]

PREPARED STATEMENT OF JOHN O'CONNOR

MAY 31, 2012

Good afternoon, Mr. Chairman and Members of the House Homeland Security Transportation Security Subcommittee.

I've been dealing with the challenges of rail and transit security since the beginning of my career. I joined the Long Island Rail Road Police Department in the early 1970s, and served there before coming to Amtrak in 1998. Since coming to Amtrak, I've been responsible for the development of security strategies, the implementation of security countermeasures, and the delivery of uniformed, investigative, and special operations police services for Amtrak system-wide. A lot has changed since I first put on a uniform, and while the task of developing a safer and more secure passenger rail system has always been a demanding one, I think we've been fortunate in the support we've received from our president and chief executive offi-

cer, Joe Boardman. Mr. Boardman takes safety and security issues very seriously, and he has worked hard to ensure that we have the resources we need to do the job.

Since the September 11, 2001 attacks, every American has become conscious of the potential for terrorist action, or has heard about the thwarted attempts of terrorists to conduct attacks within our borders where more than 50 terror plots have been foiled. Overseas, terror organizations have repeatedly attacked surface transportation services. In 2011, the Mineta Institute reported that since the 9/11 attacks, terrorists have carried out 1,804 attacks on bus and rail targets, killing more than 3,904 people. For rail, the list of attacks and the numbers of casualties makes sobering reading:

- 2003—Yessentuki, Russia—42 killed, 150 injured;
- 2004—Moscow, Russia—40 killed, 200 wounded;
- 2004—Madrid, Spain—191 people killed, 1,850 injured;
- 2005—London, England—52 killed, 700 injured;
- 2006—Mumbai, India—209 killed, 809 injured;
- 2008—Mumbai, India—164 killed, 308 injured;
- 2010—Moscow, Russia—39 killed, 70 injured;
- 2011—Minsk, Belarus—15 killed, 200 injured.

We know that al-Qaeda continue to urge even more attacks through its *Inspire* magazine, the internet, and other means. The above list is far from complete, for it doesn't include some of the smaller and less lethal attacks, but it does make something clear: Terrorism as a tactic is not limited by location, by cause, or by any ethnic or confessional constraints. It is a tactic used by a wide range of conspiratorial organizations across the world who are unmoored from any ethical constraint and who are willing to kill innocent people in the hope that by so doing, governments and peoples will be forced to alter not just policies, but their fundamental natures.

With regard to today's hearing, I think that goal is particularly important, because the purpose of agencies like the TSA is not just to protect our lives, but our way of life. Over the past decade, Federal agencies have worked unremittingly to accomplish this end, and I think it's fair to say, there have been many successes. But, rail infrastructure continues to be a terrorist target, and consequently, we will need to have Federal agencies like TSA be leaders in this struggle and to be a model for law enforcement organizations to emulate. Clearly, we must make sure we are taking every reasonable effort to remain vigilant to mitigate this potential threat.

Against this background, Amtrak, through the Amtrak Police Department (APD), tries to do its part. It has been transformed into a mobile and fluid department that uses diverse patrol tactics and unique police operations to improve security on the Amtrak rail system. Our cornerstone philosophy is predicated on what we call the 3 Ps—Prevention, Partnerships, and Participation. This approach is designed to inform and coordinate the efforts of APD, partner law enforcement agencies ranging from local police forces to the DHS and TSA, individual employee efforts, and passenger reporting to help keep our system safe and secure.

In this regard, TSA has been a good Federal partner for APD. They have supported many APD prevention initiatives, including the expansion of our canine program of which I am particularly proud. Presently, Amtrak has over 50 explosive canine detection teams. A portion of these teams are "vapor wake" trained, a new technique which trains one canine to cover and screen large areas of transportation facilities. The dog's keen sense of smell is the foundation for this application, as explosive components can be detected in the residual scent left by people walking through a station's corridor or platform. As APD has developed new patrol and counterterrorism tactics by increasing train riding patrols, instituting random and unpredictable surges, baggage screenings, and improving police officer training, DHS and TSA grant programs have provided us with much-needed funding to carry out these improvements and operations.

From a partnership view, TSA has also been at our side for programs designed to create greater cooperation and support among all law enforcement agencies for security issues related to rail surface transportation. APD and TSA have performed over 1,700 VIPR Operations and our agencies perform joint baggage screening operations on a regular basis in many large Amtrak stations, including New York, Washington, and Chicago.

TSA also supported APD's initiative to start Operation RAILSAFE. This effort uses deployment exercises and various tactical deployments to educate State and local agencies about the rail environment on which their citizens travel and demonstrate organized law enforcement activities at surface transportation locations. The last RAILSAFE exercise in April of this year involved 190 agencies in 38 States, Canada, and the District of Columbia.

Additionally, Amtrak participation programs for employee training and passenger awareness have been accomplished with DHS/TSA collaboration and backing.

Other security-supported efforts include:

- Voluntary participation in the BASE analysis for the NEC where Amtrak earned the TSA "Gold Standard" designation;
- Support for the Northeast Coalition to bring more local police offices in rail environments and for the APD membership in RAILPOL to expand intelligence and information sharing with EC Rail Police agencies;
- APD is charter member of the Mass Transit PAG; and
- Amtrak is a TSA R&D "test bed" agency.

That being said, in today's tough economic times, I think it would be prudent to ensure that all of TSA's efforts make the best possible use of their respective budget allocations. One program in particular that I agree is worth closer examination is the Surface Transportation Security Inspector program.

Amtrak's experience with this program has been somewhat mixed. On the one hand, the program has been helpful to us in its BASE assessment of our Northeast Corridor. On the other hand, Amtrak has encountered difficulties over interpretation of regulations by different TSA field offices. Informal inquiry with several offices has revealed mission confusion and disconnects among offices and TSA HQ's at times. Today, the program is at least partially overseen by some 68 Federal Security Directors who often have airline security as a higher priority in their view of their responsibilities. It is not clear to Amtrak that this is the best structure for surface transportation, and it is also unclear whether the program, as funded and structured, continues to add value to overall security efforts. Our preference would be that the program take on a more operational focus.

In closing, I think the TSA deserves high marks for its surface transportation security efforts, notwithstanding improvements that could be made to its Surface Transportation Inspector program, and I look forward to answering any questions you may have about our transportation security program.

Mr. ROGERS. I thank you, Chief O'Connor, for your testimony.

Our second witness is Mr. Skip Elliott, vice president of public safety and the environment at CSX, and he will be testifying on behalf of the Association of American Railroads.

Mr. Elliott is a 34-year veteran of the railroad industry. Prior to joining CSX in 1998, Mr. Elliott worked for Consolidated Rail Corporation, CONRAIL, the Philadelphia-based freight railroad, in a variety of capacities in the police safety and environmental departments.

The Chairman now recognizes Mr. Elliott for 5 minutes to summarize his opening statement. Welcome.

STATEMENT OF HOWARD R. "SKIP" ELLIOTT, VICE PRESIDENT, PUBLIC SAFETY AND ENVIRONMENT, CSX

Mr. ELLIOT. Good afternoon, Mr. Chairman and Members of the committee. I have been a railroader for 35 years. I currently serve as vice president of public safety and environment for CSX Transportation. In that role I am responsible for the environment, hazardous materials transportation safety, our railroad police department, homeland security, and industrial hygiene programs.

I am pleased to be here before you today testifying on behalf of CSX and the Association of American Railroads on freight rail security issues in general and on the Transportation Security Administration's surface transportation inspection program in particular.

On the topic of post-9/11 industry security action, CSX and the rail industry remain deeply committed to rail security. Immediately after 9/11 and well before there was a TSA or DHS, our industry moved rapidly to voluntarily address the new threat environment and developed and implemented a highly regarded unified risk-based approach to security.

On the topic of TSA surface transportation inspectors, TSA has enacted formal regulations and we support the goals of these regulations and are committed to full compliance. That said, we have several concerns regarding the TSA surface transportation inspection program. First, CSX is troubled by the lack of consistency by its surface inspectors on the regulatory requirements for moving hazardous materials by rail. We frequently encounter surface inspectors who apply provisions of the regulations in different ways. Actions accepted as compliant by some TSA field officers are labeled as violations that produce official citations by others. This is troubling to CSX as we strive to ensure consistent security practices through a rail network that spans 21,000 miles of track in 23 States and encompasses over 13,000 local jurisdictions. Our counterparts at other railroads indicate that this is not just an issue for CSX.

Second, it is unfortunate that inspectors' enforcement efforts routinely focus on minor paperwork issues that elevate administrative errors to the level of serious infractions, generating official letters of investigation that threaten a $10,000 fine. For example, the regulation mandates chain-of-custody requirements for railcars carrying toxic inhalation chemicals. CSX has received warnings for noncompliance with the chain-of-custody rule because the names of the employees were not spelled the same on the forms that we use, times were off by several minutes, and the names of the commodities were inserted in the wrong location in the form.

Administrative inconsistencies such as variations in spellings due to the verbal exchange of names, as allowed by the law, does not present a meaningful security breach. In fact, CSX had been praised by inspectors for providing flawless, positive, and secure hand-off of these chemicals only to receive violations for very minor administrative errors.

We believe that the lack of consistency and standardization in inspection priorities and activities are related to the TSA organizational construct. Surface inspectors do not report to the TSA freight rail branch, to a TSA headquarters official responsible for surface transportation, or regional security inspector appointed to be a liaison with the railroads on surface transportation issues.

Mr. Chairman, as you indicated, surface inspectors report to Federal security directors whose primary focus is on aviation security.

On the topic of information sharing and technology, we asked the committee to encourage TSA's on-going efforts to improve the quality and timeliness of actionable intelligence analysis for the rail sector. These products will support the efforts of railroad security professionals and TSA in focusing on truly significant threats and concerns.

Finally, current TSA security regulations are mired in cumbersome and manual procedures as evidenced by the chain-of-custody rule. We encourage TSA to incorporate modern technology approaches that provide better, more robust security enhancements for freight rail transportation. The U.S. freight rail industry is quickly expanding its technology solutions for safety and security, and TSA needs to follow suit.

In conclusion, we recognize the complexity of challenges faced both by the Government and U.S. rail industry in ensuring the safe

and secure movement of people and products in a post-9/11 world. We look forward to working with this committee and TSA, and we appreciate the opportunity to provide comments on this important topic. Thank you.

[The prepared statement of Mr. Elliott follows:]

PREPARED STATEMENT OF HOWARD R. "SKIP" ELLIOTT

MAY 31, 2012

On behalf of CSX Transportation, Inc. (CSX) and the Association of American Railroads (AAR), thank you for the opportunity to appear before you today to discuss freight rail security issues in general and the Transportation Security Administration's (TSA) rail inspection program in particular.

CSX operates a freight rail network spanning approximately 21,000 miles, with service to 23 eastern States, the District of Columbia, and two Canadian provinces. We are part of a 140,000-mile U.S. freight rail network that serves nearly every industrial, wholesale, retail, agricultural, and mining-based sector of our economy. Whenever Americans grow something, eat something, mine something, make something, turn on a light, or get dressed, CSX or some other freight railroad is probably involved somewhere along the line.



Amtrak and several commuter railroads are members of the AAR and they work in concert with CSX and other freight railroads on security matters. Indeed, the rail industry has established a dedicated Freight and Passenger Coordinating Committee, for which security is a primary area of emphasis. However, my testimony today will focus on freight railroads. My understanding is that Amtrak will present its own testimony at this hearing.

Assuring the security of our rail network requires a multi-faceted, cooperative effort that taps the full range of capabilities in the private sector and at all levels of government—including, of course, at the TSA—and applies them to best effect to assure preparedness and to deter and respond to acts of terrorism. CSX and our Nation's other railroads work continuously to meet this objective.

At the same time, railroads want rail security to continue to improve, and they are always willing to work cooperatively with Members of this committee, others in Congress, the TSA, other agencies in the Department of Homeland Security, the Federal Railroad Administration, rail labor, and others to find practical, effective ways to make this happen.

THE RAIL INDUSTRY SECURITY PLAN

Last fall our Nation observed the 10th anniversary of the tragic 9/11 attacks. In previous appearances before this and other committees, rail industry representatives have detailed the many actions the industry took in the aftermath of those attacks.[1] I won't repeat those particulars here, but it is well-documented that the rail industry voluntarily developed and implemented a Terrorism Risk Analysis and Security Management Plan, a comprehensive, intelligence-driven, priority-based blueprint of actions designed to enhance railroad security. The plan was adopted by the rail industry in December 2001 and remains in effect today. And much has been done since the initial voluntary efforts by the rail industry following September 11, 2001.

This means that before there was a TSA, before there was a DHS, the railroads had developed and implemented a unified, risk-based approach to security based on terrorism alert levels and progressively increasing protective measures to elevate preparedness to counter and respond to threats.

The security plan is not simply something that has been put on a shelf to be taken down and dusted off occasionally. Rather, it is a robust and dynamic paradigm for rail operations that is evaluated and modified, as necessary, to ensure maximum continued effectiveness and includes network-wide risk assessments and asset specific countermeasures focused on people, process, and technology. A comprehensive review completed in 2009 evaluated the plan's guiding assumptions, risk methodology, and countermeasures, yielding an updated version that took effect in November of that year. Since then, as the nature of the terrorist threat has evolved, the plan has been reviewed to ensure its continuing effectiveness. As the Federal Government has adjusted its procedures—most recently on terrorism alerts with the adoption of the National Terrorism Advisory System—the rail industry has made sure that its plan's alert-level process and accompanying protective measures align well with the new Federal procedures.

Regular exercises, conducted both industry-wide and by the railroads individually, appraise the effectiveness of the industry's security plan. Lessons learned from these exercises and from actual security-related incidents help ensure that the plan continues to evolve to meet changing circumstances and needs.

The most recent industry-wide exercise occurred on October 13, 2011. For that event, the industry invited direct participation by several Federal entities—including the TSA, DHS, FBI, and the FRA—specifically to assure effective implementation of an efficient, understandable, and sustainable process for sharing intelligence on security threats and incidents by Federal Government agencies with the rail industry.

THE RAIL SECURITY WORKING COMMITTEE

A standing industry committee, comprised of senior railroad executives, security officials, and police chiefs, coordinates the rail industry's overall security effort. Supported by AAR's security staff, this group—known as the Rail Security Working Committee—reflects the industry's on-going commitment to working in a coordinated fashion, with participation by all the major railroads.

Through monthly consultations, the committee identifies issues of concern, develops appropriate responses to those issues, and works with public-sector partners to implement solutions. The review, exercise, and continuous improvement of the industry security plan, outlined above, are a vital facet of the committee's functions. For example, the committee has developed and implemented an industry-wide emergency notification system to provide immediate awareness to railroads of the most significant security incidents affecting a freight or passenger train. The notification system has been successfully tested twice already this year.

The committee also participates in open and candid discussions with TSA's Freight Rail Branch on current programs and initiatives, future priorities, and prevailing security issues and concerns, including those discussed further below. This continuing dialogue, which is held under the auspices of the Freight Rail Branch's Intermodal Security Training and Exercise Program (I–STEP), sustains constructive relationships and effective communication between the railroads' security and law enforcement officials and their counterparts in the Government.

---

[1] See, for example, the statement of Edward R. Hamberger of the AAR before the Committee on Homeland Security on March 6, 2007, and the statement of Thomas L. Farmer of the AAR before the Subcommittee on Transportation Security and Infrastructure Protection on July 12, 2011.

INFORMATION SHARING

Useful intelligence and security information must be shared in a timely, effective, and consistent manner if rail security efforts are to succeed. In this regard, railroads helped build and maintain two key resources focused on security information needs.

The first—the Surface Transportation Information Sharing and Analysis Center (ST–ISAC)—was formed by the rail industry in 2002 at the request of the U.S. Department of Transportation. Working in secure facilities, ST–ISAC operates 24 hours a day, 7 days a week at up to the top-secret level to collect, analyze, and distribute security information from a wide range of Government, academic, media sources.

With the high profile that cybersecurity concerns have garnered recently, it is important to note the vital role the ST–ISAC plays to help protect rail information technology systems and physical assets from attack. Each day, the ST–ISAC issues several advisories to the railroads addressing potential vulnerabilities in specific software or equipment and providing guidance on protective measures. These materials provide timely awareness of current or emerging threats and concerns and inform the sustained preparedness that is the essential foundation of the railroads' coordinated approach to cybersecurity.

The second resource is the Railway Alert Network (RAN). The RAN serves as the rail industry's intelligence and security information center. Each day, its staff reviews intelligence, including classified information, from a broad range of sources and provides railroads with notice of and security advisories on rail-related threats, incidents, and suspicious activity.

In addition, because security threats and incidents impacting railroads can emerge in other critical infrastructure sectors, the RAN works with a private-sector coordination group and other DHS components to ensure that railroads have relevant information on homeland security concerns generally.

The RAN's products include a concise brief produced each day in concert with the American Public Transportation Association and the ST–ISAC called the Transit and Rail Intelligence Awareness Daily (TRIAD) as well as focused security awareness messages that address rail security implications of threats, incidents, disrupted plots, and intelligence analyses. Examples of the RAN's output have been provided to this subcommittee for your information and reference prior to this hearing. The RAN shares most of the materials it produces and disseminates with our Federal partners and with appropriate local and State authorities.

Information sharing is a two-way street, though, and unfortunately, CSX and the rail industry have found that information sharing by various Government agencies with the rail industry is plagued by persistent difficulties in timeliness, practical security relevance, and means of dissemination. Railroads provide a plethora of security-related information every day to various Governmental entities, but this reporting yields comparatively very little in analyses of security value for the industry.

The reporting to the Transportation Security Operations Center (TSOC) is a case in point. By regulation, railroads report "significant security concerns" to TSOC. There does not seem to be any process in place for analysis of these reports, and those in other surface transportation modes, for trends or other indicators of concern. Nor do the criteria for this mandated reporting align with those applied by the rest of DHS, the FBI, and the Office of Director of National Intelligence in the cross-sector Nation-wide Suspicious Activity Reporting Initiative. Common reporting parameters, which the Rail Security Working Committee has formally proposed, would facilitate the inter-agency analysis and cross-sector sharing that is essential to continuous situation awareness and sustained security preparedness.

Railroads are proud of their ability to react quickly and decisively in the face of credible intelligence impacting the rail network. However, the sluggishness and inconsistency with which we receive important intelligence information hinders our ability to respond to potential threats. Railroads will continue to work amicably and professionally with our public-sector partners to resolve this problem. Demonstrative of this commitment, and worthy of commendation, is a new initiative by TSA's Office of Intelligence, announced at a joint I–STEP meeting held in Newark this past March. That office has adopted the rail industry's most significant intelligence requirement as a priority in its analyses, shifting focus to thorough review of past terrorist attacks, failed attempts, and disrupted plots that have targeted rail worldwide—passenger and freight—for lessons learned and inferences on likely future tactics in order to inform more effective and sustainable security measures and actions. TSA analysts will consult with rail industry security leads in the development of these products. We will work in concert to ensure their effective dissemination, integrating local and State law enforcement departments as a means of fostering in-

formed partnerships for security enhancement. This coordinated effort flows directly from consultations in the joint I–STEP meetings sponsored by TSA's Freight Rail Branch—and puts into practical application Assistant Secretary John Pistole's commitment that TSA is an intelligence-focused agency.

WORKING WITH THE TSA AND TSA'S RAIL SECURITY INSPECTORS

CSX believes that partnerships are key to effective security planning and enhancing public safety, and that this cooperation provides lasting benefits to our employees and to the communities we serve. I'm sure the other freight railroads agree with us on this point. I'm also sure that, like CSX, the other railroads are proud of the collaborative working relationship the industry has developed in recent years with the TSA, DHS, and other Government entities.

This collaborative relationship is manifest in a variety of ways. For example, TSA's Freight Rail Branch has initiated recurring coordination meetings with railroads. As demonstrated by the progress on the rail industry intelligence requirement, this forum fosters effective communication and problem solving, and we commend the Freight Rail Branch for establishing them via the I–STEP process. The most recent coordination meeting took place in Newark, New Jersey, during March 7–8, 2012.



Railroads also work effectively with TSA on a variety of training-related issues. For example, the Transportation Technology Center, Inc. (TTCI), a wholly-owned subsidiary of the AAR in Pueblo, Colorado, is the world's finest rail research facility. Among many other things, TTCI trains thousands of emergency responders each year from all over the country. Taking advantage of TTCI's expertise, TSA has been using TTCI for employee training since 2006. In fact, more than 2,100 TSA partici-

pants have trained at TTCI to date, in such areas as "Railroads 101," hazmat transportation, motor carrier security and safety compliance, and basic explosives. In 2010, TSA opened its own dedicated facility at TTCI, though it continues to draw upon the expertise of TTCI personnel in railroad training and orientation programs. The industry values this effective partnership.

The cornerstone of CSX's public-private partnerships is sharing our highly-specialized secure Network Operations Workstation ("SecureNOW") with Federal and State homeland security officials. The SecureNOW system is a proprietary, secure on-line computer tool used to monitor, identify, and respond to rail security and emergency issues throughout the CSX network. This system, developed by CSX, provides CSX employees and trained State homeland security and public agency officials with a tool to promptly identify the location and status of CSX trains and rail cars on our network. SecureNOW allows trained security and public agency officials in several States to independently track the location of CSX trains and the contents of the rail cars in those trains in a nearly real-time environment. Before, officials needed to telephone CSX to access this information.

CSX's SecureNOW system and our approach to information sharing helps homeland security officials prepare for and—if needed—respond to emergency situations. Access to SecureNOW also provides State and Federal officials with additional information about what is carried on our rails, and State officials can more efficiently allocate law enforcement resources, coordinate with CSX security officials, and integrate rail security into on-going law enforcement operations.

In fact, CSX has entered into partnerships with two Federal entities—the TSA's TSOC and the DOT's Crisis Management Center. This allows trained Federal homeland security officials to have nearly real-time information regarding the location of CSX trains and the contents of the rail cars transported on our lines. In addition to these Federal partnerships, CSX also has partnerships for access to SecureNOW with New York, New Jersey, Kentucky, Maryland, Indiana, Ohio, Georgia, Florida. These partnerships formalize and enhance CSX's on-going commitment to these States and Federal agencies to share information, resources, and strategies in order to better protect the communities in which CSX operates.

There are many other examples of successful cooperative initiatives involving the TSA and railroads, and railroads appreciate the TSA for its role in ensuring these successes. That said, we respectfully suggest that there are also some areas where additional progress could and must be made.



For example, as Members of this committee know, the TSA has fielded more than 400 "Surface Transportation Security Inspectors" (STSIs) whose duty is to "assist surface transportation carriers, operators, owners, entities, and facilities to enhance their security against terrorist attack and other security threats and to assist the

Secretary in enforcing applicable surface transportation security regulations and directives."[2]

Freight railroads readily acknowledge that the rail inspection program is well intended. At the same time, though, CSX and the rail industry have several concerns regarding the surface transportation inspection program.

First, CSX is very troubled by the lack of consistency in STSIs' interpretation of, and action on, regulatory requirements, especially with respect to the transport of hazardous materials. Different TSA STSIs have interpreted specific provisions of the Rail Transportation Security Rule in different ways, and provided contradictory guidance regarding what actions are and are not acceptable in meeting the rule's requirements. Actions accepted as compliant by some TSA field offices have been labeled violations that produce official citations by others. Indeed, CSX and other railroads have found that TSA field offices, and STSIs often disagree on how to interpret the rule. CSX and other railroads have also seen disparities between the policies and guidelines issued by TSA's Freight Rail Branch and the actions of TSA inspectors in the field. Sometimes, STSIs are not even aware of policies that have been clearly expressed by the Freight Rail Branch to the railroads they're inspecting.

Second, it is unfortunate that STSIs' enforcement efforts seem to focus on issues that, frankly, are fairly trivial and do not represent meaningful homeland security breaches. For example, the Rail Transportation Security Rule requires that shippers, receivers, and carriers of hazardous materials implement "chain of custody" requirements for rail cars carrying certain highly hazardous materials. Among other things, the transfer of custody from a shipper to a railroad, from one railroad to another railroad, and from a railroad to a receiver must be documented, with the railroad identifying by name the individual with the interchanging railroad, the shipper, or the receiver who is present at the time of transfer of custody. CSX has received warnings for non-compliance with the chain of custody rule because the names of the individuals attending the transfer of custody were not spelled the same way as the names on the interchanging railroad's form, even if they were phonetically identical.

CSX respectfully suggests that variations in the spelling of the names of the individuals attending the transfer of custody do not present a meaningful security breach, especially since the STSIs frequently have witnessed the properly executed transfer of custody and because spelling variations are inevitable when information is verbally exchanged (as specifically allowed by TSA guidance on the issue). In fact, these warnings for misspelling have been brought forth by STSIs who, at the same time, offer praise for the execution of a flawless person-to-person hand-off of these chemicals, attesting to compliance with the intended security enhancement of the regulation.

This example is not isolated. Experience at other freight railroads is similar. The inspections focus overwhelmingly on paperwork, elevating administrative errors to the level of official letters of investigation sent to railroads expressly citing the prospect of a $10,000 fine. To be candid, this type of approach to regulatory enforcement impugns the integrity of the hardworking professionals who strive very hard every day at CSX and other railroads to perform vital transportation services safely, efficiently, and in often difficult conditions. More importantly, situations like this breed distrust and ill feelings for no good reason. They certainly do not advance the cause of security enhancement. Furthermore, as the U.S. freight rail system continues to advance its use of technology and paperless processes, TSA's implementation of a regulation that adheres to the use of cumbersome manual procedures is inconsistent with modern-day security solutions. CSX respectfully suggests that TSA resources should be focused on technology solutions that can provide bona fide enhancements to freight rail and National security.

We believe that the lack of consistency and standardization in inspection priorities and activities noted above is related to the organizational hierarchy regarding the STSIs. Our understanding is that STSIs do not report to the TSA Freight Rail Branch or to a TSA headquarters official responsible for surface transportation. Rather, STSIs report to Federal Security Directors ("FSD") in the field who primarily focus on aviation security and lack the subject matter expertise on surface transportation regulations and policies. This arrangement promotes inconsistency of understanding, application, and enforcement of security regulations and policies. Although TSA appointed Regional Security Inspectors (RSIs) to be liaisons to the railroads on surface transportation issues, the RSIs are not in the chain of command of the STSIs in the field or the TSA Freight Rail Branch and therefore lack the authority to resolve these issues or the ability to provide meaningful subject matter

[2] 6 USC 1113.

guidance on freight rail security issues. The appointment letters sent to the railroads in April 2010 state the RSIs are the "technical specialist within OSO [Office of Security Operations] at the National level for compliance oversight activities" and serve as "points of contact for the Class I and Regional Railroads for matters of regulatory compliance," with the goal "to ensure consistent application of regulations both nationally and across a railroad's operating system." The railroads have advocated strongly in joint meetings held by TSA, at which officials of OSO have participated, for integration of the RSIs into the oversight role defined in their appointment letters. In practice, the RSIs have not ever actually played this role.

Finally, CSX is also concerned that STSIs directly engage rail employees in the field without communicating or coordinating with the designated Rail Security Coordinator ("RSC"). The Rail Transportation Security Rule requires railroads (and other covered entities) to designate one primary and at least one alternate Rail Security Coordinator (RSC) at the corporate level. At least one RSC must be available to TSA 24 hours a day, 7 days a week. The RSC serves as the "primary contact for intelligence information and security-related activities and communications with TSA." Additionally, the RSC is to coordinate "security practices and procedures with appropriate law enforcement and emergency response agencies."



If STSIs identify issues in the field, they should be communicating with the headquarters-based RSC, since the STSIs lack the authority and means to address the issues with our employees in the field. As TSA explained in the preamble to the final rule, "the RSC must be in a position to understand security problems, raise issues with corporate leadership, and recognize when emergency response action is appropriate." Indeed, CSX headquarters personnel cannot take steps to address issues identified by TSA in the field if TSA does not communicate those issues to us. Our discussions with our counterparts at other railroads indicate this is not just an issue for CSX.

VISIBLE INTERMODAL PREVENTION AND RESPONSE TEAMS (VIPR)

The rail industry acknowledges the potential value of the VIPR program's random and unpredictable security measures for deterrence and disruption of terrorist planning and preparations. Indeed, some railroads have hosted deployments and derived substantial benefits from the visible security enhancement. We remain concerned, though, about inconsistency in the implementation of this program—both in management (conflicts and duplications between TSA field offices) and in execution of operations (continuing instances of inadequate notice to and coordination with railroads on operations).

In September 2011, the Rail Security Working Committee defined protocols to govern the conduct of VIPR operations with freight railroads. These protocols, which comport with the provisions of the authorizing legislation for the VIPR program, consist of the following key points:

- Prior notice to the Rail Security Coordinator (RSC) by TSA of all proposed VIPR deployments at least 2 weeks in advance, unless a credible threat or other emergency circumstances dictate otherwise.
- To assure consistency, efficiency, and timeliness, coordination with the RSC to be made by the TSA RSI for the participating freight railroad.
- Rail safety training and orientation for all participants in the operation.
- Joint development by TSA and the affected railroad(s) of the operations plan for each VIPR deployment or group of deployments.
- Integration of local law enforcement in the VIPR deployment(s) to foster informed partnerships and elevated preparedness for joint security enhancement actions.
- Clearly stated risk-based justifications for the deployments.
- Priority attention in joint planning and execution of VIPR deployments at or near the approaches to security control points identified in the rail network identified by TSA's Freight Rail Branch in assessments conducted with the railroads.

The freight railroads are applying these protocols. However, a formal agreement with TSA has proven elusive, apparently due to differences amongst the main offices within the agency involved in the VIPR program.

CONCLUSION

CSX and others in the rail industry recognize and sincerely appreciate the diligent efforts made by TSA, and the many other local, State, and Federal personnel who work hard every day to help keep our rail network, and our Nation in general, safe and secure. We share their goals. Safety and security are, and will remain, our top priority.

That said, we recognize that the freight rail industry and the National security environment in which we operate are continually changing and new challenges appearing. Effective security enhancement can only happen if all stakeholders are on the same page and if sufficient consideration is given to the real-world effects (including unintended consequences) possible approaches to security policy can have. Genuine, open communication between railroads and Government security personnel can not only lead to practical solutions, but can also open the door to solutions that might not otherwise have been apparent.

CSX and other freight railroads look forward to continuing to engage in constructive, meaningful dialogue with Members of this committee, TSA, DHS, and others to ensure that our Nation's railroads remain the most productive, the most efficient, and the safest and most secure in the world.

Mr. ROGERS. Thank you Mr. Elliott for your testimony.

Our third witness, Mr. Phillip Byrd, currently serves as president of Bulldog Hiway Express. I like that name.

Mr. BYRD. Thank you.

Mr. ROGERS. He is testifying on behalf of the American Trucking Association. Mr. Byrd previously served as chairman of the South Carolina Trucking Association in addition to being the chairman of the South Carolina Maritime Association and Charleston Motor Carrier Association. Further, as president and CEO of a 50-year-old trucking firm, Mr. Byrd is also a member of the board of directors of the American Trucking Association.

The Chairman now recognizes Mr. Byrd for 5 minutes.

STATEMENT OF PHILIP L. BYRD, SR., PRESIDENT, BULLDOG HIWAY EXPRESS, TESTIFYING ON BEHALF OF THE AMERICAN TRUCKING ASSOCIATION

Mr. BYRD. Thank you, Chairman.

Chairman Rogers and Members of the subcommittee, thank you for the opportunity to testify today on TSA's surface transportation inspection program. My name is Phil Byrd, and I am president and CEO of Bulldog Hiway Express, a company based in Charleston, South Carolina. Today I am also testifying on behalf of the American Trucking Association, where I presently serve as vice chairman.

First, I want to thank this subcommittee for addressing the continued multiplicity of background checks for commercial drivers. ATA is a strong supporter of the Modern Security Credentials Act and my hope is that Congress will soon pass this bill to bring some common sense to our Government's security credentialing process. Again, I thank you for your support and leadership on this issue.

ATA and its members participate in many industry and Government efforts to enhance security in the highway sector. For example we meet on a quarterly basis, together with community stakeholders, TSA officials and other Government counterparts to increase communications and share ideas to improve the security of our highways. Such initiatives are essential to further enhancing cooperation and coordination between industry and Government agencies.

ATA has followed with some interest TSA's efforts to establish higher visibility operations in surface transportation. These efforts have focused on the use of the Visible Intermodal Preparedness and Response program, also known as VIPR teams. ATA became aware of the VIPR team highway exercise in Georgia and in Tennessee, mostly through the media. It is important to note that ATA supports such operations as long as they are based on intelligence or specific risks that require increased vigilance and security on our highways. At a recent meeting, TSA officials informed industry that the presence of VIPR teams at highway facilities, such as weigh stations, was not due to any specific threat or intelligence. Rather, TSA stated that the VIPR teams were invited by State law enforcement agencies to augment their security capabilities. ATA was informed that during the highway operations, VIPR teams distributed information to commercial drivers about reporting suspicious activities that they might witness while on duty. Deploying VIPR resources for such a purpose seems contrary to TSA Assistant Secretary Pistole's objectives of employing risk-based, intelligence-driven operations to prevent terrorist attacks and reduce vulnerabilities. ATA fully agrees with Mr. Pistole's approach for deploying agency resources.

Though the VIPR highway operations made media headlines, the same cannot be said of the results of these activities. This committee should request reports describing the results of the VIPR highway operations as well as other similar initiatives. The report should detail the specific objectives of such operations and their results. Only when such information is provided will this committee, TSA officials, and industry representatives be able to assess the cost and benefits of undertaking such operations.

Again, I thank you for the opportunity to testify before the committee, and I am pleased to answer any questions.

[The prepared statement of Mr. Byrd follows:]

PREPARED STATEMENT OF PHILIP L. BYRD, SR.

MAY 31, 2012

INTRODUCTION

Chairman Rogers, Ranking Member Jackson Lee, and Members of the subcommittee on Transportation Security, thank you for the opportunity to testify today on TSA's Surface Transportation Inspection Program. My name is Phil Byrd and I am president and CEO of Bulldog Hiway Express, a company based in Charleston, South Carolina. Founded in 1959, Bulldog Hiway Express is an intermodal motor carrier that moved the first container to come off a vessel in the Port of Charleston. The company has approximately 200 power units, 350 trailers, and 250 employee-drivers.

Today, I am also testifying on behalf of the American Trucking Associations (ATA) where I presently serve as vice chairman. ATA was founded in 1933 and serves as the Nation's preeminent organization representing the interests of the U.S. trucking industry. Directly and through its affiliated organizations, ATA encompasses over 37,000 companies and every type and class of motor carrier operation.

As a longstanding ATA member, I have served on various committees within the association including as chairman of its Homeland Security Policy Committee (HSPC) and as vice chairman of its Intermodal Motor Carriers Conference (IMCC). In those capacities, I have had the pleasure to testify before this committee on a number of issues and I am pleased to testify today on efforts to secure our surface transportation operations.

First, I want to recognize this subcommittee's Members for their efforts and bipartisan leadership in addressing the continued multiplicity of Security Threat Assessments (STA) that commercial drivers undergo to deliver America's freight. ATA and its members strongly support enacting the MODERN Security Credentials Act of 2011 and we look forward to Congress passing this important legislation. This issue remains ATA's top security policy priority for its potential to bring relief to millions of truck drivers and thousands of trucking companies from unnecessary and overlapping background checks and the resulting excessive costs.

The trucking industry is an integral component of our economy, earning more than 80% of U.S. freight revenues and employing approximately 7 million workers in trucking-related jobs, including over 3 million commercial drivers. It is important to note that the trucking industry is comprised primarily of small businesses, with 97% of trucking companies operating 20 trucks or less, and 90% operating six trucks or less.[1]

HIGHWAY SECTOR SUPPORTS STRONG NATIONAL AND ECONOMIC SECURITY

The U.S. highway and motor carrier sector has been defined by the U.S. Department of Homeland Security (DHS) as one of 19 Critical Infrastructures/Key Resources (CI/KR). In 2006, various private-sector highway-related organizations established the Highway and Motor Carrier Sector Coordinating Council (SCC). The SCC works in partnership with public-sector representatives established under a counterpart Government Coordinating Council (GCC) under the auspices of the Critical Infrastructure Protection Advisory Committee (CIPAC). The SCC and GCC have met for the past 6 years on a quarterly basis to share ideas and exchange information to improve the security of the Nation's highways. In addition to the SCC, ATA and its members participate in many industry and Government-led initiatives focused on enhancing security and ensuring an open and efficient transportation system to deliver America's freight.

Although a decade has passed since the terrorist attacks of September 11, 2001, our Nation continues to maintain a steady level of alertness by implementing a number of initiatives, both domestically and abroad, to prevent our enemies from planning and executing further terrorist attacks against us. To further mitigate the risks of future attacks, we must continue to strengthen cooperation between Government agencies and private-sector entities, improve coordination among Federal, State, and local governments, and we must coordinate closely with our international trade partners.

[1] American Trucking Associations, *American Trucking Trends 2012* (March 2012).

TSA EFFORTS TO SECURE SURFACE TRANSPORTATION HIGHWAY MODE

In addition to various security regulations that TSA has implemented, many directly impacting the highway sector, TSA has initiated efforts to increase its operational presence throughout the transportation sector. For example, last October it was widely reported that TSA deployed Visible Intermodal Prevention and Response (VIPR) teams at several locations along highways in Tennessee.[2] A similar "counter-terrorism exercise" was conducted in the fall of 2010 in Douglas County, Georgia on Interstate 20 which also involved the participation of VIPR teams with commercial vehicles stopped and inspected.[3] According to media reports, the inspections that took place in Georgia involved more intensive inspections, including sending trucks through equipment measuring radiation.

At a meeting of the Highway Motor Carrier SCC and GCC earlier this month, TSA officials informed industry representatives that no specific intelligence or threat information compelled TSA to mobilize VIPR teams for these operations at highway facilities including commercial vehicle weigh stations. Rather, TSA officials stated that the VIPR teams were present at such locations at the invitation of State law enforcement entities, such as the Tennessee Highway Patrol, to augment the security capabilities of State law enforcement personnel and to increase the visibility of such operations.

ATA does not oppose TSA mobilizing VIPR teams within the surface transportation arena as long as such mobilizations are undertaken to increase the level and presence of law enforcement personnel based on sound intelligence that warrant a heightened level of security. However, it seems that the presence of VIPR teams in Tennessee last October was not based on any specific threat or intelligence calling for an increase presence of security personnel. Instead, it appears that the VIPR teams were present to distribute information to commercial drivers about means to report suspicious activities they might witness while performing their duties.

As a key agency within DHS, TSA can have a positive impact by strengthening the partnership with private-sector counterparts, including the development of security initiatives or training exercises. Unfortunately, it appears that the objectives of the VIPR team operations that took place in Tennessee did not follow a fundamental goal enunciated by TSA's leadership. On June 2, 2011, Assistant Secretary John Pistole made the following statement at a hearing before this committee:

"TSA employs risk-based, intelligence-driven operations to prevent terrorist attacks and to reduce the vulnerability of the Nation's transportation system to terrorism . . . TSA works collaboratively with industry partners to develop and implement programs that promote commerce while enhancing security and mitigating the risk to our Nation's transportation system."[4]

ATA fully agrees with Mr. Pistole's approach and we are ready to work with him, his TSA colleagues, and other Federal agencies to improve the security and safety of the transportation sector using a risk-based approach. Because both Government and private-sector resources are finite, it is critical that such resources are dedicated to programs and operations in areas that face a constant heightened level of risk or in sectors where sound intelligence and specific threat analysis indicate a need for increased security.

If TSA is going to conduct operations or exercises as those described in Georgia and Tennessee, ATA requests that the agency inform trusted industry representatives, such as SCC members, that such initiatives are likely to take place in particular time frames and geographic areas to ensure commercial trucking operations can plan accordingly and not face unnecessary disruptions for time-sensitive deliveries. Also, involving or raising awareness about such operations with trucking companies could improve the outcomes of such exercises, especially if the goal of such operations is to provide commercial drivers with information about security awareness.

In regards to outcomes, ATA further recommends that this committee require TSA to report and provide specific information about the results of such VIPR highway operations, and any other similar initiatives that the agency implements in the surface transportation sector. Such reports should clarify if the operations were conducted due to specific intelligence or threat information, or if such operations were conducted simply as training or information exercises. These reports would provide

---

[2] *http://www.newschannel5.com/story/15725035/officials-claim-tennessee-becomes-first-state-to-deploy-vipr-statewide*.

[3] *http://www.wsbtv.com/news/news/counter-terror-operation-stops-trucks-on-i-20/nFCry/*.

[4] Pistole, John S.; Statement before the Subcommittee on Transportation Security, June 2, 2011, p. 1.

valuable information regarding the costs and benefits of such exercises and efforts, and should also provide TSA with valuable information regarding potential improvements and the actual value of undertaking VIPR operations in the highway environment.

CONCLUSION

As this committee considers the present security challenges within the surface transportation sector and how to mitigate these risks, ATA reiterates the importance of improving communication between industry and the various levels of Government to strengthen our security posture and capabilities.

The private sector and Government share a strong mutual goal of impeding any potential terrorist attacks on our Nation. At a similar hearing before this committee last year, ATA described how an alert trucking company employee prevented a terrorist plot involving explosives. In that case, the employee recognized and researched some of the materials listed in a package and alerted the company's security team. Federal law enforcement personnel were brought in and the would-be terrorist was eventually arrested when he tried to pick up the package.

As with other terrorist plots inside the United States, this event garnered much media attention. One media outlet described the events that transpired as follows:

"In the end, it wasn't a TSA agent, a Homeland Security operative or an FBI agent who first spotted alleged terror plotter Khalid Ali-M Aldawsari. It was the employees of a private shipping company. According to the government, somebody at the shipping company called local police after becoming suspicious about a chemical package that Aldawsari was set to receive.

"Meanwhile, officials at the chemical company that sent the material called the FBI with their suspicions about Aldawsari—and later worked with an FBI agent who posed undercover as a company employee in dealings with the suspect."[5]

This incident underlines the fact that industry, just as much as Government, has increased its level of alertness and vigilance to prevent terrorists from utilizing or targeting our U.S. transportation system, including the surface modes.

ATA and its members are presently participating in a number of information-sharing initiatives to facilitate the flow of information and intelligence to improve the security posture of our industry. Initiatives involving the Homeland Security Information Network, the Office of the Director of National Intelligence, the FBI's InfraGard program, as well other Federal, State, and local efforts, are allowing industry to share information directly with the intelligence and law enforcement community.

ATA urges this committee to encourage Federal agencies to continue improving information-sharing initiatives and cooperation as a better alternative to establishing security operations that do not have clear goals and objectives, and that are undertaken without any specific intelligence or information that call for heightened levels of security in our Nation's transportation system.

I thank you again for the opportunity to testify before this committee and I am pleased to answer any questions.

Mr. ROGERS. Thank you Mr. Byrd for your testimony.

Our next witness, Mr. William Blankenship, is chief operating officer of Greyhound Lines. Mr. Blankenship has been with Greyhound Lines since 1996. As chief operating officer, Mr. Blankenship oversees the operations of Greyhound Lines as well as monitors safety and security. Prior to becoming COO of Greyhound Lines, Mr. Blankenship served as the division director and general manager for the western region.

The Chairman now recognizes Mr. Blankenship for 5 minutes.

STATEMENT OF WILLIAM C. BLANKENSHIP, CHIEF OPERATING OFFICER, GREYHOUND LINES, INC.

Mr. BLANKENSHIP. Good afternoon.

Chairman Rogers and Members of the subcommittee, I am Bill Blankenship, chief operating officer of Greyhound Lines, and I am

[5] "How Two Companies Stopped a Terror Suspect", CNBC.com; February 24, 2011; *http://m.cnbc.com/us__news/41766933*.

honored to be here today to discuss intercity bus security and the TSA's Surface Inspection Program.

In October 2001, less than 30 days after 9/11, a terrorist attacked and overpowered the driver of an Atlanta-bound ground bus, took over the bus and crashed it, killing 7 passengers, including the terrorist, and injured 30. Not knowing if this was the first of a coordinated series of attacks, Greyhound's CEO ordered the Nation-wide shutdown of all Greyhound service. After approximately 12 hours, the FBI determined that this was the work of a lone wolf and Greyhound services resumed. It underscores the vulnerability of America's uniquely accessible intercity bus network.

Greyhound buses serve every major city in the Continental United States with open terminals in downtown locations, and operate over almost every interstate highway across most of the Nation's major bridges, with multiple daily trips.

Greyhound has responded vigorously to the terrorist threat. Since 2001 we installed driver shields and on-board emergency communications and threat response systems on buses, installed or upgraded facilities security systems, instituted random screening of passengers at major terminals, and conducted security training for all operational and maintenance personnel.

Greyhound has also participated in two programs that involved TSA surface transportation inspectors: The base assessment and the Visible Intermodal Prevention and Response program, VIPR. These programs have been somewhat helpful to Greyhound but are not at the core of Greyhound's security efforts.

Under the base assessment, TSA inspectors do an on-site analysis of individual Greyhound terminals. A score is assigned based on analysis, and recommendations are made for security improvements at each terminal. Some of these recommendations are helpful, although others are not particularly realistic in the context of a bus terminal. So far there have been eight Greyhound terminals that participated in this analysis.

The VIPR teams are groups of two or more individuals that do sweeps of bus terminals looking for potential terrorists or suspicious activity. These visits are completely random and appear to be more focused on transit and Amtrak. Greyhound does not usually receive any feedback after these visits. The visits are useful as a visible deterrent when they occur, but Greyhound's own security efforts are concertedly more important in addressing our security.

One area of concern that we have is the silo approach to surface transportation security that TSA has taken in the past. This limits the effectiveness of TSA's surface transportation efforts. For example, TSA funding canine explosive detections for major transit agencies. Greyhound tried to get TSA to authorize the use of these dogs at nearby Greyhound terminals which would have little if any incremental cost, but we could not break through the modal walls at TSA to make that happen.

We are pleased that recently TSA has taken action to integrate all the surface transportation modes under a new director of surface transportation. We recently met with the new director and are encouraged that he understands the risks associated with intercity bus service and will move to integrate intercity buses into TSA's

security program in a way that will enhance overall surface transportation security.

The single most important TSA activity with regard to intercity bus security is its administration of the intercity bus security grant program, which has averaged around $10 million per year through fiscal 2011. In fiscal 2012, Congress included the intercity bus security grant program as one of the eligible surface transportation programs, but DHS chose not to make funding available for it. We believe that intercity bus security projects should remain eligible for Federal funding, either through a combined surface transportation fund or otherwise. The fact is that intercity buses carry roughly 720 million passengers annually, which is comparable to the airlines. Given those numbers and the worldwide track record of terrorist bus attacks, it is difficult to conclude that a Federal security program that makes billions of dollars available for aviation security and nothing for intercity bus security is well-balanced. In our view, priority projects such as maintenance of Greyhound passenger screening programs should continue to be supported.

Thank you for the opportunity to testify.

[The prepared statement of Mr. Blankenship follows:]

PREPARED STATEMENT OF WILLIAM C. BLANKENSHIP

MAY 31, 2012

Chairman Rogers and Members of the subcommittee, I am Bill Blankenship, Chief Operating Officer of Greyhound Lines, Inc., Dallas, TX, and I am honored to be here today to discuss intercity bus security and the Transportation Security Administration's oversight of surface transportation security.

In early October, 2001, less than 30 days after 9/11, a terrorist attacked and overpowered the driver of an Atlanta-bound Greyhound bus, took over the bus and crashed it, killing 7 passengers, including the terrorist, and injuring 30. Not knowing if this was the first of a coordinated series of attacks, Greyhound's CEO ordered the Nation-wide shutdown of all Greyhound service. After about 12 hours, the FBI determined that this was the work of a "lone wolf" Croatian individual, and Greyhound services resumed.

As far as I know, this is the only "successful" terrorist attack on a U.S. transportation system since 9/11. It underscores the vulnerability of America's intercity bus network, and was a wake-up call for Greyhound, which is the only Nation-wide intercity bus system in the United States.

Intercity buses (a/k/a motorcoaches or over-the-road buses) are inherently vulnerable to terrorist attacks because of their unique public accessibility. Greyhound buses serve every major city in the continental United States with open terminals in downtown locations and operate over almost every interstate highway and cross most of the Nation's major bridges with multiple daily trips.

Several studies in recent years have shown that worldwide, buses are the most vulnerable to terrorist attacks of all modes of transportation. A 2009 GAO Report to this committee found that between 1997 and 2008, there were 510 terrorist-related commercial bus and truck bombing attacks worldwide, killing over 6,000 people. Over 70% of those attacks were bus or bus terminal-related.[1] The Mineta Transportation Institute maintains a database of all surface transportation attacks from 1970 through 2009. Its latest report indicates that during that period, there were 757 terrorist attacks on buses and bus stations compared to 442 attacks on trains and train stations.[2]

While intercity buses and terminals are vulnerable to attack, their use as a delivery mechanism for other weapons may leave the Nation's critical infrastructure vul-

[1] Government Accountability Office Report to the Chairman, Committee on Homeland Security, House of Representatives entitled "Commercial Vehicle Security, Risk-Based Approach Needed to Secure the Commercial Vehicle Sector," GAO–09–85, February, 2009, see page 11.

[2] Mineta Transportation Institute, *Terrorist Attacks on Public Bus Transportation: A Preliminary Empirical Analysis,* MTI Report WP 09–01, March, 2010, see page 19.

nerable. This mobility is a material differentiator between intercity bus and mass transit.

Greyhound has responded vigorously to the terrorist threat. Since 2001, we have completed several comprehensive assessments of the risks facing Greyhound and have taken numerous actions to reduce those risks. These actions include:

- installing driver shields on all Greyhound buses to limit a terrorist's ability to attack the driver;
- installing an on-board emergency communications and threat response system on all buses, which includes remote vehicle disabling (kill switch), driver authentication, and an enhanced emergency communications and response system, and finalizing geo-fencing and real-time bus inventory components of that system;
- installing and/or upgrading security fencing and lighting and CCTV camera systems in major terminals and garages;
- random magnetometer screening of passengers and their bags at major terminals; and
- security training for all personnel with operational or maintenance responsibilities.

Greyhound has also worked with TSA in a variety of ways, including two programs that involve TSA surface transportation inspectors, the Base Assessment program and the Visible Intermodal Prevention and Response (VIPR) teams. These programs have been somewhat helpful to Greyhound, but are not at the core of Greyhound's security efforts.

Under the Base Assessment program, a team of 2–4 TSA inspectors do an on-site analysis of individual Greyhound terminals, including a questionnaire of more than 100 questions concerning the security practices at that terminal. A score is assigned based on that analysis and recommendations are made for security improvements at that terminal. Some of those recommendations are helpful, although others are not particularly realistic in the context of a bus terminal. So far, there have been 8 Greyhound terminals that have participated in that analysis.

The VIPR teams are groups of 2 or more individuals that do "sweeps" of bus terminals looking for potential terrorist activity. Although we are generally notified ahead of time, these visits are completely random. They appear to be more focused on transit and Amtrak. The Greyhound visits are infrequent and Greyhound does not usually receive any feedback after these visits. The visits are useful as a visible deterrent when they occur, but Greyhound's own security efforts are considerably more important in addressing our security needs.

Greyhound has partnered with TSA in several other important ways.

TSA and Greyhound participated in a pilot program to test airport-style baggage screening devices in Los Angeles and Houston. Results of the program revealed an annual estimate of 500,000 items that could be used to overtake Greyhound's drivers. Moreover, the pilot program proved the viability of reducing National infrastructure risk by deploying TSA surplus equipment, currently warehoused. However, the cost of Greyhound's operating and maintaining the equipment would be prohibitive.

TSA and Greyhound partnered on a pilot program to test the use of canine teams in several terminals. The tests demonstrated that canines were effective as explosive screeners and as highly visible deterrents to terrorists, but were not practical in bus terminals unless used along with the facilities of other modes.

Greyhound participates in TSA's First Observer and TSOC reporting program. Greyhound is an active participant in reporting suspicious behavior and incidents that could be of a terroristic nature. Moreover, Greyhound has adopted "See Something, Say Something" in its efforts to build a culture of awareness and maintains a solid relationship with DHS intelligence.

Greyhound also participates in TSA's Intermodal Security Training and Exercise Program, which provides table-top exercises and security training and planning tools and services to the transportation community.

Finally, in support of our partnership, Greyhound donated 2 buses for TSA to use as part of its training curriculum at the Transportation Technology Center. In addition, the CEO of Greyhound, our Director of Security and myself visited the Transportation Technology Center in support of their efforts.

Overall, Greyhound believes that these TSA initiatives have helped Greyhound to sharpen its focus on what works and what doesn't with regard to improving intercity bus security.

One area of concern that we have is the "silo" approach to surface transportation security that TSA has taken in the past. This limits the effectiveness of TSA's surface transportation efforts. For example, TSA has funded canine explosive detection for major transit agencies. Greyhound tried to get TSA to authorize the use of those

dogs at Greyhound terminals that were either part of an intermodal facility with transit or close to transit facilities. It seemed to us that with little, if any, incremental cost, canine explosive detection could be extended to many major Greyhound terminals. But we could not break through the modal walls at TSA to make that happen.

We are pleased that recently TSA has taken action to integrate all of the surface transportation modes under a new Director, Surface Transportation. We believe that action should help remove the modal barriers to cooperation and efficiency and provide a better platform for TSA to assess the highest risks among the modes and respond effectively to those risks. We recently met with the new Director and are encouraged that he understands the risks associated with intercity bus service and will move to integrate intercity buses into TSA's security programs in a way that will enhance overall surface transportation security.

The single most important TSA activity with regard to intercity bus security is its administration of the Intercity Bus Security Grant Program. From 2003 through 2011, Congress appropriated a small fund for intercity bus security. That program was formalized in Public Law 110–53, *The Implementing Recommendations of the 9/11 Commission Act of 2007,* as the Intercity Bus Security Grant Program. The IBSGP averaged around $10 million per year with $5 million appropriated in fiscal year 2011. In fiscal year 2012, Congress included the IBSGP as one of the eligible surface transportation programs for preparedness funding, but DHS chose not to make any funding available for the IBSGP.

Although the IBSGP grants have been processed by FEMA, TSA has made all of the substantive decisions with regard to the program. We think that TSA has done a good job administering the program. Each year, it has conducted a rigorous competition with awards based on a comprehensive risk-based analysis. Greyhound, as the Nation's only Nation-wide intercity bus system, has received the largest amount of program funds, but more than 100 other bus companies have received awards since the program began.

IBSGP funds have greatly enhanced the security of the National intercity bus system. It helped Greyhound pay the capital costs of the on-board emergency communications system and the facility security upgrades and it has enabled Greyhound to roughly double the size of its passenger screening program. Without these funds, the capital would not have been available for the emergency communications system and the facility security upgrades and the screening program would have been much smaller. It is important to emphasize that Greyhound spends roughly $10 million per year of its own funds on security, including at least a 25% match for the IBSGP funds and all of the on-going operating funds associated with the emergency communications and facility security capital grants.

For the last several years, the administration's budget proposal has recommended terminating the IBSGP on the grounds that there was no risk assessment of intercity bus security and the private sector could make these investments. It recommended combining the program with the transit and rail programs and prioritizing the risks within that combined program. We note that both the GAO and Mineta reports establish the inherent vulnerability of intercity buses, and indeed, TSA has done its own risk assessment and has recommended a program like the IBSGP.[3]

We do think that intercity bus security projects should remain eligible for Federal funding, either through a combined surface transportation fund or otherwise. The fact is that intercity buses carry roughly 720 million passengers annually, which is comparable to the airlines. Given those numbers and the track record of terrorist bus attacks, it is difficult to conclude that a Federal security program that makes billions of dollars available for aviation security and nothing for intercity bus security is well-balanced. In our view, priority projects such as maintenance of Greyhound's passenger screening program should continue to be supported.

Thank you for this opportunity to testify. I would be happy to answer any questions you might have.

Mr. ROGERS. Thank you Mr. Blankenship for your testimony.

Our final and eagerly anticipated witness Mr. Morris: Mr. Morris serves as director of safety and security operations, Owner-Operator Independent Drivers Association. He also serves as vice chairman of the Department of Homeland Security's Highway-Motor Carrier Sector Coordinating Council, the HMCSCC. Mr. Morris was

[3] Transportation Security Administration, *Over-the-Road Bus Security Assessment,* January 4, 2010.

previously commander of the transportation security section and the transportation safety division of the Maryland State Police, has over 28 years of experience in transportation safety.

The Chairman now recognizes Mr. Morris for his opening statement.

STATEMENT OF DOUG MORRIS, DIRECTOR, SAFETY AND SECURITY OPERATIONS, OWNER-OPERATOR INDEPENDENT DRIVERS ASSOCIATION

Mr. MORRIS. Thank you, Chairman Rogers. Good afternoon. My name is Doug Morris and I am currently the director of safety and security operations for the Owner-Operator Independent Drivers Association. I have over 28 years of experience in transportation safety and security, including commanding positions within the Maryland State Police.

Approximately 150,000 members are small business truckers from all 50 States. The majority of trucking in this country is small business; 93 percent of our Nation's motor carriers own 20 or fewer trucks. More than 69 percent of all freight tonnage is moved by truck, and the bulk of those shipments are completed by small business truckers.

Involving the men and women who make their livelihoods behind the wheel of a truck makes sense for our Nation's homeland security efforts. These men and women travel through all areas of our infrastructure. With the proper training, these individuals add tremendous value to securing our Nation.

The First Observer program, of which OOIDA is a strong partner, is DHS's tool for providing them that training. First Observer helps promote the security of our transportation infrastructure by enabling the sharing of information from well-trained and concerned professionals who have the capacity to observe, assess, and report risk and potential security breaches. OOIDA brings to the program its unique perspective and experience to help develop training modules that enhance participation from professionals, like truckers, of a particular vantage point to best report suspicious activity that may have been overlooked in the past.

First Observer currently offers 12 different training modules, covering everything from truck and motor coach drivers to port and highway workers. One example of how this training is best utilized was during the lead-up to the 2012 Super Bowl. First Observer trainers trained over 1,000 event staff and other related personnel in homeland security awareness. First Observer is the only program that is capable of meeting these specialized training needs while also engaging the thousands of long-haul truck drivers on the road every day. It is truly a force multiplier for homeland security.

Some of the recent success stories that I can speak of include a full hijacking of a motor coach, the disruption of a bomb plot targeting former President George W. Bush, and foiled plots against West Coast power plants. These successes validate the First Observer mission. OOIDA has learned that transportation professionals are more receptive to training from individuals who have distinct knowledge and first-hand experience of their industry. Feedback from our members participating in the First Observer program show that the training that they received was geared spe-

cifically towards them and they felt part of the mission. This program takes homeland security seriously; and in return, First Observer members are taking it seriously and are helping to make this program a success.

To the best of my knowledge, First Observer has far exceeded TSA's expectations. The program has been endorsed by 137 industry and affiliate associations and organizations. Despite these successes, the program faces challenges. First Observer has been operating under a no-cost extension since January 1, 2012. Broader budgetary challenges, unbalanced funding, and resource priorities within DHS—especially TSA—threaten this program's ability to continue its mission. Allowing this program to falter would send a clear message that TSA places greater value on other modes of transport. It is widely known that the lion's share of funding within TSA is allocated toward the aviation sector. Less than 2 percent is dedicated to the surface transportation arena, not taking in regard the significant economic importance of surface transportation trade and its infrastructure. OOIDA is hopeful that Congress will address this imbalance.

First Observer participants are committed to playing a role in ensuring the protection of our country, but they need a commitment from Congress and the Department. Training our Nation's collective surface transportation personnel on what to observe, assess, or report in their areas of expertise helps achieve homeland security's overall mission at a cost below some of TSA's other priorities, especially those focused on substituting technology for real live professional eyes on the road.

To date, First Observer has over 160,000 program members. Of these, we have several hundred school bus and truck drivers in the Chairman's district alone, as well as over 2,000 in the Ranking Member's district. This program has proven its value and it is an activity that should be prioritized moving forward.

Thank you very much for your time, and I am happy to answer any questions that you may have.

[The prepared statement of Mr. Morris follows:]

PREPARED STATEMENT OF DOUG MORRIS

MAY 31, 2012

Good afternoon Chairman Rogers, Ranking Member Jackson Lee, and distinguished Members of the subcommittee. Thank you very much for inviting me to testify this afternoon on the subject of surface transportation security. My name is Doug Morris and I have been involved with transportation safety and security for over 30 years and currently serve as the director of safety and security operations for the Owner-Operator Independent Drivers Association (OOIDA). I also represent the Association as the vice chairman of the Department of Homeland Security's Highway Motor Carrier Sector Coordinating Council. Prior to joining the staff at OOIDA I was employed as a Maryland State Trooper—retiring in 2009 after 28 years of service. During my tenure with the Maryland State Police, I served as the assistant commander of the Commercial Vehicle Enforcement Division as well as the commander of the Transportation Security Section and Transportation Safety Division. I have received over 500 hours in advanced training in the transportation and handling of hazardous, radioactive, and biological materials as well as emergency management, disaster assistance, and incident command.

The Owner Operator Independent Drivers Association is the international trade association representing the interests of small business trucking professionals and professional drivers on all matters that affect the trucking industry. OOIDA currently has more than 150,000 members who collectively own and operate over

200,000 individual heavy-duty trucks Nation-wide. Small-business trucking companies dominate the industry with approximately 93% of U.S. motor carriers operating 20 or fewer trucks in their fleets, 78% operating 5 or fewer trucks and roughly half of the motor carriers registered with the Federal Motor Carrier Safety Administration having fleets of just 1 truck. Considering that 69 percent of freight tonnage in the United States is moved by truck, and the bulk of that is by small business truckers, OOIDA and its members have a unique perspective on a variety of facets of the infrastructure system. It makes sense for the U.S. Government to partner with small businesses to act as the eyes and ears in the interest of furthering National security. It should also be noted that over 40% of OOIDA's members have prior military service and as a group are steadfastly patriotic. As such, involving the trucking community, specifically the men and women who make their living behind the wheel, is a natural fit as they simply want to be involved and with the proper training these individuals add tremendous value to securing our Nation's infrastructure.

First Observer is a program that helps promote the security of our transportation infrastructure by enabling the sharing of information from well-trained and concerned professionals who have the capacity to observe, assess, and report risks and potential security breaches. As you may be aware, the program was originally created by the TSA's Highway Motor Carrier Division when private infrastructure security professionals observed a need and desire for such a program and worked to initiate the program almost immediately. OOIDA was among the first supporters and helped secure the viability of the exceptional opportunity by obtaining a trademark for the First Observer name and logo. Through trademarking and securing the brand, we not only helped to ensure that the program is officially recognized and helped raise awareness, but it also gave the TSA the ability to have control over the brand for future use so that it may seamlessly continue under the current name and not be subject to rebranding based on changing or evolving participants. In short, it gave the program foundation and continuity from the inception so that it has a better chance of success. Branding and re-branding has been problematic for similar programs—including the predecessor to First Observer. So, solving this simple problem was a necessary and important first step in order to make it recognizable, reliable, and trustworthy in eyes of both transportation industry and homeland security professionals.

As an association that has been in existence for nearly 40 years representing the men and women of the professional truck driving community, OOIDA brings to the program its unique perspective and experience in safety and security to help facilitate a dialogue between trucking, law enforcement, and other transportation/security professionals in the identification of areas where specific security training should be conducted. As a result of this dialogue and our input, training modules have been developed and implemented to enhance participation from those professionals who best know their working environment and who have a particular vantage point to best report suspicious activity that may have been overlooked in the past.

As you are likely aware, currently there are 12 training modules in operation which address the following topics: Trucking and Motor Coach, School Bus, Intra and Inter City bus, Law Enforcement, Highway Workers, Critical Infrastructure Protection Professionals, Ports, Hazmat, Cargo, Truck Rental, Parking and Event Staff, and Food Safety and Security. The purpose for developing these as individual training modules was to directly address areas that were of specific concern in the counter-terrorism field. Recent success stories of the program include a foiled hijacking of a motor coach traveling between Arlington, Virginia, and Durham, North Carolina; the disruption of a Texas bomb plot targeting former President George W. Bush; and foiled plots against power plants along the West Coast. All of these successes validate the First Observer mission. If not for a transportation professional that knew their business and knew that something was suspicious about numerous deliveries of hazardous materials to a private residence, a terrorist act on U.S. soil may have resulted.

Since OOIDA's involvement with this program, we have learned that transportation professionals are more receptive to individuals who have distinct knowledge and first-hand experience of their industry. Previous training programs in this area were flawed as they tended not to be geared toward the end-user. In the past participants may have been involved in a previous homeland security presentation or training, but did not feel that the training addressed their needs or concerns and the instructors had little or no knowledge of their industry. In short, OOIDA knows trucking and can communicate with the men and women who comprise the truck driving community in the United States. We know that many of these professionals, who are working daily within a variety of surface transportation venues, feel a tre-

mendous sense of pride and duty as a participant in First Observer. They feel as if they are a part of a public/private sector cooperative that is vital to helping protect the infrastructure that millions, including themselves, rely heavily upon to meet their most basic needs. They know that the training that they received was geared specifically toward their industry and was produced by professionals in their line of work in coordination with law enforcement and counter terrorism professionals who have been brought together under one roof. This program takes trucking seriously and in return, truckers are taking it seriously and helping to make this program a success.

To the best of my knowledge, the First Observer program has far exceeded TSA's expectations and has been recently moved from the former Highway Motor Carrier Division of TSA to the Surface Transportation Division, a sign of its integral role in the Department's broad mission. The program has been endorsed by 137 industry and affiliate associations and organizations.

Despite these successes, the program faces near- and long-term challenges. First Observer has been operating under a no-cost extension since January 1, 2012. Broader budgetary challenges throughout the Federal Government, from the recent history of funding DHS activities through continuing resolutions or delayed appropriations bills to unbalanced funding and resource priorities within DHS, especially the TSA, threaten the program's ability to meet its requirements from the Department.

Allowing this program to falter would send a clear message to surface transportation professionals that TSA places much greater value on other transport modes and their mode as unimportant if not irrelevant. It is widely known that the lion's share of funding within TSA is allocated towards the aviation sector and relatively little is dedicated to the surface transportation arena where the economic and other costs of a homeland security incident could far exceed those that this Nation suffered on September 11, 2001. Congress has an opportunity to address this imbalance and ensure needed prioritization within TSA.

One of the major benefits First Observer has is its flexibility, and I would like to offer a few examples. The first was the program's ability to train dozens of parking lot attendants working the 2012 Super Bowl in Indianapolis. Our training ensured that these workers, many of whom were hired on a temporary basis, were on watch during one of our Nation's highest-profile public events.

In the same vein, First Observer training has been given to numerous airport service personnel throughout the country as many had no training in what to observe, assess, or report related to surface transportation in their environment. With continued or additional funds to the program it could be easily expanded to all aspects of surface transportation specifically, in areas of concern such as the rail sector, public utilities, and any other venue that could become a target of future terrorist acts. These are areas where we should continue to expand and improve upon the continued successes of the First Observer program.

It is more cost-effective to be proactive as opposed to being reactive and throwing money at something to attempt to secure it at all costs. Training our Nation's collective surface transportation personnel on what to observe, assess, and report in their areas of expertise would help homeland security's overall mission.

Thank you very much for your time. I am happy to answer any questions you may have.

Mr. ROGERS. Thank you, Mr. Morris. I do agree with you; we can be smarter about the way we are spending our money. That is one of the reasons we want to have this testimony on the record.

Mr. ROGERS. I will recognize myself for the first set of questions. Chief O'Connor, what did you mean when you said TSA should have more operational focus? What does that term mean to you?

Chief O'CONNOR. As I said in my testimony, Amtrak's approach is prevention, partnership, and participation. I think that is where the TSA inspectors should be focusing their efforts. They should be helping agencies in direct prevention efforts, like supporting the VIPRs. They should be helping us partner with the communities to help protect the local transit systems, and they should be helping us train our employees and doing public outreach, not going out enforcing regulations that do not add to the value of security.

Mr. ROGERS. Have you noticed the increased numbers of these TSA assets in your stations?

Chief O'CONNOR. We get a lot of support on the normal VIPRs. In terms of the inspectors, we are getting sporadic reports around the country on showing up and station profiles and efforts that I am sure are well-intentioned but I am not sure add to the value of security. They did assist us with our base program. But again, once the program is in place, where do we go from there?

Mr. ROGERS. Well, I had the privilege of visiting with one of your facilities in New York a couple of weeks ago, and I was very impressed with what you are doing with vapor-wake canines. As you know I am a big supporter of that.

Mr. Elliott I am aware that Alabama participates in the CSX Secure Now program. Can you elaborate more on that, please?

Mr. ELLIOT. Yes, Mr. Chairman. First of all, I would like to thank the State for participation in what we think is a very worthwhile program. At CSX we believe that transparency is very important in building solid and credible security partnerships. Our Secure Now program is actually a technology-based program that allows bona fide security, homeland security agencies—in the case of the States, it is typically State homeland fusion centers. We also have partnerships at several Federal agencies that actually allow these agencies to see in a real-time format every train that is operating on CSX transportation and then to quickly identify every railcar, every commodity that is being transported within those trains. We think that is very important, because oftentimes States and Federal agencies may be dependent upon CSX to translate information, and you lose valuable time.

What the Secure Now program does is it allows these State and Federal homeland security centers to have this real-time access to all CSX trains and commodities so, if they do get an indication of a credible or confirmed threat, they can see the rail commodities that are moving through their States on CSX and they can take the appropriate action by contacting CSX, so we can either stop trains or move trains through at a faster pace in order to provide the level of security that we need.

Mr. ROGERS. Great. Do we have a way for this to be put up on the screen?

Well, visually, I hope that you can get the gist of this. But in 2008, we had just under 200 of these inspectors for surface transportation. In a 5-year period you can see it has doubled to where we now have 404 of these inspectors.

My question is: Do y'all think that we have seen a commensurate enhancement of security or not? I will open that up to anybody. I will start with you, Mr. Elliott.

Mr. ELLIOT. Mr. Chairman, I think it is fair to say that, much like my colleagues on the witness stand today, we appreciate a lot of the very good work that TSA does. However, it has been our experience that with the increase of surface transportation inspectors, who we see with increased frequency in our rail yards, that really all we are seeing is not just one inspector who would come to kind of review the transfer of custody regulation, but we are seeing multiple inspectors basically just showing up to look at the same regulations. So I am not sure we are seeing any commensurate en-

hancements in security by the addition of more surface transportation inspectors.

Mr. ROGERS. I will ask you: Yes or no? Do you think it has been worth doubling the workforce from a security standpoint?

Mr. ELLIOT. I have not seen that, no.

Mr. ROGERS. Mr. Byrd, yes or no? I have got 24 seconds.

Mr. BYRD. No.

Mr. ROGERS. Chief O'Connor.

Chief O'CONNOR. No. I would rather see an increase in canines and an increase in public and employee training.

Mr. ROGERS. Mr. Blankenship.

Mr. BLANKENSHIP. The only increase we are really seeing is in the baseline inspections that have occurred.

Mr. ROGERS. Mr. Morris.

Mr. MORRIS. No, sir, I have not.

Mr. ROGERS. We have been joined by my friend and colleague from Texas who has come from the Intelligence Committee, where I am sure she has made the world safer. We are glad to have her here now. I recognize her for any opening statements she may have.

Ms. JACKSON LEE. Thank you very much, Mr. Chairman, and to the witnesses for their testimony. The Chairman has been gracious. Thank you, Members—Mr. Davis, Mr. Turner, and Mr. Cravaack—for your courtesies. We are also in an Immigration Subcommittee so I thank you very much.

This is a subject that is enormously close to my heart and I thank all of you for your participation in this valuable hearing that will provide and is providing insights on critical transportation issues.

As the Ranking Member of the Transportation Security Subcommittee, I have continuously supported the allocation of adequate resources aimed at enhancing the efficiency, safety, and security of our rail and mass transit systems. There is no doubt—and I know that you, as gentlemen on the front lines, that when we think of a target, the target that has been most attractive to whatever franchised terrorist group you can speak of, it is a transportation mode. We will fool ourselves if we don't recognize that the surface transportation is clearly in the eye of the storm.

This morning's news reported that buses transport more people or at least the same amount of people as the aviation industry. How many Americans would know that? Which is why I offered an amendment to the surface transportation security measure recently considered by the full committee. My amendment would authorize $400 million for the Transportation Security Grant Program in fiscal year 2012 and fiscal year 2013.

I want you to know, the good news is the amendment was unanimously supported by this committee. I am pleased that Members on both sides of the aisle recognize the need to authorize these funds. In the near future the House will consider the fiscal year 2013 Department of Homeland Security appropriations bill, and I will respectfully request that my colleagues continue their strong commitment to transportation security grant funding when the appropriations measure is on the floor of the House.

If you are happily going off to the casinos in Louisiana and parts of Texas, or if you are having to get to grandma's house, you are using a mode of transportation that could in essence be a target.

I cannot overstate the importance of funding for grants that allow State and local jurisdictions to secure our Nation's transportation infrastructure. According to the National Counterterrorism Center, since 2004 over 1,000 terrorist attacks were waged worldwide against mass transit and passenger rail targets, resulting in over 2,000 deaths and over 9,000 injuries. In fact, we were one of the first Congressional delegations to visit Mumbai after the series of attacks there and to visit the station where these heinous attacks occurred—Madrid, London, Mumbai, and Moscow. We have been fortunate that we have not put on that list one of our sites, even though of course there was a plot to attack the New York City subway system in 2009, and everyone remembers the Times Square alleged bomber that was trying to disrupt Times Square a, if you will, center-point for rail subway lines crossing in that area.

Given the open nature of our mass transportation system and the millions of people who use our subways, buses, and highways each day, the effort to assure adequate funding for the transportation security grants should be a high priority for this Congress. Since the demise of Osama bin Laden, we must be diligent.

Last year I introduced the Surface Transportation and Mass Transit Security Act of 2011. If enacted, this bill would ensure that TSA provides the kind of attention and resources necessary to effectively operate surface and mass transit. The bill authorized the hiring of additional surface inspectors to validate security programs that impact our surface and mass transit.

Let me indicate how much I think this hearing is crucial, and I will caution that we must not throw the baby out with the bath water. It is important that we work with TSA to make changes. It is important that TSA hires additional transportation security inspectors, being the first step. However, the agency must also ensure that regulations impacting training of front-line workers across surface and mass transit are issued and shared for public comment. Without this overreaching framework, single acts and individual programs will likely have little impact.

However, this overreaching framework must include the kind of mechanism my bill, such as a protocol to strengthen stakeholder outreach revisions to the public transportation security assistance grants program in recognition of the importance of increased resources for canine teams. I am looking forward for these efforts to go forward in a fast and expeditious way.

I also look forward to the testimony that has come about to the First Observer program, formerly known as Highway Watch. I believe that this hearing, Mr. Chairman, answers a number of questions that the Congress does maintain its responsibilities of oversight and vigilance, because it is important to secure the homeland in all aspects.

With that, I yield back on my statement.

Mr. ROGERS. Thank you.

Would the Ranking Member like to go ahead and take her 5 minutes of questions——

Ms. JACKSON LEE. I would like to do so, and try to abbreviate my questions as well.

Mr. ROGERS. Okay. The Chairman recognizes the Ranking Member for 5 minutes.

Ms. JACKSON LEE. Thank you very much.

First of all, I have taken it to heart, visiting various sites and watching the work that is done. Let me give you just this one question: Unlike at airports where security is completely Federalized, the local transit and law enforcement agencies bear the brunt of implementing effective security programs for surface transportation systems. As we discuss moving forward with TSA's program, I would like to know what your major resource and operational challenges are and how TSA can use inspectors with proper surface experience and expertise to help you meet those challenges. I would like to start with Chief O'Connor.

Chief O'CONNOR. Thank you, Ranking Member.

Ms. JACKSON LEE. As I interrupt you, let me say that you have one of the toughest tasks. Might you just put on the record, if I missed it, what you think your traveling census is up and down that East Coast corridor? Chief.

Chief O'CONNOR. Thank you. I appreciate those comments. My task is made easier by working with some of your colleagues in Texas, with Chief Rodriguez and former Chief Lambert. I visited Houston just last month to consult with them.

In terms of the usefulness of the inspectors, I testified earlier that our efforts are geared towards prevention, partnership, and participation. I think that is where the TSA needs to go. Focus less on repeating vulnerability assessments and regulations, which do not add to security but develop a partnership with the agencies that help in their prevention efforts, help in partnering with local communities, and help in training employees and doing public outreach.

I think the whole program needs to be looked at from top to bottom to see if that is where their efforts are going.

Ms. JACKSON LEE. I thank you. I am going to yield back and come back to get these questions answered at the next go-around. Thank you, Mr. Chairman.

Mr. ROGERS. The Chairman recognizes Mr. Turner for 5 minutes.

Mr. TURNER. Thank you, Mr. Chairman.

I am interested, Mr. Elliott, in the inspectors. There are now 400 rail inspectors; did I hear that right?

Mr. ELLIOT. Well, there are 400 surface transportation——

Mr. TURNER. What is their mandate?

Mr. ELLIOT. Congressman, with regards to freight rail security, there is one TSA regulation, the one that deals with the secure and positive hand-off of toxic inhalation hazards. So their focus has been wholly to go out to our rail facilities and basically focus on how well that regulation is being adhered to.

Really, as I had mentioned before in my testimony, we value a lot of the good positive relationship with TSA. But what we are typically seeing now—we do have concerns about the level of knowledge and training that the surface transportation inspectors are getting, especially since their growth was so fast. But we are basically seeing multiple inspectors coming out to basically observe

the same function in a number of limited locations. So, again, we recognize that TSA brings some great value in the partnerships that we have with them, but I am not sure that we are seeing the total value of this program.

Mr. TURNER. Isn't there already a rather profound infrastructure for safe handling of coupling and uncoupling of cars and toxic materials, and, in other agencies, transportation? These are homeland security inspectors.

Mr. ELLIOT. That is correct. Predominantly freight rail safety and security regulations come under the auspices of the Federal Railroad Administration. We traditionally see a number of FRA inspectors who are out on the rail property looking at compliance with the regulations that they oversee. But the one regulation currently that TSA has jurisdiction over is this secure and positive hand-off of toxic inhalation hazards that basically requires that there is a physical hand-off of toxic inhalation hazards products such as sulfur dioxide, chlorine, and hydrous ammonia, make sure that there is that physical security.

We recognize that there is a significant difference in the security threat to freight transportation versus the security that needs to be focused on with the traveling public. Again, we focused quite significantly on a number of security issues. We are just not quite so sure that the focus that TSA has put on this one particular interest is really——

Mr. TURNER. Do you see this as a redundancy?

Mr. ELLIOT. There are two things. One, I do see it as somewhat of a redundancy with what the Federal Railroad Administration focuses on in its security and safety initiatives. Quite honestly, I will tell you that I think we work very hard internally to ensure full compliance with the regulation.

Again in my testimony, we get lauded on one hand by an inspector who watches this physical hand-off and indicates that we are doing it perfectly, then only to take exception to the fact that we may have a misspelled name or something maybe out—so the indication to us, then, has to be that we are meeting the intention of the regulation, but the inspectors may have to find something so they are turning to some very minor administrative issues instead.

Mr. TURNER. Thank you. Another question for Chief O'Connor. For railroad stations, et cetera, the only effective detectors are the noses of canines; am I correct? Do we have enough of them?

Chief O'CONNOR. I don't think there would be a chief in the country who tells you he has enough resources. But certainly in terms of canines, we need to expand that. They are one of the most versatile tools and most skilled tools out there. I think they should be expanded not only in surface transportation but in——

Mr. TURNER. And they work cheap, too.

Chief O'CONNOR. Well, they are very appreciative of their handlers and a good program creates a good team. But I think they should be widely used throughout the whole transportation industry.

Mr. TURNER. Thank you.

I yield back, Mr. Chairman.

Mr. ROGERS. Now you know why I like Chief O'Connor.

Mr. Richmond is recognized for 5 minutes.

Mr. RICHMOND. Thank you, Mr. Chairman.

For a person who represents a district that has just about everybody at the table with a large footprint in the New Orleans, Louisiana, and you can take Amtrak and Greyhound, which hub is right next to the New Orleans Superdome and the New Orleans arena, or you can look at CSX and all of our major rail lines that come right into the Port of New Orleans and some of our chemical plants and not to mention the truckers. I guess the disturbing part is it appears as though you all take your jobs very, very seriously, and you all have recommendations from being the boots on the ground, so to speak, the front line of defense, and it appears as though that the working relationship with TSA in terms of suggestions on how to make things actually work better and safer, that there is some gap in terms of feedback or input or maybe the sense that they don't respond or take your suggestions seriously.

So I guess my first question would just be a very general question, and you can submit further answers in writing, but I would be curious to know when you all make recommendations, such as less focus on operational and not get stuck on regulations that have no direct connection to safety, what kind of feedback do you get? Do you have any suggestions for us?

Specifically, this may take writing, those regulations that are redundant, that are misguided in terms of not a very direct connection to safety, I would like to know about those because at the end of the day, I think that New Orleans is a very sensitive or delicate city when it comes to transportation security, so we want to make sure we get it right.

So, Chief O'Connor, if we can start with you and just go down the line, that would be very beneficial.

Chief O'CONNOR. Let me start by saying in other areas working with the TSA, our partnership has been very good. When we first started out with VIPRs, we had a lot of problems, but then we reached agreement to work on operational plans together and where we both signed off on the purpose of VIPRs and how they would be deployed. But for some reason, that hasn't happened in the inspector program.

In the canine program, we work hand in glove with them, and in fact, they come to us to learn about the canine program and have made efforts to expand it based upon our experience.

We have raised these issues with the Administrator Pistole. He is aware of them. He has promised that he would look into some of these issues, but we are still waiting for the results of those meetings.

Mr. RICHMOND. So just to be clear, for you, it is really a problem with the inspector program?

Chief O'CONNOR. That is correct.

Mr. RICHMOND. Okay.

Mr. ELLIOT. Congressman, I would underscore what Chief O'Connor says, in that in our dealings with TSA, I would rate our relationship with the freight rail branch, the headquarters group that basically focuses on regulation and policy, as being very good. We have had good interaction with that group since its inception, and traditionally, they will listen to our concerns. Most of the folks within that group actually come from rail backgrounds, which we

find very helpful. We don't always agree with some of the regulations that they bring forward. What we understand, that they have a task in trying to make this country in rail transportation safer, and we can appreciate that task.

We also have what we think is a very good relationship with our regional safety coordinator, whose job is to kind of understand the concerns and issues that we have at CSX.

But finally, I think our relationship with the surface transportation inspectors, given that they report up to a director who focuses more on aviation security, we find that that communication and coordination probably is lowest of the three groups that we deal with regularly at the TSA.

Mr. RICHMOND. I may have missed it, but any suggestion on who should be at the top of that command chain?

Mr. ELLIOT. I think that perhaps, in my point of view, it is not who should be at the top, but they should all be together.

Mr. RICHMOND. With the focus on surface transportation as opposed to aviation, at least for this group.

Mr. ELLIOT. Correct, yeah, I would tell you that a rail yard and a freight train is entirely different from an airport and air passenger security.

Mr. RICHMOND. Mr. Byrd.

Mr. BYRD. Thank you, Congressman. I would agree with my colleagues to the right that the relationship between the trucking industry and TSA is good on one hand and, on the other hand, can be improved. I think that is, in basic terms, is a partnership and a trusted partnership and one that needs to be expanded on. When we—the trucking industry has been dealing with what is known as the Transportation Work Identification Card for approximately 5 years. That program has been an economic burden to our industry and returned very little results in terms of antiterrorism or securing our seaports and other venues.

Its purpose was to be a single biometric credential that the trucking industry could use to gain access into sensitive and secure areas, and it has yet to fulfill that requirement. We still don't have readers in the field, and yet we are looking upon a situation where these cards that were first issued are going to expire shortly, and we are going to have to go through that economic burden again, and we still don't have readers. So that is a problem for us.

In terms of the VIPR situation that I made comment to in the testimony, in Georgia and Tennessee, as a taxpayer, is it a good investment to have a second level of inspectors go out just simply to hand out material to our commercial drivers about how they can communicate what they see when we already have effective programs both in our private businesses and as a industry at large?

So I think that the key from the trucking industry would be to expand on the trusted partnership program, work together, communicate together, and develop that.

Mr. ROGERS. The gentleman's time has expired.

I now go to the gentleman from Minnesota, Mr. Cravaack.

We will have another round of questions if you want to pick up, Mr. Richmond, at that point.

Mr. RICHMOND. That is fine. Thank you.

Mr. CRAVAACK. Thank you, Mr. Chairman.

Thank you all for coming here today. I appreciate it.

If I could, please, Mr. Elliott, I just have got a couple questions for you in regards to some rail issues. In your experience, do the TSA inspectors that you have dealt with, are they more focused on securing the environment or technical compliance?

Mr. ELLIOT. Technical compliance.

Mr. CRAVAACK. So they are dotting the i's, crossing the t's?

Mr. ELLIOT. That is correct.

Mr. CRAVAACK. Not looking at security—the environmental security, then. When I say "environmental," I mean conditions.

Mr. ELLIOT. Correct.

Mr. CRAVAACK. Do you think the current structure in which TSA inspectors are reporting to Federal security directors in the field is working well?

Mr. ELLIOT. I believe there is probably too much inconsistency with the current TSA organizational structure that has a group of individuals who are responsible for coming out and providing security inspection of the freight rail yards not in any way shape or form connected with the headquarters organization that really is responsible for formulating policy and regulations, and I think what happens is that then we see this tremendous inconsistency with the application of the regulations and interpretations.

We have spent an inordinate amount of time and resources dealing with very minor and trivial administrative issues. Fact in point, approximately 2 weeks ago, we received notification from our regional security liaison about what they considered to be a serious security breach, violation breach in a railyard in Jacksonville, and they asked for a meeting. So I brought my security team in, myself, the representatives from the TSA surface inspections side came in. They laid out the issue as they saw it and only to find out that it was a misinterpretation of their own regulation and that the regional or, excuse me, the regional security liaison actually then had to call back after he called the headquarters group, the freight rail group in Washington, to get the interpretation to find out that what to them was a significant violation of the regulation wasn't a violation at all.

We spent a lot of time and effort preparing for that meeting trying to understand what we may have done wrong, only to find out that it was an inappropriate or an inaccurate application of the regulation by the inspectors who are supposed to know those things.

Mr. CRAVAACK. You are touching on a point I want to try to hammer home. When railroads speak of the regional security inspectors, the RSIs with concerns about surface transportation security inspectors, what actions are RSIs available to actually take?

Mr. ELLIOT. Probably very, very little, if any, actions directly, but I do give our regional security inspector good marks for his consistent communications with us in trying to act as an intermediary to solve some of our concerns. But you are correct. He has very little capability to solve any problems independently.

Mr. CRAVAACK. That is pretty much because of the chain of command, as I understand it. Now the problem is STSIs do not report to the TSA freight rail branch do they?

Mr. ELLIOT. No.

Mr. CRAVAACK. Or to the TSA headquarters.

Mr. ELLIOT. That is correct.

Mr. CRAVAACK. Rather the STSIs report to the Federal security directors, is that correct?

Mr. ELLIOT. Yes.

Mr. CRAVAACK. In the field, whose primary focus—isn't their primary focus on aviation?

Mr. ELLIOT. It is.

Mr. CRAVAACK. That is what I thought. So now, although the TSA appointed the regional security inspectors to be liaisons to the railroad, on surface transportation issues, the RSIs are not in the chain of command of the STSIs, is that correct?

Mr. ELLIOT. That is correct.

Mr. CRAVAACK. Or the TSA freight rail branch?

Mr. ELLIOT. Yes.

Mr. CRAVAACK. So, therefore, they lack really any authority to resolve any issues or the ability to provide meaningful subject matter guidance on freight rail security issues, is that correct?

Mr. ELLIOT. Yes.

Mr. CRAVAACK. So it is a pretty messed-up system, would you agree?

Mr. ELLIOT. It could be better.

Mr. CRAVAACK. You should run for politics. Okay.

I just wanted to show the inadequacy of the system and how it is working, and you brought up the point—I mean, your example was right on, on just how ineffective and inefficient the system is when there is an issue, and you have to go to great lengths to explain yourself to somebody who may not even understand what you are talking about.

So, thank you very much, sir, I appreciate your time, and I will yield back, Mr. Chairman.

Mr. ROGERS. I thank the gentleman.

The Chairman now recognizes my friend and colleague from Illinois, Mr. Davis, for any questions he may have.

Mr. DAVIS. Thank you very much, Mr. Chairman, and let me thank the witnesses. Why don't I begin and ask each one of you if you would respond? I will begin with Mr. Morris.

The Department has been championing its "See Something, Say Something" campaign for the last couple of years. How does your membership report or collect data on the reporting incidents?

Mr. MORRIS. Thanks, Congressman, the "See Something, Say Something" is basically a slogan, an ad campaign. We are involved in a First Observer Program. The First Observer Program has a call center. We have over 168,000 program members. Last year we received over, since the inception, we received somewhere in the area of 4,000 calls; 400 of those calls have been referred for further action to the Transportation Security Operations Center for investigation. So the "See Something, Say Something" campaign is basically an ad campaign. The First Observer has training involved with it and it tells people what to look for.

Mr. DAVIS. Mr. Blankenship.

Mr. BLANKENSHIP. We train our entire workforce on to report any instances, and we have a 24/7 operation center that is manned to take those calls. Based on the level of incidents, there is a call

down tree or a notification tree so the more serious instances get raised up very quickly. It is instantaneous, and it is distributed through the entire corporation as appropriate.

Mr. DAVIS. Mr. Byrd.

Mr. BYRD. Congressman, thank you for the question, and I would just simply say that the "See Something, Say Something" program has been effective in the trucking industry. We have two prime examples to share. In my testimony, written testimony I submitted, you will note that we make mention of an incident that occurred by one of our carrier members where a very alert employee of a trucking company saw suspicious chemicals coming through and going to a suspicious residence, made comment of that, took it up the chain of command, as he had been trained internally and through our association to do. The end result of that "See Something, Say Something" scenario was a terrorist attempt was frauded and apprehended.

Another such incident, the American Trucking Association ran the program Highway Watch, and I am sure all of us here remember the Washington sniper, it was because of that program and the effectiveness of communicating a need of the community to see something and say something that that individual was apprehended by the recognition of seeing something and saying something by a truck driver.

Mr. DAVIS. Mr. Elliott.

Mr. ELLIOT. Congressman, in the freight rail industry, and specifically CSX, we have for a number of years a similar program that we call "Recognize, Record, and Report," which is basically training our employees to identify any suspicious or unusual activities even to the equivalent of our 9/11 location, our public safety coordination center, or if it is a bona fide concern, to the local police at 9/11. We will gather that information, and we typically then will report that further up to our trade association, the Association of American Railroads, through their Rail Alert Network, and they will then move it forward to other Federal security agencies. Oftentimes, too, we will make individual contacts to TSA at their operation center out in Herndon, and even perhaps to the Federal DOT security center here in Washington.

Mr. DAVIS. Chief O'Connor.

Chief O'CONNOR. Yes, sir. We have trained our 19,000 employees in the "See Something, Say Something" program as well as the general public. We have developed a program called PASS, or Partners for Amtrak Security and Safety, and any and all reports come into our National communication center. They are investigated at the local level, and those that have a substantive are then passed on to our representatives at the Joint Terrorism Task Force. So it has been a very successful program for us.

Mr. DAVIS. Thank you very much, Mr. Chairman.

I yield back.

Mr. ROGERS. I thank the gentleman.

I want to revisit something. I think you can tell from my opening statement that I am of the impression that this inspector program is too heavy in personnel and based on its earlier history was able to get by pretty efficiently and effectively with about 100 inspec-

tors; certainly no more than 200 would be necessary based on what I have heard prior to this hearing from and from you all.

So I would like to start with Mr. Morris. Is that your view? Would you agree or disagree with that observation, yes or no? Or you can plead the fifth if you are scared.

Mr. MORRIS. I agree with that, sir.

Mr. ROGERS. Mr. Blankenship.

Mr. BLANKENSHIP. I agree with that observation.

Mr. ROGERS. Mr. Byrd.

Mr. BYRD. I agree with the observation, sir.

Mr. ROGERS. Mr. Elliott.

Mr. ELLIOT. Agree.

Mr. ROGERS. Chief.

Chief O'CONNOR. I will give you a little more qualified answer. The numbers don't——

Mr. ROGERS. I thought everybody was going to be just a badge of courage, and then he came up.

Chief O'CONNOR. The numbers, I don't turn away any help. But it has got to be the right kind of help. If they are not doing the right thing, then increasing the numbers doesn't help. So whatever the number turns out to be, it needs to do the right thing.

Mr. ROGERS. You just basically concurred with the other four gentlemen when you say you don't need that many people. I am getting to this: If it were up to you all and we could reallocate the money being spent on 300 of those 400 inspectors and put them into a grant program—now several of you have talked about grants that pay for canine assets. It could be some other security asset. Would you think that would be a higher and better use of the money?

Start with Mr. Morris.

Mr. MORRIS. Yes, sir, we would wholeheartedly support that.

Mr. ROGERS. Mr. Blankenship.

Mr. BLANKENSHIP. Yes, in my statement, I refer to the inner city bus security grant and how effective that program has been so we would support that.

Mr. ROGERS. Mr. Byrd.

Mr. BYRD. We would agree.

Mr. ROGERS. Mr. Elliott.

Mr. ELLIOT. Congressman, I think we would like to see more risk-based approaches that promote technology-based security solutions and not just drawing manpower that may not be wholly effective.

Mr. ROGERS. Would the grants accomplish that?

Mr. ELLIOT. Yes, it could.

Mr. ROGERS. Chief.

Chief O'CONNOR. I'm a proponent of the expansion of canine without qualification.

Mr. ROGERS. Great. I am glad you all helped me get that on the record because I am going to try to bring that amendment when we proceed to the floor with this. I do think that this money could be used better in these various grant programs.

Mr. Blankenship, you mentioned earlier, and this will be my last question, that TSA wouldn't work with you on trying to put canine

assets in your systems at very modest expense. What was the problem?

Mr. BLANKENSHIP. They just couldn't coordinate the activities. In most cases, downtown locations were a couple blocks, three or four blocks away, so why not come by the Greyhound terminal, have canine unit do a quick run through the terminal as a preventative, and we weren't able to break that silo down. We asked to have that reconsidered. We think it could be valuable and at very little incremental cost.

Mr. ROGERS. You are telling the right person. I may be able to help you with that.

Mr. BLANKENSHIP. Thank you very much.

Mr. ROGERS. Mr. Davis, do you have any more questions?

Mr. DAVIS. One more.

Thank you very much, Mr. Chairman.

Mr. O'Connor, you indicate that you would not turn away the extra support or help. How can TSA do a better job or what kind of support do you need or could you use?

Chief O'CONNOR. They have been very helpful in doing passenger baggage screening, helping us multiply our forces. They have been very helpful in the canine aspects. Those efforts that actually do something in the field to enhance boots on the ground is what I am looking for.

Mr. DAVIS. Also, and each one of you if you could just respond quickly, in the June 2008 DHS OIG report entitled "TSA's Administration and Coordination of Mass Transit Security Programs," several concerns were raised by transit security officials indicating that TSA's risk management did not account for certain needs of cities and their transit systems.

In developing the fiscal year 2012 Transit Security Grant Program priorities and evaluated submissions, how do you think DHS can improve on its transparency in the evaluation and selection of transit security projects?

Chief, why don't we just start with you?

Chief O'CONNOR. Well, it is a pretty long question, and I will say this, that with limited resources, again, those efforts that enhance front-line operational efforts are the ones that, in my opinion, are best invested in, those that encourage partnerships. For instance, we worked very closely recently with the Secret Service and the City of Chicago police department during the NATO conference, and in fact, our canines were used by the Secret Service in helping protect that whole event. So those efforts that help in the development of partnerships, that help the front-line efforts are what I support.

Mr. DAVIS. If you read the Chicago papers, you will note that everybody felt that the entire team did an excellent job, an outstanding job, and we command you for that.

Mr. Elliott.

Mr. ELLIOT. Congressman Davis, at first blush, most folks may not think that a freight rail transportation network has much to do with passenger rail security, but that is really not the case. At CSX, we have over 8 million rail miles a year of passenger and commuter operations on our network. We are very, very fortunate

to have great working relationships with my colleagues at Amtrak and some of the other passenger transportation networks.

One of the things that we do through our police department, and yes we use canine as well—I am happy to announce we are assigning a new canine unit right here to a community-based policing effort that we have in Washington—but one of the things we do recognizing that, and we do have the traveling public on CSX rails that use our police department to basically go out and try to train other law enforcement agencies who are going to be the first to respond to a rail-related terrorist incident. But again, we understand the importance of the transit security side, and we try to do our best to help our colleagues to deal with it on a more frequent basis.

Mr. DAVIS. Mr. Byrd.

Mr. BYRD. Obviously, we are not involved in the mass transit of people in that, but just to respond in general as a citizen, again, I think it just highlights the fact—and from what my colleague Chief O'Connor mentioned, communication, working together, partnerships are invaluable to making a successful program work and that is the only comment I would have.

Mr. DAVIS. Mr. Blankenship.

Mr. BLANKENSHIP. I think my comment is more geared toward Greyhound lines is a private bus company, and most of the security cost is at our burden. Congress did include the inner city bus security grant in fiscal year 2012, but DHS chose not to fund it, and we would like to see that revisited. We think that is a big help with very little dollars and it goes a long way to screening our customers.

Mr. DAVIS. Mr. Morris.

Mr. MORRIS. Yes, sir, as a representative for drivers, we applaud any efforts in any surface transportation security realm. Transit, wherever, our drivers count on the fact that they need to have that bridge there, or they need to have that road there; if their wheels aren't rolling, they are not making any money.

Mr. DAVIS. Thank you very much.

Thank you, Mr. Chairman, and I yield back.

Mr. ROGERS. The Chairman recognizes Mr. Turner for any additional questions if you have any.

Mr. TURNER. No questions.

Mr. ROGERS. I will close with this. It is an invitation. Next week I will have Administrator Pistole before our committee. If there is anything you would like me to ask him, tee it up.

Mr. Morris.

Mr. MORRIS. Yes, sir, I would like to ask him if any future grants are going to be out there, more homeland security efforts, surface transportation, if he is going to dedicate more money to surface transportation.

Mr. ROGERS. Excellent. I will do that.

Mr. Blankenship.

Mr. BLANKENSHIP. I would have the same response, an inner city bus grant program, getting that revitalized with some other type of grant; also better coordination on the VIPR teams when they do come into the Greyhound terminals, coordination on time of day and so forth. We don't need them coming in when we don't have passengers.

Mr. ROGERS. Excellent. I will do that.

Mr. Byrd.

Mr. BYRD. The trucking industry would like to know when our TWIC readers are going to be available to us.

Mr. ROGERS. I will get you an answer.

Mr. Elliott.

Mr. ELLIOT. Mr. Chairman, I think it has to do with better coordination, perhaps consolidation of the organizational construct of TSA, especially as it focuses on freight rail security. They shouldn't be separate entities. They should all be one single-focused effort that focuses on surface transportation.

Mr. ROGERS. Why don't you do this for me? Why don't you fashion the question you want tendered in writing, and I will read it verbatim for you?

Chief O'Connor, short-timer.

Chief O'CONNOR. Short-timer. I would ask the administrator if he would take a look at within the organization on them, the surface security inspectors, looking to partner with industry as they do in other areas of TSA, take a hard look at that.

Mr. ROGERS. Great. For those folks who didn't get the short-timer remark, Chief O'Connor is about to retire, and I am proud for him, a little jealous, but he has been a great asset to come before us before, and I appreciate it. I wish you well in your retirement and hope we see you around here in more relaxed attire in the future.

Chief O'CONNOR. Thank you, Mr. Chairman.

Mr. DAVIS. Before you close, can I just ask, Mr. Morris——

Mr. ROGERS. Certainly.

Mr. DAVIS [continuing]. A question. You discussed the First Observer Program as an important layer of security. Could you amplify that a little bit?

Mr. MORRIS. The First Observer Program is a trainer program. It puts together people who know their realm, know their driving or whatever realm it is, gets them together, we put training modules together geared toward their expertise, their professional area of expertise. They in turn call us when they see something that is out of the ordinary; it is either suspicious or out of the ordinary, calls that you generally would probably not get in the past, or they would call 9/11, and those calls would go to the wayside. Those calls are then taken to or vetted and analyzed by a transportation security professional in the Transportation Security Operational Center, and there are actionable items taken as a result of those calls and analysis.

Mr. DAVIS. You think there is perhaps any additional training opportunities that exist or if there were training opportunities, if this would be effective to the extent of really being useful in terms of people learning perhaps more effective techniques and approaches and what to look for and how to look?

Mr. MORRIS. Yes, sir, Congressman. The original program was supposed to be just for trucking security. It has evolved into 12 modules now, different venues due to the gaps that people saw. TSA came to us and said: Hey, can you put together more modules? We did it, no extra money or anything like that. We just did it because we thought it was the right thing to do, and we did it. If

there is additional money or additional training, we could put everybody on surface transportation under the umbrella. The problem is that the funding is scant at this time.

Mr. DAVIS. Well, thank you very much.

I thank you, Mr. Chairman. I see that the Ranking Member has returned, and I am pretty certain that I probably didn't ask half the questions that she might have asked, but I would yield.

Mr. ROGERS. The Chairman recognizes the Ranking Member for any questions she may have.

Ms. JACKSON LEE. Let me thank all of the witnesses.

To give me some reprieve and excuse, I was dealing with the intelligence bill on the floor of the House, and I know that gentlemen rely a lot on intelligence, and we need to coordinate together.

Let me, because a lot of you are from the areas in which we are attempting to work with TSA, I would like to just ask the question, Chief O'Connor and Mr. Morris, the importance of making sure that we continue the transportation security grants. As I indicated, my amendment put in $400 million, and we will always hear from some that resources don't always answer the question. But I have been on the ground. I know the vastness of the work that law enforcement is asked to cover, particularly the local structure and infrastructure.

Chief O'Connor, I have, as many other Americans, ridden on Amtrak. Amtrak, I must say, I think relatively, without documentation, has a safety track record that is more than respectable based upon how old it is. Amtrak, if you ride it, rides through neighborhoods and urban centers. It therefore, can be enormously attractive to somebody who wants to do us harm. So both of you could answer what those resources, particularly this $400 million, and keeping those funding cycles open and flowing to be constructively, efficiently, effectively, and with the taxpayer's dollars in mind, how this continues to help secure the homeland.

Chief O'Connor.

Chief O'CONNOR. Yes, Ranking Member Jackson Lee, the Amtrak operates in more than 500 communities in 46 States, and we interact with about a dozen commuter agencies across the country, so it is not just protecting America's railroad, but it is also protecting communities in major urban areas and major commuter centers around the country.

The transit security grants go a long way toward helping us in our canine programs, toward helping us in gathering the proper intelligence, toward buying down vulnerability and lowering the risk.

It is a daunting task just to protect the public on a day-to-day basis. When you overlay that with the threat of terrorism, the assistance that the Federal Government gives to us and the transit agencies across the country is vital, and there would be serious breaches and increases in vulnerability without it.

Ms. JACKSON LEE. Mr. Morris.

Mr. MORRIS. Yes, ma'am, Ranking Member, the First Observer Program, as you are aware, is on a no-cost extension since January 1, 2012. Over 160 program members—that is what we have—these are volunteers and a lot of different venues, ports, school bus, trucking, there are 12 different venues. In your district alone, we have 2,000 school bus and truck drivers. These are volunteers who

came there for the training to help out in the homeland security mission.

If TSA walks away from this, it sends a message to them saying that they don't care about surface transportation. That is the only thing I can say.

Ms. JACKSON LEE. Let's get Mr. Elliott.

Let me focus the question in quite a different way, we have the massive freight system and part of the work that you do, the major work that you do. I think there is no question that there are hazardous materials that are being transported, makes for a vulnerability for those who might wish to do us harm, how important it is to have a partnership with the Federal Government on securing the homeland, particularly with inspectors dealing with surface transportation?

Mr. ELLIOT. As I had mentioned earlier, we recognize that there are many valuable programs between TSA and the freight rail industry. With regards to the surface transportation inspectors, we have some concerns that we wish they had better knowledge and understanding of the freight rail system. Freight railroads can be inherently unsafe places, and we prefer that the folks that are entrusted by the Government to basically come out and provide those inspections have received the kind of commensurate training and understanding of railroad.

We would also like to see that to be, as wholly effective as the current group of surface transportation inspectors can be, that, again, that there is better coordination between the entities that we deal with in TSA. The surface transportation inspectors report up through one entity. We also assigned a regional security inspector as a liaison to try and help us with issues that we have. Then, of course, we deal with the headquarters, freight rail branch, that deals a lot with regulations and policy, and there is no consistency between those three.

We would really ask that TSA kind-of does a better job of bringing those groups together to provide better service to us on the freight rail security side.

Ms. JACKSON LEE. So your comments are not the lack of recognition of the value of inspectors, what your instruction and insight is that we need to improve our training and outreach so that we have inspectors who are sufficiently trained for each discipline, each industry, am I hearing you correctly? If I might, any coordination within TSA?

Mr. ELLIOT. Ranking Member Jackson Lee, I think currently, and I have to say what I observe and that is that we don't see the current cadre of surface transportation inspectors that are focusing on freight rail transportation are as effective as they possibly could be.

We are dependent upon our network of employees, our police department, our security professionals to provide most of the security to our freight rail network, and I think some of this lack of coordination between the entities that focus on freight rail security that perhaps makes the current group not nearly as effective as probably they should be.

Ms. JACKSON LEE. What I would say as I close, Mr. Chairman, is that there is no doubt that transportation security inspectors are

a valuable asset. I think if I look at the railroad industry for a long time, you have been under the U.S. Department of Transportation pre-9/11. Now there is overlapping jurisdiction, and what I hear you crying out for is what I think is a bipartisan cry at least it is mine; no, I cannot yield to the Department of Transportation Federal Railroad Agency for security, but what I will listen to and I think is important is the idea that we can improve training, we can improve coordination, and we can answer your question or your concern that we need to have focus on your industry in the right way.

So I conclude by thanking Chief O'Connor for his service. I understand he is retiring, and I congratulate him for the service he has given to this Nation.

I yield back.

Mr. TURNER [presiding]. I thank the witnesses for their valuable testimony and the Members for their questions. The Members of the committee may have some additional questions for the witnesses, and you will be asked to respond to these in writing. The hearing record will be open for 10 days.

Without objection, the committee stands adjourned.

[Whereupon, at 4:00 p.m., the subcommittee was adjourned.]