

**EXAMINING THE WEAPONIZATION OF THE
QUIET SKIES PROGRAM**

HEARING

BEFORE THE

COMMITTEE ON
HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
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CONTENTS

Opening statements:	Page
Senator Paul	1
Senator Peters	3
Senator Ernst	15
Senator Moreno	19
Senator Lankford	21
Prepared statements:	
Senator Paul	35
Senator Peters	38

WITNESSES

TUESDAY, SEPTEMBER 30, 2025

Mark Crowder, Senior Federal Air Marshal, U.S. Transportation Security Administration	6
Hon. Tristan Leavitt, President, Empower Oversight	8
Matt Taibbi, Editor, Racket News	10
Jim Harper, Senior Nonresident Fellow, American Enterprise Institute	12
Abed Ayoub, National Executive Director, American-Arab Anti-Discrimination Committee	14

ALPHABETICAL LIST OF WITNESSES

Ayoub, Abed:	
Testimony	14
Prepared statement	68
Crowder, Mark:	
Testimony	6
Harper, Jim:	
Testimony	12
Prepared statement	48
Taibbi, Matt:	
Testimony	10
Prepared statement	46
Leavitt, Hon. Tristan:	
Testimony	8
Prepared statement	40

APPENDIX

Senator Paul's flash report	71
Minority response to flash report	80
Committee Report	83
Redacted documents	126
Statements from Air Marshall National Council	238
Statement from Council on American-Islamic Relations	243

EXAMINING THE WEAPONIZATION OF THE QUIET SKIES PROGRAM

TUESDAY, SEPTEMBER 30, 2025

U.S. SENATE,
COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 10 a.m., in room 342, Dirksen Senate Office Building, Hon. Rand Paul, Chair of the Committee, presiding.

Present: Senators Paul [presiding], Johnson, Lankford, Hawley, Moreno, Ernst, Peters, Hassan, and Blumenthal.

OPENING STATEMENT OF SENATOR PAUL¹

Chairman PAUL. Welcome. Thanks, everybody, for coming today.

In mid-2024, as she grew increasingly critical of the Biden administration and increasingly involved with the Trump campaign, Tulsi Gabbard noticed changes as she went to the airport. She had more screening, Federal agents with dogs showing up for her flights. Other Federal agents followed her on the plane and reported back on her activity.

When I learned of this, I launched an investigation into the Transportation Security Administration (TSAs) Quiet Skies Program and the Biden administration's weaponization of the watch list against everyday Americans. Under public scrutiny the Biden administration removed now Director of National Intelligence (DNI) Gabbard from the program, but they spent the remainder of their time in office stonewalling any investigation.

Thankfully, that era is over. President Trump, himself a victim of government weaponization, set out to reverse the previous administration's targeting of the very citizens it has sworn to protect.

Secretary of Homeland Security Kristi Noem has taken decisive action to eliminate bureaucratic obstacles resisting transparency. We are finally getting answers, and now we know exactly why the previous administration fought so hard to keep us in the dark.

Director Gabbard was surveilled on at least five domestic flights by Federal Air Marshals (FAM) under Quiet Skies. Internal records for her targeting show her congressional portrait and that she was a former Congresswoman from Hawaii. There was no doubt they knew who they were monitoring.

Multiple concerns were raised internally, and one air marshal asked a colleague, why the heck is she a Quiet Skies suspect? If

¹The prepared statement of Senator Paul appears in the Appendix on page 35.

this can happen to a combat veteran, a Lieutenant Colonel in the U.S. Army Reserve, and now Director of National Intelligence, it can happen to anyone. And it did.

Today, for the first time, you will hear directly from a Federal Air Marshal whose wife was labeled a domestic terrorist simply for engaging in protected First Amendment activity. Records show the Federal Bureau of Investigation (FBI) labeled her as a domestic terrorist for unlawful entry into the Capitol on January 6th.

But she did not enter the Capitol. She came for public support of the President, and they knew it. Her phone location data did not put her inside the Capitol. Facial recognition did not identify her inside. She had no criminal record and no history of extremist views.

What they did know is that this Catholic schoolteacher from Texas supported President Trump and went to Washington to attend his rally at the Ellipse. That was not enough for the government. That was not enough to label her a suspected domestic terrorist. For two years, her family was surveilled when they flew.

This was not an isolated case. It happened to hundreds of Americans. It happened because the TSA used First Amendment-protected activity as a predicate for watchlisting Americans. That is unconstitutional, of course. First Amendment activity cannot be the sole basis for watchlisting someone, but sole basis is an important caveat and it is an opening the TSA exploited.

Today we will release internal TSA records that reveal how the agency authorized First Amendment activity to be used to justify the surveillance of Americans with no evidence and no recourse. Using broad and vague authorities, TSA deemed hundreds of Americans as threats to national security simply for holding opposing political views. The Federal Government used its investigative authorities, anonymous tips, and university research institutions to build a flimsy case to put them on the watch list.

They did not just coincidentally watchlist hundreds of people who attended the same Trump rally. They did it intentionally, and obscured the process to create plausible deniability. For example, documents obtained in my investigation reveal that TSA relied on data collected by the George Washington University (GWU) Project on Extremism.

Consider this. First, Department of Homeland Security (DHS) funds the Project on Extremism, an external partner not bound by the same laws and regulations as Federal agencies. Then, the Project on Extremism identifies supposed domestic threats by meticulously tracking January 6th defendants. DHS then uses the Project on Extremism reporting as evidence, sometimes the only evidence for putting someone on a watch list.

But the abuses were not limited to January 6th. TSA also viewed skeptics of Coronavirus Disease 2019 (COVID-19) mandates as threats. Simply removing a mask on an aircraft got 12 Americans watchlisted. Records also show three current Members of Congress, all Republicans, were included in the companion Silent Partner Program, either as a sitting member or while seeking elected office.

A cursory review would have revealed them to be either a Member of Congress or decorated active or former U.S. military mem-

bers. In fact, they were surveilled, likely for activities that were official duties during their time in the military or in Congress.

All of this was wrong, and I am glad that these abuses are beginning to be exposed.

I commend Secretary Noem for ending Quiet Skies, but our work is not done. We must make sure that this program does not come back under another name. Every official who directed or approved surveillance of Americans for protected speech must be removed from office.

Full transparency must become the rule rather than requiring a year of investigation. The result will be a process that respects the Constitution, ends real-life shadow bans against Americans, and gives all of us the assurance that our government is focused on protecting us, not on chasing political ghosts.

I now recognize the Ranking Member for his opening statement.

OPENING STATEMENT OF SENATOR PETERS¹

Senator PETERS. Thank you, Chair Paul.

Throughout my time in Congress, I have heard repeatedly from my constituents, particularly from members of Michigan's Arab and Muslim American community, about serious issues with the government's watchlisting and travel screening practices.

While I appreciate the opportunity to discuss that today, I first want to raise some concerns about some of the other critical national security work this Committee is responsible for, but unfortunately, the Chair of this Committee has not prioritized.

In a matter of hours, two critical homeland security authorities are set to expire: cybersecurity information-sharing protections that protect our economy against cyberattacks, and authorities that allow Federal law enforcement to detect and mitigate threats posed by drones.

We were scheduled to discuss these two bills to renew and improve these authorities two weeks ago, but unfortunately the Chair abruptly canceled the meeting with absolutely no explanation.

While there is a two-month extension for both authorities included in the continuing resolution (CR), that is only meant to be a stopgap. The Committee needs to do its work to reauthorize both of these pieces of legislation.

But even though bipartisan leaders in the House, as well as the Trump administration and a bipartisan coalition in the Senate, all support extending this legislation for 10 years, Mr. Chair, you have not held a single hearing on these issues, and you canceled the only meeting where the Committee had the opportunity to discuss them. These actions risk making our Nation less safe.

This Committee should not simply walk away from its responsibility to actually be a leader in critical homeland security matters. Similarly, while I share your concerns about government being weaponized for political purposes, quite frankly I find it odd that you have chosen to look backward now that this program has ended, while at the same time President Trump is openly directing the Department of Justice (DOJ) to prosecute his perceived enemies, by ordering also the closure of bribery investigations into a

¹The prepared statement of Senator Peters appears in the Appendix on page 38.

political ally who has been investigated for taking bribes. We also recently saw the Chairman of the Federal Communications Commission (FCC) openly threaten the licenses of media companies over First Amendment protected speech.

Mr. Chair, I hope you will devote this Committee's resources to conducting oversight of the current administration, as well.

Turning to today's topic, in December 2023, I published a report that demonstrated how well-intentioned screening practices have ballooned into a layered and duplicative system that sweeps up travelers who may pose no threat to national security, especially among Arab, Muslim, and South Asian American travelers. At that time, there were at least 22 different mechanisms that could lead a traveler to receive extra screenings or be denied boarding. Americans must navigate this very complex system with no explanation of why their travel has been delayed or disrupted, and they have no real opportunity to fully redress what prompted additional screening in the first place.

Congress does not even have a complete picture of the full scope of this system and the impact that it has had on everyday Americans. Almost all of the oversight mechanisms are internal to the Executive Branch, such as the Privacy and Civil Liberties Oversight Board (PCLOB) and the Civil Rights and Civil Liberties (CRCL) Office at DHS.

Unfortunately, with the Administration's attacks on oversight, those mechanisms have now been gutted, eliminating one of the few checks and balances that Americans can use to protect their rights in this process.

That is why, following my report, I introduced, and this Committee passed, the Enhanced Oversight and Accountability in Screening Act. It was the first real effort to provide more transparency and more oversight for this entire system of screenings that is the topic today. This legislation requires DHS to reform the redress process and provide Congress with data on enhanced and secondary screenings by TSA and Customs and Border Protection (CBP), including their effectiveness.

At the time, I asked, Mr. Chair, you to join me in working on this legislation, but instead you and the entire Republican dais voted against this transparency legislation. I am working to update it now, and would certainly love to have folks on this Committee join me in re-introducing this updated version in a bipartisan way.

As I have said countless times before, we must be able to protect our Nation, but Americans who pose no threat to national security should not face a maze of travel screenings and a flawed redress process. We must bring transparency and accountability to our travel screening practices so we can ensure the government is effectively protecting our national security, while also protecting the civil rights and civil liberties of travelers.

Mr. Chair, I would like to introduce two things into the record. I want to move to introduce a minority response to the majority report into the record,¹ to clarify some of the information that the Committee has actually received that requires some clarification.

¹The minority response to the majority report appears in the Appendix on page 80.

I would also like to move to introduce my Committee report from December 2023,² identifying significant problems with the watch list and screening processes, and calling for reforms, that again passed this Committee but unfortunately received no Republican support for the reforms that we are going to be talking about here today.

Chairman PAUL. Without objection.

You have to love fake outrage. If there was such great concern for these Cybersecurity and Infrastructure Security Agency (CISA) authorities, last week the Ranking Minority Member had a chance to vote for the CR which extended these authorities, but he voted no. So, you know, fake outrage is great, but it is fake.

As far as the reason why we have not gone forward with the CISA reauthorization, it is because CISA has been associated with some of the worst and most egregious abuse of First Amendment. What we are talking about today, with the Quiet Skies, is First Amendment abuses, so we want to make sure that no one in government ever uses government again to go to Twitter or Facebook and tell them to take down stuff that's protected by the First Amendment. So it is integral, and we will continue to fight to make sure if CISA is reauthorized, or any of CISA's activities are reauthorized, that there are First Amendment protections attached.

Senator PETERS. Mr. Chair?

Chairman PAUL. Sure.

Senator PETERS. You are conflating. This is not a reauthorization of the CISA as the organization. This is liability protections that have been in place for 10 years.

Chairman PAUL. So it is going to be First Amendment protections added to that.

And you have opposed it and that is a problem.

Senator PETERS. Mr. Chair, this has broad bipartisan support. The Trump administration supports this reauthorization—

Chairman PAUL. And so we can keep fighting about this.

You had a chance to vote for it.

Senator PETERS [continuing]. They had said that is absolutely essential.

Chairman PAUL. So you voted against it.

Senator PETERS. And you voted against the reauthorization that I put up. You were the only objector.

Chairman PAUL. You voted against it and now precious you are for it this week. All right.

Senator PETERS. It has the support of 49 members of the Senate.

You will have a chance to vote again in a unanimous consent (UC), Mr. Chair.

Chairman PAUL now recognize the witnesses.

Senator PETERS. You are going to have a chance again.

Chairman PAUL. It is the practice of the Homeland Security and Governmental Affairs Committee (HSGAC) to swear in its witnesses. Will each of the witnesses please rise and raise your right hand.

²The Committee Report appears in the Appendix on page 83.

Do you swear that the testimony you will be giving before this Committee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. CROWDER. I do.

Mr. LEAVITT. I do.

Mr. TAIBBI. I do.

Mr. HARPER. I do.

Mr. AYOUB. I do.

Chairman PAUL. Thank you. Our first witness is Mark Crowder. He is a Senior Federal Air Marshal with the U.S. Transportation Administration, with over 20 years of experience. Before joining the Air Marshals, he served four years in the United States Marine Corps (USMC), three years as a uniformed police officer with the Central Intelligence Agency (CIA), and three years as a Deputy Sheriff in Florida.

Mr. Crowder, you are recognized for your opening statement.

TESTIMONY OF MARK CROWDER, SENIOR FEDERAL AIR MARSHAL, U.S. TRANSPORTATION SECURITY ADMINISTRATION

Mr. CROWDER. Good morning, Chair Peters, and distinguished Members of the Committee.

I am going to start by reading a memo that I was advised to read by my management.

The views I express are my own and should be construed as not representing the official policy or position of the Department of Homeland Security, Transportation Security Administration, or the United States. I have also been advised that whistleblowing is an official duty.

With that being said, I will go into my testimony.

Again, my name is Mark Crowder, a Senior Federal Air Marshal with over 20 years of service protecting the American people. In those two decades I have flown millions of miles to safeguard our Nation. Like so many others, I answered the call to serve after the devastating attacks of September 11, 2001 (9/11). Driven by an unshakeable resolve to ensure such a tragedy would never happen again, at its peak the Federal Air Marshal Service embodied the highest standards of Federal law enforcement. We are known for excellence in firearms, tactics, and specialized training.

Today I come before you to report that those standards have been eroded. The agency's once clear mission has been distorted by career bureaucrats and political appointees who prioritize personal advancement over the safety of our citizens. My testimony will expose how Federal law enforcement agencies, sworn to protect Americans, have been weaponized to target the very people it serves.

On July 15, 2021, while serving in the Houston Field Office Operations Unit, I was monitoring special mission coverage flights in our area of responsibility. To my shock, I discovered my wife, Christine, seated behind me, had been flagged in the FAM system as a domestic terrorist, falsely accused of entering the U.S. Capitol on January 6, 2021. I was horrified. I knew with absolute certainty that Christine was nowhere near the Capitol that day. My wife, who has a disability that prevents her from walking long distances

had simply exercised her First Amendment right to attend a rally for President Trump before returning to her hotel.

As a Federal Air Marshal with top secret security clearance I immediately reported the alarming designation to my supervisors, noting that according to their system I was living with a terrorist, a clear insider threat. The Special Agent in Charge (SAC), William Aupperlee, instructed me to remain silent and let the investigation run its course. Shockingly, no one expressed concerns about the potential compromise of classified information through my household. SAC Aupperlee was later promoted to senior positions within the agency.

From July 2021 until April 2023, Christine was subjected to approximately 13 special mission coverages. Each time she flew, teams of Federal Air Marshals surveilled her. She was barred from checking in on the airport kiosk, online, and forced to endure long waits at ticket counters for TSA's verification of her identification and to take control of her luggage. She was subjected to invasive secondary screening at TSA security checkpoints. After the checkpoint she was then searched again at the jetway by TSA's Advanced Threat Local Allocation Strategy (ATLAS) teams. This treatment extended to anyone traveling with her, including her elderly mother and our daughter, causing them both significant distress.

In one particularly disturbing instance, I was off-duty, flying armed, with Christine. The FAM team assigned to surveil her that day had to coordinate with me, an armed Federal Air Marshal traveling with an alleged terrorist. How could an agency allow such a glaring operational and ethnical conflict to persist?

I only learned of my wife's designation because of my insider role within the agency. How many other innocent Americans have been falsely labeled as terrorists and surveilled without their knowledge? How many had their conversations, travel companions, and devices unknowingly monitored?

With the assistance of Sonya LaBosco, an Air Marshal National Counsel, I exposed this injustice and halted surveillance of my family. At the same time, Quiet Skies missions and those targeting Americans who attended January 6th events, including public figures like Director of National Intelligence Tulsi Gabbard, dominated FAM's operations. These politically motivated priorities diverted critical resources and genuine security threats, betraying the solemn promises we made after 9/11—never again.

The events I have described, betrayal of American values, the weaponization of Federal law enforcement to arrest and intimidate citizens, exercising their constitutional rights is unconscionable. Senior officials at the FBI, the Department of Homeland Security, TSA, and the FAM service should have recognized these actions as beyond the scope of lawful authority and intervened.

Someone fabricated false claims about my wife's actions on January 6th to advance a politically motivated agenda. Those responsible must be identified, and accountability must be enforced to root out the corruption and restore public trust in Federal law enforcement.

Thank you for the opportunity to present my testimony.

Chairman PAUL. Next up we have Tristan Leavitt. Mr. Leavitt is the President of Empower Oversight, a nonprofit, nonpartisan organization dedicated to strengthening public integrity through research, education, and providing pro bono legal assistance to whistleblowers. Mr. Leavitt previously served as a Principal Deputy Special Counsel at the Office of Special Counsel (OSC) and the General Counsel (GC)—that is a lot of counsels—at the Merit Systems Protection Board (MSPB).

Mr. Leavitt, you are recognized for your opening statement.

**TESTIMONY OF HON. TRISTAN LEAVITT,¹ PRESIDENT,
EMPOWER OVERSIGHT**

Mr. LEAVITT. Thank you. Chair Paul, Ranking Member Peters, and distinguished Members of the Committee, thank you so much for having me to testify today.

Empower Oversight provides legal representation to brave whistleblowers across the Federal Government. We are honored to represent several air marshals, including Senior Air Marshal Mark Crowder here today.

Mr. Crowder first came to Empower in 2022, through the Air Marshal National Counsel's indomitable Executive Director, Sonja LaBosco, seated behind me. He raised concerns that his wife had been targeted for exercising her First Amendment rights alone. If they truly considered her some sort of threat, why wasn't he walled off from seeing this information as he assigned missions of air marshals around the country?

Despite his disclosures to the Office of Special Counsel, my former agency, and later to the DHS Inspector General (IG), no meaningful investigation ever took place. That failure of oversight is exactly what allows abuses to fester.

Ms. LaBosco contacted us at Empower Oversight again in the beginning of August 2024, when air marshals wanted to blow the whistle on another disturbing case, the political targeting of Tulsi Gabbard through TSA's Quiet Skies program. The facts were alarming. Ms. Gabbard was added on July 23, 2024, just one day after she made statements to Laura Ingram on Fox News critical of Vice President Kamala Harris, who had just become the presumptive Democratic Party Presidential nominee. Rather than using her passport photo as required, TSA officials used her official congressional photo, making clear that they knew exactly who she was.

These initial whistleblower disclosures were reported by Wendi Strauch Mahoney on UncoverDC and digitally on the Breanna Morello show. Despite Empower's experience with the DHS IG failing to investigate the Crowder situation, we asked them to investigate here and we also submitted disclosures to the Congress. Members of this Committee, and others, pressed DHS for answers, and your persistence, Chair Paul, helped ensure Secretary Noem became aware of the Quiet Skies program and ended it.

Ending Quiet Skies was a very important step and well, well overdue. But that alone does not prevent what happened to the Crowders. They were not a part of the Quiet Skies program, and

¹The prepared statement of Mr. Leavitt appears in the Appendix on page 40.

a program like Quiet Skies could always be revived if we fail to learn the lessons.

The first lesson is very clear—civil liberties cannot protect themselves. Independent oversight is essential from bodies like this and others. Whenever government cites national security to conceal its actions, the risk of abuse rises, and only oversight can shine the light needed to stop it. In this case, much more light is needed as it relates to Tulsi Gabbard.

On January 28, 2025, The New York Times published a leak from the government attempting to explain away Ms. Gabbard's placement on Quiet Skies. The article claimed that her placement was related to her attending a conference at the Vatican, supposedly because of another attendee on the watch list. But the article admitted that she attended alongside another former Member of Congress, Mick Mulvaney, who invited her. If Ms. Gabbard was truly flagged for that reason, why wasn't Mr. Mulvaney also added to Quiet Skies when he flew back from the conference at the Vatican?

The government's story just does not add up, and any credible review must answer those questions. Secretary Noem announced the review revealed, quote, "the Quiet Skies program was used as a political rolodex of the Biden administration," end quote. However, she provided few details. Reports indicate that at least one elected official had her husband removed from the Quiet Skies list with a single phone call.

These issues demand a full accounting. That is why Empower Oversight recently called on the DHS Inspector General to complete its work and make its report public. Normally, inspector general reports with private information are kept internal. They have information about personal individuals. However, given Ms. Gabbard's prominence, the allegations of political targeting, and the large amount of selective information the government already leaked, there is a clear public interest here in transparency. DHS IG has released similar reports before when public figures were involved. Accountability cannot be achieved if this is swept under the rug in a private report.

In addition, the investigation must look beyond Ms. Gabbard's case. Anyone who abused TSA protocols to target or protect individuals for political reasons must be held accountable. A thorough report is necessary to propose discipline for those who committed misconduct.

Finally, another of the most important lessons is that none of this would have come to light without whistleblowers. Of course, it was obvious to Ms. Gabbard that she was subjected to extra screening, but what she did not know, and would never have known, is that she was formerly targeted through Quiet Skies. Only courageous insiders willing to speak up made that possible.

After their disclosures, and when we brought these things to the attention of the IG, TSA opened a leak investigation. Of course, this was troubling. The legal question of whether whistleblowers may disclose so-called sensitive security information to the media was resolved over a decade ago in the case of Air Marshal Robert MacLean. When his case came to the Supreme Court in 2013, I organized, for Senator Grassley, a bicameral, bipartisan amicus brief

arguing TSA's regulations could not trump the statutory guarantees of the Whistleblower Protection Act (WPA). A Supreme Court majority agreed with us, but TSA still sought to investigate our clients' disclosures as though they were unlawful leaks. That kind of retaliation chilled whistleblowers across the government.

TSA backed down when Empower exposed their investigation, but those kinds of risks remain. Protecting whistleblowers is not optional. They are the first line of defense against waste, fraud, abuse, and overreach. If they are silenced, the American people lose one of the only tools that can help bring abuses of power into light.

Thank you again for the opportunity to testify, and I look forward to your questions.

Chairman PAUL. Our next witness is Matt Taibbi. Mr. Taibbi is an award-winning investigative reporter and Editor for Racket News. Mr. Taibbi was a Contributing Editor at Rolling Stone, won a National Magazine Award, authored four New York Times best-sellers, and now writes on Substack as one of its most popular independent columnists in the country, with tens of thousands of subscribers.

Mr. Taibbi, you are recognized for your opening statement.

TESTIMONY OF MATT TAIBBI,¹ EDITOR, RACKET NEWS

Mr. TAIBBI. Thank you and good morning, Chair Paul, Ranking Member Peters, distinguished Members of the Committee.

Last year, former Hawaii Congresswoman and Presidential candidate Tulsi Gabbard was placed in a surveillance program called Quiet Skies by the Transportation and Security Administration. She was subject to intrusive searches, followed by bomb-sniffing dogs, and trailed by three Federal Air Marshals per flight.

To cover the story I contacted the TSA. They no-commented the main question about the truth of the story, but added, as if in mitigation, "Simply matching to a risk-based rule does not constitute derogatory information about an individual." That is bureaucrat-ese for, "We can't say if Ms. Gabbard was in the program, but if she was, don't draw any conclusions, because we do this even to innocent people."

Before Quiet Skies was discontinued by this Administration, it was a symbol of the steep decline of Federal enforcement since 9/11. The government spent \$200 million a year following up to 50 people a day for a program that in its history never once led to an arrest or thwarted a single criminal act. Despite its demonstrated inutility and grave civil liberties concerns it was re-funded year after year because this is what our government does now—it gathers information on its own citizens as an end in itself.

In a week in which the question of whether Federal security officials always tell the truth to Congress is back in the news, it is worth noting that it has been 13 years since then National Intelligence Director James Clapper answered, "No, sir," and "Not wittingly" when Senator Ron Wyden of Oregon asked, "Does the National Security Agency (NSA) collect any type of data at all on millions, or hundreds of millions of Americans?"

¹The prepared statement of Mr. Taibbi appears in the Appendix on page 46.

Clapper later explained that he had responded in the, quote, “least most untruthful manner.”

That episode solidified a principle that holds in America today. If you lie about mass surveillance programs, even under oath, you not only get to keep your job, you get to be hired as a professional truth-teller after retirement as a National Security Analyst for CNN. If you try to tell the truth, on the other hand, about the same issues, your options are prison or leaving the country forever.

In those 13 years, Americans became numb to surveillance. It was once a core principle that government could not or should not spy on its citizens without predication. Now much of the country accepts as inevitable the idea that every move we make is being recorded and analyzed. We know emails and phone conversations, at a minimum, are being collected passively, and mountains of data we leave behind as our lives move online, from geolocations of cellphones to GPS tracking, to travel, banking, and medical records, are increasingly fodder for overt or covert acquisition by Federal analysts. As Google admitted last week, Federal officials partnered with companies not just to monitor speech but to suppress it on a grand scale.

Quiet Skies was the paradigmatic example of a program that could take endless liberties with the Constitution because it was secret. When you gather information with no intention of ever going to court, as the TSA did with Quiet Skies, you never have to justify yourself to a judge. This leads to a lot of what one court recently called the exact sort of “exploratory rummaging” that the Fourth Amendment was designed to prevent.

This is a betrayal not just of the public but of people like Mr. Crowder, who have been trained for important work but have been forced to do intelligence work and gather information fellow citizens instead. As former marshal Robert MacLean put it to me, “The air marshal’s job is to protect the cockpit and the pilots. Let somebody else do the intelligence.” One FBI agent I interviewed said, “The distinction between people who believe bad thoughts and people who do bad things” has been “completely lost in our government” since 9/11.

Once you start down the road of collecting information on innocent people, it creates the intellectual justification for doing it again and again and again. All this information-gathering reverses the natural political order, giving elected officials undeserved and unearned power over their bosses—us, the voters.

It is time to stop being numb to this outrage. Let’s hope the elimination of Quiet Skies is just the beginning. Thank you very much.

Chairman PAUL. The Committee now welcome Jim Harper. Mr. Harper is a Senior Nonresident Fellow at the American Enterprise Institute (AEI). His work there focuses on digital privacy, privacy law, and select constitutional issues. He has written several amicus briefs in Fourth Amendment cases before the U.S. Supreme Court and has published articles in a variety of law journals.

Mr. Harper, welcome to the Committee.

**TESTIMONY OF JIM HARPER,¹ SENIOR NONRESIDENT
FELLOW, AMERICAN ENTERPRISE INSTITUTE**

Mr. HARPER. Thank you, Chair Paul, Ranking Member Peters, and Members of the Committee for the opportunity to testify before you today. I am happy to return to a Committee where I was a counsel for a short time early in my career, under the chairmanship of Senator Ted Stevens.

Having established that I am old, I also want to confess to being slightly embarrassed for all of us that my written testimony, submitted to you, spends as much time as it does on the problem of counterterrorism security policy, which still plagues us nearly 25 years after the attacks of September 11, 2001. I wish that by now we had better systems in place for assessing risk and calibrating our responses.

I am in the privileged position of working in a think tank that encourages me to call it like I see it, without reference to orthodoxies or partisan considerations. That is the American Enterprise Institute, where I am a nonresident senior fellow. This morning the President of AEI asked me a lot of questions about my testimony, and I said, "You can't ask all these questions or I am going to have to change my opening statement!" But I will proceed.

The testimony I have submitted to you is a sincere effort to summarize what my study over years has produced in terms of strategic counterterrorism and the security systems by which a free country should address a particularly difficult challenge. Doing security well is an American, nonpartisan interest.

There are partisan valances to this hearing, of course, but there is opportunity here, because communities and people sympathetic to both sides of the aisle have now experienced the negative consequences of watchlisting, including in the Quiet Skies program. In writing my testimony I kept coming back to the theme that watchlisting is a security and constitutional half-measure. Watchlisting is a system for interdicting people whose activities do not raise a sufficient suspicion to merit actual interdiction, through full investigation, arrest, and the levying of criminal charges.

By doling out minor punishments and derogations on freedom unilaterally, watchlisting defies our constitutional separation of powers, in which law enforcement is supposed to bring charges to be adjudicated in a separate judicial branch. Watchlisting violates due process and derogates from the presumption of innocence, treating people as guilty of something without providing them an opportunity to challenge that assessment.

In my written testimony I place Quiet Skies in a context as a form of overreaction to terrorism, which, as a strategy, seeks to trigger victim states into error. The waste of blood and treasure is the clearest error and a win for terrorism. Here, a program costing hundreds of millions of dollars to achieve essentially nothing.

Terrorism seeks to knock victim states off their ideological moorings and to delegitimize them. You do not have to believe in a deep state cabal here, but you can recognize that Quiet Skies and other watchlisting programs open our government up to the charge, which is delegitimizing.

¹The prepared statement of Mr. Harper appears in the Appendix on page 48.

I also supplied in my written testimony material on terrorism risk management that was produced by the Department of Homeland Security's Data Privacy and Integrity Advisory Committee in 2006. The DHS Privacy Committee itself was one effort to create some balance at DHS. The Privacy Impact Assessment process is another. They have a role not to be dismissed, but I do not think internal counterweights do enough to bring balance to security programs. Our tradition is to use tension among branches of government and among agencies to bring balance. In the latter part of my testimony I broach a few methods for improving the institutional and policymaking dynamics so there would be fewer or no more Quiet Skies programs.

First, Congress could de-delegate power from the DHS. We can understand the haste and uncertainty that produced broad delegation of power in the aftermath of the September 11, 2001, attacks, but that era is passed. You could specifically authorize programs that you find to be effective, de-authorize the ones that you do not see as clearly and cost-effectively securing our country.

Oversight hearings like this are an appropriate response. Public and judicial oversight are important checks that help produce balance. Here, secrecy is a perennial and confounding problem. Daniel Patrick Moynihan's book, *Secrecy: The American Experience*, argued that secrecy leaves policymakers less informed, it denies government accountability, and it sharply limits public debate about policy and government conduct.

An additional proposal I offer is to have the Congress recognize travel as a right equivalent to other rights in the Constitution. Were it recognized clearly as a right, courts would be in a better position to help administer the issues that come before it and people would be able to challenge security programs that threaten their liberties.

Finally, I argue that privatizing at least some parts of travel security would produce good results. Liability rules, the insurance system, and competitive pressure are things that government programs do not have to help guide them.

We are in a time of welcome openness to change at the Department of Homeland Security under Secretary Noem. Quiet Skies is gone. The shoes-off policy at airport checkpoints is a thing of the past. There are signals that the liquids rule and other overreaction may be reconsidered. Let's see more to revamp airline security and counterterrorism policy so that threats are in perspective and directly met while Americans remain free to travel in possession of all their rights. Thank you.

Senator PETERS. Our next witness is Abed Ayoub. Mr. Ayoub hails from Dearborn, Michigan, and is a graduate of the University of Michigan and the University of Detroit Mercy School of Law. He currently serves as the National Executive Director of the American-Arab Anti-Discrimination Committee (ADC), an Arab-American civil rights organization committed to defending the civil rights and civil liberties of all Americans, including advancing due process and equal protection.

Throughout his career he has worked to address issues impacting Arab and Muslim Americans in the United States, including matters related to discrimination, surveillance, profiling, and most rel-

evant to this hearing, watchlisting and screening. Under his leadership, the ADC legal department successfully assisted and provided pro bono support to thousands of impacted community members across the country.

You are now recognized for your opening remarks.

TESTIMONY OF ABED AYOUB,¹ NATIONAL EXECUTIVE DIRECTOR, AMERICAN-ARAB ANTI-DISCRIMINATION COMMITTEE

Mr. AYOUB. Thank you. Thank you, Chair Paul and Ranking Member Peters for the opportunity to testify. My name is Abed Ayoub, National Executive Director of ADC. We were founded over 45 years ago by former Senator James Abourezk. Throughout that time we have worked and assisted countless members of our community who have directly impacted by government watch list process.

Let me start off by saying something that may surprise some people, but I have sympathy and I feel really for MAGA supporters, for Republicans, and for anybody that is going through and experiencing the fallout of the watch list issues. That includes missed flights, repeat screening, frozen bank accounts, job consequences, and much more, without notice or a fair way to challenge it.

I do not need to share their politics to understand that rights and liberties are not condition on agreement. What they are experiencing today mirrors what Arab and Muslim families have endured for decades, a secret designation that follows you from airport to employer and sometimes to consulate, with no clear explanation and no reliable fix. That is not a partisan problem. It is a due process problem. When the government can quietly tag one group, it can quietly tag any group—left, right, neither—just depending on who holds power. The answer is the same for all of us—end the watch list, or at minimum, implement safeguards that protect our liberties and rights.

Quiet Skies was a total disaster. ADC welcomes the decision by the Secretary of Homeland Security to shut it down. Retiring a program that surveilled ordinary travelers without evidence of wrongdoing is a meaningful step toward fairness. But Quiet Skies captures only part of the story. It was a window into a faulty surveillance architecture—secret lists, vague criteria, and downstream sharing that harm people who have done nothing wrong.

For decades, the watch list system has too often been a shortcut for suspicion, aimed at my community members not because of what we have done, but because of who we are and what we believe. People get flagged after visiting family overseas, donating to lawful charities, attending a protest, or simply for praying. That is not security. That is punishment for religion and politics.

More than 98 percent of the names on the FBI's 2019 Screening Dataset were Arab or Muslim. Placement on these lists does not require arrest, charge, or conviction. Instead, it is based on vague suspicion, often tied to religious practice or again, protected political speech.

Again, let me be clear. If a tool can quietly target my community members today, it can target any community tomorrow—journal-

¹The prepared statement of Mr. Ayoub appears in the Appendix on page 68.

ists, activists, immigrants, gun owners, union organizers, pro-life or pro-choice advocates. Once a secret label replaces proof, the only limit is who is in power. If you won't end the watch list, then at least cage it with real notice, evidence, hearings, and strict limits so no American's faith or viewpoint becomes a reason to be treated like a suspect.

Placement on the watch list has a direct and dire impact that reaches beyond the airport. These harms underscore why there must be reform to allow for redress/removal from the list, the tracking of screenings, and assurances of appropriate oversight, because the human and policy costs are real.

The task is larger than ending one program. We have to take immediate steps to implement due process measures to afford those on the list an opportunity to be removed.

Many expert, and opinions, many of them here today, have provided a clear roadmap to fixing these immediate issues, such as requiring TSA and CBP to systematically track all screenings and outcomes so we can see where the system fails and who is being hit the hardest. Second, direct the National Terrorist Screening Center (NTSC) to report regularly to Congress on nominations, removals, error rates, and recall of bad data, with safeguards to protect privacy while exposing patterns of bias. Third, pair transparency with teeth. Have mandatory timelines and independent review that can order a delisting.

The most urgent fix is transparency and due process. If the government is going to restrict your liberties, you have a right to know why. DHS's Traveler Redress Inquiry Program (TRIP), provides little information to travelers about why they are flagged or whether corrections are applied across the system. Without systematic tracking, bias can go unchecked, and travelers have no meaningful way to correct errors. Today, individuals on watchlists often receive no notice, no explanation, and no meaningful way off the list.

There is room for bipartisanship on this issue, and I am confident of that. I will meet anyone halfway on this—left, right, it does not matter—because the watch list is not about who you voted for. It is about whether the government has to prove its case when it takes away your rights and limits your life.

Mr. Chair and Members of the Committee, eliminating Quiet Skies was necessary, but it is not sufficient. We need to restore transparency, accountability, and due process to protect millions of travelers. We stand by and ready to assist in that effort. Thank you,

Chairman PAUL. Thank you all for your testimony. We are going to start a round of questions, and we will start with Senator Ernst.

OPENING STATEMENT OF SENATOR ERNST

Senator ERNST. Thank you, Mr. Chair, for calling today's hearing. For years I have been highlighting examples of government mismanagement and waste with my monthly Squeal Awards, and the TSA's Quiet Skies program, unfortunately, was a prime candidate for such an award.

Two hundred million dollars a year was spent on a program that was weaponized by the Biden administration to target political opponents, including patriot veterans like former Congresswoman,

now Director of National Intelligence, Tulsi Gabbard. The program covered over 180,000 flights since 2018, and did not stop a single terrorist attack, as many of you noted.

I thank Secretary Noem for ending this wasteful boondoggle of a program and ensuring that TSA and DHS resources are used effectively to focus on keeping air travel safe rather than spying on and harassing law-abiding citizens.

Mr. Crowder, I will start with you. I am so sorry to hear about the political targeting by the Biden administration against your family, and I thank you for your service to our fantastic country. Your testimony highlighting TSA and Federal Air Marshal resources being diverted to track and harass the families of those sworn to protect Americans and make air travel safer, shows what was wrong with the awful Quiet Skies program.

But this program is not the only boondoggle that has existed under TSA and DHS in recent years. Since 2017, the DHS Inspector General has highlighted unresolved recommendations about how Federal Air Marshal Service contributions to aviation security are questionable, so questionable, in fact, that as much as \$394 million is being perpetually misused. Mr. Crowder, can you share any suggestions for TSA and DHS safety changes you and your colleagues might have?

Mr. CROWDER. You say we have not shown to stop anything. Back in the 1980s, there were air marshals. There was a significant number of them, trying to stop hijackings. That number dwindled down to approximately 33 before 9/11. Had the agency stayed the course, maybe that would have been prevented. It is not how many air marshals and how many flights we are on but the terrorists not knowing which flight we are on.

I do not want to downplay our role in the security of the Nation. But as I testified, a lot of things were abused with Quiet Skies. January 6th, things of that nature, need to be addressed. Does that answer your question?

Senator ERNST. It does. What you are saying, basically, is follow the guidelines as the Federal Government has laid out for air marshals, and not get into the business of intelligence, following, surveilling, those passengers that might be targeted by the Federal Government. Can that be a takeaway?

Mr. CROWDER. Yes. The abuse for political reasons needs to be stopped.

Senator ERNST. OK.

Mr. CROWDER. It needs to be intel driven.

Senator ERNST. Very good. Thank you. Mr. Leavitt, where are the TSA and DHS employees who were working on the Quiet Skies program now? Have they moved into other programs? Does the agency still employ them?

Mr. LEAVITT. Quiet Skies is just one of several programs that fed into creating what is called special mission coverage. There are still air marshals being deployed around the country, of course. This was just one of their several missions. At TSA headquarters, they still have other reasons, other criteria for which they are putting people on lists and other things.

So no, we do not have any reason to believe that any staff have been laid off or anything because the Quiet Skies program was fin-

ished. They just divert in other work, and we hope that it is work that actually protects the American homeland.

Senator ERNST. Wonderful. I want to thank all of our witnesses for being here today and sharing those personal stories. I think it is very important.

I want to just take, in the remaining time I have left, to once again thank Secretary Noem. Over the weekend, while I was at home, in Southwest Iowa, I ran into a U.S. Marshal that had been part of the apprehension of an illegal migrant that had killed a young Council Bluffs woman nine years ago. He had fled to Honduras, back to his home country. Through Secretary Noem, DHS, and through Secretary Marco Rubio, the Secretary of State, through those two departments they were able to extradite that man from Honduras, and he is here, seeing justice, finally, after nine years. I want to thank the Administration for doing that.

But when I ran into this U.S. Marshal over the weekend he said, "Rarely do we ever see justice," and in this case we are seeing justice because of the Administration and their follow-through. Thank you for allowing me that, Mr. Chair.

Chairman PAUL. Senator Peters.

Senator PETERS. Mr. Ayoub, one of the issues that I have heard again and again from people in the community and others is just how broken the redress process is for people who believe that they are unjustly or mistakenly caught up in the watchlisting system. Mr. Crowder, I understand your wife, my understanding is not on Quiet Skies, she was put on the watch list, the Terrorist Watch List program. The redress process is really important. We still have that program in place, and we need to have reforms, which was part of the work I have been doing and the legislation that I had that we did pass out of Committee to deal with redress.

But given your experience working with individuals who believe that they are on the Terrorist Watch List, what recommendations specifically do you have for this community? What should we be doing right now so it does not happen to Mr. Crowder's wife in the future, it does not happen to the folks that you hear from regularly and I hear from regularly back in Michigan?

Mr. AYOUB. Thank you for that. Look, the redress process and the DHS TRIP program is flawed. It does not always work, it does not give you the reason why you were put on a list, and it does not give you a final decision. You fill out your information online, and you get a letter back saying some vague language, like, "We received it. We can neither confirm nor deny that you are on a list." And it is not always effective.

We need to work to find ways to expand that due process, expand the option of being removed from the list, look at what existing programs are there that we could take advantage of which could review individuals coming in. You want to be proactive. If somebody is on the list, again, set up a proactive way for them to reach out and be removed.

My colleague at the end, who is a U.S. Air Marshal, who has far more access to being removed, it still took him a couple of years to be removed. Imagine a regular individual going through the same thing. It is going to take much longer.

What we have learned through our practice is when we can identify that one piece of information or that one agent that placed that piece of information in there, and then have a conversation with them, and interview the client. Once that piece of information is removed, then the issue is gone.

But it is going to be impossible to do that for two million people. There are just not enough agents and resources to go around. Finding a streamlined way, a streamlined due process measure, maybe building on DHS TRIP, that should be first and foremost, in dwindling down the list. Then also possibly maybe going through a list to at least purge the names of folks that have died, or children that are like four or five years old. Remove those names so you are working with a cleaner set of data to begin with.

Senator PETERS. Right. I have certainly heard a lot from community members about the negative experiences, as you have mentioned here, with the screening system. But just like today's testimony, which is powerful and I appreciate the testimony, these are anecdotal accounts, and we could come up with an awful lot of anecdotal accounts. One of the recommendations in our report, and a big part of my bill, was requiring better and more complete data from CBP and TSA on all their screening practices, because there are like 20-plus programs. We are talking about one that has gone away. We have still a whole lot more of these things that are out there, that need to be addressed. This is a big issue.

My question for you is, do you think having better data, exactly what is happening to understand whether these processes are effective and whether there is bias, intentional or not, political, whatever it may be, we need data. What is your sense of that?

Mr. AYUB. Absolutely. I think there should be data. We should be able to look at that list and determine why this person was added. Then at the end of the review you will find out, OK, was this group of people, do we have this many individuals added because they are Trump supporters, or because they are Democratic Party supporters? We need to be able to read that. We need to be able to know why they are on there, who they are, what trends, and to determine what mistakes are being made. Because again, just depending on what administration is in office, who is going to be targeted. Our community, for the past quarter of a century, for the past three decades or so, were thankful enough to be targeted by all administrations. We can tell you the experiences through Republican and Democrat administrations.

But the reality is there are trends. There is bias. There are folks on that list that need to be removed. Expanding that option, expanding the way to do that, and having those data points, having that dataset will also help develop policies and strategies moving forward to enhance and make the security process and the screening process better.

Senator PETERS. Yes, I would just like to followup, because this could happen in all administrations, both parties, whatever. This is a problem. We have to make sure there is full transparency, there is oversight, regardless of who is in office.

Most of the oversight in these systems currently is handled by internal DHS offices. The Office of Civil Rights and Civil Liberties, Privacy and Civil Liberties Oversight Board, as well as inspectors

general, who oversee this. However, unfortunately, this administration has basically gutted all of the oversight, so we do not have the oversight anymore. Can you describe the consequences of eliminating internal oversight will have on American civil rights, and civil liberties with regard to screening and watchlisting? So all of the issues that are being raised by everybody here today, we have to make sure that we are guarding against that.

Mr. AYOUB. Look, oversight is very important. The issue was bad with a functional CRCL office at DHS, and you can imagine it would be a lot worse with no oversight. So having that office, having some sort of mechanism there is important.

Chairman PAUL. Senator Moreno.

OPENING STATEMENT OF SENATOR MORENO

Senator MORENO. Mr. Chair, as I mentioned to you yesterday, I really appreciate you putting on this hearing. I think it is really important. I think if the American people read everything that was provided for this hearing, their minds would be blown. I think some of the stuff that is in here is sensitive information, which we should maybe think about maybe daylighting that, because I have never read something more outrageous than reading that memo. So it is pretty crazy.

You mentioned just now to my colleague from Michigan that the oversight is essential. How did oversight work out in the last four years of the Biden administration?

Mr. AYOUB. It didn't really work out.

Senator MORENO. So it is not a question of oversight. It is a question of intent. Because here is the reality. I think Americans would be appalled to know that their government was spying on them. Not just spying on them. Paying people like Mr. Crowder, who, you did not take the job to go walk around airports, monitoring bathroom habits and coffee habits of American citizens. Yet your government was paying you to do that, to spy on American citizens, violating the Fourth Amendment, shredding the Fourth Amendment.

One of the things that I had to do to become a U.S. citizen was learn a lot about Americana history. I had to read the Constitution. My mom convinced me that this citizenship test was going to be impossible, so I memorized it. Everybody talks about what Joe Biden says is the thing. The thing, you know, life, liberty, and he couldn't even repeat it so he called it "the thing." But after the end of that sentence there's a line that says that government is deriving its just powers from the consent of the governed—deriving their just powers from the consent of the governed.

Mr. Ayoub, do you think that over the last four years of the Biden administration that they derived their just powers from the consent of the governed? Do you think Americans knew that they had somebody stalking them at airports and bathrooms and coffee shops and watching who they were talking to on airplanes?

Mr. TAIBBI. Senator Moreno, thank you for the question. No, I do not think so. In fact, as a reporter in the last four years it has been very frustrating investigating not just programs like Quiet Skies but also issues like censorship. It seems like there are only three ways that you can get important information. One is through whis-

teblowers like the ones represented by Mr. Leavitt. Another is through investigations like the ones by this Committee. The third is if an eccentric billionaire decides to hand over a ton of material to a reporter. It has become almost impossible to get information about these abuses.

I think what I was trying to get at with my opening statement is that particularly in the last four years the government has taken the position of the citizenry, they are all basically suspects until proven innocent. It should be the other way around.

Senator MORENO. That should be the other way around. That is the foundational principles of this country. That is not up for debate. There is no law that we need to pass. That is in our Constitution, in our Bill of Rights.

Mr. Crowder, I am going to shift to you for a second. I was out of the meeting. I had to go to a Banking session so I apologize. Could you point out your wife real quick for me? Has anybody from the U.S. Government apologized to your wife?

Mr. CROWDER. No, sir.

Senator MORENO. So they have not even bothered. Nobody in the government has bothered to pick up the phone, send a letter saying, you know, we are very sorry.

Mr. CROWDER. Nobody.

Senator MORENO. Let me say that to you on behalf of the U.S. Government. We apologize for what happened to you. It should never have happened to any American citizens. It is a total and complete disgrace, that the previous administration weaponized this.

You mentioned, Mr. Crowder, this is a result of 9/11. How many American citizens were involved in the plotting of 9/11?

Mr. CROWDER. Zero, to my knowledge.

Senator MORENO. So what problem are we trying to solve? Meaning, the auspices of this. Look what happened. We can never let another 9/11 happen. Why the hell are we having Americans surveyed at airports and on airplanes?

Mr. Taibbi, you mentioned something else. During the COVID era, let's not forget how insane that was. Do you remember what that was like? Like you get on an airplane, you had the mask on. We saw people dragged off airplanes because they were not wearing a mask. Dragged. Like humiliated by the police, dragged off for the offense of not having a mask on. But when they served you, you could take your mask off to eat, because it was the most polite virus ever in the history of humanity. It said, well, you are eating so I am not going to infect anybody right now, but when you are done I am going to go back to the infectious part. Those of us who had some level of like, hey, this is just stupid, said we are not going to wear a mask, and that put you on a No Fly List. That got you banned from flying. Could you explain that?

Mr. TAIBBI. Actually, Senator, it is worse than that. My understanding is that just for supporting a group that protested the wearing of masks on airplanes you could be placed on a No Fly List or on a watch list by the TSA. That is in addition to the J6 category, which included people who were just suspected of traveling to the National Capital region, not even of going into the Capitol.

Senator MORENO. I know I am over time. Let me just make this comment. Mr. Chair, you mentioned this to our Ranking Member. He is not here to listen to this, but maybe he would not want to. He has a choice, right, to extend CISA 2015 by voting yes for this continuing resolution today. But it is so important to him to hijack Republicans that even he is willing to say, “Well, this is not that actually important to me.” I also find it decently ironic that when they had control of the House, the Senate, and the White House that the report that he issued, he could have put that on the floor, right? I am not wrong there, right? He could have put that on the floor and passed that.

Chairman PAUL. That is a good point because this is in response to my wanting to put First Amendment protections on the CISA extension. CISA was the agency—and this is not the authorization for the whole agency but for some of their powers, and I said yes, we can let it go through, but let’s add First Amendment protections to it. Why? Because the First Amendment protections were in another department of government, some through CISA, DHS, some through the FBI, that Mr. Taibbi knows a lot about because they were meeting with Twitter. A lot of Americans still do not know this, that the FBI was actually sitting in meetings with Twitter officials, that CISA was sitting in meetings.

What I have said is if we are going to reauthorize CISA, which a lot of people want to reauthorize this particular authority, let’s reauthorize it with an amendment that simply says government officials are not allowed to meet with them to take down constitutionally protected speech. If it is illegal, they can meet with them and warn them something illegal is happening on their social media. But things that are not illegal, that are protected by speech, why not put it on a must-pass piece of legislation? That is the only way we are ever going to get it beyond the other side is to do it.

So you are right. It is fake outrage. They are outraged about this particular authority expiring, but they have every chance to, and they will have another chance today, to vote to reauthorize it, and it will be part of the continuing resolution to reauthorize this particular facility.

Senator MORENO. But just super quickly, and I apologize, last year, when you were not Chair, the Ranking Member could have put that bill on the floor, and chose not to. Is that correct?

Chairman PAUL. Yes. Senator Lankford.

OPENING STATEMENT OF SENATOR LANKFORD

Senator LANKFORD. To the witnesses, thanks. Thanks for the work you are doing to be able to continue to be able to protect the civil liberties of all Americans and for your service to the country. We are grateful, as a Nation, to be able to have folks that are actually engaged in these ideas.

All of us who flew on a plane during the time of COVID remember full well the experience of the mask on, mask off. I will never forget a particular flight that I was on, that literally the flight attendant patrolled up and down the aisle the entire time, like a prison guard, watching for anyone that lowered their mask at any point or that got onto children who were with a pacifier or with someone who has a crying baby, and to try to figure out some way

to be able to cover that up. This is bizarre, to be able to think about that, but to be able to think about our own government at the time was also trying to find people that disagreed with policy during that time period, and would say, "We want to try to find some way for you just not to fly, because you disagree with us," becomes an entirely different level.

For Mr. Crowder, let me ask you a question on this, and Mr. Leavitt, if you want to be able to jump in, as well, you can on this. How did they make decisions regarding the threat level of individuals on the mask mandate issue? Did they have a ranking for that? How did they determine what is the level of threat for an individual?

Mr. CROWDER. I am going to defer to you.

Mr. LEAVITT. OK. We do not know, and that is the problem, because things like this are secret, right. They are not the sort of thing that everyday Americans have insight into. They are not the sort of thing that air marshals, even flying back and forth in these flights, have insight into. They are clearly not the sort of things that you have insight into.

Senator LANKFORD. Right.

Mr. LEAVITT. So it begs the question then, who was writing this stuff and how are we supposed to trust that it has any basis? Clearly, people just expressing their concern about masks is outrageous for them to be put on a watch list.

Senator LANKFORD. Yes. So going back to some of the things Mr. Ayoub was saying. Someone who is visiting family in Pakistan, someone who was a missionary that was flying back and forth to a country that was deemed inappropriate to be able to fly back and forth to. Was there a process to be able to actually have a human engaged in that decisionmaking to be able to say, "Hey, this person is visiting family members. "This person was a missionary," whatever it may be. Was there a human involved in that or is it just a trigger, you were in a certain city, at a certain place, so you are on the list?

Mr. CROWDER. Again, I can only testify to my wife's situation. I had specific knowledge she did not enter the Capitol. How she got on that list, who said that she entered the Capitol, I do not know. That is well above our access.

Mr. LEAVITT. I will add to that. The TSA has tried to say this is just a rule-based program, right, and they give the impression almost that like some computer is just assessing flight bookings and then spitting these out. But someone made the decision to put, for instance, Tulsi Gabbard's congressional photo on there, rather than her passport. There was an individual involved, and frankly, somebody needs to figure out who that is and ask them a lot of questions.

Senator LANKFORD. Yes. There are other Members of Congress that have also been placed on the list, as well. We do not know why or what the reason was. It was just they are a threat, and so they have to be able to be on this list.

TSA has policies that prohibit active collection of information about people. TSA is receiver of information, not a collector of information. This is clearly TSA trying to be able to collect information. Was TSA in violation of the law, because they are not man-

aging information given to them, they were shifting into the collection mode.

Mr. LEAVITT. I will take a stab there. TSA has broad authorities, right, and so they do not treat this as intelligence, right. They do not say that it is intelligence, as though they observed you doing something. They are just deploying the asset. I think back to one of the points that has been made here, Congress has given TSA pretty broad authority. That might need to be looked at being constrained more further.

Senator LANKFORD. Mr. Harper, do you want to be able to add to that?

Mr. HARPER. Yes. I will not be able to cite you chapter and verse, but the authorities in the Aviation and Transportation Security Act are very broad. Your intuition is correct that TSA should not be an intelligence collection agency. But if it decides it is going to go off in that direction, the language is so broad it can go off in that direction. That is why one of my recommendations is to bring TSA and other DHS authorities within bounds that Congress sets tightly.

Senator LANKFORD. Mr. Harper, you had also mentioned something about a right to travel and to clarify that. Tell me what you mean by that.

Mr. HARPER. I think we intuitively feel we have a right to travel, and there are cases from the Supreme Court that say of course, you have a right to travel. You can move from one State to another and they cannot deny you welfare benefits when you get there. There are other cases where a man in San Francisco wanted to fly to Washington, D.C., to meet with his representative, and in this case the Ninth Circuit Court of Appeals found that you do not have a right to travel on your preferred mode of transportation. He did not want to go through all the security nonsense, and so challenged there. They said, no, you can take a train, or you can drive if you want to go to Washington, D.C.

A clear right to travel—Americans believe they have it, but the courts have not accorded it to them—would give them a position when they went to court where they could do discovery, and some of these things could be turned up. We could learn more about the programs. I think courts would balance well. Obviously, a court is not going to throw out a program that is probably cost effective. They will say, “Yes, no, in this case you do have this right, but the right is subject to regulations that allow for security.” But the right does not give way to regulations and programs that do not do anything, the regulations and programs that do not actually produce cost-effective security.

I am glad you asked about it—I would like you to give it more consideration. Congress can weigh in on that and say, “No, this intuition of Americans, that is somewhat backed by courts, can be made a full right. We think it is in Congress. Let’s have the courts treat it as such.”

Senator LANKFORD. OK. Thank you. Thank you, Mr. Chair.

Chairman PAUL. When I traveled during the pandemic, we all travel several times a week, there were many flight attendants who were very nice, very pleasant, very sympathetic, and were just like me, unhappy with the mandates, and really did not want to go

overboard. They would pass me notes, sometimes secretly, saying they were supportive. They did not want anybody to know they might be supportive of things I was for.

But it also brought out the inner Karen in people. This exists in a significant number of people in our society, the idea that given a little power, they really like it. I never was a policeman, but I wish I were. Just the idea of all of this power. I have power over it. If you say a word to me, you can be put on the list.

In fact, I have a TSA document, somewhere here in my collection of documents, that says that disobeying a public health order is equivalent to, saying I am going to take the plane down. I mean, you are a threat to the plane. You have now become a threat to the flight attendant. That just brought out the inner Karen in a lot of people, and it became really unpleasant.

I hated to fly every week and I am not somebody who is really that confrontational. I do not like that. That is why I do not like it. I do not like to have a confrontation. But, you would have, "Sir, sir, you are not eating your peanuts fast enough. You need to put your mask on in between each peanut." I mean, literally, that was happening on flights.

The ludicrous nature of there being any science related to that, that all of us with our masks off for 20 minutes while we are eating is somehow going to protect us from having it on for 40 minutes when we have it off 20 minutes. It turns out that none of these things had any science behind them. None whatsoever. Most of the masks they were recommending were masks that were ineffective. Cough masks were entirely for show and completely ineffective. Yet the head of the National Institutes of Health (NIH) was wandering around with Washington Nationals cloth mask on, as if it were of any value.

But I think it is important to know how we got here. So Quiet Skies, you are right, Mr. Leavitt, we got rid of Quiet Skies, but I am not sure that helps Mr. Crowder or Christine. We are still not sure exactly how they got on the list. My suspicion is if she just shows up on the list, I am wondering if somebody who does not like you saw her social media that she was in Washington on January 6th, did not like your politics, and says, "I am going to call the Tip Line." You would have never known about it until everybody started harassing her. But you, to this day, do not know how she got on the list, right?

Mr. CROWDER. That is correct, sir.

Chairman PAUL. So that is a real problem. What we are taking is, let's say I am of a different political persuasion. I may not know your wife, but I work with you, and I heard you say something about your politics, and I am of a different political bent. Why don't I just call in the Tip Line and say—because I heard you say she was there on January 6th. But she was at the White House, not the Capitol. Not as if it is really a huge distinction, but there is a distinction. So maybe just out of spite somebody does it. Don't we have to have a way to fix where someone does not like you and puts you on the list? Or maybe somebody has an animus toward Arab Americans and just makes his list. I do not think we are nearly done with trying to fix this problem yet.

There is also this silent program, Silent Partner program, where one of them was if you are traveling from Greece and you do not have a Greek name, and you have been to Turkey, or you have been to Syria sometime in the last 10 years, well, what if that trip to Syria was because you were part of the armed services? Is there not somebody with a brain that is actually looking up and saying, "You were in the armed services while you were there," or have a relative there, frankly, and have a good reason to have gone there. But I do not think anybody has taken the time to do it, because there are just so many damn people to put on these lists, and then it is so hard. But half the time you do not even know if you have been named. I mean, you were fortunate. You were in a unique position, and I thank you for coming forward, because you were in a unique position that you knew this had happened. This had to have happened to dozens, if not hundreds, of other people.

With regard to secrecy, Mr. Harper mentioned this, I want to reiterate how much of a problem this is. We cannot analyze whether programs work because they simply say, "It is secret and you do not deserve to know." I have been asking, as the Chair of this Committee, a couple of simple questions. Like I say, I travel all the time, so I get the good and the bad, and a lot of it the bad of travel. I get stopped once every two to three weeks, and I do not think I am being selected. But I get selected by the machine for random pat-downs. I have been through the magnetometer. If I have made it through that, and I do not have any metal on me, I want to know, now that I have been selected and I go through the advanced pat-down and the whirly-gig machine, how many weapons and knives are you finding? They sent me some long answer, but they did not answer the question. I want to know how many. I think it is zero. Because I have already been through the magnet. I do not have a knife or a gun. What are they finding when I go through?

The other thing is, when you go through the—I call it the whirly gig machine—you go through there, it always finds something that needs to be patted down, so I get a pat-down too. But it never finds anything. It must not be a very good machine if I get patted down every time, and there is never anything there. I suspect that that machine is actually targeting not me personally, but doing a random check to do a pat-down on me by indicating that something there is not there. They will not admit they are doing that, but I suspect they are doing that. But it all goes back to secrecy. They do not want to reveal the State secrets, even to the people who are supposed to be overseeing the State secrets.

To give you an example of how bad it is, this is not in just this area. I have been wanting to read the Church Committee report from 1976. It will be 50 years next year, and it will be released to the public, but I am not allowed to read it, and some of my colleagues are preventing me on the Intelligence Committee. They jealously protect this information. Typically the people on that committee, with a few exceptions, are in favor of more intelligence power and opposed to more scrutiny.

But there is supposedly a classified annex. I want to read it, and I am being prevented from reading it. They have told me now I can individually read it, and it is a box. It is a room full of boxes. They will not designate exactly what is what, and there is no index. But

I can go read it. I cannot read the whole entire—I would need a whole staff. I would need historians and other people interested in the Church Committee. But the Church Committee was critical of too much power to the intelligence agencies. Now I want to read something and I am being stymied 50 years later. So secrecy is a problem.

To Mr. Ayoub, the whole idea of accountability, of course we need to find these things out. Most of the programs in government—and it just does not go to this—most programs in government that are authorized for a purpose are never reviewed. We have legislation that says if it does not get reauthorized it goes out of existence. It should disappear. Reauthorization, and I know Senator Lankford has been very active in this, reauthorization should be about does it work. We have like 82 housing programs. Everybody gets this idea, I want to help the homeless. We have already done it 82 times. Why don't we study the other 82 programs to find out if any of them work before we reauthorize a new program?

With regard to where we go from here, we are not done with this. I am still appalled by the idea of outsourcing this to universities. So we pay the universities. Universities have no scruples whatsoever. George Washington University here in D.C. has a project on extremism. Is extremism showing up on January 6th to support President Trump? I mean, really, we have to be a little careful of who we are giving the keys to this. I think they did go after those people.

The evidence is that the people on the mask list—there is a terror mask list, apparently, so the people on the terror watch list for not wanting to wear masks—I do not think they were removing their masks. I think they were talking about it online. “Let's not wear our masks. Let's take our masks off on the plane and have civil disobedience.” But we are still trying to get to the bottom of that because we do not actually have the names of the people on the list. That is all being hidden.

I suspect there are also hundreds of other people that were put on a list because they were resistant to dictate from someone on a plane, to a flight attendant saying, “Wear your mask higher. You are showing a nostril. Hike up your mask a little higher.” I think a lot of those people were put down as potential disasters for the plane, dangerous people, and not necessarily for masks because they didn't want to list them all masks.

But we have to do more. Every one of these programs has to be looked at. You have to have recourse. You have to redress. I think that we cannot just stop here. We have to look throughout government, more transparency, more sunlight.

I am going to throw it back to Senator Moreno, I think has another couple of questions.

Senator MORENO. Yes. Mr. Taibbi, you have been around the block, as they say, around the globe. You have seen authoritarian governments. What would be the American foreign policy reaction to a country that receives foreign aid, foreign assistance from the United States that did this to their own citizens?

Mr. TAIBBI. Senator, I would hope that we would look negatively on any country that mass-collected information on innocent citizens.

Senator MORENO. Surveilled their citizens?

Mr. TAIBBI. Surveilled their citizens.

Senator MORENO. Put them on a watch list?

Mr. TAIBBI. Yes.

Senator MORENO. Prevented them from traveling?

Mr. TAIBBI. Right.

Senator MORENO. Had a presumption of guilt, not a presumption of innocence? We would probably call them in and say, "Hey, we can't continue this relationship because you are oppressing U.S. citizens." Would that be accurate?

Mr. TAIBBI. Yes, I think that would certainly be accurate. I know that we have raised questions about surveillance of journalists in other countries in the past.

Senator MORENO. When that was happening, as the Chair just said, literally FBI agents sitting down with private companies, saying, "You must remove this person from social media." "You must go knock on their door." Some of the stuff we are seeing in the United Kingdom (UK), which I am very proud of the fact that our Vice President is speaking out against what the U.K. is doing to their own citizens, like persecuting them for social media posts. Yes, that is pretty outrageous, right?

This was happening over the last four years of the Biden administration. You would say in the history of the United States of America, we have never seen more of a tilt toward authoritarian rule than we did under Joe Biden, between firing people who would not get vaccinated, you could not get a job, you were somehow a bad person, we were masking two-year-olds, we were forcing the injection of an experimental, I will generously call it a vaccine. If you did not do that, and if you did not carry proof of that with you, then somehow you were a bad person. That was a pretty dark four years in the scheme of American democracy. Would you agree?

Mr. TAIBBI. I would agree, and there was also a radical shift in attitudes in this country toward whether or not we should have laws against things like hate speech. There used to be a small minority of people who believed that. Now it has become almost a majority of people who believe that.

You mentioned the U.K. I interviewed somebody last week who was arrested for speech over there. To the Chair's point, they have a system that allows people to make complaints that result in criminal arrests of people for social media posts. That could have been our future here, so that is deeply concerning to me.

Senator MORENO. I will jump to you, Mr. Harper, and I will let you answer this one. Do you think, in the scheme of things for Americans, I think Americans would think that their freedom, their liberty, their constitutional rights given to them by our founders is important. Just a quick question if you can answer it. Do you think that is important, really important to American citizens?

Mr. HARPER. It is.

Senator MORENO. Do you think that it is ironic that Democrats, that chase cameras, saying that President Trump is a threat to our democracy, are not even here? I think the record should show, Mr. Chair, who attended this hearing and who did not attend the hearing. Because you cannot go out there and go on camera and say that President Trump, the person who ended the Quiet Skies pro-

gram, the person who is reforming what has happened under the Biden era, there is nobody being threatened or being fired for not taking a vaccine. In fact, restoring individual liberty, and yet do not even bother to show up to a hearing, which I think this hearing—and I said this to you yesterday, Mr. Chair—is the most outrageous thing I have ever seen in Washington, D.C. Yet they cannot even bother.

I think it is one of those things where you decide what is important. Like when you are a United States Senator you can decide what is important. I can be in this hearing. I can be in another hearing. I can be at a fundraiser. I can be golfing. I can do whatever the heck I want, and that is kind of the crazy part about being a Senator. You do not actually have to show up to win, but you do. The fact that the Democrats basically, virtually boycotted this hearing, gives them zero credibility when they say that this President is moving this country toward an authoritarian. Do you want to comment on that, Mr. Harper? Am I wrong?

Mr. HARPER. Your question on the perspective, your question gave, if this were happening in another country what would we say about it? Very powerful, because Keir Starmer in the U.K. is saying everyone is going to have a digital ID, a national ID program. In the United States we oppose that. The Real ID Act of 2005, continually failed to be implemented, and hoorah for us, because it should not be. It should be repealed.

Financial surveillance is a product of United States law that we export around the world. If you took off the label, Bank Secrecy Act, and put a Chinese label on it, you would say, “Aha! That is China!” That is what we do, and it is what the United States has in the Bank Secrecy Act, again, that we export through the Financial Action Task Force. There are so many issues that we could get to, but that insight: We should not be doing it here. We should be leading in the United States on civil rights and civil liberties. So all of the things we have talked about, the transparency, anti-secrecy, no to a national ID. The perspective of your question was really important and helpful, I think. Thank you.

Senator MORENO. Mr. Chair, just one request, from my perspective. There has been almost no accountability to what the government did to the American people during COVID, like almost no accountability. People closed schools, who made kids, little kids, get vaccinated, masked. Can you imagine what that impact is going to be? You have kids, what the impact is going to be long term on 2-, 3-, 4-, 5-year-olds that were forced to be masked for 5, 6, 7 hours a day? No accountability.

Look, the most accountability was that the American people fired Joe Biden, thank God, and prevented Kamala Harris, which would have been even worse.

But we do have the ability to go into the current Administration and say who, within Homeland Security, still has a job that perpetuated these policies? Because my mindset is anybody, especially the person that wrote that memo, that literally made my hair stand up, how is that person still employed by the United States government? I think we need to ask that question, while we have an administration that actually wants to protect civil liberties, that

actually wants to protect the American people. We cannot just ignore this.

Again, there are a lot of things that have happened, that scene, about eight months here in D.C. But this report was so outrageous, and the fact that my Democratic colleagues have no interest in listening to this says it all.

Thank you again, Mr. Chair, for holding this very important, and thank you for all the witnesses for being here. Again, Mrs. Crowder, truly apologize for what you went through. It is completely insane, not just to you but to anybody who had something like that happen to you.

Chairman PAUL. Part of oversight is not vendetta or revenge. It is removing people who abuse the civil liberties of Americans. So far the court has been consistent in upholding the President's right to hire and fire people in the Executive Branch. I agree with you completely. Because we need to make sure that these programs do not come back again.

The issue of anonymous accusation reminds me of a scene that I saw in Venice. There is a lion's mouth, Bocca di Leone, and the Doge was like the kind of Venice, and you could anonymously just put it in there. But you could lose your head or be imprisoned for life by an anonymous tip.

One of the evolutions beyond that is sort of the idea of due process, that you cannot just be secretly accused of things. I think there is a real danger to that, and I think that is what happened in this case. If this is somebody who works still as an air marshal, that person does not need to work as an air marshal, if it was a colleague or somebody that tried to get your wife in trouble. Somebody did it. I have a feeling that it is malicious, actually. I do not have information on that, but we want to get to the bottom of that. The people who created and ran all these programs, of course we do.

I think your point is well taken on human rights. We have all kinds of strings that are supposed to be attached to human rights. If you are not a democratically elected government—I have tried using that one before, because there are many coups that occur around the world. We keep sending them. Egypt still lives under a military rule after a coup. Technically, they are not supposed to—there was something called the Lahey Amendments—they are not supposed to get foreign aid now, but we do it anyway. We just exempt them from the Lahey Amendments.

But things that we enforce in other countries we certainly should enforce on others. There are big categories of people—Arab Americans, Muslim Americans—who have been abused by this stuff. But it really is not always just either the color of your skin or the color. It could be the shade of your ideology. You could be a home-schooler or Donald Trump supporter. You could be all kinds of things that may be outside some sort of mainstream. To target those people is anathema to what our country stands for.

I appreciate everything all of you have done in this. I appreciate your testimony today. I would like to enter into the record¹ a set of redacted documents produced to the Committee as part of this

¹The redacted documents entered in the Record appears in the Appendix on page 126.

investigation. I would also like to enter the statements² for the record from the Air Marshal National Council and other stakeholders. Without objection, these records will be entered into the record.

Chairman PAUL. Senator Moreno, do you have any more questions? We have one Senator that wants to come and ask a few questions, so I am going to wait another minute or two. Do you have anything else?

Senator MORENO. No. Mr. Leavitt, you are an attorney. I am not. I will ask you this question. If Congress passed a law, called the Quiet Skies law, what would the Supreme Court say?

Mr. LEAVITT. They have the same substance.

Senator MORENO. Same substance. In other words, if we passed a law that said that the U.S. Government can surveil American citizens who they suspect, without any evidence, of maybe committing a crime, and we passed that law, and we all cheered and we passed it, super bipartisan, and we threw a big party, and had a ribbon-cutting ceremony for the law, and photo op, what would the Supreme Court say?

Mr. LEAVITT. Two thoughts. One, we have seen passed laws that are not that different from that maybe, right, and so it is hard. There is a balance, a policy balance. It is possible the Supreme Court, if it is not nearly tailored enough, would invalidate that.

Senator MORENO. Because it is unconstitutional. Because we have a presumption of innocence in this country. Because if I decide not to wear a mask on an airplane because the rule is insanely stupid, I should not be prohibited from ever flying again. If I want to travel to Washington, D.C., and I want to do whatever I want to do in Washington, D.C., that is well within the bounds of the law, that does not give any administrative agency the right to decide I cannot fly somewhere else. It does not give the government the right to have somebody follow me and creep me out in a bathroom and decide whether I am getting too many sugars in my coffee, or if I am going to the wrong yogurt place. That report should not be published inside some sort of official government document.

Because, Mr. Chair, there is a difference between somebody who has power, because it is given to them, because of some administrative thing. There is somebody that has real power, somebody who has a badge, who has a gun, who has the ability to arrest you, who has the ability to take your civil liberties away. That is what happened over the last four years, and Americans should be equally outraged about all this. This should not be partisan.

Chairman PAUL. But I would interject, and I think it is longer than that, and I think one of the witnesses mentioned this. This fear really originated after 9/11. When they passed the Patriot Act, one of the things in the Patriot Act said that the government could go to your local library and give a secret warrant—it is not a Fourth Amendment warrant; it would be a FISA warrant—and they could get all of the different books that I read when I go to the library. All those could be a confiscated list. But they went even further. They said that the librarian, that you will put the li-

²The statements submitted for the Record appears in the Appendix on page 238.

brarian in jail if she reveals to me that the government is looking at my reading list.

We did a lot of things out of fear, and that fear from 9/11, look, there was anger that was justified. There was a war, I think in many ways also justified. But we let down our guard on our constitutional liberties, and it is in times of fear you have to be most careful about them. We probably have a million Arab Americans in Dearborn. We probably have 10 million Arab Americans that are part of our country. Many of them are citizens. We even have Columbian Americans. They all deserve the same protections. That is many of the reasons why they came here.

Senator MORENO. But it is decently ironic that the Democrats looked the other way while our border was open to 10 million illegals cross our border.

Chairman PAUL. I will grant you that.

Senator MORENO. I will turn things over to my great colleague from Missouri.

Senator HAWLEY. Thank you very much, and thank you, Mr. Chair. Thanks for holding this hearing, No. 1, but thanks for waiting for me, as well. Thanks to all the panel for being here.

Mr. Crowder, I want to start with you, and I apologize if you already covered this. I have been going back and forth to other hearings today. But I just want to ask you, coming back to your wife, did you find out, how did she get added to that database? Why was she flagged in the first place? Who did it? Do you know? I mean, at what level was the decision made?

Mr. CROWDER. That is still something we do not know. It has been unanswered after many attempts by several people.

Senator HAWLEY. Is it your sense that it was an individual, this was a human decision, or is this some kind of an automated thing, based on information they collected about her, personal information, the fact that she was in D.C. on January 6th, that they tagged her? Too bad, she is on the list for years.

Mr. CROWDER. Your guess is as good as mine. She was obviously in the area on January 6th. Whether that prompted somebody to just put her on the list or something else, we do not have the answers.

Senator HAWLEY. Yes, it is just unbelievable. It is a sickening violation of her First Amendment rights, obviously. I want to thank you for your service, and thank your wife for what she has endured. You should never have had to go through it. To be honest with you, what we saw in the aftermath of January 6th, the effort to persecute the President's political opponents, President Biden, that is, it is just unbelievable.

I want to ask you, Mr. Leavitt, if I can, just on that subject, tell me a little bit more about how the Biden administration used the Quiet Skies program, which had existed, obviously, for long before then, but really started using it to target political opponents. It seems like they found, in this program, a great opportunity to start turning the screws down on people that they did not like, including, just ordinary folks like Mr. Crowder's wife. She was not running for office, I mean, she was not running against Joe Biden. But yet, my gosh, she found herself targeted. Is this the United States

of America or not? Talk to us about your understanding of how this happened.

Mr. LEAVITT. After January 6th it is clear, and you see this across a lot of agencies. We have seen this from FBI whistleblowers we represented. The Federal Government took a stance which was that a lot of people with certain political views were threats to our Nation. That certainly manifested itself in lots of ways, and one of those was these different types of travel lists. People who were there on January 6th, as has been mentioned, people that maybe were members of a group or expressed concern about wearing masks in public because of their effectiveness, were all put on lists like these. The most still-unanswered example is Tulsi Gabbard being added to a list after she criticized Kamala Harris, and again, the TSA's self-serving—I can't say TSA—someone in the government's self-serving leak to The New York Times said, "No, no, no, it is OK. It was because she was associated with this person at the Vatican." She went to a conference there. But it clearly says Mick Mulvaney went, as well. Many of you know Mick Mulvaney. He did not get added to a Quiet Skies list when he flew back to the United States. So it just puts the lie to the fact that this was the justification.

Whenever you have secrecy, we are talking about all the civil liberties concerns, but whenever you have secrecy there is also the additional threat that it will be used in secret ways to target people that go above and beyond just, we all have to endure it. It is part of being safe in America today. That is targeting. That is weaponization.

Senator HAWLEY. It is kind of incredible, is it not, that after all these years, to come back to Mr. Crowder's wife, we still do not have any idea exactly how she got added or who did it. There is the evasion of accountability. You cannot go and say, "Well, you are fired. You did that. That is an abuse. You are gone." It is the classic bureaucratic deep state. "Oh, well, we don't know. We don't know quite how it happened." It just so happens, though, that everybody who looks like they may have been politically of a different mindset than the last President gets targeted. Who gets the FBI knocking at their door early in the morning? Is it people who are Biden voters? No. Amazingly, it is not. It is people who go to school board meetings and ask about masking policies. Who gets the FBI's SWAT teams at their door? Oh, it just happens to be pro-life folks, who had the audacity to exercise their First Amendment rights by walking on a sidewalk. It is unlike anything I think we have seen in this country's history.

Mr. Taibbi, if I could just come to you. Will you help contextualize this? We saw, and you reported on this, we have seen abuse across a range of agencies. It was not just Quiet Skies. It was the FBI. It was the Internal Revenue Service (IRS). It was agency after agency. It was DHS, right. It was agency after agency. Just fill in the blanks here for us. Help us understand how this, what we are talking about today, is sadly just one piece of a massive, seemingly whole-of-government approach to try and delegitimize anybody who disagreed with the last administration.

Mr. TAIBBI. Sure, and thank you, Senator Hawley. Just to Mr. Leavitt's point, there are a lot of similarities in the statements of

the FBI whistleblowers that empower or are represented in some of the air marshals that I talked to about this story. Both complained. For instance, there are FBI agents who just sat in vans outside the homes of people who might have been at J6, people who were pulled off details, trying to catch child pornographers to do that kind of work, who were extremely frustrated to be forced to be collecting information on innocent people.

The same thing with Federal Air Marshals who, their job is to prevent terrorists from storming cockpit doors on airplanes. That is a very important job. But we are putting marshals in the backs of airplanes, where they cannot do any good at all, and having them listen to conversations of, a former Congresswoman from Hawaii, and checking how many times they go to the bathroom. It is a total misallocation of resources, and it is politicized information gathering.

Again, I think it is a betrayal of both the people in these services and the American citizens.

Senator HAWLEY. Yes. Very well said, and I just have to say, I appreciate you holding the hearing, Mr. Chair, because I think we have to expose this so that it never happens again. The nearest thing I can think of in our country's history is we briefly, in 1798, toyed with trying to outlaw political dissent, the Alien and Sedition Acts. That unhappy episode was resoundingly rejected by the American people in the election of 1800. That was a long time ago now. You would think that we were past that. And really, what we have seen in the last four years is unlike anything since that period, and much worse because the Federal Government is much more powerful than it was in 1798—the ability to prevent travel, the ability to monitor conversations.

I can just think, off the top of my head, you had the Federal Government telling the big tech companies they have to take down and censor normal Americans who comment on COVID, who comment on masks, who comment on a CRT in the classroom. You have the FBI designating parents who go to school board meetings as terrorists. You have the FBI targeting pro-lifers. You have the FBI recruiting spies into Catholic parishes. You have the Quiet Skies program. I mean, that is just all off the top of my head. That is like six things. It is unbelievable.

We talk about Never Forget. We have to never forget this and make sure it never happens again. Thank you, Mr. Chair.

Chairman PAUL. Thank you. An investigation is not over. We are, today, announcing that we will be investigating the Project on Extremism at George Washington University. We want to know whether or not they were doing research on people not wearing masks or against wearing masks, whether they were doing research on people who attended January 6th, whether Christine Crowder came from George Washington information that was sent over, or whether it came from someone specifically making up something about her.

We are going to get to the bottom of it. We are going to keep asking questions. We are going to find out who did this and who caused such a great disruption to your life for several years. You are the one we know about, and we are going to try to get to the bottom of who did this.

But this is the tip of the iceberg. We hope that anyone who is interested in this will continue to give us information, that more people will step forward. Those of you who are interested in reform participate with us in finding legislative solutions to try to make sure this never happens again.

With that I would like to thank our witnesses for joining us here today to share their testimony and expertise with the Committee. The record for this hearing will remain open until 5 p.m. on Friday, October 3, 2025, for the submission of statements and questions for the record.

The hearing is now adjourned. Thank you.

[Whereupon, at 11:38 a.m., the hearing was adjourned.]

A P P E N D I X

*Examining the Weaponization of the Quiet Skies Program
September 30, 2025
Opening Statement as delivered*

In mid-2024, as she grew increasingly critical of the Biden administration and increasingly involved with the Trump campaign, Tulsi Gabbard noticed changes as she went to the airport, she had more screening federal agents with dogs showing up for her flights. Other federal agents followed her on the plane and reported back on her activity.

When I learned of this, I launched an investigation into the TSA's Quiet Skies Program and the Biden administration's weaponization of watch list against everyday Americans

Under public scrutiny the Biden administration removed now Director of National Intelligence Gabbard from the program, but they spent the remainder of their time in office stonewalling any investigation.

Thankfully, that era is over. President Trump, himself a victim of government weaponization, set out to reverse the previous administration's targeting of the very citizens it has sworn to protect.

Secretary of Homeland Security Kristi Noem has taken decisive action to eliminate bureaucratic obstacles resisting transparency. We are finally getting answers, and now we know exactly why the previous administration fought so hard to keep us in the dark.

Director Gabbard was surveilled on at least five domestic flights by Federal Air Marshals under Quiet Skies. Internal records for her targeting show her congressional portrait and that she was a former congresswoman from Hawaii.

So, there was no doubt they knew who they were monitoring.

Multiple concerns were raised internally, and one air marshal asked a colleague, why the heck is she a Quiet Skies suspect? If this can happen to a combat veteran, a lieutenant colonel in the Army Reserve, and now Director of National Intelligence, it can happen to anyone. And it did.

Today, for the first time, you will hear directly from a Federal Air Marshal whose wife was labeled a domestic terrorist simply for engaging in protected First Amendment activity. Records show the FBI labeled her as a domestic terrorist for unlawful entry into the Capitol on January 6th.

But she didn't enter the Capitol. She came for a public, support of the President, and they knew it. Her phone location data did not put her inside the Capitol. Facial recognition did not identify her inside. She had no criminal record and no history of extremist views.

What they did know is that this Catholic schoolteacher from Texas supported President Trump and went to Washington to attend his rally at the Ellipse. That was not enough for the government. That was not enough to label her a suspected domestic terrorist for two years.

Her family was surveilled when they flew. This was not an isolated case. It happened to hundreds of Americans. It happened because the TSA used First Amendment protected activity as a predicate for watch listing Americans. That's unconstitutional, of course. First Amendment activity cannot be the sole basis for watch listing someone, but sole basis is an important caveat and it's an opening the TSA exploited.

Today we will release internal TSA records that reveal how the agency authorized First Amendment activity to be used to justify the surveillance of Americans with no evidence and no recourse.

Using broad and vague authorities, TSA deemed hundreds of Americans as threats to national security simply for holding opposing political views. The federal government used its investigative authorities, anonymous tips and university research institutions to build a flimsy case to put them on the watch list.

They didn't just coincidentally watch list hundreds of people who attended the same Trump rally. They did it intentionally and obscured the process to create plausible deniability. For example, documents obtained in my investigation reveal that TSA relied on data collected by the George Washington University Project on Extremism.

Consider this first, DHS funds the Project on Extremism. An external partner not bound by the same laws and regulations as federal agencies. Then, the Project on Extremism identifies supposed domestic threats by meticulously tracking January 6th defendants. DHS then uses the Project on Extremism reporting as evidence, sometimes the only evidence for putting someone on a watch list.

But the abuses weren't limited to January 6th. The TSA also viewed skeptics of COVID mandates as threats.

Simply removing a mask on an aircraft got 12 Americans watch listed. Records also show three current members of Congress, all Republicans, were included in the companion Silent Partner Program either as a sitting member or while seeking elected office.

A cursory review would have revealed them to be either a member of Congress or decorated active or former US Military members. And in fact, they were surveilled, likely for activities that were official duties during their time in the military or in Congress.

All of this was wrong, and I'm glad that these abuses are beginning to be exposed.

I commend Secretary Noem for ending Quiet Skies, but our work is not done. We must make sure that this program does not come back under another name.

Every official who directed or approved surveillance of Americans for protected speech must be removed from office.

Full transparency must become the rule rather than requiring a year of investigation. The result will be a process that respects the Constitution, ends real life shadow bans against Americans and gives all of us the assurance that our government is focused on protecting us, not on chasing political ghosts.

**Opening Statement of Ranking Member Gary C. Peters
Nomination Hearing
July 24, 2025**

Thank you, Chairman Paul.

Throughout my time in Congress, I have heard repeatedly from my constituents – particularly from members of Michigan’s Arab and Muslim American community – about serious issues with the government’s watchlisting and travel screening practices.

While I appreciate the opportunity to discuss that today, I first want to raise concerns about some of the other critical national security work this Committee is responsible for – but unfortunately, the Chairman of this Committee has not prioritized.

In a matter of hours, two critical homeland security authorities are set to expire: cybersecurity information sharing protections that protect our economy against cyber attacks, and authorities that allow federal law enforcement to detect and mitigate threats posed by drones.

We were scheduled to discuss these two bills to renew and improve these authorities two weeks ago, but unfortunately the Chairman abruptly canceled the meeting with absolutely no explanation.

And while there is a two-month extension for both authorities included in the continuing resolution, that is only meant to be a stopgap. The Committee needs to do its work to reauthorize both of these pieces of legislation.

But even though bipartisan leaders in the House, as well as the Trump Administration and a bipartisan coalition in the Senate, all support extending this legislation for 10 years, Mr. Chairman, you have not held a single hearing on these issues, and you cancelled the only meeting where the Committee had the opportunity to discuss them. These actions risk making our nation less safe.

This committee should not simply walk away from its responsibility to actually be a leader on critical homeland security matters.

And similarly, while I share your concerns about government being weaponized for political purposes, quite frankly I find it odd that you have chosen to look backwards now that this program has ended, while at the same time President Trump is openly directing the Justice Department to prosecute his perceived enemies, by ordering also the closure of bribery investigations into a political ally who’s been investigated for taking bribes. We also recently saw the Chairman of the Federal Communications Commission openly threaten the licenses of media companies over First Amendment protected speech.

Chairman, I hope you will devote this Committee's resources to conducting oversight of the current Administration as well.

Turning to today's topic: in December 2023, I published a report that demonstrated how well-intentioned screening practices have ballooned into a layered and duplicative system that sweeps up travelers who may pose no threat to national security, especially among Arab, Muslim, and South Asian American travelers.

At that time, there were at least 22 different mechanisms that could lead a traveler to receive extra screenings or be denied boarding.

Americans must navigate this complex system with no explanation of why their travel is delayed or disrupted, and they have no real opportunity to fully redress what prompted additional screening in the first place.

Congress doesn't even have a complete picture of the full scope of this system and the impact that it's had on everyday Americans.

Almost all of the oversight mechanisms are internal to the executive branch, such as the Privacy and Civil Liberties Oversight Board and the Civil Rights and Civil Liberties Office at DHS.

Unfortunately, with the Administration's attacks on oversight, those mechanisms have now been gutted, eliminating one of the few checks and balances that protect Americans' rights in this process.

That's why – following my report – I introduced, and this committee passed, the Enhanced Oversight and Accountability in Screening Act – the first real effort to provide more transparency and more oversight of this entire system of screenings.

This legislation requires DHS to reform the redress process and provide Congress with data on enhanced and secondary screenings by TSA and CBP, including their effectiveness. At the time, I asked – Mr. Chairman – you to join me in working on this legislation, but instead you and the entire Republican dais voted against this transparency legislation. I am working to update it now and would certainly love to have folks on this Committee join me in re-introducing this updated version in a bipartisan way.

As I've said countless times before, we must be able to protect our nation, but Americans who pose no threat to national security should not face a maze of travel screenings and a flawed redress process.

We must bring transparency and accountability to our travel screening practices so we can ensure the government is effectively protecting our national security, while also protecting the civil rights and civil liberties of travelers.

SENATE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
EXAMINING THE WEAPONIZATION OF THE QUIET SKIES PROGRAM
SEPTEMBER 30, 2025

TESTIMONY OF TRISTAN LEAVITT
PRESIDENT
EMPOWER OVERSIGHT

Chairman Paul, Ranking Member Peters, and Members of the Committee, thank you for inviting me to testify today. I was last before this Committee in 2021 when it considered my nomination to the Merit Systems Protection Board, and it's a privilege to be with you again.

Empower Oversight provides legal representation to brave whistleblowers across the federal government. We are honored to represent several Air Marshals, including Senior Air Marshal Mark Crowder.

After the terrorist attacks of September 11, 2001, the federal government developed the Terrorist Screening Database, also known as the Terrorist Watchlist.¹ The Federal Bureau of Investigation (FBI), which maintains the Terrorist Watchlist, has acknowledged in the past that the Terrorist Watchlist contains hundreds of thousands of individuals;² however, they claim “[m]ost people on the terrorism watchlist are not Americans, and they have no known connection to the U.S.”³

Of the individuals in the TSDB, a portion are on a “Selectee List” or “Expanded Selectee List” to receiving additional airport screening from TSA.⁴ (An even smaller number of individuals are on TSA’s “No Fly” list and prohibited from flying in or out of the United States.⁵) For individuals on the Selectee List or Expanded Selectee list, TSA assigns Special Mission Coverage (SMC) when they fly. SMC entails additional airport screening, such as canine teams, pat-downs, and luggage search, as well as additional screening at the gate sometimes.⁶ TSA also assigns multiple Air Marshals to surveil SMC subjects inside the airport and monitor them on the flight.

As part of its Secure Flight vetting program, in April 2012 TSA implemented the Quiet Skies program, which assigns SMC to passengers who are not on the Selectee List or Expanded Selectee List—or even on the Terrorist Watchlist at all. Rather, the Quiet Skies rules (which are classified) are criteria under which a passenger is flagged for the additional screening. While an

¹ See *Terrorist Screening Center*, Federal Bureau of Investigation, <https://www.fbi.gov/investigate/terrorism/tsc>.

² See Federal Bureau of Investigation, “Terrorist Screening Center,” <https://archives.fbi.gov/archives/about-us/ten-years-after-the-fbi-since-9-11/just-the-facts-1/terrorist-screening-center-1>.

³ *Terrorist Screening Center*, Federal Bureau of Investigation, <https://www.fbi.gov/investigate/terrorism/tsc>.

⁴ *Step 1: Should I Use DHS TRIP?*, Department of Homeland Security, <https://www.dhs.gov/step-1-should-i-use-dhs-trip>; Government Accountability Office, *AVIATION SECURITY: TSA Coordinates with Stakeholders on Changes to Screening Rules but Could Clarify Its Review Processes and Better Measure Effectiveness*, GAO-20-72, Nov. 2019, at 5, <https://www.gao.gov/assets/gao-20-72.pdf>.

⁵ *DHS Traveler Redress Inquiry Program*, Transportation Security Administration,

<https://www.tsa.gov/travel/security-screening/travel-redress-program>.

⁶ See *Security Screening*, Transportation Security Administration, <https://www.tsa.gov/travel/security-screening>.

individual is on the Quiet Skies list, their boarding pass is supposed to display the “SSSS” (so-called “quad-S”), notifying TSA of the additional screening requirement.⁷

TSA described the Quiet Skies program as a “risk-based, intelligence-driven” way to mitigate the threat posed by “unknown or partially known terrorists.”⁸ Yet when TSA expanded the Quiet Skies program in 2018 to include not just TSA screening but also the assignment of Air Marshals for surveillance, Air Marshals blew the whistle to the *Boston Globe*.⁹ Congress and the public were outraged about the extent of the surveillance of ordinary American citizens, who were being treated like terrorists. One Air Marshal, for instance, reported surveilling a Southwest Airlines flight attendant during a Quiet Skies mission, remarking to colleagues, “Cannot make this up.” Air Marshals are required to answer a series of questions about the subject of the Quiet Skies surveillance.¹⁰

In October 2018, as part of the TSA Modernization Act, Congress required that TSA conduct regular assessment of the Quiet Skies rules. In a study mandated by the law, the Government Accountability Office found TSA had not found a way to fully assess the rules’ effectiveness “because it was difficult to measure.”¹¹ But a November 2020 DHS OIG report found that over the three and a half years from October 2015 to February 2019, TSA was unable to confirm that a single passenger who received SMC under Quiet Skies was an aviation security threat.¹²

That same DHS OIG report concluded TSA “did not properly plan, implement, and manage the Quiet Skies program[.]”¹³ Specifically, DHS OIG found TSA “lacked sufficient, centralized oversight to ensure the Quiet Skies program operated as intended” and therefore “did not . . . always adhere to its own Quiet Skies guidance.”¹⁴ For example, the DHS OIG found “TSA may not have always removed passengers from the Quiet Skies list” like its implementation plan required.¹⁵ According to the DHS OIG, “The removal guidelines are intended to preserve travelers’ privacy, civil rights, and civil liberties[.]”¹⁶ The DHS OIG also criticized TSA for using SMC guidance for the Quiet Skies program, which “applies to high-risk travelers on active Federal Government watchlists and is not designed for Quiet Skies passengers who are unknown risks.”¹⁷

⁷ Department of Homeland Security, Office of Inspector General, *TSA Needs to Improve Management of the Quiet Skies Program (REDACTED)*, OIG-21-11, Nov. 25, 2020, at 8, <https://www.oig.dhs.gov/sites/default/files/assets/2020-11/OIG-21-11-Nov20-Redacted.pdf>.

⁸ Transportation Security Administration, *Facts About the “Quiet Skies,”* Aug. 22, 2018, <https://web.archive.org/web/20201020122942/https://www.tsa.gov/blog/2018/08/22/facts-about-quiet-skies>.

⁹ Jana Winter, *In ‘Quiet Skies’ Program, TSA is Tracking Regular Travelers Like Terrorists in Secret Surveillance*, *Boston Globe* (July 28, 2018), <https://apps.bostonglobe.com/news/nation/graphics/2018/07/tsa-quiet-skies>.

¹⁰ *Id.*

¹¹ Government Accountability Office, *AVIATION SECURITY: TSA Coordinates with Stakeholders on Changes to Screening Rules but Could Clarify Its Review Processes and Better Measure Effectiveness*, GAO-20-72, Nov. 2019, at 15, <https://www.gao.gov/assets/gao-20-72.pdf>.

¹² Department of Homeland Security, Office of Inspector General, *TSA Needs to Improve Management of the Quiet Skies Program (REDACTED)*, OIG-21-11, Nov. 25, 2020, at 30, <https://www.oig.dhs.gov/sites/default/files/assets/2020-11/OIG-21-11-Nov20-Redacted.pdf>.

¹³ *Id.* at 2.

¹⁴ *Id.* at 3.

¹⁵ *Id.* at 7.

¹⁶ *Id.*

¹⁷ *Id.* at 10.

After January 6, 2021, the FBI contacted TSA to obtain flight manifests for all individuals who traveled into Washington, D.C. surrounding that date. Our client Mr. Crowder's wife attended President Trump's January 6, 2021 speech at the Ellipse, but did not go near the U.S. Capitol building or even pass the Capitol Reflecting Pool. In the summer of 2021 Mr. Crowder learned his wife Christine had been added to the Terrorist Watchlist and assigned SMC; her TSA file falsely stated she "unlawfully entered the United States Capitol Building on 1/06/2021." Mrs. Crowder filed a complaint with the Department of Homeland Security (DHS) Office of Inspector General (OIG), but received no response.

Mr. Crowder approached Empower in 2022 through Air Marshal National Council Executive Director Sonya LaBosco. With Empower's support, Mr. Crowder made disclosures to the U.S. Office of Special Counsel of the false federal record, the complete waste of funds in designating her a "domestic terrorist" to be monitored by law enforcement, and the abuse of authority in keeping her on the list. OSC's only response to the complaint was: "While you disagree with the decision to keep your wife on the list of domestic terrorists, we could not determine that such actions go beyond the discretion afforded to agency management."

OSC recommended contacting the DHS OIG if Mr. Crowder wanted to pursue the matter further, so he did. This time, the OIG wrote back in January 2023 that it was forwarding his allegations to its Office of Investigations for review. Fortunately, in the spring of 2023 the Crowders were able to get the FBI to remove Mrs. Crowder from the terror watchlist she never should have been on. But disappointingly, in the nearly three years since the DHS OIG received Mr. Crowder's filing, there has been no indication they performed any investigation, such as into why TSA's protocols didn't firewall Mr. Crowder from learning of his wife's monitoring if she was indeed some "domestic terrorist."

In the beginning of August 2024, Ms. LaBosco contacted Empower Oversight again when Air Marshals wanted to blow the whistle on the addition of Tulsi Gabbard to the Quiet Skies program. As we interviewed those whistleblowers, we learned Ms. Gabbard was added on July 23, 2024—just one day after she made statements on Fox News critical of Vice President Kamala Harris, who had just become the presumptive Democratic Party presidential nominee. Rather than using Ms. Gabbard's passport photo per protocol, the person who placed her on the list used her official congressional photo, removing any doubt that they knew her identity as a former Member of Congress. And the whistleblowers understood that despite being a Lieutenant Colonel in the Army Reserves, TSA protocol did not involve informing a Quiet Skies target's unit, strongly undermining the idea that they posed any threat.

These initial whistleblower disclosures were made to the outlet UncoverDC, which resulted in an article by Wendi Strauch Mahoney. Despite our experience with the OIG failing to investigate the Crowders' situation, we immediately wrote to them about Ms. Gabbard's monitoring.¹⁸ We also wrote a six-page letter making protected disclosures to Congress, including this

¹⁸ Empower Oversight, "Whistleblowers: Air Marshals Improperly Targeting Americans for Surveillance," Aug. 6, 2024, <https://empowr.us/whistleblowers-air-marshals-improperly-targeting-americans-for-surveillance>.

Committee.¹⁹ That letter resulted in several Members writing to DHS demanding explanations. We deeply appreciate that Chairman Paul didn't give up on asking those questions. His persistence was critical to ensuring Secretary Noem became aware of the program and ended it once and for all.

However, this victory could prove temporary if we fail to process certain lessons.

The first is that protecting civil liberties always requires oversight. Any program that invokes national security to shroud government action in secrecy has the potential for abuse. Independent oversight is crucial to shining a light to detect or prevent such abuse.

On January 28, 2025, *The New York Times* published a large amount of information leaked from the government about Ms. Gabbard being added to Quiet Skies.²⁰ The article claimed Ms. Gabbard wasn't targeted for political reasons, but rather because she traveled to the Vatican and attended a conference organized by a private equity investor she didn't know was on an FBI watch list. Yet the article said the meeting took place under the auspices of Pope Francis' second-in-command, and also that she was invited by and attended the conference with former OMB Director Mick Mulvaney. TSA's self-serving leak begs the question: If Ms. Gabbard wasn't targeted, why wasn't Mr. Mulvaney also added to Quiet Skies when he flew back to the U.S.? Was it because Mulvaney didn't speak out on Fox News about Kamala Harris's nomination? Or because he had not run in the last Democrat primary against the sitting president and vice president? Any report into what happened here has to address that central question.

And there must be a report. Secretary Noem announced that "the Quiet Skies program was used as a political rolodex of the Biden Administration,"²¹ but provided few other details besides confirming reports that one elected official had her husband removed with a simple phone call.²² The full story of what happened here and how must be documented and told to the American people.

Empower Oversight recently called on the DHS OIG to finish its work and make its report on Ms. Gabbard public.²³ Though inspector general reports with personal information are often only released internally to the agency, there is a clear public interest here given Ms. Gabbard's prominence, the allegations of political targeting, and the large amount of information the

¹⁹ Empower Oversight, *Air Marshal Whistleblowers Allege Gross Waste and Abuse of Authority in Protected Disclosures to Congress*, Aug. 14, 2024, <https://empowr.us/air-marshall-whistleblowers-allege-gross-waste-and-abuse-of-authority-in-protected-disclosures-to-congress>.

²⁰ Mark Walker, et al., *A Vatican Meeting Added to Scrutiny of Tulsi Gabbard's Foreign Travels*, *New York Times* (Jan. 28, 2025), <https://www.nytimes.com/2025/01/28/us/politics/tulsi-gabbard-trump-intel-pick-watch-list.html>.

²¹ Department of Homeland Security, *Secretary Noem Ends Politicized TSA Watchlist Program That Has Failed to Prevent a Single Terrorist Attack in its Existence; Calls for Congressional Investigation*, Jun. 5, 2025, <https://www.dhs.gov/news/2025/06/05/secretary-noem-ends-politicized-tsa-watchlist-program-has-failed-prevent-single>.

²² Jennifer Jacobs, *When a U.S. senator's husband landed on a travel watchlist, a phone call had him removed*, *CBS News* (Jun. 3, 2025), <https://www.cbsnews.com/news/senator-jeanne-shaheen-husband-travel-watchlist-phone-call-had-him-removed>.

²³ Empower Oversight, *Empower Oversight Urges DHS Inspector General to Complete Investigation into Politicized TSA Surveillance Programs*, Jun. 25, 2025, <https://empowr.us/empower-oversight-urges-dhs-inspector-general-to-complete-investigation-into-politicized-tsa-surveillance-programs>.

government already leaked to *The New York Times*. DHS OIG has released similar reports in the past when they involved public figures.²⁴ Accountability cannot be guaranteed if this is swept under the rug in a private report.

Any investigation should not be limited to Ms. Gabbard's case. There should also be individual accountability for anyone found to have violated TSA protocols to add individuals for Special Mission Coverage—or given special treatment for political reasons as a favor or otherwise. While DHS could implement that accountability on its own, a thorough report will aid in proposing discipline to any who committed misconduct.

Finally, we have to continue protecting brave government whistleblowers. It was obviously no secret to Ms. Gabbard that she had to go through extra screening when she was added to the Quiet Skies list.²⁵ But without courageous whistleblowers stepping forward, she might never have known it wasn't just a random selection, but rather the result of being placed in a government program.

After the whistleblowers made their anonymous disclosures, we were alerted that TSA had opened an investigation to determine who disclosed the information to the press.²⁶ The exact legal question of whether whistleblowers are allowed to disclose so-called Sensitive Security Information (SSI) to the media came up in the case of Air Marshal Robert MacLean. When his case went before the Supreme Court in 2013, I organized a bicameral, bipartisan amicus brief noting TSA's regulations could not trump the statutory guarantees of the Whistleblower Protection Act.

We wrote:

As a practical matter, moreover, Congress commonly learns of agency misconduct indirectly, when employees blow the whistle to the media or other intermediaries first. Some whistleblowers may view Congress as too politicized or intimidating. But they may see the media as a disinterested Fourth Estate willing to take up a cause in the public interest, or as the quickest and surest way to impose accountability. Other whistleblowers may want to convey information to Congress but not see a clear route to the right offices or committees. In such cases, disclosure to the press is an effective way to disseminate information widely to Members of Congress and their staffs. It can also attract public attention and generate

²⁴ See, for example, DHS OIG's report on the improper accessing of House Oversight Chairman Jason Chaffetz's personal data by the U.S. Secret Service. Department of Homeland Security, Office of Inspector General, *Investigation into the Improper Access and Distribution of Information Contained Within a Secret Service Data System*, Sep. 25, 2015, https://www.oig.dhs.gov/sites/default/files/assets/Mga/2016/OIG_mga-092515.pdf.

²⁵ See Matt Taibbi, *American Stasi: Tulsi Gabbard Confirms "Quiet Skies" Nightmare*, Racket News (Aug. 7, 2024), <https://www.racket.news/p/american-stasi-tulsi-gabbard-confirms>.

²⁶ See Empower Oversight, *Empower Oversight: TSA Opens "Leak" Probe to Hunt Whistleblowers on Gabbard Surveillance*, Aug. 7, 2024, <https://empowr.us/empower-oversight-tsa-opens-retaliatory-investigation-to-punish-whistleblower-in-release-of-gabbard-surveillance-information>.

momentum for Congressional oversight in a way that contacting Congressional offices privately might not.²⁷

A Supreme Court majority agreed with us about the supremacy of the whistleblower protection law.²⁸ They did note:

Finally, the Government warns that providing whistleblower protection to individuals like MacLean . . . would make the confidentiality of sensitive security information depend on the idiosyncratic judgment of each of the TSA's 60,000 employees. And those employees will "most likely lack access to all of the information that led the TSA to make particular security decisions." . . . Those concerns are legitimate. But they are concerns that must be addressed by Congress or the President, rather than by this Court.

Yet neither Congress nor the President has elevated the status of SSI in the decade since. Needless to say, we cited the Supreme Court precedent when making clear that investigating our clients' whistleblower disclosures as a breach of SSI would be very unwise.

While TSA did drop its leak investigation, it is imperative that everyone understand that holding government accountable requires protecting whistleblowers. They are the first line of defense against waste, fraud, and overreach by the federal government.

Thank you.

²⁷ Brief for Members of Congress as Amici Curiae Supporting Respondent at 6, *Dep't of Homeland Sec. v. MacLean*, 575 U.S. 383 (2015) (No. 13-894), <https://www.wyden.senate.gov/imo/media/doc/Members%20of%20Congress%20MacLean%20Amicus%20Brief.pdf>.

²⁸ *Dep't of Homeland Sec. v. MacLean*, 575 U.S. 383 (2015).

HSGAC Statement

By Matt Taibbi

Last year, former Hawaii Congresswoman and Presidential Candidate Tulsi Gabbard was placed in a surveillance program called Quiet Skies by the Transportation and Security Administration. Across eight flights she was subject to intrusive searches, followed by bomb-sniffing dogs, and trailed by three Federal Air Marshals per flight, who if they were following procedure were attempting to listen to her conversations, recording how often and at what times she went to the bathroom, and following her to airport exits to see who if anyone met her.

In covering the story I contacted the TSA to ask for comment. They no-commented the main question – “TSA does not confirm or deny whether any individual has matched to a risk-based rule,” they said – but they added, as if in mitigation: “Simply matching to a risk-based rule does not constitute derogatory information about an individual.”

In other words: “We can’t say if Ms. Gabbard was in the program, but if she was, don’t draw conclusions, because we do this even to innocent people.”

Before Quiet Skies was discontinued by this administration, it was a symbol of the steep decline of federal enforcement since 9/11. This program wasted enormous sums following up to 50 people a day for a program that in its history never once led to an arrest, or thwarted a single criminal act. Despite its demonstrated inutility and grave civil liberties concerns it was re-funded year after year because this is what our government does now: it gathers information on its own citizens as an end in itself.

In a week in which the question of whether federal security officials always tell the truth to Congress is back in the news, it’s worth noting that it’s been 13 years since then-National Intelligence Director James Clapper answered, “No, sir,” and “Not wittingly” when Senator Ron Wyden of Oregon asked, “*Does the NSA collect any type of data at all on millions, or hundreds of millions of Americans?*”

Clapper later explained that he’d responded in the “least most untruthful manner.”

That episode solidified the principle that if you lie about mass surveillance programs in America, even under oath, you not only get to keep your job, you get to be a National Security Analyst for CNN. If you try to tell the truth about the same issues, your options are prison or leaving the country.

In those 13 years since, Americans became numb to surveillance. It was once a core principle that government shouldn’t spy on citizens without predication. Now much of the

country accepts as inevitable the idea that every move we make is being recorded and analyzed.

We know emails and phone conversations are being collected passively, via programs of dubious legality, and the data we leave behind as our lives move online– from geolocations of cell phones to GPS tracking to travel, banking, and medical records – are fodder for overt and covert acquisition by federal analysts. As [Google admitted last week](#), federal officials partnered with companies not just to monitor speech but to suppress it on a grand scale.

A lot of these changes have their roots in War on Terror programs that exchanged predication for a pre-crime theory out of *Minority Report*. Quiet Skies was the paradigmatic example of a program that could take endless liberties with the Constitution because it was secret. When you gather information with no intention of going to court, as the TSA did with Quiet Skies, you never have to justify yourself to a judge. This leads to a lot of what one court called “exploratory rummaging” in the lives of innocent people.

This is a betrayal not just of the public but of people we trained at taxpayer expense to do real and important work. Former Marshal Robert MacLean put it best when he said “[The air marshal's job is to protect the cockpit and the pilots. Let somebody else do the intelligence.](#)” Similarly in the last decade current and former FBI agents – Tristan’s firm has represented a number of them – have talked about how since 9/11, federal agents build fewer cases but do more generalized spying, much of it political. One agent I interviewed said “The distinction between people who believe bad thoughts and people who do bad things” has been “completely lost” since 9/11.

This is not okay. Once you start down the road of collecting information on innocent people, it creates the intellectual justification for doing it again and again. From a contracting perspective, this is the proverbial self-licking ice cream cone, an upward spiral of endless expense. Morally, all this information-gathering reverses the natural political order, giving elected officials undeserved and unearned power over their bosses – the voters. These programs all need to be reevaluated. A lot of them have to go. People who lie about them need to be fired. Let’s hope the elimination of Quiet Skies is just the beginning.



Statement before the Senate Committee
on Homeland Security and Governmental Affairs
On the Weaponization of the Quiet Skies Program

Counterterrorism Security Conundrums and the Demerits of Watch-Listing

JIM HARPER
Senior Nonresident Fellow

September 30, 2025

Executive Summary

The story of Quiet Skies is a useful indictment of an entire genre of counterterrorism program, the “watchlist.” Watch-listing is a constitutional and security half-measure that departs from traditional law enforcement and security principles, such as separation of powers and the presumption of innocence.

By focusing on people first rather than prevention of crime and attack, watch-lists invite inquiry into motivation and ideology, ethnic and national background, so they will tend to threaten violations of First Amendment speech and association rights as well as wrongful discrimination. Comparing various dimensions of conventional law enforcement and counterterrorism helps to show why programs like watch-listing are fraught.

The strategic logic of terrorism is to seek overreaction on the part of victim states, with results including waste of blood and treasure and delegitimization. Quiet Skies has been a waste of taxpayer dollars and, misused for political purposes, a delegitimizing influence on domestic U.S. constituencies. There is a literature on terrorism risk management and “layered” security that could improve counterterrorism and homeland security programs.

Potential steps to foreclose the “next” Quiet Skies include reducing Congress’s delegation of authority to the Department of Homeland Security, greater congressional oversight, improving public oversight by reducing secrecy, increasing judicial oversight by affirming a right to travel, and privatization of at least some security responsibilities.

Chairman Paul, Ranking Member Peters, and members of the committee,

Thank you for the opportunity to testify before you today. I am Jim Harper, a nonresident senior fellow with the American Enterprise Institute and a senior research fellow at the University of Florida's College of Journalism and Communications, First Amendment Project. For twenty-five years, I have been a policy analyst specializing in the intersections among law, technology, and society. My legal education focused on constitutional law, and my major area of professional focus has been privacy. I was drawn into counterterrorism because of the privacy consequences of many counterterrorism programs.

Your committee and my co-panelists have revealed and articulated the misuses of the Quiet Skies program and other watchlists. I will focus on the question of how to prevent the misuses of such programs in the future. The answers, I believe, lie in understanding the security conundrums created by terrorism and the institutional dynamics of all actors around the homeland security enterprise. These dynamics created a program, Quiet Skies, the existence of which delivered marginal or zero security gains. That program could be warped to political purposes without security costs.

Recognizing those dynamics may help you devise risk-management systems and institutional relationships that direct homeland security programs toward cost-efficient success while immunizing against misuse such as the political shenanigans that have been credibly alleged here. As we approach a quarter century dealing with security against terrorism, there is still much work to do on producing balanced, threat-appropriate responses consistent with American values and our fundamental law. We are still paying the price of terrorism in the form of overreaction, and that is terrorism's ongoing success.

Introduction

We enter into political society to secure our pre-existing, God-given rights against each other and outsiders. In doing so, we embrace the risk that the government we have formed for our mutual protection may invert its role and threaten those rights. This, in dressed up language, is what happened in the case of Quiet Skies. Rather than protect Americans' rights, the program invaded them.

Quiet Skies is in a category of homeland security programs with a native disability: it is oriented toward counterterrorism. That orientation is a recipe for failure—not because of successful terrorist attacks, but because securing against terrorism is a *sui generis* problem. It's actually a series of *sui generis* problems dressed up as a coherent security

problem by the similarity of their potential effects on our population, the creation of fear or “terror.”¹

We don’t know what any future terror attack will look like. We don’t know who will execute it or try to. Those problems had greater salience in the past. The blessing of having so few terrorist attacks is the curse of counterterrorism programs because our security agencies have no model of what to look for or pursue. So the imperative in counterterrorism is to look everywhere for anything. The natural result of such a diffuse charge is that programs such as Quiet Skies do essentially nothing, creating room for using the program to dole out penalties and favors: for monitoring of political enemies and release from monitoring for political friends.

Investigating People Rather than Wrongdoing

The story of Quiet Skies is a useful indictment of an entire genre of counterterrorism program, the “watchlist.” The watchlist concept has existed long enough now that it may seem to be a valid security practice, but it is an investigatory and constitutional half-measure that wastes resources as it threatens our liberties.

Consider the Kafkaesque absurdity of the watchlist as such. It is a list of people who are bad enough to be put on a list, their freedoms to be shaved down in various clandestine ways, but not bad enough to be fully investigated, arrested, and charged. By doling out minor punishments and derogations on freedom unilaterally, watch-listing defies our constitutional separation of powers, in which law enforcement is supposed to bring charges to be adjudicated in the judicial branch. Watch-listing derogates from the presumption of innocence, an ancient legal principle adopted into English and then American common law.²

My surmise is that watch-listing is an upshot of the strange psychology of counterterrorism.

¹ “Terrorism” resists a workable definition. Here I am using the “terror” and “terrorism” concepts in their limited sense indicating activities by people with ideological or political agendas that create broad-based fears, not as the all-purpose epithet lobbed at political or ideological opponents who commit crime.

² See A.H. Godbey, “The Place of the Code of Hammurabi, 15 *The Monist* 199, 210 (Apr. 1905) (“It is a fundamental principle of the code of Hammurabi that the presumption is always in favor of the innocence of the accused: the burden of proof is thrown upon the accuser.”); John Sassoon, *Ancient Laws & Modern Problems: The Balance Between Justice and a Legal System* 41-44 (2004) (recounting an ancient legal dispute in which “Ninkuzu is the accuser and the heirs of Atu are the accused; and the burden of proof rested in the third millennium BC where it would rest today – with the accuser.”).

Acts of terror are an infinitesimally small risk to Americans' lives and limbs. In 2009, John Mueller of the Ohio State University cited the chance of anyone living outside a war zone being killed by an international terrorist at about 1 in 75,000 over an 80-year period. The chance of dying in an automobile accident over the same interval was about 1 in 80—three orders of magnitude greater.

It is worthwhile to encourage loved ones to drive safely. Terrorism shouldn't—and generally doesn't—even cross people's minds when they go out in the world.

In the absence of September 11-scale attacks every several years—which has been the case in the years since Mueller produced these numbers—the chance of death by terror attack falls to about 1 in 130,000. Mueller characterized that as similar to the risk of being struck by an asteroid.³

The statistically tiny threat of terrorism doesn't seem to matter. It certainly didn't matter in the years immediately after 2001.

Terrorism put us in a thrall, and it affected how we all think about security. There was something about the dramatic video imagery we saw over and over again, something about the idea that exotic looking men in faraway places hate us and our way of life (so we told ourselves; there is research on their actual motivations). These dynamics put us in a movie where we would do battle as a nation with supervillains. We began a figurative "War on Terror," which was understandable but unwise and counterproductive, as a strategy cannot be defeated.

It is no surprise that all this affected our approach to security. Where dispassionate security analysis would have focused on prevention—making sure nobody could do bad things—we were drawn to interdiction—focusing on bad people.

On the security merits, watch-listing is poor practice. The ideal in watch-listing is that you are able to discern who among, perhaps, *everyone in the world* wants to do you harm. To do watch-listing well, you need to know who among those are idle blowhards and who actually have the motivation and acuity to do something. You have to recognize a change in these states: when an inept hater gathers enough knowledge and will to act, when a capable opponent loses will or skill. Watch-listing naturally drives toward investigating such things as motivation and ideology, or ethnic and national background, so it invites violations of

³ Cato Institute, "Shaping the Obama Administration's Counterterrorism Strategy Policy Forum," Cato Policy Report 11-12 (Mar./Apr. 2009) <https://www.cato.org/sites/cato.org/files/serials/files/policy-report/2012/8/cpr31n2-5.pdf>.

First Amendment speech and association rights as well as wrongful discrimination. To do watch-listing, you also need strong enough identity systems and information to make sure that you recognize those people when they arrive at gateways, such as the U.S. border, airports, or any other place they might act. The overwhelming difficulty of securing ourselves in this manner, by orienting toward bad people, drives the conclusion that it is a fraught exercise.⁴

We do focus on people in security and law enforcement, of course. But that focus is generally reserved for when the security systems that work against *anyone* have failed.

Think freshly about how security works. We live and many work inside buildings, which naturally protect. We lock their doors and windows at night. We have dogs, alarm systems, and neighbors, or all of the above. We hide valuables. We have police forces that circulate in towns and cities. These are a few of the many infrastructures and practices that provide the bulk of our security without reference to who may do wrong. Most security is prevention.

Criminal law enforcement generally kicks in after those background systems are defeated. It is then that we start to ask about people—who did it, where they have gone, what they have done with the proceeds of criminal activity, who they worked with, and so on. (Systematic efforts to defeat preventive security systems—conspiracies, racketeering, and so on—also invite criminal law investigations, of course.)

Watch-listing can't ask any of the questions that criminal law enforcement does, because nothing has happened. What watch-listing has produced instead seems to be a CYA system for security bureaucrats.⁵ For any given security bureaucrat that comes across a potential bad person, the incentive set is clear. If you do nothing and they act, you will be blamed for failing to intervene. Nominating that person for a watchlist “does something,” absolving you of responsibility in the event of a bad outcome. It is buck-passing exercise, because the placement of a person on a watchlist does not actually start or contribute to a

⁴ See American Civil Liberties Union, “What’s Wrong With the Government’s Rules for Watchlisting” https://www.aclu.org/sites/default/files/field_document/watchlisting_guidance_takeaways.pdf.

⁵ I intend to throw shade with the phrase “security bureaucrats.” Countless men and women work in programs that are effective. They are not security bureaucrats. Some working in programs that are ineffective have valorously come forward to make that known. See Empower Oversight, “Air Marshal Whistleblowers Allege Gross Waste and Abuse of Authority in Protected Disclosures to Congress,” Press Release (Aug. 14, 2024) <https://empowr.us/air-marshall-whistleblowers-allege-gross-waste-and-abuse-of-authority-in-protected-disclosures-to-congress/>. Those who knowingly work in ineffective programs, counting the days until retirement, are my security bureaucrats.

serious investigation that seeks to bring charges or otherwise punish or prevent whatever wrongdoing might be afoot.

The result has been watchlist bloat. In 2014, the “accomplishment” of adding the one millionth person to the Terrorist Identities Datamart Environment (TIDE) was revealed in leaked documents, producing a well-placed outpouring of derision.⁶ I do not have a present sense of where we are in watch-listing today, but I cannot discern in theory what could possibly make watch-listing an effective security method consistent with the Constitution and our values the way conventional law enforcement is.

Conventional Law Enforcement and Counterterrorism Compared

A side-by-side comparison of conventional law enforcement and watchlist-based counterterrorism may help illustrate the challenge that the latter faces.

Harm Type

Conventional law enforcement addresses itself to traditional, relatively common, and thus highly recognizable harms and wrongs: theft, violence, fraud, and the planning for same. Counterterrorism has as a focus attacks and events that might terrorize, which is not a fixed or recognizable set of activities, as “terror” is contingent on media and public response.⁷ Without any way of knowing what activity may terrorize, the fixation is on the last known thing to terrorize, an attack on air transportation.⁸

Incidence

There are many instances of the wrongs addressed by criminal law. This allows law enforcement personnel to recognize patterns of activity that are indicative of crime. There

⁶ See, e.g., Scott Scheckford, “Contain Your Shock: Huge Numbers of People on Watch Lists Have No Connection to Terrorist Groups,” Reason (Aug. 5, 2014) <https://reason.com/2014/08/05/contain-your-shock-huge-numbers-of-people/>.

⁷ In the past, I have written and spoken doubtful of “cyberterrorism” because of the inability of “cyber” attacks to actually terrorize. “The Underwhelming Threat of Cyberterrorism,” Cato Institute Policy Report (Jan./Feb. 2011) <https://www.cato.org/policy-report/january/february-2011/underwhelming-threat-cyberterrorism#>.

⁸ The aspect of the September 11, 2001 attack that did the most work, the commandeering attack, was actually foreclosed by late that morning. The passengers on Flight 93, realizing that their plane may be used as a giant bomb, fought back, leading to the plane’s crash in Shanksville, Pennsylvania. It did not reach any strategic target or produce significant imagery for the public to consume. The hardening of cockpit doors and protocols to secure cockpits against invasion have driven the likelihood of another commandeering attack on air travel to a very low level.

is no similar high incidence of terrorist acts, so there are no patterns to look for digitally or intuitively in developing terrorism suspicion.⁹

Public, Reviewable, Constitutional Suspicion Protocols

Conventional law enforcement has protocols for assessing suspicion and what can be done when given levels of suspicion have been reached. One is the “reasonable suspicion based on articulable facts” doctrine articulated by the Supreme Court in *Terry v. Ohio*, which allows minor intrusions upon privacy (search) and liberty (seizure) interests when the threshold is reached.¹⁰ The second is the “reasonable expectation of privacy” test, which governs full-fledged searches and seizures, allowing them when the Fourth Amendment’s probable cause standard has been met.¹¹

Quiet Skies apparently had protocols. The TSA blog,¹² the Department of Homeland Security’s (DHS) Privacy Impact Assessment,¹³ and a DHS Office of Inspector General (OIG) report¹⁴ all referred to “risk-based, intelligence-driven rules.” But we do not know what they were. The publicly available version of the OIG report redacts the number of such rules and examples of them. Unredacted language suggests some relationship between the rules and other federal government watchlists.¹⁵

⁹ See Jeff Jonas and Jim Harper, “Effective Counterterrorism and the Limited Role of Predictive Data Mining,” Cato Policy Analysis No. 584 (Dec. 11, 2006) <https://www.cato.org/policy-analysis/effective-counterterrorism-limited-role-predictive-data-mining#>; U.S. Senate Committee on the Judiciary, “Balancing Privacy and Security: The Privacy Implications of Government Data Mining Programs,” Full Committee Hearing (Jan. 10, 2007) <https://www.judiciary.senate.gov/committee-activity/hearings/balancing-privacy-and-security-the-privacy-implications-of-government-data-mining-programs>.

¹⁰ *Terry v. Ohio*, 392 U.S. 1, 21 (1968) (“...in justifying the particular intrusion the police officer must be able to point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion.”). I would prefer the doctrine rely on facts that are actually articulated rather than “articulable.”

¹¹ *Katz v. United States*, 389 U.S. 347, 361 (1967) (Harlan, J., concurring).

¹² Transportation Security Administration, “Facts About the ‘Quiet Skies’” blog post (Aug. 22, 2018) <https://web.archive.org/web/20201020122942/https://www.tsa.gov/blog/2018/08/22/facts-about-quiet-skies>.

¹³ Department of Homeland Security, “Privacy Impact Assessment Update for Secure Flight, Silent Partner and Quiet Skies,” DHS/TSA/PIA-018(i) (Apr. 19, 2019) https://www.dhs.gov/sites/default/files/publications/pia-tsa-spqs018i-april2019_1.pdf.

¹⁴ Department of Homeland Security, Office of Inspector General, “TSA Needs to Improve Management of the Quiet Skies Program (REDACTED),” OIG-21-11, (Nov. 25, 2020) <https://www.oig.dhs.gov/sites/default/files/assets/2020-11/OIG-21-11-Nov20-Redacted.pdf>.

¹⁵ *Id.* at 1. The report was itself unavailable to the public as “sensitive security information” until declassified.

I have substantial criticisms of the suspicion protocols in conventional law enforcement,¹⁶ but I can level such criticisms because of crucially important merits: They are rooted in the Constitution, they are publicly available, and they are regularly reviewed, challenged, and applied in public courts of law. These features, particularly the latter one, channel the suspicion protocols in traditional criminal law consistent with our constitutional values and norms. The secret suspicion protocol(s) in the Quiet Skies program did not.

Resolution in Courts

In conventional law enforcement, there is some resolution of cases through arrest and prosecution of suspects. It is possible for cases to drag on without resolution, but given the cadence in criminal law enforcement—of new, real crimes to pursue—incentives cut against keeping cases open and investigating suspects beyond the time when such activity seems likely to bear fruit.

The Quiet Skies program never saw a case reach fruition. It does not appear to have been an expectation of Quiet Skies that it would. Instead, it was a program for interdicting people whose activities did not raise sufficient suspicions to merit interdiction. As a program, it walked away from constitutional standards and law enforcement or security goals. This is why, I suspect, the program could mutate into use for political penalties and favors. Everyone involved probably knew intuitively that using it that way did not affect real security.

Counterterrorism programs like these may not just struggle to secure. They can actually make us worse off.

More On Terrorism

In 2010, with our nation nearing a decade of experience with counterterrorism, Christopher Preble, Ben Friedman, and I co-edited a book on counterterrorism called, “Terrorizing Ourselves.”¹⁷ Whether insightful or obvious, the overarching thesis was that terrorism does

¹⁶ See, e.g., Jim Harper, “Administering the Fourth Amendment in the Digital Age,” National Constitution Center, A Twenty-First Century Framework for Digital Privacy – White Paper Series (May 10, 2017) https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4692954; Jim Harper, “Escaping Fourth Amendment Doctrine After Jones: Physics, Law, and Privacy Protection,” Cato Supreme Court Review (2012) https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4692926; Jim Harper, “Reforming Fourth Amendment Privacy Doctrine,” 57 Am. U. L. Rev. 1381 (2008). See also, Jim Harper, “Personal Information is Property,” 73 Kan. L. Rev. 113 (2024) https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4691923.

¹⁷ BENJAMIN H. FRIEDMAN, JIM HARPER, AND CHRISTOPHER PREBLE, EDS., TERRORIZING OURSELVES (2010).

most of its work through overreaction on the part of the victim state. We classed these overreactions into three types:

- *Waste of Blood and Treasure*: When states needlessly go to war and waste the blood of soldiers or when terrorism countermeasures cost more than they provide in security, wasting the wealth of the people.
- *Recruitment and Sympathy Gains*: Violence or other countermeasures that engender sympathy for terrorists' causes, aiding in recruitment and support.
- *Delegitimization*: "Terrorists can cause victim states to come loose from their ideological moorings, reducing their credibility and authority with various audiences. A state with a liberal, tolerant credo, for example, may appear hypocritical to allies and domestic constituencies alike when response to terrorism appears illiberal and intolerant."¹⁸

Quiet Skies has elements of the first and third characteristics. It has been a clear waste of taxpayer money. An expenditure of Americans' taxpayer dollars is an expenditure of their time, portions of their lives, that should never go to ineffective programs.

As importantly, Quiet Skies was a departure from our ideological moorings, a security program made up of constitutional half-measures that resulted in the credible accusation of a Deep State cabal. Whether that accusation lands for you or not, the confidence of our own people in the legitimacy of their government is threatened by a program that does not follow traditional, constitutional rules for the conduct of security and law enforcement programs in the United States.

Terrorists are not evil geniuses. They are losers who have found solace in gang-membership¹⁹ and stumbled across a powerful strategy. It embarrasses me to say that nearly a quarter century along, the September 11, 2001, attacks are still inducing us to waste taxpayer money and wander away from our Constitution. Through Quiet Skies and similarly defective programs, poorly calibrated responses to terrorism are *still* weakening us as a nation.

¹⁸ *Id.* at 3.

¹⁹ Max Abrahms, "What Terrorists Really Want: Terrorist Motives and Counterterrorism Strategy," 32 *International Security* 78 (Spring, 2008) <https://www.jstor.org/stable/30129792>.

Things have improved as the threat of terrorism has lost salience, but we must continue to press forward with restoring our freedom and security through effective risk management.

Terrorism Risk Management

The term "risk" seems more often abused in government security circles than properly used. The Financial Action Task Force's (FATF) global financial surveillance mandates are littered with risk language, for example.²⁰ My study of FATF programs has convinced me that the risks being managed in such programs are the risks of government authorities prosecuting financial institutions, not the risks of crime and threats to national security relating to financial flows.

So it seems to be with many counterterrorism programs claiming to do risk management, including Quiet Skies. Watch-listing people and then watching them seems to be security-related activity. But it does little to cost-effectively manage true threats. It manages the threat that blame will be accorded to agencies if there is some kind of successful attack.

In 2006, the DHS Data Privacy and Integrity Advisory Committee (DHS Privacy Committee), on which I served at the time, published a "Framework for Privacy Analysis of Programs, Technologies, and Applications" that I believe does a creditable job on terrorism risk management.²¹ It is not a narrow, privacy-oriented document. Because privacy generally gives way in the face of reasonable suspicion, the framework provides a system for determining the reasonableness of programs on their security merits.

The heart of the document is the third "step" of the analysis it recommends, which is to examine risk management and efficacy.²² The steps included in this fairly readable document are:

- Target Assessment ("What are you trying to protect?")
- Threat Assessment ("What are you trying to protect it from?")

²⁰ See, e.g., Financial Action Task Force, "Risk-Based Approach for the Banking Sector" (Oct. 2014) <https://www.fatf-gafi.org/en/publications/Fatfrecommendations/Risk-based-approach-banking-sector.html>.

²¹ Department of Homeland Security Data Privacy and Integrity Advisory Committee, "Framework for Privacy Analysis of Programs, Technologies, and Applications," Report No. 2006-01 (Mar. 7, 2006) https://www.dhs.gov/xlibrary/assets/privacy/privacy_advcom_03-2006_framework.pdf.

²² *Id.* at 3-4

- Risk Assessment (“What is the likelihood of each threat occurring and the consequence if it does?”)
- Response Characterization (“What kind of action does the program take in response to the threat?”) The possible response types are:
 - o Acceptance—the rational alternative when a threat has low probability, low consequence, or both.
 - o Prevention—alteration of the target or its circumstances to diminish the risk of the bad thing happening.
 - o Interdiction—confrontation with, or influence exerted on, an attacker to eliminate or limit its movement toward causing harm.
 - o Mitigation—preparation so that, in the event of the bad thing happening, its consequences are reduced.
- Risk Transfer Assessment (“Does the response create new risks to the asset or others?”)

The document goes on to assess privacy-related costs of such programs so they can be weighed against security benefits. A full analysis would, of course, consider dollar costs as well. There must be balancing between public expenditures—again, small pieces of the lives of tax-paying Americans—and the expected lives and dollars saved by a given response or program. Responses without an articulated, expected favorable outcome should not be pursued.

Security “Layers”

With the idea in mind that risk management is how we protect things, consider the “layers” metaphor for security programs. The things we want to protect are ringed by metaphorical circles of protection. This is most simply illustrated by something simple, like a bank.

Among the layers that protect a bank and thus deposits against robbery are (“closest” to “furthest,” with response type):

- Insurance (mitigation)
- A vault that is physically difficult to open or break into (prevention)
- Protocols that limit access to cash (prevention, mitigation)
- Background checks on employees (interdiction)
- Security cameras (interdiction)
- Armed guards (interdiction)
- Silent alarm systems (interdiction)
- Dye packs (interdiction)
- General police patrols (interdiction)
- Criminal law enforcement (interdiction)
- Incarceration (interdiction)
- Education systems (interdiction)

There are many more layers, but hopefully it is easy to see how these form metaphorical circles spreading from immediately around the protected thing, the bank and its deposits.

Yes, education systems are an outer-layer security measure (interdiction-type) because a good education creates job prospects and entrepreneurial opportunities that lower the enticement of bank robbery. It interferes with would-be bank robbers very early, putting them on paths to productive lives.

The layers around air security are many. They include:

- Airplane design resistant to explosion (mitigation)
- Hardened cockpit doors and cockpit-denial protocols (interdiction)
- Passenger inspection (interdiction)
- Passenger “trust” programs (interdiction)
- General law enforcement (interdiction)
- Surveillance and intelligence (interdiction)
- Peaceable foreign policy (interdiction)

These measures vary widely in effectiveness. By listing them, I do not endorse them all or equally. The security measures that work against anyone seem quite a bit stronger. So passenger inspection I have always believed to do the vast bulk of any lifting needed late in the game, because denying people the tools they might use to attack air travel is a simple, pure bar on attacks. “Trusting” travelers—trying to predict good behavior based on biography—seems quite fallible, and it is also subject to identity fraud.

Yes, a peaceable foreign policy is an outer-layer security measure (interdiction-type) because it dissuades would-be terrorists from seeing that activity as worthwhile.

Risk management exists, and it can be applied to counterterrorism. (Downplaying terrorism is part of good counterterrorism.) The question is what institutional adjustments can produce better risk management.

Steps to Foreclose the Next Quiet Skies

As a nation and society, we need to assess risk and balance the benefits of security programs with their costs to other values that are dear, including privacy, constitutional rights, and fiscal rectitude.

The Department of Homeland Security is not, and will never be, a true risk-balancing organization. We probably should not want it to be. There are internal checks that do some work, such as the DHS Privacy Committee before it was neutered by “tasking orders” that sought to make it speak only when spoken to. The Privacy Impact Assessment process probably takes some burrs off of programs without really altering the course of the misbegotten ones.

Our constitutional system relies on tensions among branches of government. We can use those and tensions among agencies, rather than trying to have a single government body arrive at all the answers. There are a number of ways to build tensions into our systems that I think will lead to better outcomes. One of the most important balancing systems is probably Congress.

De-Delegate Authority

Congress is comprised of people who face re-election regularly, so it is a better balancer of values than federal agencies. It is the organ of government to which the Constitution assigned the role of policymaking. Withdrawing policymaking authority from the executive branch and bringing it back to the legislative branch should improve future outcomes.

The Aviation and Transportation Security Act (ATSA)²³ was a huge delegation of authority to the executive branch. It created a new Transportation Security Administration in 2001 with only the vaguest of directives about what to do and how to do it.²⁴ A new Under Secretary of

²³ Public Law No. 107-71 (1st Sess.)

²⁴ *Id.* at § 101.

Transportation for Security (later transferred to a new Department of Homeland Security) would be “responsible for security in all modes of transportation.”²⁵ There would be screening operations,²⁶ it was clear, but their scope and parameters, measures of effectiveness, and the rights and liabilities of travelers went unaddressed. There would be an expanded Federal Air Marshals system.²⁷ There was little contemplation of what to do if there were not sufficient threats to justify having them.

There is telling language in a subsection of ATSA saying that the Under Secretary would “develop policies, strategies, and plans for dealing with threats to transportation security.”²⁸ Under my idealistic view of the roles of the two branches, you in the legislative branch would determine the policies. You would probably determine strategies. And you might even devise plans for the executive branch to carry out. There would at least be clear indicia of when executive branch agencies have succeeded or failed at carrying out your intentions.

That is the ideal, and we can certainly understand the reason for the haste with which Congress passed this statute. But that does not undercut the point that the hugely broad delegation authorized whatever the Transportation Security Administration ultimately came up with.

You, the Congress, should take back authority from the executive branch. Revisions of transportation security authorities would cabin the activities of the DHS and TSA so that they carry out programs of your devising. It may be productive to go through existing programs and authorize explicitly the ones you find to work cost-effectively, de-authorizing the ones you find do not.

Congressional Oversight

This hearing is an example of processes that create balance. Direct congressional oversight sends signals to executive branch agencies about how to use the authorities they have. Oversight through hearings and letters is a far cry from actually controlling the executive branch through authorizing language, of course, and the executive branch is so large today that it is very hard to oversee. But more oversight is always welcome.

²⁵ *Id.* (new 49 U.S.C. § 114(d)).

²⁶ *Id.* (new 49 U.S.C. § 114(e)).

²⁷ *Id.* at § 105.

²⁸ *Id.* (new 49 U.S.C. § 114(f)(3)).

Public Oversight/Transparency/Anti-Secrecy

Opining about the psychology of counterterrorism above, I said that we have put ourselves in a movie fighting against supervillains. If real, those dynamics might justify the level of secrecy we have in the counterterrorism enterprise. But it is not real, and that secrecy comes at a terrible cost to our democratic republican form of government: It denies the public and the courts opportunities to play their roles in oversight of the government.

Senator Daniel Patrick Moynihan's book, *SECRECY: THE AMERICAN EXPERIENCE*, is an under-sung contribution to an important area of policy that is more important than ever. Drawing on his experiences as a member of the Senate Select Committee on Intelligence and chairman of the Commission on Protecting and Reducing Government Secrecy, he asserts in the book that secrecy leaves policymakers less informed, denies government accountability, and sharply limits public debate about policy and government conduct. The corrosiveness of secrecy is on display in *Quiet Skies*, where secrecy extended the life of a program that did nothing productive, while it hid from victims that they were being surveilled, their freedom to travel degraded.

Secrecy has been used to deny people access to the courts because they often cannot prove the existence or effects of secret programs on their rights without legal discovery, and, in a tour de force of circularity, discovery is prevented by claims to secrecy.

Judicial Oversight

Enhanced judicial oversight is another way to drive balance into counterterrorism programs. One idea is for Congress to declare that there is a right to travel on par with other rights specifically enumerated in the Bill of Rights. That would enhance judicial oversight of programs affecting transportation.

The federal courts give a right to travel at least uneven treatment,²⁹ the result being that when people object to government incursions on their travel, their cases almost always fail before the true security merits of a policy can be considered. Were people to have a clearly recognized right to travel, which Congress can encourage, the merits and demerits of

²⁹ Compare *Shapiro v. Thompson*, 394 U.S. 618, 629 (1969) (noting the right of all citizens to be "free to travel throughout the length and breadth of our land uninhibited by statutes, rules, or regulations which unreasonably burden or restrict this movement") to *Gilmore v. Gonzales*, 435 F. 3d 1125, 1137 (9th Cir. 2006) (Would-be cross-country traveler "does not possess a fundamental right to travel by airplane even though it is the most convenient mode of travel for him.").

transportation security policies could be hammered out more thoroughly in courts. Agencies would have to fully justify their policies because they must overcome presumptions in favor of Americans' exercise of their rights. Cost-effective security measures surely would pass muster even against a claim of right to travel. Ineffective and overly invasive programs would not.

Privatization

The psychology of terrorism and counterterrorism has done more than just skew specific government security practices. It also drives the premise that security is a governmental responsibility as opposed to a private one.

In most fields, we expect individuals and companies to secure their own stuff first. Criminal law enforcement is provided to all on equal terms, but if a person in the plastics business came to you and said, "Yeah, I need you to provide my company's security now," you would probably kick them out of the room. At least you should.

Terrorism has us thinking that attacks on private infrastructure and business are a public policy problem. In some respects they are. There are dimensions to security against certain dimensions of terrorism that are public goods, such as intelligence. Political leaders can do a great deal to ward off overreaction to terrorism, which does have society-wide and thus political connotations. But global corporations have substantial capacities to gather information that relates to their businesses and security. At least some responsibility for security can be pressed back into the private sector so that the challenges of risk management—finding that balance—are with the people who have the most skin in the game.

In 2005, I engaged in a debate with Robert Poole of the Reason Foundation in which I argued for elimination of the TSA.³⁰ I may be a little less strident now, but the arguments I made then hold up reasonably well. On the question of government versus private risk management, I wrote:

TSA security measures have been inconsistent and mindlessly reactive. This is because bureaucracies are poor at assessing and balancing risk. They are much better at surfing public opinion and following political cues. Witness the TSA's obsession with small, sharp things early in its tenure and the shoe fetish it adopted

³⁰ Robert Poole and Jim Harper, "Transportation Security Aggravation," Reason magazine (Mar. 2005) <https://reason.com/2005/03/01/transportation-security-aggrav-2/>.

after Richard Reid demonstrated the potential hazards of footwear. This is not a foresighted, research-based, risk-assessing organization.

Highly effective, nonregulatory systems exist to analyze and respond to risk. They operate well, though not perfectly, when they are allowed to. They start with the tort system, which places responsibility for avoiding foreseeable harms with the parties in the best position to avoid them. Through insurance contracts, businesses in every sector of the economy spread risk and often purchase expert advice on loss avoidance.

Airlines should be given clear responsibility for their own security and clear liability should they fail. Under these conditions, airlines would provide security, along with the best mix of privacy, savings, and convenience, in the best possible way.

If not elimination of the TSA and full privatization of security in this area, it may still be worth considering whether some dimensions of security can be restored to the private sector, so that liability rules, the insurance system, and other mechanisms can do some of this work. Privatization of security responsibility would reduce subsidies to the corporate sector now given through the direct provision of security services and insulation from liability.

Conclusion

We are in a time of welcome openness to change at the Department of Homeland Security. The DHS under Secretary Noem has eliminated Quiet Skies, for the good. DHS and Secretary Noem have rescinded the “shoes-off” policy at airport checkpoints.³¹ That policy was a reaction to one failed attack, and it remained in place far too long, inconveniencing travelers and driving them away from air travel.

Secretary Noem has signaled that the “liquids rule” may go by the wayside, too.³² It was a reaction to the revelation of a nascent plan to smuggle constituents of a liquid explosive called TATP onto an airplane. The probability of such an attack coming to fruition was very

³¹ Department of Homeland Security, “DHS to End ‘Shoes-Off’ Travel Policy,” press release (July 8, 2025) <https://www.dhs.gov/news/2025/07/08/dhs-end-shoes-travel-policy>.

³² CBS News moneywatch, “Homeland Secretary Kristi Noem says TSA may change rules about liquids on flights,” (July 17, 2025) <https://www.cbsnews.com/news/tsa-liquid-carry-on-restrictions-relax-kristi-noem-comments/>.

low, and it was defeated by a security layer quite far from the airport (surveillance). The added inconvenience and expense of the liquids rule probably dissuades people from air travel in significant numbers, doing more damage than it provides in security. It has stayed around too long.

My hope is that DHS leadership has recognized REAL ID enforcement also to be a fool's errand. The practice of checking IDs at the airport is premised on the same conceptual errors that undergird watch-listing. Though the agency has stayed mum, it has made it very easy to travel without a REAL ID.³³ The difficulty of complying with ID requirements, the time spent fumbling for and showing ID, and various other slight inconveniences repeated from thousands of times per day to millions of times per month also probably suppress access to air travel more than it provides security.

Why should it be important for people to access air travel? The issue of infant air travel illustrates.

Infant travel is a rare exception to the risk phobia usually seen in air travel. It appears well settled that infants should be allowed to be unbelted on airplanes, because the alternative is not infants strapped into their own seats but infants in cars. And the risk of death by car accident for people of all ages is much greater than the risk of being on a plane.

"If the extra cost of buying airline tickets for the young children led only 5 to 10 percent of families to drive rather than fly," a University of California San Francisco and University of Washington study of separate seating for infants found in 2003, "the projected increase in highway deaths would exceed the number of airplane crash deaths prevented."³⁴

Moving people from airplanes to cars is deadly.³⁵ The additional cost in time and aggravation of niggling security procedures that do not have robust benefits has undoubtedly moved American travelers into cars. Over two decades, millions of would-be flights have been switched to drives, and likely tens or hundreds have needlessly died.

³³ See Jim Harper, "Airline Security's Best-Kept Secret," AEIdeas, American Enterprise Institute (July 24, 2025) <https://ctse.aei.org/airline-securitys-best-kept-secret/>.

³⁴ University of California San Francisco, "Airline Infant Safety Seat Rule Could Cause More Deaths Than It Prevents, Pediatricians Say," press release (Oct. 2003) <https://www.ucsf.edu/news/2003/10/97119/airline-infant-safety-seat-rule-could-cause-more-deaths-it-prevents>.

³⁵ See Insurance Institute for Highway Safety, "Fatality Facts 2023: State by State," <https://www.iihs.org/research-areas/fatality-statistics/detail/state-by-state>.

Getting people into planes is good for Americans' spirits, good for the economy, and good for saving lives.

There is a wonderful coincidence that everything done by terrorists is illegal, so ordinary law enforcement is counterterrorism without the misleading psychological baggage. Pursuing criminal activity is counterterrorism—and it is strategically wise counterterrorism because it does not award terrorists the status they seek, of being an outsized threat to our nation. While pursuing criminal activity of all kinds aggressively, staying calm, cool, and collected as a nation is good counterterrorism.

There is a wonderful coincidence that *effective* programs tend to be constitutional programs. When search and seizure activities work effectively to uncover criminal wrongdoing, whether terroristic or not, it is reasonable and can be found so under the Fourth Amendment by a neutral magistrate, as the Constitution requires.

Investigations that are secret until a criminal charge is brought do not deny constitutional due process. Disclosure is not due until investigations are concluded and charges brought.

Secret investigations that are not aimed at bringing criminal charges and thus never reveal themselves DO deny due process, because they subject innocent Americans to monitoring and investigation with no opportunity to question or counter such activity. Innocent Americans suffer unilateral mistreatment with no effective redress. That is the story of Quiet Skies, a product of failure to grapple with the security conundrums created decades ago by a single act of terrorism.



Testimony for the Record
Submission to the

Committee on Homeland Security and Governmental Affairs
Hearing on "Examining the Weaponization of the Quiet Skies Program"

September 30, 2025
Abed Ayoub

National Executive Director, American-Arab Anti-Discrimination Committee
(ADC)

Thank you Chairman Paul, Ranking Member Peters, for the opportunity to testify. My name is Abed Ayoub, and I serve as National Executive Director of the American-Arab Anti-Discrimination Committee (ADC), the nation's largest and oldest Arab-American civil rights organization. Over the past 45 years, we have worked with and assisted countless members of our community who have been directly impacted by the government watchlist process.

Let me say something that may surprise some people: I have sympathy for MAGA supporters who are experiencing watchlist harms—missed flights, repeated screenings, frozen bank accounts, job consequences—without notice or a fair way to challenge it. I don't need to share their politics to understand that rights and liberties aren't conditional on agreement. What they are feeling today mirrors what Arab and Muslim families have endured for decades: a secret designation that follows you from airport to employer to consulate, with no clear explanation and no reliable fix. **That is not a partisan problem;** it is a due-process problem. When the government can quietly tag one group, it can quietly tag any group—left, right, or neither—depending on who holds power. The answer is the same for all of us: end the watchlist, or at minimum implement safeguards that protect our rights and liberties.

Quiet Skies was a total disaster. ADC welcomes Secretary of Homeland Security's decision to shut it down. Retiring a program that surveilled ordinary travelers without evidence of wrongdoing is a meaningful step toward fairness. But Quiet Skies captures only part of the story. It was a window into a faulty



surveillance architecture: secret lists, vague criteria, and downstream sharing that harm people who have done nothing wrong.

For decades, the watchlist has too often been a shortcut for suspicion—aimed at my community members not because of what we've done, but because of who we are and what we believe. People get flagged after visiting family overseas, donating to a lawful charity, attending a protest, or simply for praying. That's not security—that's punishment for religion and politics.

More than 98 percent of the names on the FBI's 2019 Terrorism Screening Dataset were Arab or Muslim. Placement on these lists does not require arrest, charge, or conviction. Instead, it is based on vague suspicion, often tied to religious practice or protected political speech.

And let me again be clear: if a tool can quietly target my community today, it can target any community tomorrow—journalists, activists, immigrants, gun owners, union organizers, pro-life or pro-choice advocates. Once a secret label replaces proof, the only limit is who's in power. End the watchlist. If you won't, cage it with real notice, evidence, hearings, and strict limits so no American's faith or viewpoint becomes a reason to be treated like a suspect.

Placement on the watchlist has a direct and dire impact that reaches beyond the airport. These harms underscore why there must be reform to allow for redress/removal from the list, the tracking of screenings, and assurances of appropriate oversight. The human and policy costs are real.

The task is larger than ending one program. Immediate steps must be taken to implement due process measures to afford those on the list an opportunity to be removed.

Many expert reports and opinions have provided a clear roadmap to fixing immediate issues. **First, require TSA and CBP to systematically track all screenings** and outcomes so we can see where the system fails and who is being hit hardest. **Second, direct the Terrorist Screening Center** to report regularly to Congress on nominations, removals, error rates, and recall of bad data, with safeguards to protect privacy while exposing patterns of bias. **Third, pair transparency with teeth:** mandatory timelines, independent review that can



order a delisting, and confirmation that corrections have been pushed to every system and partner that received the original record.

The most urgent fix is transparency and due process. If the government is going to restrict your liberties, you have a right to know why. DHS's Traveler Redress Inquiry Program (TRIP) provides little information to travelers about why they are flagged or whether corrections are applied across the system. Without systematic tracking, bias can go unchecked, and travelers have no meaningful way to correct errors. Today, individuals on watchlists often receive no notice, no explanation, and no meaningful path off the list.

This is not an abstract issue — it strikes at the heart of due process and equal protection. Secret government lists, shared across agencies and even with private actors, should never have the power to confer or deny a person's liberty without a meaningful way to challenge errors.

There is room for bipartisanship on this issue, I am confident of that. I'll meet anyone halfway on this—left, right, or neither—because the watchlist isn't about who you voted for; it's about whether the government has to prove its case before it limits your life.

That's a handshake we can make across this dais today.

Mr. Chairman and Members of the Committee, eliminating Quiet Skies was necessary but not sufficient. Congress must restore transparency, accountability, and due process to protect millions of travelers. ADC stands ready to assist in that effort.

Thank you,

Abed Ayoub
National Executive Director
American-Arab Anti-Discrimination Committee (ADC)
Phone: 202-244-2990
Email: aaayoub@adc.org

CHAIRMAN PAUL FLASH REPORT

THE WEAPONIZATION OF QUIET SKIES AND TSA WATCH LISTS

Summary

On August 21, 2024, Senator Rand Paul [opened an investigation](#) into the Transportation Security Administration's Quiet Skies program amidst allegations that it had been weaponized against Americans. The Biden Administration stonewalled Senator Paul's investigation and refused to provide records on the Quiet Skies program and related TSA watch lists.

Upon taking office, the current Secretary of Homeland Security, Kristi Noem, committed to complying with Senator Paul's investigation and review of the Quiet Skies program. On June 5, 2025, Secretary Noem [announced](#) the termination of the Quiet Skies program. Today, Chairman Paul is releasing the following key findings based on records produced by Secretary Noem related to the Committee's investigation:

Key Findings:

A. Former Congresswoman and current Director of National Intelligence, Tulsi Gabbard—a combat veteran and Lieutenant Colonel in the Army Reserve—was monitored under the Quiet Skies program on at least five flights in 2024.

Last Name	First Name	Departure Date	Dep Port	Airline	Flight No.	Arrival Date	Arr Port	Staffing Notes
GABBARD	TULSI	8/3/2024 8:10	ATL	DL	2470	8/3/2024 9:09	TUL	Mission staffed by FAMs on Standby Status
GABBARD	TULSI	8/3/2024 5:30	MCO	DL	1548	8/3/2024 6:56	ATL	Mission staffed by FAMs on Standby Status
GABBARD	TULSI	8/2/2024 8:20	AUS	DL	2259	8/2/2024 11:58	MCO	Mission staffed by FAMs on Standby Status
GABBARD	TULSI	7/26/2024 18:15	BNA	OO	4085	7/26/2024 20:29	AUS	Mission staffed by FAMs on Standby Status
GABBARD	TULSI	7/26/2024 14:50	BNA	WN	3350	7/26/2024 17:00	AUS	Mission staffed by FAMs on Standby Status
GABBARD	TULSI	7/25/2024 6:55	AUS	WN	1393	7/25/2024 9:00	BNA	Mission staffed by FAMs on Standby Status
GABBARD	TULSI	7/25/2024 7:35	AUS	OO	3898	7/25/2024 9:52	BNA	Mission staffed by FAMs on Standby Status
GABBARD	TULSI	7/23/2024 17:00	DFW	AA	0773	7/23/2024 18:10	AUS	Mission staffed by FAMs on Standby Status

Gabbard was first monitored by Federal Air Marshals on July 23, 2024 – just one day after she criticized Joe Biden and Kamala Harris in an interview with Laura Ingraham.

C. At least 24 individuals were placed on a TSA Watch List due to their connection to a group that protested mask mandates.

(U) April:

- **Deny Boarding: 0**
- **Enhanced Screening: 5**
5 Removal of mask mandate on aircraft - Freedom to Breath Protest
- **Security Notification: 8**
1 Removed based on time on the Watchlist and/or encounter without incident
7 Removal of mask mandate on aircraft - Freedom to Breath Protest

In April 2022, twelve individuals were placed on a TSA Watch List for simply removing their mask on an aircraft. This is yet another example of how programs purportedly intended to protect ordinary Americans from grave threats such as terrorism are twisted to violate the privacy and civil liberties of those same Americans.

67. (U//SSI) [REDACTED]: The subject was modified to (Security Notification) on 22 October 2021 based on the criteria of knowingly or recklessly committing an act that represents a threat of harm to passengers and crew and for which Federal Air Marshal

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(U) This document contains Sensitive Security Information (SSI) that is controlled under 49 CFR parts 15 and 1520. No part of this document may be disclosed to persons without a "need to know," as defined in 49 CFR parts 15 and 1520, except with the written permission of the Administrator of the Transportation Security Administration or the Secretary of Transportation. Unauthorized release may result in civil penalty or other action. For U.S. government agencies, public disclosure is governed by 1 U.S.C. 552 and 49 CFR parts 15 and 1520. This information is provided only for intelligence purposes in an effort to develop potential investigative leads. It cannot be used in affidavits, court proceedings, subpoenas, or for other legal or judicial purposes.

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54

Service coverage is warranted, but not a threat requiring the application of enhanced screening measures at the screening checkpoint. The subject is the principal organizer of a concerted effort encourage others to join him in the intentional circumvention security regulations requiring the wearing of a face covering onboard aircraft. This planned activity constitutes a premeditated effort to violate security requirements and, in doing so, poses a threat of both unruly passenger conduct that interferes with flight crew and a threat of exposing other passengers to COVID-19.

(U//SSI) Subject was initially added to the TSA Watchlist (Deny Boarding) on 17 October 2021 based on the criteria of current intelligence regarding an imminent threat to transportation security, are attempting to evade, defeat, or interfere with prescreening efforts with the intent to conduct further actions on the aircraft that pose a threat to transportation security, are acting with extreme recklessness in carrying out an act that represents a threat of life to passengers and crew, and pose a threat that cannot be mitigated by use of enhanced screening procedures and placement of Federal Air Marshals onboard the flight.

- (U//SSI) Subject was modified to Security Notification based upon reviews of encounters of subjects associated with this effort, including the presentation of documentation regarding medical exemptions from mask wearing requirements that did not adhere the federal process for obtaining such exemptions, stated intentions to not comply with the face mask requirements onboard the flight, the absence of prohibited items, and compliance with mask wearing requirements in flight
- (U//SSI) TSA has had six encounters since watchlisting without incident. The subject does not have a TIDE record.

12. (U//SSI) [REDACTED]: The subject was modified to (Security Notification) on 22 October 2021 based on the criteria of knowingly or recklessly committing an act that represents a threat of harm to passengers and crew and for which Federal Air Marshal Service coverage is warranted, but not a threat requiring the application of enhanced screening measures at the screening checkpoint. The subject is part of organized event to encourage others to join them in an effort to intentionally circumventing security regulations requiring the wearing of a face covering onboard aircraft. This planned activity constitutes a premeditated effort to violate security requirements and, in doing so, poses a threat of both unruly passenger conduct that interferes with flight crew and a threat of exposing other passengers to COVID-19.

(U//SSI) Subject was initially added to the TSA Watchlist (Enhanced Screening) on 14 October 2021 based on the criteria of current reporting regarding credible threats to transportation security, including a threat to recklessly carry out an act that represents a threat of life or serious injury to passengers and crew, and because they pose a threat to transportation that cannot be mitigated by use of standard screening.

(U//SSI) Subject was then modified to the TSA Watchlist (Deny Boarding) on 17 October 2021 based on the criteria of current intelligence regarding an imminent threat to transportation security, are attempting to evade, defeat, or interfere with prescreening efforts with the intent to conduct further actions on the aircraft that pose a threat to transportation security, are acting with extreme recklessness in carrying out an act that represents a threat of life to passengers and crew, and pose a threat that cannot be mitigated by use of enhanced screening procedures and placement of Federal Air Marshals onboard the flight.

- (U//SSI) Subject was modified to Security Notification based upon reviews of encounters of subjects associated with this effort, including the presentation of documentation regarding medical exemptions from mask wearing requirements that did not adhere the federal process for obtaining such exemptions in an effort to gain access to the sterile area notwithstanding requirements to wear a face mask and stated intentions to not comply with the face mask requirements onboard the flight. In assessing whether enhanced screening continued to be appropriate, I&A also considered the absence of prohibited items and compliance with mask wearing requirements in flight by the participants in this concerted effort who have flown since forming this plan.
- (U//SSI) TSA has had two encounters since watchlisting without incident. The subject does not have a TIDE record.

The Biden administration greenlit the weaponization of TSA Watch Lists against individuals who may have committed the grievous offense of questioning COVID-era mask mandates.

D. On January 15, 2021, TSA Intelligence & Analysis issued a memo formalizing a directive from the Administrator to use TSA Watch Lists to mitigate “ongoing threats” following January 6. Under this directive, at least 234 individuals were added to TSA Watch Lists in connection with January 6. Many of these individuals were added without any specific evidence that they participated in any unlawful activity.

Placement on the TSA Watch List (Enhanced Screening) is appropriate for:

- Individuals suspected of traveling to the National Capital Region in conjunction with the January 6, 2021 attack on the U.S. Capitol and who are believed to pose an elevated risk of domestic terrorism,⁷ but for whom there is a current lack of specific information relating to unlawful entry into the U.S. Capitol, violent acts in support of the January 6, 2021 attack, or incitement of the same, and who do not otherwise the criteria for placement on the TSA Watch List (Deny Boarding).

An internal TSA memo from January 15, 2021, authorized watchlisting individuals suspected of traveling to Washington, D.C. in connection with January 6 protests, even if there was a lack of specific information that they had done anything wrong.

FY 2021 QTR 2

(U//SSI) From 1 January 2021 - 31 March 2021, there were 234 subjects added to the TSA Watchlist associated with the 6 January 2021 Capitol violence. In this same period, 135 subjects were removed from the TSA Watchlist associated with the 6 January 2021 Capitol violence. Individuals were removed once nominated by the FBI to the TSC Watchlist or if FBI informed TSA they no longer planned to nominate the individual for Watchlisting.

6 January 2021 Capitol Violence Additions

- **Deny Boarding**
68 Subjects associated with 6 January 2021.
- **Enhanced Screening**
166 subjects associated with 6 January 2021.

6 January 2021 Capitol Violence Removals

- **Deny Boarding**
45 Subjects associated with 6 January 2021 Capitol Violence.
- **Enhanced Screening**
90 Subjects associated with 6 January 2021 Capitol Violence.

(U) During this review period the following actions occurred related to individuals on the TSA Watch Lists not associated with the 6 January 2021 Capitol violence:

(U//SSI) 15 new records were ADDED (1 Deny Boarding, 5 Enhanced Screening, and 9 Security Notification).

Additions to and removals from the TSA Watch Lists in FY 2021 QTR 2.

E. Dozens of individuals were either denied boarding or subjected to enhanced screening based solely on TSA research through the federally funded George Washington University Program on Extremism.

The George Washington University Program on Extremism is part of the National Counterterrorism Innovation, Technology, and Education Center - a consortium of universities funded by the Department of Homeland Security. According to its [website](#), the Program on Extremism “meticulously tracked every federal January 6 defendant by leveraging publicly available federal court records and open-source reporting.” The website suggests the Program on Extremism may have “more detailed datasets” beyond the data available on its public website.

(U) As of 1 April 2021, there are 78 subjects placed on the TSA Watch List (Enhanced Screening) meeting the following criteria:

- Individuals who unlawfully entered the U.S. Capitol building on January 6, 2021, but who are not suspected of engaging in the activities warranting placement on the TSA Watch List (Deny Boarding).

(U//LES/SSI)

NAME	CITIZENSHIP	ADDITION DATE	SOURCE
[REDACTED]	USPER	3/24/2021	EAB/GWU
[REDACTED]	USPER	3/24/2021	EAB/GWU
[REDACTED]	USPER	3/24/2021	EAB/GWU
[REDACTED]	USPER	3/24/2021	EAB/GWU
[REDACTED]	USPER	3/24/2021	EAB/GWU
[REDACTED]	USPER	3/24/2021	EAB/GWU
[REDACTED]	USPER	3/24/2021	EAB/GWU
[REDACTED]	USPER	3/24/2021	EAB/GWU
[REDACTED]	USPER	3/24/2021	EAB/GWU
[REDACTED]	USPER	3/25/2021	EAB/GWU

An internal TSA Watch List report describing individuals subject to enhanced screening related to January 6, 2021, with the source listed as “EAB/GWU”.

(U) Source acronyms:

- EAB/GWU – Encounters and Analysis Branch research through the George Washington University Program on Extremism.

Description of acronym “EAB/GWU” from internal TSA document.

F. The wife of a Federal Air Marshal was labeled as a “domestic terrorist” for allegedly entering the U.S. Capitol on January 6, 2021. Despite no evidence that the Federal Air Marshal’s wife had in fact ever entered the U.S. Capitol on January 6, she was added to the Terrorist Screening Database, an FBI-administered terrorist watch list which resulted in Federal Air Marshal coverage for two years, until she was removed due to a case of mistaken identity.

Until her removal, she was surveilled by Federal Air Marshals who reported back, sometimes minute by minute, her behavior and interactions.

Subject ID	COC	Height/Weight	Eyes/Hair	Subject Type
	US - United States	UNK/UNK	BRN/BRN	Domestic
Occupation		Education		Category Code
				102 Suspect (DT)
Subject Information				
1/6/2021 entered US Capitol				

Internal profile for the wife of a Federal Air Marshal who was alleged to have entered the U.S. Capitol on January 6, 2021.

- 1408EST, [REDACTED] ate a sandwich
- 1432EST, [REDACTED] purchased headphones for herself and UNK1
- 1535EST, [REDACTED] and UNK1 used their respective phones to scroll through news
- 1612EST, UNK1 opened up settings on iPhone and top of screen showed [REDACTED] iPhone
- 1632EST, [REDACTED] used the lavatory
- 1637EST, [REDACTED] exited lavatory
- 1638EST, [REDACTED] helped UNK1 out of seat to use lavatory
- 1639EST, [REDACTED] went to back of plane
- 1642EST, [REDACTED] returned to seat
- 1643EST, UNK1 exited lavatory and returned to seat

- [REDACTED] description:
- met occupation given
 - white nail polish
 - walks with a limp
- Clothing:
- navy blue V-neck long sleeve t-shirt
 - black Lululemon leggings
 - navy blue Dallas Cowboys belt bag
 - brown egg boots
 - plaid patterned coat
- Jewelry:
- silver ring on right ring finger
 - diamond ring on left ring finger
- Items:
- glasses (wearing)
 - white iPhone 14 with pink case
 - pink neck pillow
 - black backpack
 - sunglasses
 - purse decorated with white fur

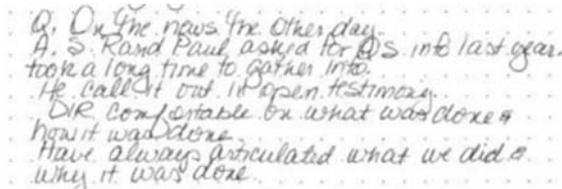
Excerpts from a Federal Air Marshal Service After Action Report detailing the appearance and activities of the wife of a Federal Air Marshal during a domestic flight.

In the fall of 2023, [REDACTED] advised me that his wife, [REDACTED] had been interviewed by the FBI and that the case was being closed and she was removed from the watch-list. The reason for closing the case, per FAM [REDACTED] was that it was mistaken identity. We have not seen SMCs involving FAM [REDACTED] wife since.

According to a supervisory Federal Air Marshal, the Houston Federal Air Marshal told her in the fall of 2023 that the FBI case into his wife was being closed due to mistaken identity.

G. Federal Air Marshal Service senior leadership stands by their actions when presented with questions from Chairman Paul.

According to TSA documents, including handwritten notes (see below), almost exactly twenty-four hours after Chairman Paul unveiled initial details of alleged abuses of the Quiet Skies program, the Director of the Federal Air Marshal Service was asked about how long it took for Chairman Paul to gather information about the program. The Director responded that he was “comfortable” with what was done and that they had “always articulated” what they did and why.



Q. On the news the other day.
A. S. Rand Paul asked for DS info last year.
took a long time to gather info.
He called it out in open testimony.
DIR comfortable on what was done &
how it was done.
Have always articulated what we did &
why it was done.

Excerpt of handwritten notes from a Federal Air Marshal Service meeting held on May 21, 2025.

HSGAC Minority Response to “Chairman Paul Flash Report”

On September 29, 2025, HSGAC Chairman Rand Paul released a “Flash Report” citing findings related to watchlisting and screening programs, including Quiet Skies.¹ Ranking Member Peters supports rigorous oversight of government watchlisting and travel screening and has proposed specific reforms to increase transparency and accountability.²

No American should be watchlisted for their political views; and the lack of transparency regarding how watchlist determinations are made deserves scrutiny from Congress and the public. However, the Committee should not misrepresent the information it does have to feed a partisan political narrative. HSGAC Minority is releasing the information below in order to provide the public with key facts omitted in the Chairman’s report.

Tulsi Gabbard’s travel triggered an automated Quiet Skies rule because her flight reservation contained information linked with a known or suspected terrorist (KST).

Documents and written responses from the current Trump Administration do not support claims that she was put on Quiet Skies because she criticized Kamala Harris in a Fox News interview on July 22, 2024. In fact, a written response provided to the Committee, excerpted below, clarifies that she first triggered a Silent Partner/Quiet Skies rule on July 20, 2024, prior to that interview.³

9. The date on which former U.S. Representative Gabbard was placed on the Silent Partner List.

Former U.S. Representative Gabbard was first matched by the system and added to the Silent Partner List on July 20, 2024.

10. The date on which former U.S. Representative Gabbard was placed on the Quiet Skies List.

Former U.S. Representative Gabbard was first matched by the system and added to the Quiet Skies List on July 20, 2024.

TSA documents and communications show that Gabbard’s travel matched an automated “affiliate” rule because her travel reservation contained information linked to a KST on the terrorist watchlist.⁴ In a June 2025 briefing, TSA officials told Committee staff that the KST had booked Gabbard’s flight for her and his contact information populated into her reservation.⁵ TSA, under the current Trump Administration, reiterated that Gabbard’s inclusion on Quiet Skies was automated and not influenced by any TSA or DHS officials.⁶ The explanation, in a September 12, 2025 written response to Chairman Paul, is excerpted below.⁷

¹ *Chairman Rand Paul Flash Report: The Weaponization of Quiet Skies and TSA Watch Lists* (Sept. 2025).

² See Senate Homeland Security and Governmental Affairs Committee, Majority Staff Report, *Mislabeled as a Threat: How the Terrorist Watchlist & Government Screening Practices Impact Americans* (Dec. 2023), https://www.hsgac.senate.gov/wp-content/uploads/Mislabeled-as-a-Threat_Public_Report-2.pdf.

³ TSA Responses to May 28, 2025 letter from Chairman Rand Paul (Sept. 12, 2025).

⁴ See TSA_HSGAC_8-21-24/5-28-25_T2_0001874; Email from Supervisory Air Marshal (Oct. 2, 2024), TSA_HSGAC_8-21-24_T1_0000257; TSA Responses to May 28, 2025 letter from Chairman Rand Paul (Sept. 12, 2025).

⁵ TSA, Briefing with HSGAC majority and minority staff (June 11, 2025).

⁶ TSA Responses to May 28, 2025 letter from Chairman Rand Paul (Sept. 12, 2025).

⁷ *Id.*

Silent Partner/Quiet Skies executes in automated systems for matching against airline-provided passenger reservation data. This is done to prevent any opportunity for human influence on the outcomes of rule matches. Therefore, there were no TSA officials, DHS officials, or any other individuals involved in the matching of former U.S. Representative Gabbard with any Silent Partner or Quiet Skies rules.

According to TSA documents and written responses, Gabbard was removed from Quiet Skies and moved to the “cleared list” on August 2, 2024, according to the standard protocol where an individual who matches the affiliate rule is cleared after 3 encounters or 20 days, whichever occurs first.⁸

Surveillance of Quiet Skies subjects began in 2018, during the first Trump Administration.

The Quiet Skies program began in 2012, and initially resulted in travelers receiving enhanced screening but did not include surveillance by the Federal Air Marshal Service (FAMS).⁹ TSA changed this practice in March 2018, under the leadership of Trump-appointed TSA Administrator David Pekoske and DHS Secretary Kristjen Nielsen. The decision to begin assigning Special Mission Coverage by Air Marshals to Quiet Skies selectees was memorialized in an Information Bulletin issued by TSA, excerpted below.¹⁰

Information Bulletin – Quiet Skies Selectees	March 15, 2018
<p><i>Effective Tuesday, March 13, 2018, OLE/FAMS will initiate Special Mission Coverage (SMC) on flights carrying Quiet Skies Selectees.</i></p> <p>TSA’s Quiet Skies Program</p> <p>The purpose of the Quiet Skies Program is to mitigate the threat to commercial aviation posed by unknown or partially known terrorists; and to identify and provide enhanced screening to higher risk travelers before they board aircraft based on analysis of terrorist travel trends, tradecraft and associations.</p> <p>Through the Quiet Skies Program, TSA’s office of Intelligence and Analysis designates potentially higher risk travelers for enhanced screening and security measures because they engaged in travel fitting intelligence driven, risk-based passenger targeting rules. Quiet Skies rules are triggered when individuals enter the United States from foreign locations.</p> <ul style="list-style-type: none"> • TSA I&A currently employs Quiet Skies rules to screen passengers. • Quiet Skies rules change based on current intelligence. • Quiet Skies rules target specific travel patterns or affiliations, for example: <ul style="list-style-type: none"> – Rules may target individuals who have spent a certain amount of time in one or more specific countries; or – Rules may target individuals whose reservation information includes email addresses or phone numbers associated to watch listed terrorism suspects. 	

⁸ See TSA Responses to May 28, 2025 letter from Chairman Rand Paul (Sept. 12, 2025); TSA Systems Documentation, TSA_HSGAC_8-21-24_T1_0000237.

⁹ See TSA Memorandum “Implementation of an Intelligence-Driven, Risk-Based Domestic Aviation Security Screening Program (Quiet Skies)” (Apr. 11, 2012), TSA_HSGAC_8-21-24/5-28-25_T2_0001882-1897.

¹⁰ “Information Bulletin – Quiet Skies Selectees,” Transportation Security Administration Office of Law Enforcement/Federal Air Marshal Service Law Enforcement Information Coordination Section (March 15, 2018), TSA_HSGAC_8-21-24_T1_0000040.

Silent Partner matches to Republican Members of Congress and candidates occurred during the first Trump Administration, and data is incomplete.

The Chairman’s report cites four examples of Republican Members of Congress, or candidates for Congress, being added to Quiet Skies and Silent Partner. Two of those four examples shown below happened in 2018 and 2019, during the first Trump Administration and under the leadership of TSA Administrator Pekoske and DHS Secretary Nielsen.¹¹ The redacted “TSA Comment” column describes the automated Silent Partner rule that matched to each traveler.¹²

GIVENNAME	SURNAME	DOB	TYPE	AFFILIATION or Appointment at Time of Travel	LIST CREATED	RULE ID	DEPARTURE DATE	SENSITIVE SECURITY INFORMATION			TSA Comment
								AIRCRAFT OPERATOR	DEPARTURE AIRPORTID	PSG TYPE	
[REDACTED]	[REDACTED]	[REDACTED]	MDC	R House	6/12/2018	[REDACTED]	6/12/2018	[REDACTED]	[REDACTED]	SP	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	MDC	R House	1/7/2019	[REDACTED]	1/8/2019	[REDACTED]	[REDACTED]	SP	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	MDC	R House	12/4/2022	[REDACTED]	12/4/2022	[REDACTED]	[REDACTED]	SP	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	MDC	R House	8/12/2023	[REDACTED]	8/15/2023	[REDACTED]	[REDACTED]	SP	[REDACTED]

Additionally, it is not clear whether other Members of Congress of any party matched rules in the past. In written responses to Senator Paul’s inquiry, TSA explains that it did not have a comprehensive list of Members of Congress who matched to Quiet Skies or Silent Partner Rules and conducted a “manual review against open source” information and “the results may not be wholly conclusive.”¹³

¹¹ TSA Responses to May 28, 2025 letter from Chairman Rand Paul (Sept. 12, 2025), Enclosure 15: TSA Categories of Individuals Matched to Silent Partner and Quiet Skies, TSA_HSGAC_8-21-24/5-28-25_T4_0002605.

¹² *Id.*

¹³ TSA Responses to May 28, 2025 letter from Chairman Rand Paul (Sept. 12, 2025).



United States Senate Committee On

**HOMELAND SECURITY
& GOVERNMENTAL AFFAIRS**

Chairman Gary Peters

MISLABELED AS A THREAT

*How the Terrorist Watchlist &
Government Screening Practices
Impact Americans*

HSGAC Majority Staff Report

December 2023

TABLE OF CONTENTS

I. EXECUTIVE SUMMARY 4

II. FINDINGS OF FACT AND RECOMMENDATIONS..... 6

III. INTRODUCTION 9

IV. GOVERNMENT SCREENING ACTIVITIES HAVE EXPANDED SIGNIFICANTLY OVER THE PAST 20 YEARS..... 9

A. Today’s Terrorist Watchlist was Established in the Aftermath of 9/11 10

B. How the Terrorist Watchlist Works 11

C. Government Watchlisting and Screening Activities Have Expanded Significantly 14

 1. Expansion of the Government Watchlisting..... 14

 2. Expansion of TSA and CBP Screening at Airports and Ports of Entry 16

D. In 2023, TSA and CBP Subject U.S. Citizens to Additional Screening for at Least 22 Different Reasons 19

 1. TSA Conducts Additional Screening Based on at Least 10 Screening Lists and Processes 19

 2. CBP Conducts Additional Screening Based on at Least 10 Other Lists, Processes and Inspections..... 24

 3. Additional Screening Can Be Prompted for a Least 2 Other Reasons Separate from the Terrorist Watchlist..... 28

V. AGENCIES HAVE USED OPAQUE PROCESSES TO ADD U.S. CITIZENS TO THE TERRORIST WATCHLIST 28

A. Watchlist-Related Screening can have Severe Impacts on U.S. Citizens..... 28

B. U.S. Citizens have been Misidentified as Matching the Watchlist During Screening Activities 29

C. Groups Have Concerns about Agencies Using the “Reasonable Suspicion” Standard to Add U.S. Citizens to the Terrorist Watchlist..... 30

D. The Extent to Which the Terrorist Watchlist Is Shared outside the Federal Government is Unclear. 31

VI. U.S. CITIZENS HAVE BEEN SUBJECTED TO ADDITIONAL SCREENING OR TRAVEL RESTRICTIONS WITH LITTLE INFORMATION OR RECOURSE 32

A. DHS Generally Does Not Tell Travelers Why They Are Subjected to Additional Screening as Part of the Redress Process..... 32

B. DHS Now Tells U.S. Persons if They Are on the No-Fly List, after a Court Found the Previous Redress Process Violated Individuals’ Due Process Rights..... 35

C. Multiple Courts have found the Current Redress Process is Constitutional, but Legal Challenges are Ongoing..... 35

VII. WIDESPREAD DISCRIMINATION ALLEGATIONS EXACERBATE CONCERNS ABOUT TSA AND CBP SCREENING ACTIVITIES..... 38

A. TSA Receives Thousands of Discrimination Complaints Each Year About Its Screening Practices ... 38

B. CBP Currently Faces Ongoing Litigation and an Internal Review Spurred by Religious
Discrimination Accusations 39

**VIII. OVERSIGHT OF TERRORIST WATCHLIST AND SCREENING ACTIVITIES
HAS BEEN FRAGMENTED, PREVENTING A COMPREHENSIVE AND CONSISTENT
INDEPENDENT ASSESSEMENT 40**

IX. CONCLUSION 41

I. EXECUTIVE SUMMARY

After the September 11, 2001 attacks, Congress swiftly took action to better protect the nation against the threat of terrorist attacks. The federal government subsequently established one comprehensive “terrorist watchlist,” which federal agencies continue to use to identify known and suspected terrorists. In addition to the terrorist watchlist, Congress and the executive branch expanded traveler screening at airports and other ports of entry to combat threats of terrorism and other security risks. A portion of the screening is driven by the terrorist watchlist, but the Transportation Security Administration (TSA) and Customs and Border Protection (CBP) screen travelers for other reasons as well. Today, U.S. travelers may be screened for at least 22 different reasons. While redundancy is a valuable security tool, given the similarity between some of these reasons, there is a likelihood of unnecessary duplication, and repeated and unwarranted screening can have profound impacts on Americans. It can also spread limited national security resources out broadly rather than effectively target changing threats.

For years, individuals and community groups have expressed concern with the reach of the federal government’s terrorist watchlist and frustration with repeated screenings at airports they believed were driven by individuals’ inclusion on the terrorist watchlist. While protecting Americans from the threat of terrorist attacks is paramount, potential abuse and/or lack of meaningful redress for wrongful screening by our government risks eroding Americans’ civil rights and civil liberties. To date, absent a few limited court rulings following lawsuits challenging the constitutionality of government screening practices and several privacy impact assessments, the executive branch has revealed hardly any information about what watchlists it maintains, who is included, and why or how those lists are used. In addition, the executive branch has not revealed what agencies and private sector entities have access to this data and how that information is used. Many Americans are left in the dark as they continue to be repeatedly pulled aside to be interviewed and searched during travel, and in some cases, prevented from flying, resulting in harms ranging from embarrassment, to loss of employment opportunities, or even wrongful arrest.

At the direction of U.S. Senator Gary Peters, Chairman of the Senate Homeland Security and Governmental Affairs Committee, majority committee staff examined existing authorities and current uses for the terrorist watchlist and other reasons individuals may receive additional screening (sometimes referred to as secondary inspection or enhanced screening) while traveling. The report finds that, in some cases, intentionally redundant layers of screenings associated with the terrorist watchlist and other government screening practices may be subjecting U.S. citizens to avoidable and unnecessary harm. Additionally, the report finds that the federal government lacks safeguards necessary to prevent potential discrimination and the redress process established to resolve travelers’ concerns about screening problems and other travel issues does not provide actionable information or assistance. As a result, Americans misidentified or subjected to discrimination do not have meaningful options to resolve concerns.

In a necessary attempt to protect our country from terrorist threats, the federal government has created a system so opaque and complicated it is difficult for U.S. citizens to understand. Certain communities—Muslim, Arab, and South Asian Americans in particular—claim they have been unfairly targeted. Keeping our country safe and our screening systems

targeted and effective, while simultaneously giving innocent people a path out of never-ending screenings requires a clear understanding and holistic review of government screening systems to ensure specific individuals and communities are not unfairly and unnecessarily targeted and a substantive redress process exists. More information about the executive branch's watchlisting and redress processes needs to be shared with the public. And the federal government must create a more effective redress system to sufficiently protect Americans' civil rights and liberties. This will ensure that the government's limited counterterrorism resources are best spent on protecting Americans.

A watchlist that is not properly maintained, coupled with unnecessarily duplicative screening practices that are not frequently assessed for their effectiveness is a risk to our national security. It may not reflect the latest threats, it could overextend limited security resources that should be focused on the best ways to protect Americans, and it breaks the trust with innocent Americans who get caught up in this net with no way out. The goals of this report and its recommended reforms are to strengthen our national security and ensure our screening systems are effectively addressing the serious terror threats we face.

Congress and the executive branch must work together to ensure that processes to protect the United States from future terrorist attacks and other security threats more effectively meet their intended goals without inflicting an undue burden on the traveling public. Federal agencies that use or oversee watchlist data need to improve transparency with the public and Congress. Finally, Congress should ensure sufficient constitutional protections and oversight mechanisms are in place to guide executive branch actions. These steps will strengthen our national security by instilling confidence that government practices that protect Americans eliminate unnecessary redundancies and effectively use limited resources while also balancing Americans' civil liberties.

II. FINDINGS OF FACT AND RECOMMENDATIONS

FINDINGS OF FACT

1. **There are at least 22 different mechanisms that might lead Americans to receive additional screening at airports and other ports of entry or be denied the ability to travel.** Some of these reasons may be derived from the terrorist watchlist, but they may also be related to agencies' other security measures, including their agriculture, immigration, health, and law enforcement missions, as well as at the discretion of a primary screening officer. In fact, as of 2019, U.S. citizens and lawful permanent residents make up less than 0.5% of the terrorist watchlist, and therefore screening is more likely to be for reasons other than inclusion in the terrorist watchlist. When it comes to TSA, for example, the vast majority of pre-determined screenings are the result of random selection.
2. **The size of the terrorist watchlist has increased dramatically.** As of November 2022, there are approximately 1.8 million records in the terrorist watchlist, up from 150,000 in 2004.
3. **The executive branch watchlists more than just terrorists.** The Terrorist Screening Center (TSC) manages the Threat Screening System (TSS) which maintains records in multiple datasets including terrorist screening, military detainee, transnational-organized crime, and additional datasets. Additionally, the terrorist watchlist includes individuals who are relatives or associates of known or suspected terrorists, and individuals it suspects of being terrorists but does not have enough supporting evidence to list as terrorists.
4. **Non-governmental entities have access to terrorist watchlist data.** Executive branch agencies share terrorist watchlist information with state, local, Tribal, and foreign partners. Additionally, federal agencies have given over 500 entities in the private sector, such as police and security forces of colleges, hospitals, and prisons, access to a subset of the terrorist watchlist for law enforcement purposes.
5. **The executive branch is not holistically assessing whether discrimination is occurring across the full screening enterprise.** TSA and CBP screen travelers under different authorities and for different reasons, yet individuals experience their travel process as a whole. Although each component assesses the privacy and civil liberties impacts of different aspects of their screening systems, neither TSA nor CBP collect data to assess whether there are individuals and groups that face repeated screening because of the agencies' layered approach.
6. **The redress process is not transparent.** The Department of Homeland Security Traveler Redress Inquiry Program (DHS TRIP) does not provide individuals with information about why they are experiencing additional screening or if their application for redress will affect their status on the terrorist watchlist, nor does it provide Congress with information on how many errors, corrections, or revisions are made as a result of

redress efforts. Combined with the multiple reasons people might receive additional screening, travelers who apply for redress are left with little understanding of what they will experience the next time they travel or whether redress worked.

RECOMMENDATIONS

1. **Ensure Full Accountability of the Watchlist Enterprise:** Due to the scope of the terrorist watchlist, its opacity, the lack of oversight, and its impact on the lives of Americans and lawful permanent residents included on the list, Congress should request the relevant Inspectors General conduct a coordinated, full-scope review of the watchlist enterprise, including a quality assurance review of nominations and examination of information sharing practices.
2. **Reform the Redress Process:** Congress should require the Secretary of the Department of Homeland Security (DHS) to provide Congress with a plan to meaningfully reform the redress process. This plan should ensure there is a real path for U.S. citizens and lawful permanent residents to seek redress from the watchlist and other screening processes, improve transparency, and build confidence in the screening and redress processes. Further, to make sure this plan balances national security with civil liberties as well as integrates feedback from the public, the Secretary should develop the new redress process in coordination with representatives of impacted communities.
3. **Establish a Screening and Watchlisting Council:** Congress should create a Screening and Watchlisting Advisory Council at DHS composed of government and non-governmental representatives to advise the Secretary on the development, implementation, modification, and oversight of screening, watchlisting, and redress policies and processes at DHS. This council would create a venue for ongoing dialogue between relevant government representatives and members of communities impacted by DHS policies as well as outside experts.
4. **Holistically Track Screening Activities:** Congress should direct DHS to begin tracking all additional screenings by both TSA and CBP in a systematic manner across the screening enterprise, including the reasons for screenings, and whether they impact specific individuals and communities. DHS should provide annual reports to Congress outlining the full number of screenings each year, broken down by reasons for screening, individuals screened, and whether, in tracking this data, DHS uncovers discrimination or disproportionate impacts on specific individuals or communities. This would allow both DHS and Congress to assess the impact screenings across the enterprise have on groups and individuals and whether the redundancy DHS has built into the system also leads to discrimination.
5. **Terrorist Screening Center Should Annually Report to Congress:** The Terrorist Screening Center (TSC) should provide to all relevant congressional committees the 2023 Watchlisting Guidance and any new version each time it is updated as well as annually report the types of records contained within the Threat Screening System (TSS) and the entities that use information contained therein (e.g. list of executive branch departments

and agencies, law enforcement entities, and private sector entities). Furthermore, Congress should direct the TSC to analyze records in the TSS against the new Watchlisting Guidance and provide an annual report with the number of records added, edited, and removed to all relevant congressional committees.

6. **Evaluate Constitutional Protections:** Congress should consider whether existing watchlist and screening activities have sufficient constitutional protections for individuals who are subjected to them by conducting oversight and exploring legislation. Congress should also authorize the DHS Office for Civil Rights and Civil Liberties and direct it to review all relevant TSA and CBP policies to determine whether sufficient safeguards are in place. Additionally, Congress should direct the Government Accountability Office to evaluate the effectiveness and potential bias in CBP's Tactical Terrorism Response Teams, which is one screening mechanism at airports and other ports of entry.

III. INTRODUCTION

After the September 11, 2001 attacks, the federal government expanded screening at airports and other ports of entry to prevent and respond to threats of terrorism and other security risks, and consolidated and expanded the terrorist watchlist to list and identify known or suspected terrorists. Various agencies are responsible for populating, vetting, and reviewing proposals for nominating, or adding, individuals to this list. Since this expansion, which was put in place over the last two decades, no terrorists have succeeded in bringing down a U.S. aircraft, although there have been continuing successful and unsuccessful plots abroad. But government screening and the terrorist watchlist also affect individuals, sometimes with profound personal, professional, and constitutional concerns.

While each mechanism is intended to keep the country safe, certain communities, such as Muslim, Arab and South Asian Americans, report they continue to be subject to disparate screening during travel. It has become a multi-generational issue with children now experiencing the same delays at airports and other egregious experiences, such as separation from family members and loss of employment opportunities, as their parents. Moreover, the American people have a general lack of understanding of the terrorist watchlist and screening activities, making both the experience of screening and the process of seeking remedy, also known as redress, much more challenging.

For these reasons, Senator Peters directed majority committee staff to examine how the terrorist watchlist functions, how it may impact individuals, and what, if anything, should be done to address undue burdens while maintaining the safety and security of the traveling public. There are multiple, and sometimes unrelated, reasons why individuals may be subject to additional screening at ports of entry, particularly airports. As such, the report also discusses other government watchlists as well as a more expansive set of Transportation Security Administration (TSA) and U.S. Customs and Border Protection (CBP) activities at airports and other ports of entry that may result in additional screening.¹

Much of the information contained in this report is publicly available but remains difficult to connect and understand. Majority committee staff spoke to relevant executive branch agencies to learn more about their watchlist and screening processes and incorporated information from those interviews. Some of this information has previously been restricted from release to the public and some agencies have failed to be fully responsive to requests for additional information. Specifically, both the Federal Bureau of Investigation (FBI) and the Department of Homeland Security (DHS) failed to fully provide responsive documents and information that the committee requested. The committee intends to ensure that agencies are accountable to these requests and will continue to follow-up.

IV. GOVERNMENT SCREENING ACTIVITIES HAVE EXPANDED SIGNIFICANTLY OVER THE PAST 20 YEARS

¹ U.S. Customs and Border Protection most often refers to this as secondary inspection, whereas the Transportation and Security Administration refers to this as enhanced screening. For simplicity in this report, all forms of this screening will be referred to as "additional screening."

A. Today's Terrorist Watchlist was Established in the Aftermath of 9/11

To protect the United States, Congress has instructed federal agencies to assess potential threats to domestic air transportation as well as implement methods to identify individuals known to pose a terrorism threat, continuously monitor threats, share information about such threats, and prevent the entry of terrorists into the United States.² In response to the failure to share information between agencies that may have helped stop the 9/11 terrorists from entering the United States or boarding airplanes on that day, the executive branch took steps to consolidate its approach to terrorist watchlisting and use of terrorist and suspected terrorist information in screening processes.³

The terrorist watchlist, as it is commonly referred to and as it will be referred to in this report, is actually called the Terrorist Screening Dataset, which is managed by the Terrorist Screening Center (TSC).⁴ The TSC, a multi-agency body administered by the FBI, manages the terrorist watchlist and the broader system in which it is housed, the Threat Screening System.⁵ This watchlist, and the entity that administers it, are a consolidation of numerous watchlists and structures that pre-date 9/11 and were revised and reformed in the two decades that followed.

Two months following the 9/11 attacks, Congress established the Transportation Security Administration (TSA) to be responsible for the security of all modes of transportation, including airline travel and transferred screening responsibilities from the Federal Aviation Administration (FAA) to TSA.⁶ Congress also made TSA responsible for establishing procedures for air carriers to identify travelers who may pose a threat, deny boarding, and notify law enforcement, where necessary.⁷ The following year, Congress created DHS, and in 2003, President Bush issued a Presidential Directive instructing the Attorney General to establish an organization to consolidate the government's approach to terrorism screening and to provide for the appropriate and lawful use of suspected terrorist information in screening processes.⁸

The National Commission on Terrorist Attacks Upon the United States (also known as the 9/11 Commission) found that at the time of 9/11 attacks, the FAA only had 12 people on its

² E.g., Aviation Security Improvement Act of 1990, Pub. L. No. 101-604; Aviation and Transportation Security Act, Pub. L. No. 107-71; Homeland Security Act of 2002, Pub. L. No. 107-296.

³ E.g., Homeland Security Presidential Directive-6: *Directive on Integration and Use of Screening Information to Protect Against Terrorism* (Sep. 16, 2003); Homeland Security Presidential Directive-11: *Comprehensive Terrorist-Related Screening Procedures* (Aug. 27, 2004).

⁴ The Terrorist Screening Dataset (TSDS) was previously called the Terrorist Screening Database (TSDB). The TSDS is the U.S. government's consolidated database comprised of identity records of those known to be or are reasonably suspected of being involved in terrorist activities, commonly referred to as the terrorist watchlist. Congressional Research Service, *The Terrorist Screening Database and Preventing Terrorist Travel* (R44678) (Nov. 7, 2016); Terrorist Screening Center response to the Senate Homeland Security and Governmental Affairs Committee staff (Nov. 7, 2022), *on file with Committee*; Terrorist Screening Center, Briefing with Senate Homeland Security and Governmental Affairs Committee staff (June 26, 2023).

⁵ See Congressional Research Service, *The Terrorist Screening Database and Preventing Terrorist Travel* (R44678) (Nov. 7, 2016).

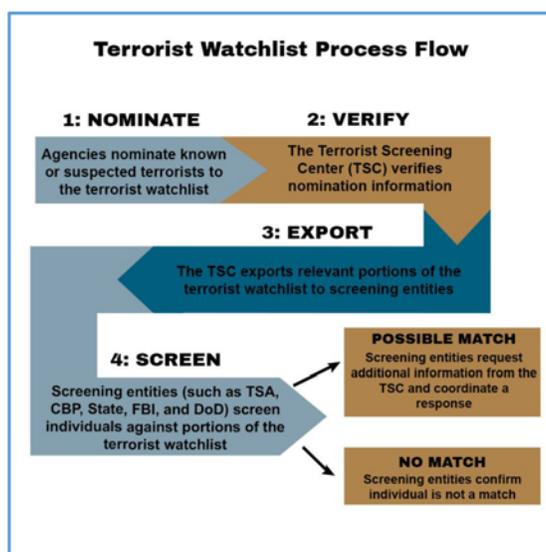
⁶ 49 U.S.C. § 114(d); Aviation and Transportation Security Act of 2001, Pub. L. No. 107-71.

⁷ 49 U.S.C. § 114(h)(3).

⁸ Homeland Security Act of 2002, Pub. L. No. 107-296; Homeland Security Presidential Directive 6: *Directive on Integration and Use of Screening Information to Protect against Terrorism* (Sep. 16, 2003).

No Fly List despite calls on the Central Intelligence Agency and FBI to provide terrorist watchlist information four years earlier and was unaware of the State Department's list of known or suspected terrorists.⁹ While some of the 9/11 terrorists were selected for additional screening, at the time, the only required additional screening was of their checked bags.¹⁰ To remedy these shortcomings, and to carry out the President's directive, in 2003, the Attorney General—acting through the Director of the FBI, and in coordination with the Secretary of State, the newly created position of Secretary of Homeland Security, and the Director of Central Intelligence—created the TSC.¹¹ The TSC was tasked with maintaining a consolidated terrorist watchlist – then known as the Terrorist Screening Database.¹² Moreover, the Intelligence Reform and Terrorism Prevention Act of 2004, as amended, directed TSA to develop an advanced passenger prescreening system and assume from aircraft operators the responsibility of matching passenger information to the No Fly and Selectee Lists.¹³

B. How the Terrorist Watchlist Works



⁹ National Commission on Terrorist Attacks Upon the United States, *The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States*, pg. 83 (July 22, 2004).

¹⁰ See *Id.* at pg. 1-4.

¹¹ Terrorist Screening Center, *Memorandum of Understanding on the Integration and Use of Screening Information to Protect Against Terrorism* (Sep. 16, 2003).

¹² Department of Justice, Office of Inspector General, *Audit of the Federal Bureau of Investigation's Management of Terrorist Watchlist Nominations* (Audit Report 14-16) (Mar. 2014).

¹³ Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. No. 108-548.

For someone to be placed on this watchlist, the government must nominate that individual to be included. The U.S. embassies, consulates, and intelligence and law enforcement agencies responsible for making these nominations do so by proposing individuals known or reasonably suspected to be terrorists, as well as others, to the terrorist watchlist¹⁴ According to the FBI,

A known terrorist is:

an individual whom the U.S. government knows is engaged, has been engaged, or who intends to engage in terrorism and/or terrorist activity, including an individual (a) who has been charged, arrested, indicted, or convicted for a crime related to terrorism by U.S. government or foreign government authorities; or (b) identified as a terrorist or member of a designated foreign terrorist organization pursuant to statute, Executive Order, or international legal obligation pursuant to a United Nations Security Council Resolution.¹⁵

A suspected terrorist is:

an individual who is reasonably suspected to be, or has been, engaged in conduct constituting, in preparation for, in aid of terrorism and/or terrorist activities based on an articulable and reasonable suspicion.¹⁶

In testimony before Congress, in 2014, former TSC Director Christopher Piehota stated that an individual's inclusion in the terrorist watchlist must not be based solely on hunches, guesses, First Amendment protected activity, or identifying factors such as race, ethnicity, national origin, or religious affiliation.¹⁷ According to the Government Accountability Office (GAO), if an agency determines a nexus to terrorism no longer exists, it must provide information to remove the individual from the terrorist watchlist, consistent with Homeland Security Presidential Directive-6 (HSPD-6)-*Directive on Integration and Use of Screening*

¹⁴ Individuals are included in the terrorist watchlist when there is a reasonable suspicion the individual is known or suspected to have engaged in terrorist activities. To meet this "reasonable suspicion standard," nominating agencies must rely on articulable intelligence and rational inferences to provide an objective *factual basis* to believe an individual is a known or suspected terrorist. Congressional Research Service, *The Terrorist Screening Database and Prevent Terrorist Travel* (R44678) (Nov. 7, 2016); Terrorist Screening Center, *Frequently Asked Questions* (Apr. 11, 2016).

¹⁵ Terrorist Screening Center, *Frequently Asked Questions* (Apr. 11, 2016).

¹⁶ Congressional Research Service, *Terrorist Databases and the No-Fly List: Procedural Due Process and Other Legal Issues* (R43730) (July 27, 2016); Terrorist Screening Center, *Frequently Asked Questions* (Apr. 11, 2016); Federal Bureau of Investigation response to the Senate Homeland and Governmental Affairs Committee staff (Oct. 13, 2023), *on file with Committee*.

¹⁷ House Committee on Homeland Security, Subcommittee on Transportation Security, Testimony Submitted for the Record of Director Christopher Piehota, Terrorist Screening Center, *Hearing on Safeguarding Privacy and Civil Liberties While Keeping our Skies Safe*, 113th Cong. (Sep. 18, 2014) (H. Hrg. 113-86).

Information to Protect Against Terrorism.¹⁸ However, the FBI told the majority committee staff this requirement does not appear in HSPD-6.¹⁹

The information contained in the terrorist watchlist includes identifying information that helps the government conduct screening activities such as background checks, passport reviews, and visa applications.²⁰ In accordance with underlying policies and authorities, the primary U.S. government agencies that use a subset of the terrorist watchlist and broader Threat Screening System are:

- Department of Homeland Security (DHS), including:
 - TSA for transportation security;
 - CBP for screening travelers at ports of entry and individuals encountered between ports of entry;
- the FBI for restricted dissemination in the National Crime Information Center for domestic law enforcement screening;
- the Department of State for passport and visa screening; and
- the Department of Defense for base access screening.²¹

The TSC regularly reviews and audits the terrorist watchlist to ensure it contains accurate and timely information.²² The process to remove terrorist watchlist records is similar to the nomination process in that removal forms are submitted and reviewed prior to import into the terrorist watchlist, thereby removing the record.²³

¹⁸ Government Accountability Office, *Terrorist Watchlist: Routinely Assessing Impacts of Agency Actions since the December 25, 2009, Attempted Attack Could Help Inform Future Efforts* (GAO-12-476) (May 2012); Homeland Security Presidential Directive-6: *Directive on Integration and Use of Screening Information to Protect against Terrorism* (Sep. 16, 2003).

¹⁹ Federal Bureau of Investigation response to Senate Homeland Security and Governmental Affairs Committee majority staff (Oct. 13, 2023), *on file with Committee*.

²⁰ Congressional Research Service, *The Terrorist Screening Database and Preventing Terrorist Travel* (R44678) (Nov. 7, 2016).

²¹ Some federal and local agencies can see the known or suspected terrorist record in the National Crime Information Center when screening job applicants. Federal Bureau of Investigation response to the Senate Homeland Security and Governmental Affairs Committee staff (Oct. 13, 2023), *on file with Committee*; Terrorist Screening Center, *Frequently Asked Questions* (Apr. 11, 2016); Congressional Research Service, *The Terrorist Screening Database and Prevent Terrorist Travel* (R44678) (Nov. 7, 2016); Department of Homeland Security response to Senate Homeland Security and Governmental Affairs Committee majority staff (Dec. 14, 2023), *on file with Committee*.

²² Terrorist Screening Center, *Frequently Asked Questions* (Apr. 11, 2016).

²³ Department of Justice, Office of Inspector General, *Audit of the Federal Bureau of Investigation's Management of Terrorist Watchlist Nominations* (Audit Report 14-16) (Mar. 2014).

C. Government Watchlisting and Screening Activities Have Expanded Significantly

1. Expansion of the Government Watchlisting

Growth in Size

Since the consolidation of the government’s approach to terrorism screening after the 9/11 attacks, the number of records added to the terrorist watchlist has grown significantly. The Department of Justice (DOJ) Inspector General testified before Congress that in April 2004, shortly after the TSC was established, the database included approximately 150,000 records.²⁴ As of November 2022, there are approximately 1.8 million records; U.S. citizens and lawful permanent residents made up less than 7,000 of those records (less than half a percent of the total records in the terrorist watchlist).²⁵ Because multiple records may relate to one individual, the actual number of individuals in the terrorist watchlist is fewer than the number of records. Regardless, this growth reflects a significant change.

Growth in Categories

Additionally, over the course of its existence, the terrorist watchlist has further expanded into categories beyond known and suspected terrorists. These categories include “exception records” which may include information about relatives, associates, or others closely connected with known or suspected terrorists, as well as endorsers and inciters of terrorism, whose precise terrorist support activity is unknown.²⁶ Exception records do not meet the same minimum standard for inclusion required for other records in the terrorist watchlist and are used primarily to determine the admissibility of individuals trying to enter the United States.²⁷ The exceptions records might also be used for other reasons too, such as background screenings for TSA credentials like Transportation Worker Identification Credential (TWIC), which is for workers who need access to certain maritime facilities and vessels.²⁸

²⁴ Terrorist watchlist records only include “terrorist identifiers” such as name and date of birth. Until the government can confirm those identifiers are connected to one individual, they remain separate records in the terrorist watchlist. Senate Committee on Homeland Security and Governmental Affairs, Testimony Submitted for the Record of Inspector General Glenn A. Fine, Department of Justice, *Hearing on Watching the Watch Lists: Building an Effective Terrorist Screening System*, 110th Cong. (Oct. 24, 2007) (S. Hrg. 110-621); House Homeland Security Committee, Subcommittee on Transportation Security, Testimony Submitted for the Record of Director Christopher M. Piehota, Terrorist Screening Center, *Hearing on Safeguarding Privacy and Civil Liberties While Keeping Our Skies Safe*, 113th Cong. (Sep. 18, 2014) (H. Hrg. 113-86).

²⁵ Terrorist Screening Center, Briefing with Senate Homeland Security and Governmental Affairs Committee staff (June 26, 2023); Terrorist Screening Center response to the Senate Homeland Security and Governmental Affairs Majority Committee staff (Nov. 7, 2022), *on file with Committee*.

²⁶ National Counterterrorism Center, Briefing with Senate Homeland Security and Governmental Affairs Committee staff (May 23, 2023); Terrorist Screening Center, Briefing with Senate Homeland Security and Governmental Affairs Committee majority staff (Sept. 22, 2022); *See also, Salloum v. Kable*, Declaration of Jason V. Herring, (June 21, 2021), ECF 37-1.

²⁷ Terrorist Screening Center, Briefing with Senate Homeland Security and Governmental Affairs Committee staff (June 26, 2023).

²⁸ *Id.*; Transportation Security Administration, *TWIC* (<https://www.tsa.gov/for-industry/twic>) (accessed July 27, 2023).

After the failed terrorist attack in 2009 by Umar Farouk Abdulmutallab, also known as the “Underwear Bomber,” who attempted to detonate two high explosives and a syringe containing other chemicals on Northwest Airlines Flight 253, the watchlisting community reexamined its terrorist watchlisting procedures.²⁹ The government had failed to include Abdulmutallab on the terrorist watchlist and prevent him from boarding an airplane destined for Detroit, Michigan, despite having sufficient information to do so. Following the incident, the TSC updated its procedures to address gaps in information sharing and weaknesses in the nominations process. The updated guidance increased the number of nominations received, subsequently resulting in an increase in the number of records within the terrorist watchlist after 2010.³⁰

In 2015, because of threats posed by transnational organized crime (TOC) and following President Obama’s issuance of the “Strategy to Combat Transnational Organized Crime,” the U.S. Attorney General broadened the TSC authority to extend watchlisting to include TOC actors, thereby further expanding government watchlisting.³¹ CBP uses the TOC list for screening, and while TSA does not use it for airport screening, TSA does use the TOC list for credential vetting purposes.³² Moreover, in 2018, the Attorney General also granted the TSC authority to maintain additional datasets.³³

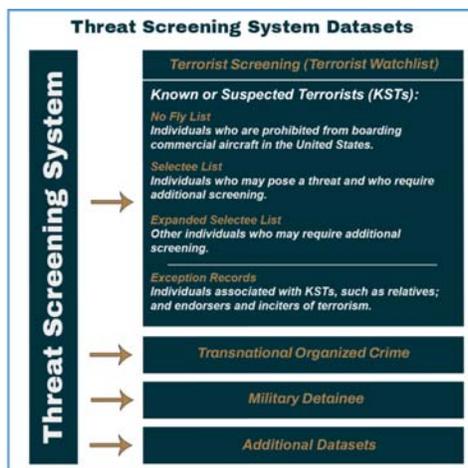
²⁹ Federal Bureau of Investigation, “Underwear Bomber” Umar Farouk Abdulmutallab Pleads Guilty (Oct. 12, 2011) (<https://archives.fbi.gov/archives/detroit/press-releases/2011/underwear-bomber-umar-farouk-abdulmutallab-pleads-guilty>); Government Accountability Office, *Terrorist Watchlist: Routinely Assessing Impacts of Agency Actions since the December 25, 2009, Attempted Attack Could Help Inform Future Efforts* (GAO-12-476) (May 2012).

³⁰ *Id.* Federal Bureau of Investigation, “Underwear Bomber” Umar Farouk Abdulmutallab Pleads Guilty (Oct. 12, 2011) (<https://archives.fbi.gov/archives/detroit/press-releases/2011/underwear-bomber-umar-farouk-abdulmutallab-pleads-guilty>); Government Accountability Office, *Terrorist Watchlist: Routinely Assessing Impacts of Agency Actions since the December 25, 2009, Attempted Attack Could Help Inform Future Efforts* (GAO-12-476) (May 2012).

³¹ Department of Justice, Attorney General Order No. 3548-2015 (Aug. 2015).

³² Department of Homeland Security response to Senate Homeland Security and Governmental Affairs Committee majority staff (Dec. 7, 2023), *on file with Committee*.

³³ Federal Bureau of Investigation briefing and response to Senate Homeland Security and Governmental Affairs Committee majority staff (Dec. 14, 2023).



2. Expansion of TSA and CBP Screening at Airports and Ports of Entry

Like the government's terrorist watchlist activities, other screening activities at airports and other ports of entry have also expanded in the last twenty years.³⁴ Over time, TSA and CBP have come to rely on a growing number of lists and screening activities to accomplish their missions in securing the nation's aviation system and borders as well as CBP's other missions, including but not limited to those related to the terrorist watchlist.³⁵ Their multi-layered approaches include prescreening passengers prior to arrival at the airport against law enforcement and national security databases, including terrorist watchlist information, as well as screening at security checkpoints.³⁶

For example, beginning in December 2002, TSA deployed explosive detection systems across the country.³⁷ Then, following a plot to detonate liquid explosives onboard multiple aircraft in 2006, TSA banned liquids, aerosols, and gels over 3.4 ounces from carry-on

³⁴ U.S. Customs and Border Protection most often uses the terms exams or inspections. However, for consistency, this report uses the term screening.

³⁵ *E.g.* Aviation and Transportation Security Act of 2001, Pub. L. No. 107-71 established the Transportation Security Agency (TSA) and transferred screening responsibilities from Federal Aviation Administration to TSA; Homeland Security Act of 2002, Pub. L. No. 107-296 authorized the Department of Homeland Security; 49 U.S.C. § 114(h)(3)(A) gave TSA the responsibility to establish procedures for air carriers to identify travelers who may pose a threat and if such an individual is identified, deny boarding and notify law enforcement.

³⁶ The Department of Homeland Security has also developed Trusted Traveler Programs, including Global Entry, NEXUS, SENTRI, and FAST, and TSA PreCheck®, which provide modified screening for preapproved members. Department of Homeland Security, *Trusted Traveler Programs* (Dec. 1, 2023) (<https://www.cbp.gov/travel/trusted-traveler-programs>).

³⁷ Transportation Security Administration, *Transportation Security Timeline* (<https://www.tsa.gov/timeline>) (accessed Mar. 7, 2023).

baggage.³⁸ Around the same time, TSA implemented more stringent identity verification practices at screening checkpoints and began requiring travelers to remove their shoes as part of screening based on a continuing threat.³⁹

In 2009, after the failure of the “Underwear Bomber,” CBP implemented a pre-departure system to push the borders out to the first point of foreign departure.⁴⁰ By 2012, TSA fully implemented Secure Flight, a passenger pre-screening program, which compares passenger manifests to the No Fly, Selectee, and Expanded Selectee Lists.⁴¹ Secure Flight replaced an FAA system and TSA security directives that required airlines to conduct passenger watchlist matching using lists provided by the federal government.⁴²

Following the publication of instructions to build a non-metallic bomb by Al Qaeda in the Arabian Peninsula in December 2014, TSA applied improvements to its deployment of Advanced Imaging Technology (AIT), explosive detection systems, and pat-down procedures to enhance officer’s ability to detect concealed items.⁴³ Then, in 2015, CBP began deploying Tactical Terrorism Response Teams (TTRTs) as an immediate counterterrorism response capability at some ports of entry.⁴⁴ In 2017, in response to information about overseas threats, TSA strengthened screening procedures requiring a passenger to remove personal electronic devices from their carry-on luggage.⁴⁵

Since then, TSA has begun testing advanced technology such as facial recognition, enhanced advanced imaging technology, and computed tomography (CT) to automate identification processes and improve detection capabilities.⁴⁶ Similarly, CBP has implemented biometric facial comparison into entry processes and currently uses such technology at all U.S. international airports.⁴⁷

Now, upon arrival at a TSA checkpoint, typical standard screening may include a review of identification and travel information, x-ray or CT screening of accessible property (e.g., carry-

³⁸ Transportation Security Administration, *Transportation Security Timeline* (<https://www.tsa.gov/timeline>) (accessed Mar. 7, 2023).

³⁹ *Id.*

⁴⁰ Department of Homeland Security response to Senate Homeland Security and Governmental Affairs Committee majority staff (Nov. 17, 2023), *on file with Committee*.

⁴¹ Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. 108-458.

⁴² See Department of Homeland Security, *Privacy Impact Assessment for the Secure Flight Program* (Aug. 9, 2007).

⁴³ See Transportation Security Administration, *Mission Hall Exhibit: Remembering the Past, Informing the Future* (https://www.tsa.gov/sites/default/files/9003_layout_mission_hall_exhibit_the_evolution.pdf) (accessed May 4, 2023); Department of Homeland Security response to Senate Homeland Security and Governmental Affairs Committee majority staff (Nov. 17, 2023), *on file with Committee*.

⁴⁴ *Clear v. CBP*, Howard Decl., Exhibit F, Exhibit H (Feb. 21, 2021).

⁴⁵ Department of Homeland Security response to Senate Homeland Security and Governmental Affairs Committee majority staff (Nov. 17, 2023), *on file with Committee*.

⁴⁶ Transportation Security Administration, *Transportation Security Timeline* (<https://www.tsa.gov/timeline>) (accessed Mar. 7, 2023).

⁴⁷ U.S. Customs and Border Protection, *Say hello to the new face of efficacy, security and safety* (Dec. 5, 2023) (<https://www.cbp.gov/travel/biometrics>).

on luggage), and traveler screening via metal detector or AIT.⁴⁸ DHS told the majority committee staff, these processes may generate alarms (i.e. a concern about the authenticity of identification documents provided, a potential prohibited item discovered in a bag, or an anomaly detected during AIT screening) that prompt additional screening.⁴⁹ According to DHS, alarms may also be generated randomly as part of unpredictable screening procedures. CBP screening at a port of entry also includes a review of identification and travel information and may include additional questioning.⁵⁰

Separately from these processes, use of law enforcement or security information including the terrorist watchlist may prompt additional screening of travelers or their belongings.⁵¹ Additional screening by TSA may include a pat-down, explosive trace detection screening, and a more in-depth search of luggage.⁵² Additional screening by CBP may include similar processes to TSA as well as a more extensive interview and further vetting against intelligence, law enforcement, and biometric databases.⁵³

With all of the additional screenings used by TSA and CBP, individuals can be screened multiple times during a single trip or subjected to additional screenings for a combination of several reasons. Even if one reason is addressed, individuals may continue to be subjected to additional screening. DHS asserts that because TSA and CBP have unique missions and authorities, TSA checkpoints and CBP inspection stations remain distinct from each other in the airport.⁵⁴ A passenger who travels domestically will be screened by TSA but will not be screened by CBP, and an international passenger arriving from abroad at their final destination will be screened by CBP but will not be screened by TSA.⁵⁵ However, international passengers arriving from most international locations and continuing their travel by air upon their arrival in the United States will be inspected by CBP to gain admission into the United States and then screened by TSA prior to continuing their domestic air travel.⁵⁶ Therefore, it is logical that such a traveler would experience both CBP and TSA screening and question why they were being screened multiple times by the U.S. government.

⁴⁸ Government Accountability Office, *Aviation Security: TSA Should Assess Potential for Discrimination and Better Inform Passengers of the Compliant Process* (GAO-23-105201) (Nov. 7, 2022); Government Accountability Office, *Land Ports of Entry: CBP Should Update Policies and Enhance Analysis of Inspections* (GAO-19-658) (Aug. 6, 2019).

⁴⁹ Department of Homeland Security response to Senate Homeland Security and Governmental Affairs Committee majority staff (Nov. 17, 2023), *on file with Committee*.

⁵⁰ *Id.*

⁵¹ Department of Homeland Security response to Senate Homeland Security and Governmental Affairs Committee majority staff (Dec. 14, 2023), *on file with Committee*.

⁵² Government Accountability Office, *Aviation Security: TSA Should Assess Potential for Discrimination and Better Inform Passengers of the Compliant Process* (GAO-23-105201) (Nov. 7, 2022).

⁵³ *Id.*; Government Accountability Office, *Land Ports of Entry: CBP Should Update Policies and Enhance Analysis of Inspections* (GAO-19-658) (Aug. 6, 2019).

⁵⁴ Department of Homeland Security response to Senate Homeland Security and Governmental Affairs Committee majority staff (Nov. 17, 2023), *on file with Committee*.

⁵⁵ *Id.*; 49 U.S.C. 44901(a-b)

⁵⁶ *Id.*

D. In 2023, TSA and CBP Subject U.S. Citizens to Additional Screening for at Least 22 Different Reasons

22 Screening Mechanisms that Could Impact Traveler Experience

TSA

	No-Fly List*	TSA Deny Boarding List
	Selectee List*	TSA Enhanced Screening List
	Expanded Selectee List*	CDC Do Not Board List
	Silent Partner List**	Airline Designations and Referrals
	Quiet Skies List**	Random Selection

BOTH

Officer Discretion	Canine Unit Flags
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CBP

Terrorist Watchlist*	Immigration Inspections	
National Security Threat Actors List	Customs Inspections	
CBP's Rules-based Targeting Lists**	Law Enforcement Alerts	
Tactical Terrorism Response Team Interviews**	CDC Public Health Lookout List	
Agricultural Inspections	Enforcement of Other Laws	

*These lists are derived exclusively from the terrorist watchlist
 **The terrorist watchlist may be one of multiple inputs for these screening activities

1. TSA Conducts Additional Screening Based on at Least 10 Screening Lists and Processes

TSA screens over 14 million travelers every week.⁵⁷ All aviation travelers must undergo security screening prior to entering the secure area of an airport and boarding an aircraft, and any passenger may be selected for additional screening.⁵⁸ According to DHS, TSA applies the same checkpoint screening procedures to all travelers designated for additional screening, regardless of whether the designation is due to terrorist watchlist status, random selection, or for other reasons, and boarding passes do not indicate why someone has been selected.⁵⁹ DHS claims that a very small subset of travelers are designated for additional screening by Secure Flight and will see a “SSSS” or Secondary Security Screening Selection designation on their boarding pass.⁶⁰

⁵⁷ Department of Homeland Security, *Preventing Terrorism Results* (June 1, 2023) (<https://www.dhs.gov/topic/preventing-terrorism-results>).

⁵⁸ Department of Homeland Security response to Senate Homeland Security and Governmental Affairs Committee majority staff (Nov. 17, 2023), *on file with Committee*.

⁵⁹ *Id.*

⁶⁰ Department of Homeland Security response to Senate Homeland Security and Governmental Affairs Committee majority staff (Nov. 17, 2023), *on file with Committee*.

Generally, neither the Transportation Security Officer nor the passenger knows why the SSSS is there, though it could be one of the several reasons described below.

According to data provided by TSA, the vast majority of “SSSS” designations in recent years are due to random selection.⁶¹ TSA may also designate travelers for additional screening based on inclusion on the terrorist watchlist or other prescreening information.⁶² As part of its passenger vetting process, TSA uses the Secure Flight Program, a pre-screening program that compares passenger manifests submitted by an airline to information on the terrorist watchlist, as well as other lists maintained by TSA.⁶³ TSA does not use non-terrorist related information from the Threat Screening System for airplane traveler pre-board screening.⁶⁴

TSA’s Secure Flight program implements three subsets of the terrorist watchlist:

- **No-Fly List.** TSA uses the No-Fly List, a subset of the larger terrorist watchlist developed by the TSC for TSA’s screening purposes. Any individual, regardless of citizenship, may be included on the No Fly List when it is determined that the individual meets the criteria.⁶⁵ According to the TSC, the minimum information required to form a basis for inclusion on the No-Fly List is higher than for inclusion on the terrorist watchlist.⁶⁶ Inclusion on the No-Fly List prohibits an individual from receiving a boarding pass and boarding a commercial aircraft that departs from or arrives in the United States or traverses U.S. airspace.⁶⁷
- **Selectee List.** TSA also uses the TSC’s Selectee List, another subset of the terrorist watchlist developed by the TSC.⁶⁸ The criteria for inclusion on the Selectee List are not public. The Selectee List is used to perform additional screening on individuals who may pose a threat. Individuals on the Selectee List are not prevented from boarding an aircraft but must receive additional screening at the TSA checkpoint.⁶⁹
- **Expanded Selectee List.** Additionally, TSA uses the Expanded Selectee List, for which DHS stated the criteria for inclusion is not public.⁷⁰ According to a publicly available

⁶¹ Department of Homeland Security response to the Senate Homeland Security and Governmental Affairs Committee staff (Dec. 12, 2023), *on file with Committee*.

⁶² Department of Homeland Security, *Privacy Impact Assessment Update for Secure Flight* (DHS/TSA/PIA-018(i)) (Apr. 19, 2019).

⁶³ Secure Flight also identifies individuals on other watchlists maintained by the Federal Government. Department of Homeland Security, *Privacy Impact Assessment Update for Secure Flight* (DHS/TSA/PIA-018(i)) (Apr. 19, 2019).

⁶⁴ Department of Homeland Security response to the Senate Homeland Security and Governmental Affairs Committee staff (Dec. 12, 2023), *on file with Committee*.

⁶⁵ 49 CFR. § 1560.105(b)(1).

⁶⁶ Terrorist Screening Center, Briefing with Senate Homeland Security and Governmental Affairs Committee staff (June 26, 2023).

⁶⁷ Congressional Research Service, *The Terrorist Screening Database and Preventing Terrorist Travel* (R44678) (Nov. 7, 2016).

⁶⁸ Congressional Research Service, *The Terrorist Screening Database and Preventing Terrorist Travel* (R44678) (Nov. 7, 2016).

⁶⁹ *Id.*

⁷⁰ Department of Homeland Security response to Senate Homeland Security and Governmental Affairs Committee majority staff (Nov. 17, 2023), *on file with Committee*.

Congressional Research Service report, however, this list is based on all terrorist watchlist records not already on the No Fly or Selectee lists that include the first and last name and date of birth of an individual.⁷¹ Individuals on the Expanded Selectee List are subject to additional screening.⁷²

DHS told majority committee staff that TSA also relies on intelligence driven risk-based rules to increase efficiency and security effectiveness by allowing it to focus less on lower-risk travelers and more on higher-risk passengers or those about whom it has less information.⁷³ TSA formulates rules to address unknown and partially identified threats. For example, travelers may match a rule based upon travel patterns matching intelligence regarding terrorist travel, upon submitting traveler information matching the information used by a partially identified terrorist, or upon submitting traveler information matching the information used by a known or suspected terrorist. DHS stated these rules are applied to a limited set of travelers who are designated for additional screening and may result in other operational responses, including deployment of Federal Air Marshals to cover the flight to ensure security.⁷⁴

The rules used to create the lists described below are regularly audited by the DHS Office for Civil Rights and Civil Liberties (DHS CRCL) and DHS's Offices of Privacy and General Counsel as well as similar TSA offices.⁷⁵ Individuals matching to these rules are not considered as known or suspected terrorists and are not nominated to the terrorist watchlist merely for falling within a security rule but may be nominated if they are involved in a security incident that supports such a nomination.⁷⁶ While individuals can stop matching a certain pattern or rule after a period of time, they may still match a separate pattern or rule, and so continue to get additional screening.

- **Silent Partner List.** Silent Partner rules apply to international flights that are bound for the United States.⁷⁷ TSA uses Silent Partner as an indication that there may be an elevated risk that merits additional screening. According to TSA, matching to the Silent Partner list does not mean that the individual has or is suspected of engaging in terrorist

⁷¹ Congressional Research Service, *The Terrorist Screening Database and Preventing Terrorist Travel* (R44678) (Nov. 7, 2016).

⁷² Department of Homeland Security response to Senate Homeland Security and Governmental Affairs Committee majority staff (Nov. 17, 2023), *on file with Committee*.

⁷³ Department of Homeland Security response to Senate Homeland Security and Governmental Affairs Committee majority staff (Nov. 17, 2023), *on file with Committee*; See 49 U.S.C. § 44917(a)(10-11); FAA Reauthorization Act of 2018, Pub. L. 115-254, Sec. 1949(d)(2018), which calls on TSA to incorporate Silent Partner and Quiet Skies into the Federal Air Marshal Service's risk-based scheduling methodology.

⁷⁴ *Id.*; Department of Homeland Security response to Senate Homeland Security and Governmental Affairs Committee majority staff (Dec. 13, 2023), *on file with Committee*

⁷⁵ While statute calls for reviews every 120 days, these offices have reviewed the Transportation Security Administration's rules programs on a quarterly basis since implementation of the program. FAA Reauthorization Act of 2018, Pub. L. 115-254, Sec. 1949(c)(2018); Department of Homeland Security response to Senate Homeland Security and Governmental Affairs Committee majority staff (Nov. 17, 2023), *on file with Committee*.

⁷⁶ Department of Homeland Security response to Senate Homeland Security and Governmental Affairs Committee majority staff (Nov. 17, 2023), *on file with Committee*; Department of Homeland Security, *Privacy Impact Assessment Update for Secure Flight* (DHS/TSA/PIA-018)(i)) (Apr. 19, 2019).

⁷⁷ Department of Homeland Security, *Privacy Impact Assessment Update for Secure Flight* (DHS/TSA/PIA-018)(i)) (Apr. 19, 2019).

activities.⁷⁸ Inclusion on the Silent Partner List is “based on aggregated travel data, intelligence, and trend analysis of the intelligence and suspicious activity.”⁷⁹ A traveler matching a Silent Partner rule will receive additional screening prior to their international inbound flight to the United States. Travelers remain on the Silent Partner List for the period of the international inbound flight.⁸⁰

- **Quiet Skies List.** Quiet Skies rules are a subset of Silent Partner rules linked to aviation security threats within the United States.⁸¹ Travelers who match a Quiet Skies rule receive additional screening prior to flights within the United States for a period of time following international travel that matches the corresponding Silent Partner rule.⁸² The Quiet Skies List continually changes as travelers are added based on matches to a Quiet Skies rule and automatically removed upon matching the program’s defined removal thresholds, which are not public.⁸³

In addition, TSA implements three other lists based on its own aviation security authorities.⁸⁴ These lists include persons who “pose, or are suspected of posing, (1) a threat to transportation or national security, (2) a threat of air piracy or terrorism, (3) a threat to airline or passenger safety or (4) a threat to civil aviation security.”⁸⁵ According to DHS, these lists are separate from the TSC’s terrorist watchlist and allow TSA to take immediate action to mitigate threats pending further investigation or TSC watchlisting action and mitigate non-terrorist threats to transportation or national security posed by individuals not in the terrorist watchlist.⁸⁶

Two of the lists may affect travel and are discussed below. The third list, the Security Notification List, includes individuals who may pose a threat to aviation security, but who do not warrant additional screening.⁸⁷ These individuals may seek to intentionally evade or defeat security measures or may attempt to disrupt the safe and effective completion of screening, such

⁷⁸ Department of Homeland Security response to Senate Homeland Security and Governmental Affairs Committee majority staff (Dec. 14, 2023), *on file with Committee*.

⁷⁹ Department of Homeland Security, *Privacy Impact Assessment Update for Secure Flight (DHS/TSA/PIA-018)(i)* (Apr. 19, 2019).

⁸⁰ *Id.*; Government Accountability Office, *Aviation Security: TSA Coordinates with Stakeholders on Changes to Screening Rules but Could Clarify Its Review Processes and Better Measure Effectiveness (GAO-20-72)* (Nov. 2019); Department of Homeland Security response to Senate Homeland Security and Governmental Affairs Committee majority staff (Nov. 17, 2023), *on file with Committee*.

⁸¹ Department of Homeland Security response to Senate Homeland Security and Governmental Affairs Committee majority staff (Nov. 17, 2023), *on file with Committee*.

⁸² *Id.*; Department of Homeland Security, *Privacy Impact Assessment Update for Secure Flight (DHS/TSA/PIA-018)(i)* (Apr. 19, 2019).

⁸³ Department of Homeland Security response to Senate Homeland Security and Governmental Affairs Committee majority staff (Nov. 17, 2023), *on file with Committee*.

⁸⁴ Department of Homeland Security, Briefing with Senate Homeland Security and Governmental Affairs Committee Majority Staff (July 11, 2022).

⁸⁵ 49 U.S.C. § 114(h); Department of Homeland Security, *Privacy Impact Assessment Update for Secure Flight (DHS/TSA/PIA-018)(h)* (July 12, 2017).

⁸⁶ Department of Homeland Security response to Senate Homeland Security and Governmental Affairs Committee majority staff (Nov. 17, 2023), *on file with Committee*; Department of Homeland Security response to Senate Homeland Security and Governmental Affairs Committee majority staff (Dec. 13, 2023), *on file with Committee*.

⁸⁷ Department of Homeland Security, Briefing with Senate Homeland Security and Governmental Affairs Committee Majority Staff (July 11, 2022).

as individuals who assault TSA personnel during the screening process. Individuals on this list may not be referred for additional screening solely by virtue of their placement on this list, but TSA personnel may be given forewarning of their travel.⁸⁸

On July 1, 2017, fewer than 20 individuals were included within these lists.⁸⁹ Although the number of assaults on TSA and airport/airline personnel have increased, as of October 1, 2023, fewer than 200 individuals were identified on these lists.⁹⁰

- **TSA Deny Boarding List.** The Deny Boarding List includes individuals who meet criteria established by TSA that indicate the individual poses a threat warranting denial of boarding.⁹¹ People on this list will not be permitted to enter the sterile area of an airport or board aircraft.⁹²
- **TSA Enhanced Screening List.** The Enhanced Screening List includes individuals TSA believes pose or are suspected of posing a threat warranting additional screening or deployment of Federal Air Marshals to cover the flight to ensure security.⁹³ Individuals on this list may be violent and subject to additional screening.

TSA also implements other lists and alerts that are not exclusively based on security threats, which may result in additional screening or denial of boarding.

- **CDC Do Not Board List.** TSA implements the Centers for Disease Control and Prevention (CDC) Do Not Board List.⁹⁴ CDC maintains the Do Not Board list to prevent individuals with serious communicable illnesses, such as tuberculosis, from traveling or being admitted into the United States.⁹⁵ Individuals on the Do Not Board List are

⁸⁸ Department of Homeland Security response to Senate Homeland Security and Governmental Affairs Committee majority staff (Nov. 17, 2023), *on file with Committee*.

⁸⁹ Department of Homeland Security, *Privacy Impact Assessment Update for Secure Flight* (DHS/TSA/PIA-018(h)) (July 12, 2017).

⁹⁰ Department of Homeland Security response to Senate Homeland Security and Governmental Affairs Committee majority staff (Nov. 17, 2023), *on file with Committee*.

⁹¹ Department of Homeland Security, Briefing with Senate Homeland Security and Governmental Affairs Committee Majority Staff (July 11, 2022); Department of Homeland Security response to Senate Homeland Security and Governmental Affairs Committee majority staff (Nov. 17, 2023), *on file with Committee*.

⁹² *Id.*

⁹³ Department of Homeland Security, Briefing with Senate Homeland Security and Governmental Affairs Committee Majority Staff (July 11, 2022); Department of Homeland Security response to Senate Homeland Security and Governmental Affairs Committee majority staff (Nov. 17, 2023), *on file with Committee*.

⁹⁴ The Do Not Board list is enforced by TSA for commercial air travel. Travelers on the Do Not Board list are not part of the No-Fly List. CDC has restricted travel for individuals with tuberculosis, multidrug-resistant tuberculosis, and measles, but restrictions can also be used for other contagious diseases. During 2020-2022, CDC also restricted travel for individuals with COVID-19. Centers for Disease Control and Prevention, *FAQs for Public Health Do Not Board and Lookout Lists* (Jan. 28, 2022) (<https://www.cdc.gov/quarantine/do-not-board-faq.html>); Centers for Disease Control and Prevention, *Travel Restrictions* (Oct. 5, 2022) (<https://www.cdc.gov/quarantine/travel-restrictions.html>).

⁹⁵ The CDC Do Not Board List includes individuals who are known or believed to be infectious with, or at risk for, a serious contagious disease that poses a public health threat to others during travel; and 1) the individual is not aware of diagnosis or not following public health recommendations; 2) the individual is likely to travel on a commercial

prevented from obtaining a boarding pass for any flight into, out of, or within the United States.

- **Airline Designations and Referrals.** Individual airlines maintain lists of individuals who are barred from future flights for violating contract-of-carriage terms, such as unruly behavior aboard an aircraft.⁹⁶ Airlines and crewmembers may refer information about passengers who are unruly or who cause disturbances to TSA or the FAA for further investigation.⁹⁷ Any referral to TSA does not, by itself, lead to an individual being denied boarding or being designated for additional screening by TSA.⁹⁸ According to DHS, TSA may review the information available regarding the incident and determine if the facts and circumstances warrant placement of the individual on a TSA list.⁹⁹
- **Random Selection.** As stated previously, the vast majority of individuals are subject to additional screening by TSA on a random basis. For example, air travelers may receive additional screening based on random Secure Flight-generated selection or be designated for random selection at security checkpoints by screening technologies.¹⁰⁰

2. CBP Conducts Additional Screening Based on at Least 10 Other Lists, Processes and Inspections

CBP enforces the customs, immigration, and agriculture laws of the United States and hundreds of other federal laws at the border, including laws related to deterring and preventing terrorists and terrorist weapons from entering the United States. In furtherance of this mission, CBP officers inspect persons and merchandise that are attempting to cross the U.S. border at ports of entry which includes airports, seaports, and land borders. For CBP, additional screening typically occurs after a traveler is referred by a CBP officer at a primary inspection area at a port of entry.¹⁰¹ CBP officers screen passengers to ensure they are admissible into the United States, and there are no national security concerns or violations of customs or other laws, such as the introduction of harmful plants or animals.

Given the multitude of laws that CBP enforces, including a variety of statutes and regulations on behalf of other agencies, DHS said there could be many reasons why an individual is referred for additional screening, and there may also be other locations within an airport or a

flight involving the United States or travel internationally by any means; or 3) there is a need to issue a travel restriction to respond to a public health outbreak or to help enforce a public health order. Centers for Disease Control and Prevention, *Travel Restrictions* (Oct. 5, 2022) (<https://www.cdc.gov/quarantine/travel-restrictions.html>).

⁹⁶ Congressional Research Service, *Aviation Security Measures and Domestic Terrorism Threats* (IF11731) (Jan. 15, 2021).

⁹⁷ *Id.*; Federal Aviation Administration, *Unruly Passengers* (<https://www.faa.gov/unruly>) (accessed Dec. 6, 2023).

⁹⁸ Department of Homeland Security response to Senate Homeland Security and Governmental Affairs Committee majority staff (Nov. 17, 2023), *on file with Committee*.

⁹⁹ *Id.*

¹⁰⁰ Department of Homeland Security, *Privacy Impact Assessment Update for Secure Flight* (DHS/TSA/PIA-018(b)) (Aug. 15, 2011); Department of Homeland Security response to Senate Homeland Security and Governmental Affairs Committee majority staff (Nov. 17, 2023), *on file with Committee*.

¹⁰¹ Department of Homeland Security response to the Senate Homeland Security and Governmental Affairs Committee majority staff (Nov. 17, 2023), *on file with Committee*.

reasonable distance from the U.S. border where an individual is stopped by CBP.¹⁰² The additional lists and activities below are not derived exclusively from the TSC maintained terrorist watchlist, although some may use the terrorist watchlist as one input.

- **Terrorist Watchlist.** CBP applies additional scrutiny to the screening of individuals identified on the terrorist watchlist.¹⁰³ Terrorist watchlist information is transmitted from the TSC to DHS through the DHS Watchlist Service.¹⁰⁴
- **National Security Threat Actors List.** According to DHS, CBP also receives additional information from the TSC beyond known or suspected terrorists, such as individuals who may pose a threat to national security and who do not otherwise meet the criteria for inclusion in the terrorist watchlist.¹⁰⁵ Such individuals may include those who have been officially detained in military operations, who are known or suspected of engaging with transnational organized crime, and who are identified as possible threats to national security.¹⁰⁶ Individuals who are identified as a National Security Threat Actors may receive additional screening. Additionally, CBP may take other appropriate actions, such as denying an Electronic System for Travel Authorization application.¹⁰⁷
- **CBP Rules-based Targeting Lists.** CBP relies on its own data and rules-based processes to help officers identify unknown high-risk individuals by comparing travelers' information against a set of targeting rules based on intelligence, law enforcement, and other information. As with Silent Partner and Quiet Skies Lists, the information is constantly changing, which affects who may match.¹⁰⁸ CBP uses the passenger module of its Automated Targeting System (ATS) to help identify individuals who may require

¹⁰² 8 CFR § 287(a)(1) defines a reasonable distance as 100 air miles from the border, Department of Homeland Security response to the Senate Homeland Security and Governmental Affairs Committee majority staff (Nov. 17, 2023), *on file with Committee*.

¹⁰³ Department of Homeland Security response to Senate Homeland Security and Governmental Affairs Committee majority staff (Nov. 17, 2023), *on file with Committee*.

¹⁰⁴ Department of Homeland Security, *Privacy Impact Assessment for the Watchlist Service* (DHS/ALL/PIA-027(d)) (Jul. 10, 2020).

¹⁰⁵ Department of Homeland Security response to Senate Homeland Security and Governmental Affairs Committee majority staff (Nov. 17, 2023), *on file with Committee*.

¹⁰⁶ *Id.*; Department of Homeland Security, *Privacy Impact Assessment for the Watchlist Service* (DHS/ALL/PIA-027(d)) (Jul. 10, 2020).

¹⁰⁷ House Subcommittee on Transportation and Protective Security, Testimony Submitted for the Record of CBP Office of Field Operations Executive Assistant Commissioner Todd Owen, Department of Homeland Security, *Hearing on Raising the Standard: DHS's Efforts to Improve Aviation Security Around the Globe*, 115th Cong. (Sep. 26, 2017) (H. Hrg. 115-28).

¹⁰⁸ Department of Homeland Security response to Senate Homeland Security and Governmental Affairs Committee majority staff (Nov. 17, 2023), *on file with Committee*; Government Accountability Office, *Border Security: CBP Aims to Prevent High-Risk Travelers from Boarding U.S.- Bound Flights, but Needs to Evaluate Program Performance* (GAO-17-216) (January 2017); Government Accountability Office, *Land Ports of Entry: CBP Should Update Policies and Enhance Analysis of Inspections* (GAO-19-658) (August 2019); Department of Homeland Security, *Privacy Impact Assessment Update for the Automated Targeting Systems* (DHS/CBP/PIA-006(e)) (Jan. 13, 2023).

additional screening.¹⁰⁹ ATS cross-compares traveling data with law enforcement and intelligence data (including the terrorist watchlist) and patterns of suspicious activity identified in past investigations.¹¹⁰ ATS also uses predictive analytics to assist CBP officers in identifying travelers for additional screening.¹¹¹ As with TSA's rules-based targeting, DHS's Offices of General Counsel, Privacy, and Civil Rights and Civil Liberties, and CBP review the targeting rules to ensure they are relevant, in compliance with privacy, and do not excessively affect the traveling public.¹¹²

- **Tactical Terrorism Response Team Interviews.** CBP also deploys Tactical Terrorism Response Teams (TTRTs) made up of CBP officers who are specially trained and located at many ports of entry.¹¹³ TTRTs are responsible for the examination of travelers identified on the terrorist watchlist as well as other travelers, their associates, or co-travelers who arrive at a port of entry and are suspected of having a nexus to terrorist activity.¹¹⁴ TTRTs work closely with analysts to use information derived from targeting and screening to mitigate threats.¹¹⁵ TTRTs may handle additional screenings of travelers identified as potential counterterrorism and/or counterintelligence risk or otherwise decide to pull aside individuals they deem to pose a national security concern based on officers' training, discretion, and experience.¹¹⁶
- **Agricultural Inspections.** Together with or on behalf of other agencies, including U.S. Department of Agriculture, Animal and Plant Health Inspection Service, and Plant Protection and Quarantine, CBP conducts agricultural inspections by screening travelers and cargo for harmful pests, diseases, and other contaminants.¹¹⁷ Individuals suspected of carrying such prohibited items may be referred for additional screening.¹¹⁸
- **Immigration Inspections.** In accordance with the Immigration and Nationality Act, CBP officers question travelers seeking to enter the United States to determine their

¹⁰⁹ Department of Homeland Security, *Privacy Impact Assessment Update for the Automated Targeting System* (DHS/CBP/PIA-0006(e)) (Jan. 13, 2017); Department of Homeland Security, *2019 Data Mining Report to Congress* (Dec. 2, 2020).

¹¹⁰ Department of Homeland Security, *Privacy Impact Assessment Update for the Automated Targeting System* (DHS/CBP/PIA-0006(e)) (Jan. 13, 2017).

¹¹¹ See *Id.*, Department of Homeland Security, *2019 Data Mining Report to Congress* (Dec. 2, 2020).

¹¹² Department of Homeland Security response to Senate Homeland Security and Governmental Affairs Committee majority staff (Nov. 17, 2023), *on file with Committee*.

¹¹³ Members of TTRTs receive counterterrorism training. Government Accountability Office, *Land Ports of Entry: CBP Should Update Policies and Enhance Analysis of Inspections* (GAO-19-658) (Aug. 2019); U.S. Customs and Border Protection, Briefing with Senate Homeland Security and Governmental Affairs Committee staff (Dec. 12, 2022).

¹¹⁴ Department of Homeland Security response to Senate Homeland Security and Governmental Affairs Committee majority staff (Nov. 17, 2023), *on file with Committee*.

¹¹⁵ *Id.*

¹¹⁶ *Id.*; U.S. Customs and Border Protection, Briefing with Senate Homeland Security and Governmental Affairs Committee staff (Dec. 12, 2022).

¹¹⁷ Department of Homeland Security, *Agriculture Inspections—Contaminated Products Fiscal Year 2021 Report to Congress* (Oct. 19, 2021).

¹¹⁸ *Id.*; U.S. Customs and Border Protection, *The Agriculture Inspection Process* (July 18, 2017).

admissibility.¹¹⁹ CBP officers may conduct routine immigration inspections and searches of travelers and their belongings.¹²⁰ Individuals suspected of being inadmissible may be referred for additional screening.

- **Customs Inspections.** CBP officers also conduct customs inspections to ensure prohibited or restricted items are not imported into the United States.¹²¹ According to DHS, CBP conducts routine examinations for weapons, contraband, undeclared merchandise, and undeclared currency.¹²² CBP also uses radiation detection technology to prevent the entry of potential nuclear or radiological threats.¹²³ As part of these inspections, CBP officers must also determine if duty or tariff are owed on items being imported into the country.¹²⁴
- **Law Enforcement Alerts.** CBP officers can see and act on (including execute arrest warrants) law enforcement alerts from CBP and other law enforcement agencies, including information pertaining to known criminals, individuals who may be engaging in illicit activity, and individuals subject to additional screening.¹²⁵
- **CDC Public Health Lookout List.** CBP manages the CDC Public Health Lookout List as a complement to the CDC Do Not Board List.¹²⁶ Individuals on the Public Health Lookout List are not necessarily prevented from travel; instead, this list prompts a public health review prior to admittance into the United States.¹²⁷ Individuals are removed from this list once public health officials confirm the individual is no longer contagious (typically within 24 hours).¹²⁸
- **Other Federal Laws Enforced by CBP.** CBP also enforces numerous other federal laws on behalf of other U.S. agencies. For example, on behalf of the Department of the Treasury, Financial Crimes Enforcement Network, CBP enforces the requirement to report currency or other monetary instruments that exceed \$10,000 in total that are transported at one time from the United States to any foreign country, or into the United

¹¹⁹ A reasonable suspicion is generally required for non-routine or highly intrusive border searches. Congressional Research Service, *Searches and Seizures at the Border and the Fourth Amendment* (R46601) (Mar. 30, 2021); See Immigration and Nationality Act, Pub. L. No. 82-414.

¹²⁰ *Id.*

¹²¹ 19 CFR § 162.6; Department of Homeland Security response to the Senate Homeland Security and Governmental Affairs Committee majority staff (Nov. 17, 2023), *on file with Committee*.

¹²² Department of Homeland Security response to the Senate Homeland Security and Governmental Affairs Committee majority staff (Nov. 17, 2023), *on file with Committee*.

¹²³ *Id.*

¹²⁴ *Id.*

¹²⁵ *Id.*; U.S. Customs and Border Protection, *CBP Search Authority* (June 30, 2023) (<https://www.cbp.gov/travel/cbp-search-authority>).

¹²⁶ U.S. Customs and Border Protection enforces the Public Health Lookout List to ensure proper isolation or other public health management, as necessary. Centers for Disease Control and Prevention, *FAQs for Public Health Do Not Board and Lookout Lists* (Jan. 28, 2023) (<https://www.cdc.gov/quarantine/do-not-board-faq.html>).

¹²⁷ *Id.*

¹²⁸ Centers for Disease Control and Prevention, *Travel Restrictions to Prevent the Spread of Disease* (Oct. 5, 2023) (<https://www.cdc.gov/quarantine/travel-restrictions.html>).

States from a foreign country.¹²⁹ CBP may refer a traveler for additional screening to verify the traveler is accurately reporting the amount of currency being moved or to confirm the traveler is not smuggling bulk cash.¹³⁰

3. Additional Screening Can Be Prompted for a Least 2 Other Reasons Separate from the Terrorist Watchlist

TSA and CBP also subject individuals for additional screening based on other internal processes.

- **Officer Discretion.** TSA Transportation Security Officers may use their discretion to require an individual to undergo additional screening when there is an articulable basis for why the additional screening is needed to address a potential threat.¹³¹ Additionally, because CBP's primary screening is meant to be a short exchange, primary screening officers may send a traveler to additional screening at their discretion, consistent with law and policy.¹³²
- **Canine Units.** TSA and CBP leverage canine units at security checkpoints to screen passengers for explosives (TSA) and to detect and seize controlled substances or contraband (CBP).¹³³ If a canine unit flags an individual, they may be required to undergo additional screening to address the concern.¹³⁴

V. **AGENCIES HAVE USED OPAQUE PROCESSES TO ADD U.S. CITIZENS TO THE TERRORIST WATCHLIST**

A. **Watchlist-Related Screening can have Severe Impacts on U.S. Citizens**

Since the creation of the centralized terrorist watchlist, countless Americans have been negatively impacted by the federal government's use of the terrorist watchlist and related screening activities. Inclusion on the terrorist watchlist may result in an individual being detained, subjected to invasive searches, or even prohibited from flying. Courts have recognized that the impact of being placed on the terrorist watchlist or any of its subsets can be severe. For instance, inclusion on the No Fly List, a subset of the terrorist watchlist, can result in "long-term

¹²⁹ Government Accountability Office, *Moving Illegal Proceeds: Challenges Exist in the Federal Government's Effort to Stem Cross-Border Currency Smuggling* (GAO-11-73) (Oct. 2010).

¹³⁰ *Id.*; U.S. Customs and Border Protection, *Currency Reporting* (June 2006) (https://www.cbp.gov/sites/default/files/documents/currency_reporting.pdf); Department of Homeland Security response to Senate Homeland Security and Governmental Affairs Committee majority staff (Nov. 17, 2023), *on file with Committee*.

¹³¹ Department of Homeland Security response to Senate Homeland Security and Governmental Affairs Committee majority staff (Nov. 17, 2023), *on file with Committee*.

¹³² Department of Homeland Security, Briefing with Senate Homeland Security and Governmental Affairs Committee staff (Aug. 4, 2023).

¹³³ See Transportation Security Administration, *TSA's National Explosive Detection Canine Program* (Dec. 9, 2020) (<https://www.tsa.gov/blog/2020/12/09/tsas-national-explosive-detection-canine-program>); U.S. Customs and Border Protection, *Canine Program* (Aug. 4, 2022) (<https://www.cbp.gov/border-security/canine-program>).

¹³⁴ *Id.*

separation from spouses and children; the inability to access desired medical and prenatal care; the inability to pursue an education of [one's] choosing; the inability to participate in important religious rites; loss of employment opportunities; loss of government entitlements; [and] the inability to visit family."¹³⁵ Even for individuals who are not barred from flying, the consequences of inclusion on the terrorist watchlist can be significant.¹³⁶ Individuals who are repeatedly subjected to lengthy or intrusive additional screening may feel frustration and humiliation leading to mistrust of the federal government.¹³⁷ Severe treatment such as subjecting young children and elderly family members to full-body pat downs and questioning about religious beliefs has deterred U.S. citizens from flying, leading to lost business opportunities and missed family gatherings and celebrations.¹³⁸

B. U.S. Citizens have been Misidentified as Matching the Watchlist During Screening Activities

Since the creation of the terrorist watchlist, individuals and advocacy groups have raised concern over misidentifications and resulting impacts. Elected officials, including former U.S. Senator Ted Kennedy and former U.S. Representative John Lewis, and even babies, have been stopped at airports because they shared biographical information with individuals on the terrorist watchlist.¹³⁹ The risk of misidentification continues to be a problem, especially as the number of identities in the terrorist watchlist increases. This is further exacerbated by the fact the terrorist watchlist contains names from languages other than English for which there may not be a standardized transliteration.¹⁴⁰ This results in records with variations of the same name, thereby increasing the chance of an incorrect potential match. TSA told majority committee staff that internalizing terrorist watchlist matching at TSA through Secure Flight helps to minimize misidentification errors because TSA relies on additional information to verify identities.¹⁴¹

Nevertheless, misidentifications are of particular concern for the Muslim American community because alleged leaked versions of the terrorist watchlist show the overwhelming majority of names on the terrorist watchlist are Muslim.¹⁴² In amicus briefs in recent litigation, the Muslim American community raised concerns that the number of common Arabic names

¹³⁵ *Kashem v. Barr*, 941 F.3d 358 (9th Cir. 2019).

¹³⁶ See *Kariye v. Mayorkas*, 650 F. Supp. 865 (C.D. Cal. 2022).

¹³⁷ *Id.*

¹³⁸ See *El Ali v. Barr*, 473 F. Supp. 3d 479, 496-498 (D. Md. 2020); *Kariye v. Mayorkas*, 650 F. Supp. 865 (C.D. Cal. 2022); Memorandum from Office for Civil Rights and Civil Liberties, Department of Homeland Security to Commissioner of U.S. Customs and Border Protection Kevin McAleenan, Religious Questioning at Ports of Entry – Multiple Complaints (Feb. 26, 2019).

¹³⁹ 'No-fly list' grounds some unusual young suspects: Similarly-named babies were barred, *The Boston Globe* (Aug. 16, 2005) (https://web.archive.org/web/20160305023816/http://www.boston.com/news/nation/articles/2005/08/16/no_fly_list_grounds_some_unusual_young_suspects/).

¹⁴⁰ Department of Homeland Security, *Report on Effects on Privacy and Civil Liberties: DHS Privacy Office Report Assessing the Impact of the Automatic Selectee and No-Fly Lists on Privacy and Civil Liberties as Required Under Section 4012(b) of the IRTPA of 2004* (Apr. 27, 2006).

¹⁴¹ Department of Homeland Security response to Senate Homeland Security and Governmental Affairs Committee majority staff (Dec. 12, 2023), *on file with Committee*.

¹⁴² Council on American-Islamic Relations, *Twenty years Too Many: A Call to Stop the FBI's Secret Watchlist* (Mar. 2023).

within the Muslim American community has led to a significant number of misidentifications.¹⁴³ Further, in Sikh culture, most men share the same last name and most women the same last name, which may lead to excessive additional screening for members of this community.¹⁴⁴

As a result of misidentifications, an expanded set of people with no relationship to terrorists or suspected terrorist activity are affected by the terrorist watchlist and the corresponding screenings, as well as the associated fear and frustration. Because the terrorist watchlist is so opaque and the ability to learn whether someone has been included on it is so limited, individuals do not understand why their travel difficulties are happening. In addition, once matched to the terrorist watchlist, an individual's only recourse is to appeal to the government for redress, which as noted below, can be difficult and ineffective. Even if redress does work, the misidentifications can create a sense in certain communities that individuals are targeted for screenings more often than other communities.

C. Groups Have Concerns about Agencies Using the “Reasonable Suspicion” Standard to Add U.S. Citizens to the Terrorist Watchlist

Courts have held that the government can add individuals to the terrorist watchlist based on a “reasonable suspicion” that they are a known or suspected terrorist.¹⁴⁵ For years, organizations like the American Civil Liberties Union (ACLU) and the Brennan Center for Justice, have raised concerns about the use of the reasonable suspicion threshold.¹⁴⁶ According to federal government policy, “mere guesses or ‘hunches’ or reporting of suspicious activity alone are not sufficient to establish reasonable suspicion.”¹⁴⁷

However, a 2016 ACLU report states the reasonable suspicion standard can be met with “uncorroborated or even questionably reliable information and, on its face, does not require that it be more probable than not that an individual is involved in terrorism-related activities.”¹⁴⁸ Additionally, because this standard requires less evidence than is needed in other legal contexts, individuals can remain on the terrorist watchlist even if charges against them are dismissed or they are found not guilty of terrorist activities in court.¹⁴⁹ While a person may still meet the

¹⁴³ Brief of Muslim Advocates as Amicus Curiae in Support of Respondents (Feb. 12, 2020), *Tanzin v. Tanvir*, 141 S. Ct. 486 (2020).

¹⁴⁴ Sikh Coalition, Briefing with Senate Homeland Security and Governmental Affairs Committee majority staff (October 2, 2021).

¹⁴⁵ *Kashem v. Barr*, 941 F.3d 358 (9th Cir. 2019) (holding that the “reasonable suspicion standard satisfies due process.”).

¹⁴⁶ E.g., American Civil Liberties Union, *Trapped in a Black Box: Growing Terrorism Watchlisting in Everyday Policing* (Apr. 2016); American Civil Liberties Union, *U.S. Government Watchlisting: Unfair Process and Devastating Consequences* (Mar. 2014); Brennan Center for Justice, *Overdue Scrutiny for Watch Listing and Risk Prediction* (Oct. 19, 2023).

¹⁴⁷ House Committee on Homeland Security, Subcommittee on Transportation Security, Testimony Submitted for the Record of Director Christopher Piehota, Terrorist Screening Center, *Hearing on Safeguarding Privacy and Civil Liberties While Keeping our Skies Safe*, 113th Cong. (Sep. 18, 2014) (H. Hrg. 113-86).

¹⁴⁸ American Civil Liberties Union, *Trapped in a Black Box: Growing Terrorism Watchlisting in Everyday Policing* (Apr. 2016), pg. 19.

¹⁴⁹ *Elhady v. Kable*, 391 F. Supp. 3d 562, 569 (E.D. Va. 2019); *Even Those Cleared of Crimes Can Stay on F.B.I.'s Watch List*, The New York Times, (Sep. 27, 2011) (<https://www.nytimes.com/2011/09/28/us/even-those-cleared-of-crimes-can-stay-on-fbis-terrorist-watch-list.html>).

criteria for inclusion on the terrorist watchlist, individuals can be left frustrated with their inability to prove their innocence if they remain on the terrorist watchlist even after being found not guilty of a crime.

According to the TSC, additions to the watchlist must not be based solely on an individual's race, ethnicity, or religious affiliation, nor solely on beliefs and activities protected by the First Amendment.¹⁵⁰ However, the reasonable suspicion standard entails a significant risk of error because it does not require it be more probable than not that an individual is involved in terrorism-related activities; therefore, the ACLU has alleged that the government likely uses conduct protected by the First Amendment to establish a reasonable suspicion.¹⁵¹ The ACLU claims that a leaked copy of the 2013 Watchlisting Guidance states that while First Amendment activity alone should not be the basis for nominating an individual to the terrorist watchlist, First Amendment-protected activity, such as a single social media post or anonymous letter, may be considered as part of the reason for inclusion.¹⁵² The U.S. Government has not acknowledged the alleged leak of this guidance.

Moreover, as noted above, not everyone identified on the terrorist watchlist meets the reasonable suspicion standard. As it has expanded to include exception records, the terrorist watchlist includes certain relatives and associates of known or suspected terrorists as well as individuals whose exact terrorist support activities are unknown.¹⁵³ These records are used primarily, though not exclusively, for immigration vetting.¹⁵⁴

D. The Extent to Which the Terrorist Watchlist Is Shared outside the Federal Government is Unclear

Considering only a reasonable suspicion standard is needed for inclusion on the terrorist watchlist, and in the case of exception records not even that, it is all the more important that individuals have the opportunity to seek meaningful redress. However, individuals seeking to contest their inclusion as unwarranted, and advocacy groups supporting these individuals, have expressed concern about the scope of information sharing of the terrorist watchlist with entities outside of the federal government, the full extent of which is unknown, and how that sharing may also negatively impact certain communities and groups. Without this information, it is impossible for the public to fully understand all the ways the terrorist watchlist may impact them.

Terrorist watchlist information is shared with state, local, and tribal governments and law enforcement agencies, and select international partners as well as certain private entities for screening purposes and to assist in the coordination of threat awareness, analysis, and

¹⁵⁰ Federal Bureau of Investigation, *Terrorist Screening Center* (<https://www.fbi.gov/investigate/terrorism/tsc>) (accessed Aug. 3, 2023).

¹⁵¹ American Civil Liberties Union, *Trapped in a Black Box: Growing Terrorism Watchlisting in Everyday Policing* (Apr. 2016), pg. 19.

¹⁵² *Id.*

¹⁵³ Terrorist Screening Center, Briefing with Senate Homeland Security and Governmental Affairs Committee staff (June 26, 2023); Terrorist Screening Center response to Senate Homeland Security and Governmental Affairs Committee majority staff (Nov. 7, 2022), *on file with Committee*.

¹⁵⁴ Terrorist Screening Center, Briefing with Senate Homeland Security and Governmental Affairs Committee staff (June 26, 2023).

response.¹⁵⁵ In 2019, the FBI reported sharing a subset of terrorist watchlist information with more than 18,000 state, local, county, city, university, and college, tribal, and federal law enforcement agencies and approximately 533 private sector entities.¹⁵⁶

Although the Secure Flight program transferred passenger watchlist matching responsibilities from major air carriers to TSA, TSA continued to share watchlist information with regulated U.S. airports and U.S. aircraft operators that could not use Secure Flight or required terrorist watchlist access to supplement TSA's employee vetting requirements.¹⁵⁷ In 2023, TSA finalized alternative methods to allow regulated parties to obtain watchlist matching results and cease all distribution of terrorist watchlist information.¹⁵⁸

Even though the federal government puts in place security requirements and audit functions when granting private entities access to terrorist watchlist information and the practical security benefits this access may provide, the vastness of terrorist watchlist information sharing raises concerns about how these non-U.S. government entities ensure privacy, human rights, civil rights, and civil liberties when using terrorist watchlist data in their counterterrorism and law enforcement efforts. It also leaves unanswered questions about other uses of the terrorist watchlist and whether individuals understand or are aware that a specific experience is caused by the terrorist watchlist and, if so, the best mechanism to seek redress. It may also cause individuals to speculate that the experiences they have might be caused by the terrorist watchlist, even if they may not be, because they do not have a full understanding of how the government shares terrorist watchlist information.

VI. U.S. CITIZENS HAVE BEEN SUBJECTED TO ADDITIONAL SCREENING OR TRAVEL RESTRICTIONS WITH LITTLE INFORMATION OR RECOURSE

A. DHS Generally Does Not Tell Travelers Why They Are Subjected to Additional Screening as Part of the Redress Process

Individuals with questions regarding how to seek resolution on issues related to travel screening and the terrorist watchlist can pursue redress through the DHS Traveler Redress Inquiry Program (DHS TRIP). This program was developed to help individuals seek recourse

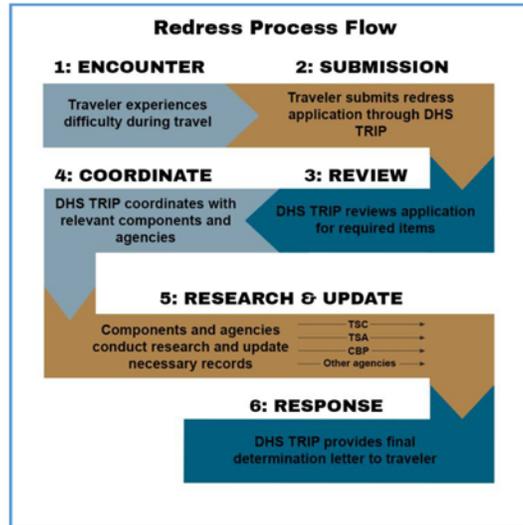
¹⁵⁵ See Federal Bureau of Investigations, *Privacy Act of 1974; System of Records*, 72 Fed. Reg. 47073 (Aug. 22, 2007) (proposed rule).

¹⁵⁶ *Elhady v. Kable*, 391 F. Supp. 3d 562, 570 (E.D. Va. 2019). The TSC exports terrorist watchlist data to the National Crime Information Center (NCIC), and private sector entities that meet certain requirements can be granted access to the NCIC, including terrorist watchlist information. Types of these private entities with access to terrorist watchlist information through the NCIC include the police and security forces of private railroads, colleges, universities, hospitals, and prisons, as well as the law enforcement divisions of certain animal welfare organizations; information technology, fingerprint databases, and forensic analysis providers; and private probation and pretrial services that have been determined by the FBI to be authorized criminal justice agencies performing the administration of criminal justice, pursuant to 28 CFR Part 20.

¹⁵⁷ Department of Homeland Security response to Senate Homeland Security and Governmental Affairs Committee majority staff (Nov. 17, 2023), *on file with Committee*.

¹⁵⁸ *Id.*

from difficulties during travel screenings.¹⁵⁹ DHS TRIP receives approximately 16,000-18,000 redress requests each year.¹⁶⁰



Once received, DHS TRIP coordinates with other departments, agencies, and DHS components to review the case, including determining the source of the traveler’s screening issue, whether it is terrorist watchlist related, and if the issue can be rectified.¹⁶¹ After the review is complete, DHS TRIP will provide a final determination letter to the traveler.

For example, a plaintiff in the case *Jibril v. Mayorkas*, received a final determination letter which included the following:

“DHS has researched and completed our review of your case. DHS TRIP can neither confirm nor deny any information about you which may be within federal watchlists or reveal any law enforcement sensitive information. However, we have made any corrections to our records that our inquiries determined were necessary, including, as appropriate, notations that may assist in avoiding incidents of misidentification.”¹⁶²

¹⁵⁹ See 49 U.S.C. §44926.

¹⁶⁰ Department of Homeland Security, Briefing with Senate Homeland Security and Governmental Affairs Committee staff (May 31, 2023).

¹⁶¹ Department of Homeland Security, *Step 2: How to Use DHS TRIP* (Nov. 3, 2023) (<https://www.dhs.gov/step-2-how-use-dhs-trip>); Department of Homeland Security, *Redress Control Numbers* (Nov. 3, 2023) (<https://www.dhs.gov/redress-control-numbers>).

¹⁶² *Jibril v. Mayorkas*, 20 F.4th 804, 810-11 (D.C. Cir. 2021).

This response neither confirms the reasons for their travel difficulties nor what, if any, changes were made to prevent them in the future. This response is likely similar to many letters received by those who apply for redress through DHS TRIP.¹⁶³

The determination letter may include a redress control number, which an individual can include in future airline reservations or present to screening officials as a unique identifier to help clarify their identity and connect to their redress case.¹⁶⁴ In conjunction with TSA's Secure Flight Program, airlines have modified their reservation systems to allow individuals with a redress control number to enter it into the reservation system.¹⁶⁵ However, a redress control number does not ensure additional screening will not occur in the future.

In fact, a redress control number is neither a guarantee that an individual was or was not on the terrorist watchlist, nor that that individual has now been removed, as the government does not share that information. Moreover, even if that individual was removed from the terrorist watchlist, that individual could be screened for one of the other reasons listed above the very next time they go to the airport.¹⁶⁶

Due to national security concerns, the government generally will not inform an individual of the reason they have received additional screening. DHS told the majority committee staff disclosure of terrorist watchlist status during the redress process to individuals who have not been denied boarding would be detrimental to transportation security and disclosure of any underlying derogatory information would cause additional harm.¹⁶⁷ According to DHS, such disclosure could provide known or suspected terrorists with information to help them evade security measures and gain access to the commercial aviation system to perpetrate attacks.¹⁶⁸ DHS also claimed, requiring disclosure of whether an individual is on the terrorist watchlist or the reason for their status could jeopardize ongoing counterterrorism investigations or intelligence activities.¹⁶⁹

Because of the nontransparent nature of the process, the redress applicant has no idea whether they were ever on the terrorist watchlist or if their status has changed. The lack of acknowledgement of a change of status and repeated additional screenings for different reasons

¹⁶³ *Ibrahim v. Dep't of Homeland Sec.*, 669 F.3d 983, 988 (9th Cir. 2012) ("In a form letter, TSA responded to Ibrahim's request by explaining that '[if] it has been determined that a correction to records is warranted, these records have been modified.' The letter did not state whether Ibrahim was, or was not, on the No-Fly List or other terrorist watchlists.")

¹⁶⁴ Department of Homeland Security, *Redress Control Numbers* (Nov. 3, 2023) (<https://www.dhs.gov/redress-control-numbers>).

¹⁶⁵ Department of Homeland Security response to Senate Homeland Security and Governmental Affairs Committee majority staff (Nov. 17, 2023), *on file with Committee*.

¹⁶⁶ Department of Homeland Security, *Step 3: Tracking Your Inquiry* (Nov. 3, 2023) (<https://www.dhs.gov/step-3-tracking-your-inquiry>).

¹⁶⁷ Department of Homeland Security response to Senate Homeland Security and Governmental Affairs Committee majority staff (Nov. 17, 2023), *on file with Committee*.

¹⁶⁸ *Id.*

¹⁶⁹ *Id.*

creates the possibility of a breakdown in trust and communication between the government and those who experience this cycle.

While many individuals seeking redress may suspect the treatment they received was due to inclusion on the watchlist, in a briefing with majority committee staff, TSA said that 98 percent of redress requests are from individuals who are not on the terrorist watchlist.¹⁷⁰ Additionally, as of 2019, U.S. citizens and lawful permanent residents make up less than 0.5 percent of the terrorist watchlist.¹⁷¹ These statistics are consistent with the idea that there are many reasons for screening at airports beyond the terrorist watchlist, but individuals may be less familiar with the other reasons listed in the report.

B. DHS Now Tells U.S. Persons if They Are on the No-Fly List, after a Court Found the Previous Redress Process Violated Individuals' Due Process Rights

Several legal challenges have contested the constitutionality of the government's watchlist and redress practices. In 2014, a U.S. District Court in Oregon found the DHS TRIP process was "wholly ineffective" and lacked "any meaningful procedures" for challenging one's placement on the No-Fly List.¹⁷² The plaintiffs in this case were 13 U.S. citizens who were prevented from flying, resulting in extended separations from family, disruptions to education, and in one instance, the loss of veteran disability benefits.¹⁷³ Each of them submitted DHS TRIP complaints and received response letters that provided no information about their watchlist status, leaving them without the ability to challenge their presumed inclusion on the No-Fly List.¹⁷⁴ The court found that the DHS TRIP process violated their constitutional due process rights and ordered the government to revise its redress procedures.¹⁷⁵ In 2015, DHS revised its procedures to allow U.S. Persons who are on the No-Fly List to receive confirmation of that status and some information about the reasons for inclusion.¹⁷⁶ Americans and lawful permanent residents may now dispute their placement on the No-Fly List.¹⁷⁷

C. Multiple Courts have found the Current Redress Process is Constitutional, but Legal Challenges are Ongoing

In recent years, multiple appeals courts have rejected due process challenges brought by individuals who have not been barred from flying, but who suspect they are on the terrorist watchlist due to treatment they received while traveling.¹⁷⁸ For example, in 2021, a group of 23

¹⁷⁰ Department of Homeland Security, Briefing with Senate Homeland Security and Governmental Affairs Committee staff (May 31, 2023).

¹⁷¹ See Memorandum in Support of Defendant's Motion for Summary Judgement at 7, *Elhady v. Kable*, 391 F. Supp. 3d 562 (E.D. Va. 2019).

¹⁷² *Latif v. Holder*, 28 F. Supp. 3d 1134, 1161 (D. Or. 2014).

¹⁷³ *Id.* at pg. 1143-1146.

¹⁷⁴ *Id.* At pg. 1143.

¹⁷⁵ *Latif v. Holder*, 28 F. Supp. 3d 1163. On appeal, the Circuit Court upheld the constitutionality of the revised DHS TRIP process.

¹⁷⁶ Department of Homeland Security, *Annual Performance Report for Fiscal Years 2015-2017* at pg. 104.

¹⁷⁷ See *Id.*

¹⁷⁸ See *Elhady v. Kable*, 993 F.3d 208 (4th Cir. 2021); *Ghedi v. Mayorkas*, 16 F.4th 456 (5th Cir. 2021); *Kashem v. Barr*, 941 F.3d 358 (9th Cir. 2019); *Abdi v. Wray*, 942 F.3d 1019 (10th Cir. 2019); *Beydoun v. Sessions*, 871 F.3d 459 (6th Cir. 2017).

U.S. citizens alleged their inclusion on the terrorist watchlist resulted in treatment ranging from repeated additional screening and delays, to being placed under arrest and interrogated for multiple hours.¹⁷⁹ However, in that case, *Elhady v. Kable*, the Fourth Circuit Court of Appeals found that the impacts described did “not rise to the level of constitutional concern” as none of them had been barred from flying or prevented from entering the United States.¹⁸⁰

Nevertheless, two district courts have recently found being barred from flying or entering the country is not necessary to challenge the constitutionality of the watchlist and redress procedures. In 2020, a Maryland district court recognized due process rights are implicated “when watchlist status results in repeated, prolonged delays” that deter travel.¹⁸¹ Several of the plaintiffs in the case tried unsuccessfully to seek a resolution through DHS TRIP. Based on their accounts, the court described the DHS TRIP procedures as providing “little to no opportunity to be heard, before, during, or after” being placed on the watchlist.¹⁸² A district court in Michigan also recently allowed a case to proceed in which a U.S. citizen argues his suspected inclusion on the watchlist violated his right to due process.¹⁸³ Although the plaintiff was not barred from flying, he experienced “lengthy and intrusive interrogations” every time he traveled, resulting in great economic harm to his business.¹⁸⁴ He also sought redress through DHS TRIP on several occasions, but “those efforts [went] nowhere.”¹⁸⁵

Even though the government has said that individuals have been removed from the watchlist through DHS TRIP, during fiscal years 2018 through 2022, 710 U.S. citizens and/or lawful permanent residents submitted DHS TRIP applications.¹⁸⁶ Of those, only five were removed from the No Fly List and 99 total were removed from the terrorist watchlist.¹⁸⁷ Many individuals have complained the only effective way to get off the terrorist watchlist is to sue the federal government.¹⁸⁸

¹⁷⁹ *Elhady v. Kable*, 993 F.3d 208, 215-16 (4th Cir. 2021).

¹⁸⁰ *Id.* at pg. 221.

¹⁸¹ *El Ali v. Barr*, 473 F. Supp. 3d 479, 508 (D. Md. 2020).

¹⁸² *Id.* at pg. 512.

¹⁸³ *Salloum v. Kable*, 2020 WL 7480549 (E.D. Mich. 2020).

¹⁸⁴ *Id.* at pg. *8.

¹⁸⁵ *Id.* at pg. *3.

¹⁸⁶ Federal Bureau of Investigation response to Senate Homeland Security and Governmental Affairs Committee majority staff (Oct. 13, 2023), *on file with committee*.

¹⁸⁷ *Id.*

¹⁸⁸ *E.g. Congress Should Reform the Unconstitutional ‘Terrorism’ Watchlist*, Medium (Mar. 2, 2022) (<https://cairnational.medium.com/congress-should-reform-the-unconstitutional-terrorism-watchlist-9fd2a96509e6>).

Timeline of Notable Watchlist Cases

- **Jan. 2014** – In *Ibrahim v. DHS*, a California District Court found that the government violated the due process rights of a traveler who was mistakenly placed on the No-Fly List as a result of an FBI agent misreading a form.¹⁸⁹ As the court explained, that mistake “was no minor human error but an error with palpable impact, leading to the humiliation, cuffing, and incarceration of an innocent and incapacitated air traveler.”¹⁹⁰ The court ordered the government to review every government watchlist and database to ensure all records of the traveler’s mistaken No-Fly List designation were removed.¹⁹¹
- **June 2014** – In *Latif v. Holder*, an Oregon District Court found that the DHS TRIP process for individuals on the No-Fly List was unconstitutional, prompting DHS to revise the redress process.¹⁹² Under the revised TRIP procedures, DHS will confirm a U.S. citizen or permanent resident is on the No-Fly List and provide some information about the reasons for inclusion.¹⁹³
- **Oct. 2019** – In *Kashem v. Barr*, the Ninth Circuit Court of Appeals upheld the constitutionality of the revised DHS TRIP procedures.¹⁹⁴
- **Jan. 2021** – In *Elhady v. Kable*, the Fourth Circuit Court of Appeals held that plaintiffs’ inclusion on the Selectee or Expanded Selectee Lists did not violate their due process rights and that the impacts of repeated enhanced screening did not “rise to the level of constitutional concern.”¹⁹⁵
- **Oct. 2021** – In *Ghedi v. Mayorkas*, the plaintiff alleged that he had been placed on the watchlist after refusing to be an informant for the FBI, and as a result experienced repeated “extreme burdens and hardship while traveling.”¹⁹⁶ The Fifth Circuit Court of Appeals rejected the plaintiff’s due process claims, finding that additional burdens faced while travelling did not deprive him of his constitutionally protected right to travel.¹⁹⁷
- **Dec. 2021** – In *Jibril v. Mayorkas*, the District of Columbia Circuit Court of Appeals allowed a due process challenge to the watchlist and redress processes based on “extensive and intrusive security screenings” the plaintiffs experienced, which they alleged occurred due to inclusion on the Selectee List.¹⁹⁸ In 2023, the U.S. District Court for the District of Columbia dismissed the case based on *ex parte, in camera* review of an affidavit provided by

¹⁸⁹ *Ibrahim v. DHS*, 62 F. Supp. 3d 909 (N.D. Cal. 2014). The plaintiff, Dr. Ibrahim, was arrested and detained when she attempted to board a plane to travel to an academic conference in Hawaii and subsequently had her student visa revoked. As a result of the lawsuit, the government acknowledged that Dr. Ibrahim did not pose a threat to national security and admitted that she had been added to the No-Fly List by mistake.

¹⁹⁰ *Id.* at pg. 927.

¹⁹¹ *Id.* at pg. 928.

¹⁹² *Latif v. Holder*, 28 F. Supp. 3d 1134, 1161-62 (D. Or. 2014).

¹⁹³ *Id.*

¹⁹⁴ *Kashem v. Barr*, 941 F.3d 358 (9th Cir. 2019). This case was an appeal of the continued litigation following the 2014 District Court decision in *Latif v. Holder*.

¹⁹⁵ *Elhady v. Kable*, 993 F.3d 208, 216-21 (4th Cir. 2021).

¹⁹⁶ *Ghedi v. Mayorkas*, 16 F.4th 456, 461 (5th Cir. 2021).

¹⁹⁷ *Ghedi v. Mayorkas*, 16 F.4th 456, 461 (5th Cir. 2021).

¹⁹⁸ *Jibril v. Mayorkas*, 20 F.4th 804, 807 (D.C. Cir. 2021).

the government explaining that the plaintiffs are not on the watchlist. In April 2023, the plaintiff appealed this decision and the review is ongoing.¹⁹⁹

- **June 2022** – In *Fikre v. FBI*, the plaintiff was removed from the No Fly List after initiating a due process challenge based on his inclusion on the list.²⁰⁰ The Ninth Circuit Court of Appeals held that his claims could still proceed because “there is no reason to believe the government would not place [the plaintiff] on the list ‘for the same reasons that prompted the government to add him to the list in the first place.’”²⁰¹ In September 2023, the U.S. Supreme Court granted the government’s petition for certiorari and will hear the case in January 2024.²⁰²

VII. WIDESPREAD DISCRIMINATION ALLEGATIONS EXACERBATE CONCERNS ABOUT TSA AND CBP SCREENING ACTIVITIES

A. TSA Receives Thousands of Discrimination Complaints Each Year About Its Screening Practices

In addition to DHS TRIP redress applications, TSA receives numerous complaints and allegations of discrimination in its screening processes.²⁰³ According to a GAO report, the TSA Contact Center received 34,542 civil rights and civil liberties complaints of discrimination from 2016 to 2021. Of those filed, racial profiling or discrimination was the most cited basis for the complaint. Further, despite concerns, GAO found that TSA has not consistently collected data on the frequency individuals from certain religious and ethnic communities are referred for additional screening nor assessed whether its screening practices comply with the agency’s anti-discrimination policy. As a result, GAO has found that TSA has been unable to determine the extent to which discrimination occurs.²⁰⁴

Additionally, in 2013 and 2017, GAO reported TSA’s use of behavioral indicators to screen passengers was not backed by sufficient evidence to support their continued use to identify threats to aviation security.²⁰⁵ Since then, TSA has integrated behavior awareness training into the standard duties of the Transportation Security Officer workforce rather than fielding specific Behavioral Detection Officers. Further, in response to GAO recommendations, TSA integrated training on preventing racial, ethnic, and religious profiling into its behavioral detection training.²⁰⁶

¹⁹⁹ *Jibril v. Mayorkas*, 2023 WL 2240271 (D.D.C. 2023).

²⁰⁰ *Fikre v. FBI*, 35 F.4th 762 (9th Cir. 2022).

²⁰¹ *Id.* at 772.

²⁰² *Fikre v. FBI*, 35 F.4th 762 (9th Cir. 2022), *cert. granted*, 2023 WL 6319658 (U.S. Sept. 29, 2023) (No. 22-1178); U.S. Supreme Court Argument Calendar, Session Beginning Jan. 8, 2024 (https://www.supremecourt.gov/oral_arguments/argument_calendars/MonthlyArgumentCalendarJanuary2024.pdf).

²⁰³ Government Accountability Office, *Aviation Security: TSA Should Assess Potential for Discrimination and Better Inform Passengers of the Complaint Process* (GAO-23-105201) (Nov. 2022).

²⁰⁴ *Id.*

²⁰⁵ Government Accountability Office, *Aviation Security: TSA Should Assess Potential for Discrimination and Better Inform Passengers of the Complaint Process* (GAO-23-105201) (Nov. 2022).

²⁰⁶ Government Accountability Office, *Aviation Security: TSA Should Assess Potential for Discrimination and Better Inform Passengers of the Complaint Process* (GAO-23-105201) (Nov. 2022).

TSA has also initiated actions to minimize discrimination. For example, TSA is implementing new procedures and is updating AIT algorithms which DHS assesses will reduce the rate of false positive alarms of transgender and gender-nonconforming travelers and travelers with religious head coverings.²⁰⁷

B. CBP Currently Faces Ongoing Litigation and an Internal Review Spurred by Religious Discrimination Accusations

In 2019, DHS CRCL provided recommendations to CBP based on an investigation of multiple allegations of religious insensitivity. These included allegations that officers had, over the course of eight years, inappropriately asked questions about the religious practices and geographic or cultural origin of names of travelers during interviews, and that they were insensitive to objections to officers seeing photographs of female travelers without their religious head coverings.²⁰⁸ DHS CRCL recommended that CBP develop clear policy that bars CBP personnel from discriminating against travelers solely based on real or perceived religion as well as make clear the specific circumstances when personnel may take religion into account, and that CBP then train to that standard.²⁰⁹ In response, DHS published a First Amendment protected activities memorandum.²¹⁰ Not long after DHS CRCL's report, the ACLU filed a lawsuit against CBP on behalf of individuals who have claimed they were unfairly questioned by CBP about their religious beliefs.²¹¹

In addition, DHS CRCL has opened an investigation into CBP's TTRTs, as a result of discrimination complaints. The complaints include repeated and unnecessary screening as well as questioning about religious and political beliefs and participation in First Amendment protected activities.²¹² Further, TTRTs were established to identify individuals who might be terrorists that were unknown to the system. To date, U.S. citizens and legal permanent residents represent the largest population of individuals the teams have examined.²¹³ Although this may indicate a focus on domestic terrorism, it also raises some questions about TTRT activities. While CBP awaits the results of DHS CRCL's investigation, CBP should continue to take steps to minimize discrimination, similar to those processes TSA is implementing, as described above.

²⁰⁷ Department of Homeland Security response to Senate Homeland Security and Governmental Affairs Committee majority staff (Nov. 17, 2023), *on file with Committee*.

²⁰⁸ For example, a male officer viewing an image of a female traveler without her hijab. Memorandum from Office of Civil Rights and Civil Liberties, Department of Homeland Security to Commissioner of U.S. Customs and Border Protection Kevin McAleenan, Religious Questioning at Ports of Entry – Multiple Complaints (Feb. 26, 2019).

²⁰⁹ *Id.*

²¹⁰ Memorandum from Acting Secretary McAleenan to All Department of Homeland Security Employees, Information Regarding First Amendment Protected Activities (May 17, 2019).

²¹¹ *Kariye v. Mayorkas*, 650 F. Supp. 3d 865 (C.D. Cal. 2022).

²¹² Memorandum from Office for Civil Rights and Civil Liberties, Department of Homeland Security to U.S. Customs and Border Protection, Concerning Tactical Terrorist Response Team (April 5, 2022).

²¹³ *Clear v. CBP*, Howard Decl. Exhibit D, Exhibit H (Feb. 21, 2021); U.S. Customs and Border Protection response to Senate Homeland Security and Governmental Affairs Committee majority staff (Dec. 21, 2022), *on file with Committee*.

As mentioned previously, CBP looks at the potential impact of specific rules in its rules-based targeting lists. When asked whether CBP tracks the impact of its screening practices on specific individuals or groups, CBP explained to committee staff that individual program offices or field offices track whether their policies or implementation is having an impact on specific individuals.²¹⁴ CBP does not, however, look at issues of the impacts of all their screenings combined on individuals and communities²¹⁵

VIII. OVERSIGHT OF TERRORIST WATCHLIST AND SCREENING ACTIVITIES HAS BEEN FRAGMENTED, PREVENTING A COMPREHENSIVE AND CONSISTENT INDEPENDENT ASSESSEMENT

Despite the expansion of the terrorist watchlist and screening activities, no single entity has conducted a comprehensive assessment of how the changes to government watchlisting authorities, in conjunction with all screening activities, impact the public. Although the departments and agencies that use and maintain the terrorist watchlist established the Watchlist Advisory Council (WLAC) to coordinate policies and procedures related to the terrorist watchlist, these actions only consider the policies and processes related to the terrorist watchlist and do not account for other screenings.²¹⁶

Moreover, this guidance is supposed to be reviewed by the WLAC every three years, but the guidelines may be modified more frequently if needed.²¹⁷ Nevertheless, the National Counterterrorism Center reported the 2018 Watchlisting Guidance was not updated until September 2023.²¹⁸ As a result, needed changes to nomination and removal procedures may not have been implemented in a timely manner. Furthermore, the details of these procedures, including changes to expand the identification and sharing of watchlist information, is not releasable to the public. Additionally, while the FBI reports that the TSC monitors the timeliness and quality of new nominations, deletions, and edits to the terrorist watchlist on a monthly basis and all nominations of U.S. citizens and legal permanent residents are internally audited every six months, these efforts provide little assurance as the results are not shared with the public.²¹⁹ All of these efforts are internal oversight mechanisms with little to no transparency.

Even though some external entities have also provided fragmented reviews of watchlisting and screening procedures, these reviews only looked at portions of the combined terrorist watchlist and screening enterprise. The Inspectors General at DOJ and the Intelligence Community have each carried out audits of the watchlisting processes at FBI and other agencies

²¹⁴ Department of Homeland Security, Briefing with Senate Homeland Security and Governmental Affairs Committee Staff (August 4, 2023).

²¹⁵ *Id.*

²¹⁶ National Counterterrorism Center, Briefing with Senate Homeland Security and Governmental Affairs Committee staff (May 23, 2023); *See also Salloum v. Kable*, Transcript of Matthew J. DeSarno (Apr. 9, 2018).

²¹⁷ National Counterterrorism Center, Briefing with Senate Homeland Security and Governmental Affairs Committee staff (May 23, 2023).

²¹⁸ National Counterterrorism Center response to Senate Homeland Security and Governmental Affairs Committee majority staff (Sep. 29, 2023), *on file with Committee*.

²¹⁹ Federal Bureau of Investigation, *FY 2021 Authorization and Budget Request to Congress* (Feb. 2020); Terrorist Screening Center, Briefing with Senate Homeland Security and Governmental Affairs Committee staff (June 26, 2023).

under their purview.²²⁰ GAO has also conducted its own assessments, and the DHS Inspector General has examined aspects of DHS components' work.²²¹ Nevertheless, these assessments did not examine the comprehensive impact these combined processes have on Americans.

In addition, the Privacy and Civil Liberties Oversight Board, an independent executive oversight agency, is currently examining the terrorist watchlist, particularly the standards used to place individuals on the terrorist watchlist and processes for nominations and removals.²²² However, this board has not yet completed its review of the terrorist watchlist. Likewise, in 2020, then-Ranking Member Peters requested GAO study the impacts TSA's and CBP's screening procedures have on communities of diverse backgrounds.²²³ GAO provided the results of the TSA study in 2022.²²⁴

Further, because so many federal agencies are involved in the watchlisting and screening processes, no congressional committee has full oversight over the enterprise. Multiple committees oversee the watchlisting process from nominations to screening and redress. Some of these same committees also oversee TSA and CBP's screening processes. Nonetheless, from the perspective of the traveling public, all of these programs together significantly impact their lives.

IX. CONCLUSION

The centralization of the terrorist watchlist and the expansion of its use, as well as the creation and growth of TSA and CBP's screening processes, were implemented in response to 9/11 and other failed terrorist attacks in its aftermath. This has resulted in a layered and, in some instances redundant, system to ensure the homeland, our borders, and our aviation system are protected from future terrorist attacks. However, more than twenty years after 9/11, the issues described within this report underscore the need to reassess how these processes impact Americans and whether this redundancy and overlap experienced by Americans is the best use of resources to effectively address today's threats. Action is needed now to increase transparency and ensure there is proper oversight of government watchlisting and screening practices, as well as effective and fair redress processes regardless of what threats drive these practices in the future. We must also assess whether this redundancy is an effective use of limited resources and

²²⁰ E.g. Department of Justice Office of the Inspector General, *Audit of the Federal Bureau of Investigation's Management of Terrorist Watchlist Nominations* (Audit Report 14-16) (Mar. 2014); Department of Justice Office of the Inspector General, *Audit of the Department of Justice Terrorist Watchlist Nomination Processes* (Audit Report 08-16) (Mar. 2008); Office of the Intelligence Community Inspector General, *Annual Report* (Jan. 30, 2009).

²²¹ E.g. Government Accountability Office, *Terrorist Watch List Screening: Opportunities Exist to Enhance Management Oversight, Reduce Vulnerabilities in Agency Screening Processes, and Expand Use of the List* (GAO-08-110) (Oct. 2007); Department of Homeland Security Office of Inspector General, *DHS Has Controls to Safeguard Watchlist Data* (OIG-22-53) (Jul. 25, 2022).

²²² U.S. Privacy and Civil Liberties Oversight Board, *Current Oversight Projects* (<https://www.pclob.gov/OversightProjects>) (accessed Jun. 2, 2023).

²²³ Letter from Senator Gary Peters to Comptroller General Gene Dodaro, Government Accountability Office (Nov. 18, 2020).

²²⁴ Government Accountability Office, *Aviation Security: TSA Should Assess Potential for Discrimination and Better Inform Passengers of the Compliant Process* (GAO-23-105201) (Nov. 2022).

whether we have done a sufficient job of balancing national security with civil right and civil liberties.

After reviewing government watchlisting and screening processes, committee staff concluded the following:

1. **Oversight is Disjointed.** Although external entities have reviewed watchlisting procedures, oversight entities have not conducted a coordinated and full-scope assessment of the terrorist watchlist enterprise. As a result, the effectiveness of the system, quality of nominations, timeliness of removals, and information sharing practices has not been comprehensively evaluated.
2. **Redress Options Are Insufficient.** DHS TRIP serves as the primary mechanism for individuals to seek resolution for travel difficulties, including potential removal from the terrorist watchlist. However, agencies do not provide the individual with the reason they received additional screening, such as inclusion on the terrorist watchlist, because of the risk that disclosure may undermine security processes. Further, individuals seeking redress do so with little ability to advocate for themselves or avoid issues in the future. Despite outreach efforts by DHS to better explain the process, the ongoing cycle of applying for redress, but continually being subjected to additional screening is breaking trust between the government and communities who have claimed they are being over-screened and watchlisted.
3. **Communities Have Diminished Faith in Government.** Leaders in the Muslim, Arab American and South Asian communities, who believe that they bear the disproportionate brunt of this nontransparent watchlist and screening system, have shared concerns with the Committee that continued screening and the inability to seek real redress has broken trust between their communities and the federal government. Despite intermittent efforts by the federal government to do outreach, provide more transparency into the watchlisting process and into DHS screening practices, and build relationships, the patchwork nature of these efforts and the ultimate continued screening with no real redress has eroded trust and faith in government and institutions.
4. **Layered Screening is Missing a Coordinated Approach.** Government watchlisting has expanded in the last twenty-plus years in size and scope. The TSC is involved in watchlisting not only terrorists, but also individuals involved in transnational organized crime, the associates and family members of potential terrorists, as well as others. Moreover, both TSA and CBP have created their own layers of watchlisting and screening for security and for many other reasons. Today, there are at least 22 mechanisms that may affect someone's travel. Although this may reduce the likelihood that a potential threat is missed, the extent to which these efforts are coordinated across agencies is unclear. Furthermore, as the size of the watchlist and screening enterprise grows, so does the chance of misidentification, the need for additional resources, and the risk that existing limited resources may be spent on low risks, overlooking real threats.

5. **Processes Lack Sufficient Transparency.** Though not generally classified as national security information, the information about watchlisting and screening processes, including the Watchlisting Guidance, are categorized as sensitive security information or law enforcement sensitive and not publicly releasable. The complete lack of transparency makes oversight by Congress challenging and by civil society virtually impossible. While the executive branch must be able to keep some issues of national security secret in order to protect Americans, this opacity does not allow for a discussion of whether the system is working and whether there are individuals who are disproportionately harmed by its implementation.
6. **Potential Discrimination Is Not Fully Analyzed.** There is not a government-wide effort to assess whether this system of screening and watchlisting discriminates against certain groups or quantify the comprehensive impact multiple, repeated screenings may have on specific individuals or communities. Outside groups, such as those representing Muslim, Arab, and South Asian Americans, have claimed certain communities and individuals are screened more than others; however, agencies do not maintain the data necessary to assess whether certain individuals or groups are disproportionately impacted. Without this data, Congress cannot provide sufficient oversight, government agencies cannot improve their practices, and communities continue to feel targeted.

To address the lack of transparency surrounding the terrorist watchlist and travel screening activities and the potential harms caused by their redundancies, and to create a meaningful redress process for Americans unfairly impacted, Congress and the executive branch should implement the recommendations identified in the report. This Committee will continue to conduct oversight of the watchlisting and screening enterprises to ensure the executive branch addresses the concerns raised and will work to make reforms to these systems.

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 SENSITIVE SECURITY INFORMATION

U.S. Department of Homeland
 Security
 Office of Intelligence and Analysis
 6595 Springfield Center Drive
 Springfield, VA 20598



Transportation
 Security
 Administration

FROM: [REDACTED]
 Assistant Administrator
 Intelligence & Analysis

TO: [REDACTED]
 Division Director
 Transportation Analysis Division

[REDACTED]
 Acting Division Director
 Vetting Analysis Division

DATE: January 15, 2021

SUBJECT: Use of TSA Watch Lists to Mitigate Ongoing Threats to National Security

On January 6, 2021, a number of individuals entered the U.S. Capitol Building in Washington, D.C. by force, and were followed by a larger number of individuals. These individuals unlawfully entered the Capitol with the intent of disrupting ongoing Congressional proceedings. Some of these individuals had firearms and improvised explosive devices (IEDs) in their possession; additional IEDs were discovered in the area near the Capitol. A number of individuals committed criminal acts of violence and destruction amidst the attack on the U.S. Capitol building. This attack led to the death of a U.S. Capitol Police Officer, a number of significant injuries to other responding law enforcement officers, and to deaths and injuries amongst the participants in the attack. Similar violent protest activity occurred in other cities across the United States on January 6, 2021. The Federal Bureau of Investigation and partnering law enforcement agencies have made dozens of arrests associated with the violence, and significant efforts remain underway to investigate this violence and prosecute perpetrators.

Further civil unrest from some of the same individuals and associates involved in the January 6, 2021 attack is expected in the coming weeks associated with the January 20, 2021 Presidential transition. Current Law Enforcement, intelligence, and open source reporting indicates that domestic violent extremists (DVEs) holding a variety of ideological motivations are planning on exploiting further planned protests to commit further acts of armed violence. In

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SENSITIVE SECURITY INFORMATION

particular, armed groups are intending to travel to Washington, DC ahead of the Presidential Inauguration and seek to replicate the tactics demonstrated on January 6th, including further potential attacks of the U.S. Capitol, and/or storming of other government facilities, including federal, state, or local buildings nationwide. The Federal Bureau of Investigation has warned of armed protests planned in all 50 state capitols from January 16 through January 20, and protests at the Capitol from January 17 through January 20, including calls for "storming" government buildings.^{1,2,3}

Additionally, there have been numerous incidents of disruptive passengers and unruly behavior negatively impacting aviation operations by passengers traveling to and from the National Capital Region (NCR). In the days preceding and following January 6, air carriers reported a significant number of disruptions by passengers onboard flights into and out of the NCR, including harassment of other passengers (including Members of Congress), failure to comply with crewmember instructions, as well as interference with flight crew attempting to enforce air carrier requirements to wear masks onboard the flight due to the COVID-19 pandemic. At least one individual has publicly threatened to suffocate and shoot flight attendants.

As information regarding the January 6 attack and planned future attacks have become available, it is evident that these past and threatened incidents of domestic terrorism constitute a threat to national security. Similarly, increased harassment of passengers and crew members associated with travel to the NCR on January 6, and anticipated travel surrounding the Presidential Inauguration, further indicates a threat to transportation security, and to airline and passenger safety. Accordingly, the Administrator has directed that Intelligence & Analysis use the TSA Watch Lists to deny boarding, designate persons for enhanced screening, or take other appropriate action to mitigate the threat posed by violence or threatened violence.⁴ In accordance with the Administrator's January 12, 2021 further direction, I provide the following guidance. This document memorializes how I&A applies the TSA Watch List standards approved on May 17, 2019 with respect to the criteria for placement on each TSA Watch List to the ongoing threats of violence.⁵ The below is intended to facilitate the appropriate action for persons involved in the January 6 attack, or for whom intelligence and law enforcement

¹ (U) National Crisis Coordination Center Update: Preventing Violence and Criminal Activity January 2021, 1700 12 JANUARY 2021, FBI Strategic Information Operations Center with input from ATF, DEA, DOD, DOJ, DHS, US Park Police, USMS, U//LES.

² (U//FOUO) Joint Intelligence Bulletin: Domestic Violent Extremists Emboldened in Aftermath of Capitol Breach, Elevated Domestic Terrorism Threat of Violence Likely Amid Political Transitions and Beyond, 13 January 2021, FBI, DHS NCTC, U//FOUO.

³ (U//FOUO) Strategic Perspective: Executive Analytical Report: Some Domestic Violent Extremists Likely Will React with Violence to the Presidential Transition Process, 14 January 2021, FBI, U//FOUO.

⁴ I&A began doing so on January 7, 2021.

⁵ Procedures Relating to the Transportation Security Administration Watch Lists, signed May 17, 2019 at 7-9; *see also* Management Directive 100, TSA Roles and Responsibilities, dated May 5, 2020 § 5.D.11, 13; Delegation of Authority for Operations Support, dated May 14, 2020 § 3.B.3-4.

SENSITIVE SECURITY INFORMATION

reporting indicates an intent to engage in or incite violent acts as described within this memorandum:

Placement on the TSA Watch List (Deny Boarding) is appropriate for:

- Individuals who unlawfully entered the U.S. Capitol building on January 6, 2021;
- Individuals found in possession of firearms, dangerous weapons, and/or zip ties or similar constraints in connection with the attack on the U.S. Capitol building;
- Individuals found in possession of explosives in connection with the attack on the U.S. Capitol building;
- Individuals who have engaged in or attempted an assault on a law enforcement officer or other government personnel in connection with the attack on the U.S. Capitol building;
- Individuals who, in conjunction with ongoing civil unrest:
 - engage in violent conduct similar to the above with respect to the U.S. Capitol building, another federal building or state capitol building; or
 - under circumstances likely to produce such action, have expressed the intent to engage in violent conduct similar to the above;
- Individuals who, in connection with ongoing civil unrest, have threatened the life of government or security personnel, flight crew, or passengers; or
- Individuals responsible for organizing or inciting seditious conduct. Organizing or inciting seditious conduct is defined as acts intended to overthrow, put down, or destroy by force the Government of the United States, or to levy war against the Government of the United States, or to oppose by force the authority of the Government of the United States, or by force to prevent, hinder, or delay the execution of any law of the United States, or by force to seize, take, or possess any property of the United States contrary to the authority of the Government of the United States.⁶

Placement on the TSA Watch List (Enhanced Screening) is appropriate for:

- Individuals suspected of traveling to the National Capital Region in conjunction with the January 6, 2021 attack on the U.S. Capitol and who are believed to pose an elevated risk of domestic terrorism,⁷ but for whom there is a current lack of specific information relating to unlawful entry into the U.S. Capitol, violent acts in support of the January 6, 2021 attack, or incitement of the same, and who do not otherwise meet the criteria for placement on the TSA Watch List (Deny Boarding).

⁶ See 18 U.S.C. § 2384 (regarding seditious conspiracy); 18 U.S.C. § 2383 (regarding rebellion or insurrection, including incitement of rebellion or insurrection); and 18 U.S.C. § 2385 (regarding advocacy of overthrowing the government by force). These statutes are serious criminal offenses that inherently touch upon a threat to national security, and guide evaluation of whether a nomination meets this standard. Incitement is not the mere oral or written advocacy of ideas or expression of belief, not involving advocacy of any act or acts of violence or the assertion of the rightness of, or right to commit, any such act or acts. See 18 U.S.C. § 2102(b).

⁷ Defined as activities that involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State; which appear to be intended to intimidate or coerce a civilian population, influence the policy of a government by intimidation or coercion, or affect the conduct of a government by mass destruction, assassination, or kidnapping; and which occur primarily within the territorial jurisdiction of the United States. See 18 U.S.C. § 2331(5).

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Placement on the TSA Watch List (Security Notification) is appropriate for:

- Individuals who harass or threaten the harassment of security personnel, flight crew, or passengers in conjunction with either the Presidential transition or requirements to wear personal protective equipment due to the COVID-19 pandemic.

All nominations to a TSA Watch List must continue to be supported by particularized derogatory information regarding the individual to be placed on a TSA Watch List. All nominations will be evaluated under the totality of the circumstances, including available relevant derogatory and mitigating information. If information is discovered during your teams' reviews of available information that merits consideration for deviation from the above guidelines, that information must be provided along with nomination materials for consideration by the Administrator or his designee.⁸ As with all other nominations to the TSA Watch List, an individual may not be added to a TSA Watch List based solely on the individual's real or perceived race, color, religion, national origin, ethnicity, gender, age, sexual orientation, gender identity, or disability. Individuals shall not be added to any TSA Watch List in retaliation for engaging in activities protected by the U.S. Constitution, including First Amendment protected activities. Conduct protected by the First Amendment may be considered in conjunction with other conduct and evidence only to the extent relevant to TSA's determination as to whether an individual poses a threat warranting placement on a TSA Watch List. First Amendment protected activities shall not serve as the sole basis for placement on any TSA Watch List.

All additions, status modifications, and removals shall be memorialized via memorandum explaining the basis for the determination as soon as possible. These memoranda will formalize the ongoing analysis and legal review regarding individual nominations to a TSA Watch List.

I&A will assess the threat environment as of January 31, 2021 and determine whether modifications to this guidance are appropriate. Further, I&A will conduct a status review for all persons added pursuant to this guidance on the week of January 31, 2021, in coordination with Chief Counsel and the Privacy offices. At this time, TSA will consider up-to-date information regarding each individual placed on a TSA Watch List, the current threat environment, and threat mitigation measures undertaken by other agencies to determine if changes to the above guidance, status modifications, or removals are appropriate. I&A will also conduct encounter-based reviews upon notification of identified pending travel to consider the latest information available and determine if the case TSA Watch List status should be upgraded, downgraded, or removed as appropriate. Similarly, at the end of month thereafter, I&A will conduct a review of the cases and guidance as described above until there are no cases associated with this guidance on the TSA Watch List and/or the threat environment has changed that obviate the need for this specific guidance. Notwithstanding this scheduled review, should your teams become aware of any other information, including but not limited to intelligence, law enforcement, and open source

⁸ For example, persons for whom there is significant mitigating information to indicate the absence of a threat notwithstanding meeting the above guidelines, or for whom an investigating law enforcement agency has requested that TSA not delay or deny travel due to investigative equities, and for whom the Administrator or designee has assessed alternative threat mitigation measures to be adequate.

SENSITIVE SECURITY INFORMATION

information, indicating that a change in status is warranted (e.g. identification of additional derogatory information, determination that a person has been misidentified or is otherwise not associated with the January 6 attack), that information should be provided to me as soon as possible to facilitate any appropriate modifications.

Removal from the TSA Watch List is warranted when:

- The threat posed by the individual is mitigated through other measures, such as placement on the corresponding Terrorist Screening Database watchlist;
- The individual is no longer identified as connected to a threat to national security through further investigation, including coordination with partner agencies, review by I&A in conjunction with the TSA Watch List review processes, or through the DHS TRIP redress process; or
- Intelligence and law enforcement reporting no longer indicate a continuing threat to national security associated with the ongoing civil unrest.
- For persons on the TSA Watch List (Security Notification) on account of the above standard, travel without incident for three encounters, or for a period of at least one year with at least one encounter, will generally serve as evidence that an individual no longer poses a threat warranting placement on the TSA Watch List (Security Notification) unless unusual aggravating circumstances apply. These circumstances must be specifically described in TSA Watch List reviews.

TSA Chief Counsel's and Civil Rights and Liberties, Ombudsman & Traveler Engagement offices have reviewed this memorandum and have no [REDACTED] or other objections to this guidance.

TSA_HSGAC_9-21-24/5-28-25_T2_0000465

SENSITIVE SECURITY INFORMATION

U.S. Department of Homeland
Security
Office of Intelligence and Analysis
6595 Springfield Center Drive
Springfield, VA 20598



Transportation
Security
Administration

FROM: [REDACTED] *5 February 2021*
Assistant Administrator
Intelligence & Analysis

TO: [REDACTED]
Division Director
Transportation Analysis Division

[REDACTED]
Acting Division Director
Vetting Analysis Division

DATE: February 1, 2021

SUBJECT: Use of TSA Watch Lists to Mitigate Ongoing Threats to National Security

On January 6, 2021, a number of individuals entered the U.S. Capitol Building in Washington, D.C. by force, and were followed by a larger number of individuals. These individuals unlawfully entered the Capitol with the intent of disrupting ongoing Congressional proceedings. Some of these individuals had firearms and improvised explosive devices (IEDs) in their possession; additional IEDs were discovered in the area near the Capitol. A number of individuals committed criminal acts of violence and destruction amidst the attack on the U.S. Capitol building. This attack led to the death of a U.S. Capitol Police Officer, a number of significant injuries to other responding law enforcement officers, and to deaths and injuries amongst the participants in the attack. Similar violent protest activity occurred in other cities across the United States on January 6, 2021. The Federal Bureau of Investigation and partnering law enforcement agencies have made dozens of arrests associated with the violence, and significant efforts remain underway to investigate this violence and prosecute perpetrators.

Further civil unrest from some of the same individuals and associates involved in the January 6, 2021 attack has been expected in connection with the Presidential transition, including the upcoming impeachment trial in the Senate for former President Trump. Current Law Enforcement, intelligence, and open source reporting indicates that domestic violent extremists (DVEs) holding a variety of ideological motivations are planning on exploiting further planned

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SENSITIVE SECURITY INFORMATION

protests to commit further acts of armed violence. In particular, armed groups intended to travel to Washington, DC ahead of the Presidential Inauguration and seek to replicate the tactics demonstrated on January 6th, including further potential attacks of the U.S. Capitol, and/or storming of other government facilities, including federal, state, or local buildings nationwide. The Federal Bureau of Investigation warned of armed protests planned in all 50 state capitols from January 16 through January 20, and protests at the Capitol from January 17 through January 20, including calls for "storming" government buildings.^{1,2,3} While the Inauguration has transpired, threats continue against members of Congress, including plots to attack Members of Congress during their travel to and from the Capitol during the impeachment trial.⁴

Additionally, there have been numerous incidents of disruptive passengers and unruly behavior negatively impacting aviation operations by passengers traveling to and from the National Capital Region (NCR). In the days preceding and following January 6, air carriers reported a significant number of disruptions by passengers onboard flights into and out of the NCR, including harassment of other passengers (including Members of Congress) and failure to comply with crewmember instructions. At least one individual has publicly threatened to suffocate and shoot flight attendants.

As information regarding the January 6 attack and planned future attacks have become available, it is evident that these past and threatened incidents of domestic terrorism constitute a threat to national security. Similarly, increased harassment of passengers and crew members associated with travel to the NCR on January 6, and anticipated travel connected to the ongoing civil unrest, further indicates a threat to transportation security, and to airline and passenger safety. Accordingly, the Administrator has directed that Intelligence & Analysis use the TSA Watch Lists to deny boarding, designate persons for enhanced screening, or take other appropriate action to mitigate the threat posed by violence or threatened violence.⁵

Given these threats to the Nation's security, on January 15, 2021, I provided more specific guidance regarding how I&A would apply the TSA Watch List standards that were approved on May 17, 2019 to this new situation and in reaction to the ongoing threats of

¹ (U) National Crisis Coordination Center Update: Preventing Violence and Criminal Activity January 2021, 1700 12 JANUARY 2021, FBI Strategic Information Operations Center with input from ATF, DEA, DOD, DOJ, DHS, US Park Police, USMS, U//LES.

² (U//FOUO) Joint Intelligence Bulletin: Domestic Violent Extremists Emboldened in Aftermath of Capitol Breach, Elevated Domestic Terrorism Threat of Violence Likely Amid Political Transitions and Beyond, 13 January 2021, FBI, DHS NCTC, U//FOUO.

³ (U//FOUO) Strategic Perspective: Executive Analytical Report: Some Domestic Violent Extremists Likely Will React with Violence to the Presidential Transition Process, 14 January 2021, FBI, U//FOUO.

⁴ (U) Donald Trump Impeachment Trial Sparks Violent Threats Against Lawmakers, 0624 25 JANUARY 2021, Newsweek, U (citing briefing provided to press).

⁵ I&A began doing so on January 7, 2021.

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protests to commit further acts of armed violence. In particular, armed groups intended to travel to Washington, DC ahead of the Presidential Inauguration and seek to replicate the tactics demonstrated on January 6th, including further potential attacks of the U.S. Capitol, and/or storming of other government facilities, including federal, state, or local buildings nationwide. The Federal Bureau of Investigation warned of armed protests planned in all 50 state capitols from January 16 through January 20, and protests at the Capitol from January 17 through January 20, including calls for "storming" government buildings.^{1,2,3} While the Inauguration has transpired, threats continue against members of Congress, including plots to attack Members of Congress during their travel to and from the Capitol during the impeachment trial.⁴

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⁵ I&A began doing so on January 7, 2021.

SENSITIVE SECURITY INFORMATION

violence.⁶ The January 15 guidance directed a review of the threat environment as of January 31, 2021 determine whether modifications to the January 15 guidance are appropriate.

As of January 31, 2021, I judge that there remains a heightened threat environment across the United States. According to a National Terrorism Advisory System bulletin issued by the Acting Secretary on January 27, 2021, the heightened threat environment will persist in the weeks following the Presidential Inauguration, as "some ideologically-motivated violent extremists with objections to the exercise of governmental authority and the presidential transition, as well as other perceived grievances fueled by false narratives, could continue to mobilize to incite or commit violence."⁷ I assess that this enduring threat of violence continues to pose a threat to transportation or national security, albeit one that is more generalized in nature in contrast with the violence at the U.S. Capitol building on January 6 and threats of violence associated with the Presidential Inauguration. Additionally, the Terrorist Screening Center has been placing persons known by TSA to have engaged in the January 6 Capitol Violence on the Terrorist Screening Database as continuing criminal investigations have yielded more information regarding these persons. Generally, these persons have been added to either the Selectee or Expanded Selectee lists absent an aggravating factor (e.g. use or possession of explosives).

Accordingly, after consultation with the TSA Senior Leadership Team, I am revising the January 15, 2021 guidance in light of current threat conditions. The standards below are intended to facilitate the placement of individuals who continue to be nominated to a TSA Watch List, and to guide the reviews of individuals placed on a TSA Watch List required by TSA Watch List procedures and the January 15 memorandum.

Placement on the TSA Watch List (Deny Boarding) is appropriate for:

- Individuals found in possession of firearms, dangerous weapons, and/or zip ties or similar constraints in connection with the attack on the U.S. Capitol building;
- Individuals found in possession of explosives in connection with the attack on the U.S. Capitol building;
- Individuals who have engaged in or attempted an assault on a law enforcement officer or other government personnel in connection with the attack on the U.S. Capitol building;
- Individuals who, in connection with ongoing civil unrest:
 - engage in violent conduct similar to the above with respect to the U.S. Capitol building, another federal building or state capitol building; or
 - under circumstances likely to produce such action, have expressed the intent to engage in violent conduct similar to the above;

⁶ Procedures Relating to the Transportation Security Administration Watch Lists, signed May 17, 2019 at 7-9; *see also* Management Directive 100, TSA Roles and Responsibilities, dated May 5, 2020 § 5.D.11, 13; Delegation of Authority for Operations Support, dated May 14, 2020 § 3.B.3-4.

⁷ National Terrorism Advisory Bulletin, issued January 27, 2021 at 11:00 AM Eastern, *available at* https://www.dhs.gov/sites/default/files/ntas/alerts/21_0127_ntas-bulletin.pdf. This bulletin expires on or before April 30, 2021. *See also* United States Capitol Police Intelligence Assessment, issued January 27, 2021.

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SENSITIVE SECURITY INFORMATION

- Individuals who, in connection with ongoing civil unrest, have threatened the life of government or security personnel, flight crew, or passengers; or
- Individuals responsible for organizing or inciting seditious conduct. Organizing or inciting seditious conduct is defined as acts intended to overthrow, put down, or destroy by force the Government of the United States, or to levy war against the Government of the United States, or to oppose by force the authority of the Government of the United States, or by force to prevent, hinder, or delay the execution of any law of the United States, or by force to seize, take, or possess any property of the United States contrary to the authority of the Government of the United States.⁸

Placement on the TSA Watch List (Enhanced Screening) is appropriate for:

- Individuals who unlawfully entered the U.S. Capitol building on January 6, 2021, but who are not suspected of engaging in the activities warranting placement on the TSA Watch List (Deny Boarding) noted above;
- Individuals suspected of traveling to the National Capital Region in connection with the January 6, 2021 attack on the U.S. Capitol and who are believed to pose an elevated risk of domestic terrorism,⁹ but for whom there is a current lack of specific information relating to unlawful entry into the U.S. Capitol, violent acts in support of the January 6, 2021 attack, or incitement of the same, and who do not otherwise the criteria for placement on the TSA Watch List (Deny Boarding).

Placement on the TSA Watch List (Security Notification) is appropriate for:

- Individuals who harass or threaten the harassment of security personnel, flight crew, or passengers in connection with the Presidential transition;

All nominations to a TSA Watch List must continue to be supported by particularized derogatory information regarding the individual to be placed on a TSA Watch List. All nominations will be evaluated under the totality of the circumstances, including available relevant derogatory and mitigating information. If information is discovered during your teams' reviews of available information that merits consideration for deviation from the above guidelines, that information must be provided along with nomination materials for consideration

⁸ See 18 U.S.C. § 2384 (regarding seditious conspiracy); 18 U.S.C. § 2383 (regarding rebellion or insurrection, including incitement of rebellion or insurrection); and 18 U.S.C. § 2385 (regarding advocacy of overthrowing the government by force). These statutes are serious criminal offenses that inherently touch upon a threat to national security, and guide evaluation of whether a nomination meets this standard. Incitement is not the mere oral or written advocacy of ideas or expression of belief, not involving advocacy of any act or acts of violence or the assertion of the rightness of, or right to commit, any such act or acts. See 18 U.S.C. § 2102(b).

⁹ Defined as activities that involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State; which appear to be intended to intimidate or coerce a civilian population, influence the policy of a government by intimidation or coercion, or affect the conduct of a government by mass destruction, assassination, or kidnapping; and which occur primarily within the territorial jurisdiction of the United States. See 18 U.S.C. § 2331(5).

SENSITIVE SECURITY INFORMATION

by the Administrator or his designee.¹⁰ As with all other nominations to the TSA Watch List, an individual may not be added to a TSA Watch List based solely on the individual's real or perceived race, color, religion, national origin, ethnicity, gender, age, sexual orientation, gender identity, or disability. Individuals shall not be added to any TSA Watch List in retaliation for engaging in activities protected by the U.S. Constitution, including First Amendment protected activities. Conduct protected by the First Amendment may be considered in conjunction with other conduct and evidence only to the extent relevant to TSA's determination as to whether an individual poses a threat warranting placement on a TSA Watch List. First Amendment protected activities shall not serve as the sole basis for placement on any TSA Watch List.

All additions, status modifications, and removals shall be memorialized via memorandum explaining the basis for the determination as soon as possible. These memoranda will formalize the ongoing analysis and legal review regarding individual nominations to a TSA Watch List.

I&A will conduct monthly reviews of the cases and this guidance as described above until there are no cases associated with this guidance on the TSA Watch List and/or the threat environment has changed that obviate the need for this specific guidance. At each review, TSA will consider up-to-date information regarding each individual placed on a TSA Watch List, the current threat environment, and threat mitigation measures undertaken by other agencies to determine if changes to the above guidance, status modifications, or removals are appropriate. I&A will also conduct encounter-based reviews upon notification of identified pending travel to consider the latest information available and determine if the case TSA Watch List status should be upgraded, downgraded, or removed as appropriate. Notwithstanding this scheduled review, should your teams become aware of any other information, including but not limited to intelligence, law enforcement, and open source information, indicating that a change in status is warranted (e.g. identification of additional derogatory information, determination that a person has been misidentified or is otherwise not associated with the January 6 attack), that information should be provided to me as soon as possible to facilitate any appropriate modifications.

Removal from the TSA Watch List is warranted when:

- The threat posed by the individual is mitigated through other measures, such as placement within the Terrorist Screening Database;
- The individual is no longer identified as connected to a threat to national security through further investigation, including coordination with partner agencies, review by I&A in conjunction with the TSA Watch List review processes, or through the DHS TRIP redress process; or
- Intelligence and law enforcement reporting no longer indicate a continuing threat to national security associated with the ongoing civil unrest.

¹⁰ For example, persons for whom there is significant mitigating information to indicate the absence of a threat notwithstanding meeting the above guidelines, or for whom an investigating law enforcement agency has requested that TSA not delay or deny travel due to investigative equities, and for whom the Administrator or designee has assessed alternative threat mitigation measures to be adequate.

SENSITIVE SECURITY INFORMATION

- For persons on the TSA Watch List (Security Notification) on account of the above standard, travel without incident for three encounters, or for a period of at least one year with at least one encounter, will generally serve as evidence that an individual no longer poses a threat warranting placement on the TSA Watch List (Security Notification) unless unusual aggravating circumstances apply. These circumstances must be specifically described in TSA Watch List reviews.

TSA Chief Counsel's and Civil Rights and Liberties, Ombudsman & Traveler Engagement offices have reviewed this memorandum and have no [REDACTED] or other objections to this guidance.

SENSITIVE SECURITY INFORMATION

U.S. Department of Homeland Security
601 S. 12th Street
Arlington, VA 20598



**Transportation
Security
Administration**

April 11, 2012

ACTION

MEMORANDUM FOR: Janet Napolitano
Secretary

THROUGH: Jane Holl Lute
Deputy Secretary

FROM: [REDACTED]
Counterterrorism Coordinator
John S. Pistole, Administrator *John Pistole*

COORDINATED WITH: OGC, PLCY, MGMT, I&A, Office of the CT
Coordinator, CRCL, PRIV

SUBJECT: (U//SSI) Implementation of an Intelligence-Driven,
Risk-Based Domestic Aviation Security Screening
Program (Quiet Skies).

Purpose

(U//FOUO) This memorandum (1) seeks your approval to transition the Quiet Skies pilot to a permanent intelligence-driven, risk-based domestic aviation screening program; and (2) outlines areas of agreement among DHS components

Background

(U//SSI) Pursuant to your August 2011 approval, TSA began the Domestic Silent Partner pilot to assess TSA's ability to mitigate the risk posed by unknown violent extremists traveling on domestic passenger flights by conducting additional screening of passengers whose previous international travel matches patterns from known or suspected terrorist travel. The Quiet Skies initiative is another key component of TSA's risk-based

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SENSITIVE SECURITY INFORMATION

2

approach to security. Based upon the results of the Domestic Silent Partner (DSP) Concept of Operations and successful demonstration of the objectives of the Quiet Skies pilots, TSA began planning efforts for a permanent Quiet Skies program.

Discussion

(U//SSI) In early January 2012, at the direction of Deputy Secretary Lute, TSA convened the Quiet Skies Working Group (QSWG) to consider the intelligence, operational, legal, policy, and privacy implications of transitioning Quiet Skies from a pilot to a full operational program. TSA chaired the QSWG with participation from the Office of the General Counsel (OGC), the DHS Privacy Office (PRIV), the Office for Civil Rights and Civil Liberties (CRCL), Policy, the Office of the Counterterrorism Coordinator (CT) and the DHS Office of Intelligence and Analysis (I&A). The QSWG participants met six times to discuss program development and provided feedback to their respective Principals. Based on this work, the Principals have now reached consensus on: (1) the need for transparency; (2) limiting the number of encounters which result in additional screening; (3) defining Quiet Skies List name retention periods (e.g. 20 days for TSDB affiliates and 90 days for intelligence-based rules); (4) quarterly reviews of the intelligence justifications for Quiet Skies rules; (5) redress, which will include a Quiet Skies Cleared List (QSCL); (6) the use of ethnicity component in Quiet Skies rules; and (7) information sharing.

(U//SSI) Quiet Skies Rules Approval Process – In order to be included in Quiet Skies, a rule must be approved through the established Silent Partner approval process. In addition to the Silent Partner requirements, a rule in Quiet Skies must: (1) target a potential threat to aviation security within the Homeland, as assessed by TSA-OIA; (2) be separately recommended for inclusion in Quiet Skies by TSA-OIA; and (3) be separately approved by the Administrator for inclusion in Quiet Skies. A separate oversight review process for Quiet Skies will also be implemented.

(U//SSI) Use of Ethnicity Component in Quiet Skies Rules – In light of the heightened sensitivities associated with using ethnicity as a factor (“ethnic-based rule”) in a domestic context, there will be an additional review process for the potential use of ethnicity as a factor in Quiet Skies rules. There will be two processes for the review, depending on the exigency of the threat.

(U//SSI) If TSA determines that exigent circumstances require implementation of a Quiet Skies rule with an ethnicity-based name selector, the TSA Administrator may direct that the rule be implemented immediately. Reviewing offices will be notified immediately of the implementation of a new rule. Should a reviewing office non-concur with the rule, the reviewing office will notify TSA within 24 hours, and TSA and the non-concurring office will seek resolution. Disagreements as to implementation of a rule shall be elevated to the Deputy Secretary, followed by the Secretary, as necessary. In non-exigent

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Modify _____ / _____ Needs more discussion _____ / _____
Date Date

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SENSITIVE SECURITY INFORMATION

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1

Appendix 1**Quiet Skies Full Implementation Plan**

(U//SSI) TSA will use match records from specified Silent Partner rules to build a watch list, the Quiet Skies List, and will screen travelers flying into, out of, or within the Homeland against this Quiet Skies List.¹ Two types of Silent Partner rules will be considered for inclusion²:

- (U//SSI) The Terrorist Screening Database (TSDB) Affiliate rule [REDACTED]³
 - (U//SSI) Individuals will be removed from the Quiet Skies List through deliberate exclusion, after three encounters or after 20 days, whichever is earliest.
- (U//SSI) Intelligence-based scenario rules identify individuals based on specific intelligence about a potential threat or who have traveled abroad and may be returning from identified higher risk areas using travel routes and tradecraft highlighted in current intelligence. These rules or rule packages will be implemented at the TSA Administrator's direction based on threat information indicating a specific and credible threat to aviation security within the Homeland from violent extremists.
 - (U//SSI) Intelligence-based rules will populate a 90-day, rolling list.
 - (U//SSI) Individuals will be removed from the Quiet Skies List through deliberate exclusion, after three encounters, after 90 days, or after deactivation of the particular Quiet Skies rule placing them on the list, whichever is earliest.
 - (U//SSI) The intelligence supporting the Quiet Skies rules is continually evaluated and subject to quarterly reviews by DHS PRIV, CRCL and OGC. The Quiet Skies approval process is described below.
 - (U//SSI) On [REDACTED], [REDACTED] rules relating to [REDACTED] were implemented based on current intelligence information. These are the only intelligence-based rules currently in effect. These rules are currently being evaluated to assess whether the intelligence remains valid and current.

¹ (U//SSI) TSA plans to use the TSDB Affiliate Rule [REDACTED] in the initial Quiet Skies rule set.

² (U//SSI) In the event of a screening anomaly, TSA will nominate to the terrorist watch list or take appropriate action in accordance with our operating procedures and legal authorities.

³ (U//SSI) TSA will modify the TSDB Affiliate Rule applied to TSA screening programs [REDACTED]. The current Watchlisting Guidance does not permit use of these records for transportation security.

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SENSITIVE SECURITY INFORMATION

(U//SS) Additionally, TSA will develop and maintain additional rule packages for Quiet Skies, as necessary to mitigate emerging threats to aviation security within the Homeland. The process for the implementation of a targeting rule for the Quiet Skies program is described in detail in the Rules Approval Process section.

(U//SS) TSA will notify DHS Office of the Counterterrorism Coordinator, Policy, I&A, OGC, CRCL and Privacy within 48 hours of the implementation of a rule or rule package(s), as well as provide the relevant threat information and underlying intelligence. In addition, all Silent Partner rules are, and will continue to be, the subject of quarterly reviews by DHS Privacy, CRCL, and OGC. A review of rules for use in Quiet Skies will be incorporated into the quarterly review standard operating procedures.

(U//SS) TSA will review encounter data to ensure match quality and to process deliberate exclusions from the Quiet Skies List, as appropriate. In addition, TSA will monitor the departure and arrival airports for Quiet Skies encounters to ensure there is no negative impact on domestic screening and security operations.

Rule Approval & Oversight Process

(U//SS) Since the Quiet Skies List is driven by the results from Silent Partner targeting rules, it is important to understand the process for the development of a Silent Partner rule and the program's strict oversight processes.

TSA Silent Partner Rule Approval

(U//SS) [REDACTED]

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SENSITIVE SECURITY INFORMATION

- (U//SSI) All Silent Partner rules are reviewed regularly and archived when no longer supported by intelligence. The TSA Administrator approves the implementation, modification, and removal of all Silent Partner rules.

DHS Oversight of Silent Partner

(U//SSI) In addition to the implementation process described above, Silent Partner is overseen under the auspices of an oversight agreement with three DHS HQ reviewing offices: the DHS Privacy Office, the Office for Civil Rights and Civil Liberties, and the Office of the General Counsel. The purpose of the oversight agreement is to ensure that Silent Partner rules are based on current intelligence identifying specific potential threats, are deactivated when no longer necessary to address those threats, are appropriately tailored to minimize the impact upon bona fide travelers' civil rights, civil liberties, and privacy, and are in compliance with relevant legal authorities, regulations, and DHS policies.

(U//SSI) The principles of the Silent Partner oversight agreement provide that:

- (U//SSI) TSA will continually evaluate the performance of the rules and the intelligence supporting them. If a rule is determined to no longer be necessary to address a particular threat, the rule will be deactivated immediately.
- (U//SSI) The reviewing offices will review the program quarterly, focusing on changes to the rule set from the prior review and concerns raised by the reviewing offices for further discussion. TSA will provide access to the intelligence reporting supporting the rules for review.
- (U//SSI) Intelligence assessments for each rule should be updated at least annually for presentation to the reviewing offices, but may be updated sooner upon request of the reviewing offices.

Quiet Skies Rule Approval

(U//SSI) In order to be included in Quiet Skies, a rule must be approved through the established Silent Partner approval process and will be covered by the oversight provisions above. In addition to the Silent Partner requirements, a rule in Quiet Skies must:

- (U//SSI) Target a potential threat to aviation security within the Homeland, as assessed by TSA-OIA;
- (U//SSI) Be separately recommended for inclusion in Quiet Skies by TSA-OIA; and

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SENSITIVE SECURITY INFORMATION

TSA_HSGAC_8-21-24_T1_000026

4

- (U//SSI) Be separately approved by the Administrator for inclusion in Quiet Skies. The Administrator will not delegate the authority to approve a Quiet Skies rule below the Deputy Administrator.

(U//SSI) These additional requirements may be documented in a combined decision memorandum for a Silent Partner rule. If so, TSA will cross-file the memo with both programs.

Quiet Skies Oversight

(U//SSI) Furthermore, with respect to oversight of the Quiet Skies program⁴, TSA will:

- (U//SSI) Notify the DHS HQ reviewing offices of the implementation of all Quiet Skies rules within 48 hours of approval and provide the relevant threat information and underlying intelligence for that rule, with an exception for rules containing ethnicity-based name selectors, as described below.⁵
- (U//SSI) If TSA determines that exigent circumstances require implementation of a Quiet Skies rule with an ethnicity-based name selector, the Administrator may direct that the rule be implemented immediately. TSA will immediately notify the reviewing offices of the implementation of a Quiet Skies rule using an ethnicity-based name selector and provide the supporting intelligence. Should a reviewing office non-concur with the rule, the reviewing office will notify TSA within 24 hours, and TSA will continue to coordinate with these offices to address concerns. Disagreements as to implementation of a rule shall be elevated to the Deputy Secretary, followed by the Secretary, as necessary. In non-exigent circumstances, as determined by the Administrator, for Quiet Skies rules with an ethnicity-based name selector, TSA will provide the supporting intelligence to the reviewing offices who will have 48 hours to concur or non-concur prior to implementation.
- (U//SSI) Continually evaluate the performance of the rules in the Quiet Skies program and the intelligence supporting them. If a rule is determined to no longer be necessary to address a particular threat, the rule will be deactivated immediately and individuals placed on the Quiet Skies List using the deactivated rule will be removed at that time.
- (U//SSI) Participate in a separate quarterly review for Quiet Skies. The purpose of the separate quarterly review is to ensure that Quiet Skies rules are based on

⁴ (U//SSI) As it relates to oversight, the reviewing offices specifically refer to DHS OGC, PRIV, and CRCL. TSA has agreed to provide notice to I&A, CT, and Policy; however, these offices do not participate in the quarterly rules review.

⁵ (U//SSI) In making such notifications to CRCL, PRIV, and OGC, TSA will alert the points of contact on [REDACTED]

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SENSITIVE SECURITY INFORMATION

TSA_HSGAC_8-21-24_T1_000027

5

current intelligence identifying specific potential threats to aviation security within the Homeland, are deactivated when no longer necessary to address those threats, are appropriately tailored to minimize the impact upon bona fide travelers' civil rights, civil liberties, and privacy (through rule design, quality assurance and oversight, and TSA's redress efforts), and are in compliance with relevant legal authorities, regulations, and DHS policies. As with Silent Partner, TSA and the reviewing offices will execute an oversight standard operating procedure (or amend the current Silent Partner procedures) formalizing this review process.

- (U//SSI) Intelligence assessments for each rule will be updated and re-approved by the Administrator every 90 days.⁶

Quiet Skies Use of Ethnicity-based Name Selectors

(U//SSI) TSA understands that the use of ethnicity-based name selectors in its rules is subject to strict scrutiny when applied inside the borders of the United States.⁷ However, their use 'may be permissible within the bounds of the Constitution,' relevant law, regulations, and DHS policies. As a result, TSA will not categorically exclude the use of ethnicity-based name selectors from Quiet Skies when intelligence justifies their use. The Department's "Commitment to Race Neutrality in Law Enforcement Activities" governs the use of ethnicity-based name selectors in this program.

- (U//SSI) TSA does not employ any Silent Partner rules which refer travelers to enhanced screening based solely on an individual's ethnicity. Ethnicity-based name selectors are always used in conjunction with other selectors.

These are based on reliable and current intelligence, and do not rely on generalized stereotypes.

(U//SSI) TSA will incorporate a more stringent review and approval process for the use of ethnicity-based name selectors, including:

- (U//SSI) TSA-OIA's analysis of the need for the ethnicity-based name selector, specifically discussing the reasons for its use and why alternative selectors are not an effective means to mitigate a particular threat;

⁶ (U//SSI) Intelligence assessments for rules containing an ethnicity-based name selector will be updated every 60 days.

⁷ (U//FOUO) For name selectors, ethnicity was determined by analyzing five years of I-94 data to distinctly identify last names, first names, dates of birth, and countries of citizenship. This data was analyzed to measure the percentage of occurrences that a specific given name or surname appears for the nationals of a country.

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SENSITIVE SECURITY INFORMATION

- (U//SSI) An internal review, including an updated intelligence assessment, and re-approval by the Administrator of the use of a rule employing an ethnicity-based name selector every 60 days.

(U//SSI) This stringent review and approval process will also incorporate review by the reviewing offices either immediately after implementation in exigent circumstances, or prior to implementation otherwise.

- (U//SSI) If TSA determines that exigent circumstances require implementation of a Quiet Skies rule that includes an ethnicity-based name selector, the Administrator may direct that the rule be implemented immediately. TSA will immediately notify the reviewing offices of the implementation of a Quiet Skies rule using an ethnicity-based name selector and provide the supporting intelligence.⁸ Should a reviewing office non-concur with the rule, the reviewing office will notify TSA within 24 hours, and TSA will continue to coordinate with these offices to address any concerns. Disagreements as to implementation of a rule shall be elevated to the Deputy Secretary, followed by the Secretary, as necessary.
- (U//SSI) In non-exigent circumstances, as determined by the Administrator, TSA will provide the supporting intelligence to the reviewing offices, who will have 48 hours to concur or non-concur prior to implementation of the rule. TSA will coordinate with these offices to address any concerns, and disagreements shall be elevated to the Deputy Secretary and/or Secretary, as necessary, prior to implementation of the rule.

Secure Flight Settings

(U//SSI) In the Final Operating Capability (FOC) for Quiet Skies, Secure Flight will provide automated match processing and reporting.⁹ Specific characteristics of the Secure Flight process include:

- (U//SSI) The Quiet Skies watchlist is built from rule feedback received by Secure Flight [REDACTED]¹⁰
- (U//SSI) For name matching, the match threshold will be set at 99 percent.¹¹

⁸ (U//SSI) In making such notifications to CRCL, PRIV, and OGC, TSA will alert the points of contact on [REDACTED]

⁹ (U//SSI) Quiet Skies FOC is scheduled to be implemented in mid-April 2012.

¹⁰ (U//SSI) An individual is added to the Quiet Skies List as a result of their initial Silent Partner rule hit. Day 1 on the Quiet Skies List is the day that information is received from Secure Flight.

¹¹ (U//SSI) [REDACTED]

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SENSITIVE SECURITY INFORMATION

- (U//SSI) The DOB match threshold will be 100 percent (exact DOB match), allowing for inversion of month and day.
- (U//SSI) For passport number of country of issuance matching, the match threshold will be set at 100 percent.

- (U//SSI) Quiet Skies will match against domestic, international inbound and international outbound flights.¹³ It will not match against international to international flights, to include overflights, received by Secure Flight.
- (U//SSI) Quiet Skies will not match against the Cleared List managed by the DHS Traveler Redress Inquiry Program (TRIP).¹⁴
- (U//SSI) Passengers who match a Quiet Skies record will automatically receive a Selectee Boarding Pass Printing Result (BPPR). Secure Flight will not inhibit boarding passes or perform identity verification.¹⁵
- (U//SSI) Secure Flight will provide a daily report of individuals who matched the Quiet Skies List to the TSA Office of Intelligence and Analysis for quality assurance, oversight, and redress purposes.

(U//SSI) TSA plans to implement Quiet Skies in such a way that many of the above parameters are configurable, to include:

- (U//SSI) Automatic list record deletion timeframe, unique for each rule.
- (U//SSI) Random exclusion from receiving SSSS BPPR (see Random Exclusion section below).
- (U//SSI) Cleared List Matching (ability to clear Quiet Skies List matches if they are an exact match to the Cleared List managed by DHS TRIP). Note, at launch, Quiet Skies matches will not be matched against the Cleared List.
- (U//SSI) Quiet Skies Cleared List (ability to clear Quiet Skies List matches if they are an exact match to the QSCL, detailed in the Redress section below).

¹² (U//SSI) Through the Quiet Skies pilot, [REDACTED]

[REDACTED] These issues result in a significantly higher number of questionable matches.

¹³ (U//SSI) An individual on the Quiet Skies List may be selected for enhanced screening on an International Inbound flight if subsequent international travel does not result in matching to a Silent Partner rule.

¹⁴ (U//SSI) The Cleared List refers to a list maintained by DHS TRIP of persons who have been cleared, for purposes of TSA screening only, against the Terrorist Screening Database (TSDB).

¹⁵ (U//SSI) The Boarding Pass Printing Result (BPPR) is a message sent by Secure Flight to the air carrier. It can contain four possible message responses: Cleared, Inhibited, Selectee, or Known. It is not TSA's intent to inhibit boarding passes for Quiet Skies which would require the air carrier to make a resolution call to Secure Flight.

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SENSITIVE SECURITY INFORMATION

TSA_HSGAC_8-21-24_T1_0000030

8

- (U//SSI) Flight Type (Domestic, International Inbound, International Outbound, and International to International (includes Overflights)).
- (U//SSI) Match Threshold (i.e. 99 percent and exact date of birth (DOB)).

Operating Procedures Minimizing Impacts on Travelers

(U//SSI) TSA is committed to managing Quiet Skies in such a way to ensure that the impact upon travelers is minimized. Throughout the different phases of the Quiet Skies pilot, TSA has developed processes aimed at preserving the privacy, civil rights and civil liberties of travelers. These include:

- (U//SSI) Deliberate Exclusion: Thorough reviews of encounter data are conducted to ensure that inclusion on the Quiet Skies List was appropriate; and
 - (U//SSI) Throughout the Quiet Skies pilot, the majority of deliberate exclusions have been for (1) individuals associated with a TSDB subject whose investigation was subsequently closed or (2) individuals whose travel TSA assessed would not warrant further scrutiny.
- (U//SSI) Encounter-Based Exclusions: Automatic removal of a Quiet Skies List record after it has triggered three (3) encounters resulting in enhanced screening.
- (U//SSI) Automatic removal of an individual after a defined period of time, depending on the rule applied. Individuals added via the TSDB Affiliate rule will be purged from the list after 20 days. Individuals added via intelligence-based rules will be purged from the list after 90 days. All Quiet Skies rules will be reviewed quarterly.

(U//SSI) TSA will employ all three types of exclusions in Quiet Skies.

(U//SSI) TSA will exempt individuals from additional screening if it appears the individual is unnecessarily being subjected to repetitious enhanced screening due to repeatedly matching rules.

Deliberate & Encounter-Based Exclusions

(U//SSI) TSA will monitor the Quiet Skies encounter data and review the encounters to determine the nature of the rule hit, [REDACTED], and whether there is data warranting exclusion from the Quiet Skies List. As TSA does not consider it feasible to develop an algorithm to exclude individuals from the list prior to their first screening encounter, this analysis will be conducted after an individual's first Quiet Skies encounter. TSA expects this review will take place within seven days of the initial match. Individuals will be removed prior to their third encounter if they match

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SENSITIVE SECURITY INFORMATION

generic [REDACTED] data, such as publicly available hotel information. TSA does not receive and will not match against [REDACTED] screening records.¹⁶

- (U//SSI) TSA will leverage specified U.S. Government information to make such a determination; [REDACTED]

On a limited basis, TSA may use open source information to resolve ambiguities pertaining to [REDACTED] matches for telephone listings. Other fields may be approved on a case-by-case basis with the oversight offices.

(U//SSI) Individuals will be automatically excluded from the Quiet Skies List after their third encounter resulting in enhanced screening, a process that TSA has successfully developed and validated as part of the Quiet Skies pilot. Should TSA identify an individual with greater than three encounters, a deliberate exclusion will be immediately processed.

Random Exclusion

(U//SSI) TSA has developed a capability to randomly exclude individuals on the Quiet Skies List from receiving a Selectee Boarding Pass Printing Result (BPPR) at a configurable percentage rate. Instead, these passengers will receive a Cleared BPPR.¹⁷ When an individual is a Quiet Skies match but is randomly excluded, their encounter information is removed from the selectee population. The retention schedule for the excluded passenger data reflects passengers who did not match any Secure Flight watch list. These excluded records are purged from Secure Flight within seven days of the passenger's completion of travel, vice the established retention time-frame for automatic Quiet Skies List matches of seven years.

(U//SSI) For example, with random exclusion set at 50 percent, then approximately half of the passengers matching a Quiet Skies record will receive a Cleared BPPR. An individual could travel three times and not be randomly excluded at all. Conversely, an individual could travel five times and be excluded twice. Regardless, in either scenario, the individual will be removed following the third encounter resulting in referral to enhanced screening.

(U//SSI) Random exclusion is consistent with TSA's unpredictable screening operations and will conserve resources at the screening checkpoint should the operational impact of employing Quiet Skies rules become problematic. While both TSA and DHS I&A recognize the effectiveness of random exclusion in a number of screening programs, for

¹⁶ [REDACTED]

(U//SSI) Receipt of a Cleared BPPR assumes the passenger was not a match to high-risk watch lists.

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SENSITIVE SECURITY INFORMATION

TSA_HSGAC_8-21-24_T1_000032
10

Quiet Skies, we believe that limiting the random exclusion may increase the effectiveness of deterrence. Therefore, at implementation, TSA will set the random exclusion percentage at zero percent.

Redress

(U//SSI) The DHS TRIP will likely receive redress requests from travelers who have received additional screening under Quiet Skies. In addition to the actions noted above, TSA is committed to incorporating DHS TRIP into the overall redress process. Based on the results of the Quiet Skies pilots, the proposed use of an exact DOB match and high match threshold will likely result in a very low rate of misidentification; however, TSA will incorporate new functionality in future TSA-OIA releases to properly address redress issues associated with misidentifications. When this functionality is implemented, DHS TRIP will review redress applicants to determine whether or not they are identity matches to the Quiet Skies List. In cases in which DHS TRIP cannot make an identity match determination, DHS TRIP will forward these cases to TSA-OIA for further analysis and adjudication.

(U//SSI) TSA will also create a Quiet Skies Cleared List (QSCL) intended to minimize impacts on travelers, to ensure an individual will not remain on the list indefinitely, and to enhance privacy, civil rights and civil liberties protection in the Quiet Skies program. TSA will add individuals to the QSCL regardless of whether they file a Traveler Inquiry with DHS TRIP.¹⁸

- (U//SSI) The QSCL will include several data elements, such as (1) the traveler's full name, (2) DOB, and (3) the rule ID.
- (U//SSI) TSA will add a traveler to the QSCL after three encounters resulting in enhanced screening or when the name retention period for the rule has expired (20 days for the affiliate rule and 90 days for intelligence-based rules), whichever comes first.
- (U//SSI) Individuals on the QSCL will be cleared for a period of 18 months. During this time period, an individual would not be referred for enhanced screening due to matching against the same Quiet Skies rule. After that 18-month period, travelers who hit a Silent Partner rule that is an active Quiet Skies rule will again be placed on the Quiet Skies List, and become eligible for the QSCL again as described above.

¹⁸ (U//SSI) Since the automated QSCL functionality will be developed and incorporated into future technical releases of Secure Flight, TSA will continue to utilize a temporary process to develop, maintain and use the QSCL and perform manual removals for persons meeting the qualifications. Any changes to this temporary process prior to implementing an automated process will be coordinated with CRCL and PRIV.

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SENSITIVE SECURITY INFORMATION

11

- (U//SSI) TSA will also maintain the ability to manually add travelers to the QSCL in order to reduce impacts on individuals who repeatedly hit rules in situations warranting permanent removal. TSA will leverage specified U.S. Government information to make such a determination; [REDACTED]
- (U//SSI) Since the automated QSCL functionality will be developed and incorporated into future technical releases of Secure Flight, TSA will develop a temporary process to develop, maintain and use the QSCL upon implementation of the Quiet Skies program. This manual QSCL will be used to perform manual exclusions for individuals being subjected to repetitious enhanced screening due to repeatedly matching rules. Any changes to this temporary process prior to implementing an automated process will be coordinated with CRCL and PRIV.

Data Sharing

(U//SSI) TSA will not share the Quiet Skies List and match results with external agencies unless there is a checkpoint screening anomaly encountered that triggers ordinary incident response processes. In the event a screening anomaly is noted for an individual on the Quiet Skies List, TSA may, on a case-by-case basis, share derogatory information relating to the individual with the appropriate parties via a watchlisting nomination package [REDACTED]. Separately, TSA may share specific Quiet Skies results with DHS and components, on a limited basis, to facilitate oversight, and for litigation or redress purposes, as applicable.

(U//SSI) The Quiet Skies List will only be used to conduct Quiet Skies List matching by Secure Flight and will not be used by other TSA vetting programs.

Data Retention

(U//SSI) Data related to Quiet Skies will be managed in three separate records areas. Secure Flight maintains several distinct categories of records subject to retention:

- (U//SSI) The watch list database includes the active records against which Secure Flight screens [REDACTED] and Quiet Skies Lists.
 - (U//SSI) [REDACTED]
 - (U//SSI) Quiet Skies List entries on individuals selected for enhanced screening by the TSDB Affiliate rule under Quiet Skies will be deleted from the Secure Flight watch list database after the traveler's third encounter resulting in additional screening or when they expire at the end of the rule's specified name retention period, whichever occurs first.

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SENSITIVE SECURITY INFORMATION

- (U//SSI) Quiet Skies List entries on individuals selected for enhanced screening by intelligence-based rules under Quiet Skies will be deleted from the Secure Flight watch list database after the travelers' third encounter resulting in additional screening or when they expire at the end of the rule's specified name retention period, whichever occurs first.
- (U//SSI) Quiet Skies List entries will be deleted for any rule that is deactivated as a result of TSA or the Intelligence Community indicating that the particular threat to aviation within the Homeland is no longer valid or has been successfully disrupted, whichever is earlier.
- (U//SSI) Secure Flight also maintains information on individuals matched to watch lists. For the Quiet Skies List, this information includes the identifying information of the passenger, the identifying information of the Quiet Skies List record(s) of the potential match, the itinerary information, and administrative information. Match data will be retained pursuant to the existing Secure Flight records retention schedule—match data retention for Quiet Skies will be seven years. Match information has limited access and will only be used for the purpose of redress, or as necessary for litigation. If an individual is randomly excluded for a particular trip, Secure Flight will treat that record as a non-match and only retain the data for up to seven days.

(U//SSI) TSA-OIA will generate and maintain daily copies of both the Quiet Skies List and any Quiet Skies encounter records to manage the program and conduct redress analysis and facilitate oversight by DHS. TSA-OIA will maintain the Quiet Skies List records for no longer than two years in order to address legal or redress questions which may arise from an individual's referral.

(U//SSI) Incident Information: If an individual selected by Quiet Skies is involved in a screening or security incident meeting the threshold for reporting [REDACTED], incident data will be retained pursuant to TSA's incident management and enforcement record retention requirements.

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OFFICE of INTELLIGENCE and ANALYSIS

INTELLIGENCE IN FOCUS

17 JANUARY 2021

IA-48865-21

PUBLIC SAFETY & SECURITY

(U) Threats to Civil Aviation Surrounding Presidential Transition

(U//FOUO) We assess that airports and aviation personnel, especially in the National Capital Region (NCR), are at risk of potential escalatory acts of violence due to the heightened threat environment surrounding the presidential inauguration. Elected officials encountered during travel, airline and airport personnel, and law enforcement probably are the most likely potential targets of harassment that could escalate to violence at or near airports or onboard aircraft. While we have not identified any specific, credible information indicating that individuals explicitly intend to target aviation or aviation-associated personnel, recent disruptions at airports and onboard flights demonstrate the potential for isolated, opportunistic acts of violence.

- *(U) Several flights into and out of the NCR in the days prior to and following the violent breach of the Capitol Building experienced individuals becoming verbally and physically abusive toward flight crew and other passengers, according to a representative of a flight crew professional organization and media reports.*
- *(U) Between 6-11 January 2021, several passengers in airport terminals and onboard aircraft angrily confronted two US Senators and a member of the US House of Representatives by yelling at and taunting them, according to media reports. Members of Congress have consequently expressed concern for their personal safety while traveling, leading the US Capitol Police and Sergeant-at-Arms to announce additional security measures for Members traveling through airports.*
- *(U) Flight crews responsible for enforcing airline mask-wearing policies remain at risk of potential conflict with noncompliant or disruptive passengers. While this has been an issue throughout the COVID-19 pandemic, multiple videos of passengers being removed from flights, allegedly for noncompliance with mask policies, have garnered significant attention on social media in the days following the Capitol breach. This could further exacerbate the already heightened threat environment, increasing the risk to flight crew members forced to mediate in combustible situations.*
- *(U) Law enforcement has already made at least one high-profile arrest of a prominent militia extremist at an airport, on a charge of unlawful activity connected to the Capitol breach. Additional encounters with law enforcement have the risk of becoming violent, especially if the detainee or bystanders perceive the law enforcement action as unjust.*

(U) Prepared by the Counterterrorism Mission Center. Coordinated within the DHS Intelligence Enterprise (CBP, CWMD, ICE, TSA, USCG). For questions, contact DHS-SPS-RFI@hq.dhs.gov

(U//FOUO) Misinformation Regarding No Fly List Could Further Exacerbate Tensions

(U//FOUO) The US Government maintains a host of security measures for airline travelers who pose or may pose a threat to civil aviation or national security, including preventing an individual from boarding an aircraft, requiring enhanced screening, and alerting security personnel that an individual is expected at an airport.

(U//FOUO) Political figures and aviation insiders have increasingly called for individuals found to have participated in the Capitol breach to be placed on "the No Fly list." Video clips circulated online of passengers being removed from flights for mask noncompliance have sometimes been inaccurately labeled as passengers being denied boarding due to placement on such a list. Industry figures have also raised the possibility of airlines sharing information amongst themselves about unruly passengers to create a temporary list of banned individuals separate from government watchlists.

(U//FOUO) Misinformation and misperceptions about aviation security measures, their application, and the reasons for offboarding of passengers—which can occur for a variety of reasons—may contribute to already heightened tensions among noncompliant or confrontational individuals at airport facilities who could blame the denial of their ability to travel on perceived government overreach with the "No Fly list."

(U//FOUO) We assess that grievances associated with the presidential transition could continue to drive potential violent actors to travel to the NCR or other locations requiring air travel, including following Inauguration Day on 20 January. Aviation facilities and companies as well as public officials and law enforcement agencies reportedly are preparing responses to mitigate potential violent disruptions.

- (U//FOUO) A significant number of individuals arrested at the events of 6 January traveled from outside of the NCR area, prompting concern that individuals will continue to travel to the NCR to foment violence. At least two members of Congress have asked for the FAA to take action to limit the opportunity of air travel for those seeking to come to the NCR to further violence and unrest.
- (U) Aviation facilities and companies are also implementing new policies and changes to address the threat of future unrest. According to media reports, at least one airline has increased staffing at NCR airports, and is halting liquor sales onboard flights to and from those airports. Multiple airlines have also announced new policies prohibiting guns in checked baggage on flights to the NCR until after the inauguration.
- (U) Officials at one NCR airport told media that they would have an increased law enforcement presence in the aftermath of the violent breach at the Capitol. TSA is also increasing the presence of law enforcement and other security personnel at airports and onboard aircraft. Additionally, TSA has increased security around surface transportation nodes throughout the NCR.

(U//FOUO) Potential Risk to Surface Transportation

(U//FOUO) Civil disturbances and possible related violence at or near airport locations runs the possibility of spilling over to other local transportation modes such as metros, buses, and trains that aviation passengers use to arrive at and depart from airports. Airline travelers who are perceived to pose or do pose a threat and are prevented from traveling by air may decide to travel via other transportation modes. Once at their destination city, they are likely to rely on surface transportation to reach event locations. Surface transportation could be at risk due solely to its proximity to other events; on 6 January, for example, a truck parked near the entrance to a Metro station in Washington, DC was found to contain rifles and shotguns, a great deal of ammunition, and other unspecified material, according to press reports.

Source, Reference, and Dissemination Information

Source Summary Statement	<p>(U//FOUO) We have medium confidence in our assessment that the heightened threat environment has the potential to spark disruptions to aviation operations in the NCR. Our assessment is informed by open source reporting and past incidents of aviation disruptions. Additional reporting indicating specific and credible threats to the aviation industry would likely cause us to increase our confidence in our assessment.</p> <p>(U//FOUO) We have high confidence in our assessment that elected officials, flight crews, and law enforcement are the most likely targets of violence at aviation facilities. Our assessment is based on open source reporting identifying these individuals as the main targets of past disruptive incidents at aviation facilities. Our confidence in this assessment might decrease if we receive additional reporting indicating other targets of violence at airports or on flights.</p>
Definitions	<p>(U//FOUO) Militia Extremists: Groups or individuals who facilitate or engage in acts of unlawful violence directed at federal, state, or local government officials or infrastructure in response to their belief that the government deliberately is stripping Americans of their freedoms and is attempting to establish a totalitarian regime. These individuals consequently oppose many federal and state authorities' laws and regulations, (particularly those related to firearms ownership), and often belong to armed paramilitary groups. They often conduct paramilitary training designed to violently resist perceived government oppression or to violently overthrow the US Government.</p>
Reporting Suspicious Activity	<p>(U) To report suspicious activity, law enforcement, Fire-EMS, private security personnel, and emergency managers should follow established protocols; all other personnel should call 911 or contact local law enforcement. Suspicious activity reports (SARs) will be forwarded to the appropriate fusion center and FBI Joint Terrorism Task Force for further action. For more information on the Nationwide SAR Initiative, visit http://nsi.ncirc.gov/resources.aspx.</p>
Dissemination	<p>(U) Federal, state, local, tribal, territorial authorities, and private sector partners.</p>
Warning Notices & Handling Caveats	<p>(U) Warning: This document is UNCLASSIFIED//FOR OFFICIAL USE ONLY (U//FOUO). It contains information that may be exempt from public release under the Freedom of Information Act (5 U.S.C. 552). It is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO information and is not to be released to the public, the media, or other personnel who do not have a valid need to know without prior approval of an authorized DHS official. State and local homeland security officials may share this document with authorized critical infrastructure and key resource personnel and private sector security officials without further approval from DHS.</p> <p>(U) All US person information has been minimized. Should you require US person information on weekends or after normal weekday hours during exigent and time sensitive circumstances, contact the Current and Emerging Threat Watch Office [REDACTED] [REDACTED]@HQ.DHS.GOV. For all other inquiries, please contact the Homeland Security Single Point of Service, Request for Information Office at [REDACTED] [REDACTED]@hq.dhs.gov, [REDACTED]@dhs.gov, [REDACTED]@dhs.gov.</p>

	<p>SENSITIVE SECURITY INFORMATION TRANSPORTATION SECURITY ADMINISTRATION OFFICE OF LAW ENFORCEMENT/FEDERAL AIR MARSHAL SERVICE LAW ENFORCEMENT INFORMATION COORDINATION SECTION</p>	
Information Bulletin – Quiet Skies Selectees		TSA_HSGAC_8-21-24_T1_0000040 March 15, 2018
<p><i>Effective Tuesday, March 13, 2018, OLE/FAMS will initiate Special Mission Coverage (SMC) on flights carrying Quiet Skies Selectees.</i></p>		
<p>TSA's Quiet Skies Program</p>		
<p>The purpose of the Quiet Skies Program is to mitigate the threat to commercial aviation posed by unknown or partially known terrorists; and to identify and provide enhanced screening to higher risk travelers before they board aircraft <u>based on analysis of terrorist travel trends, tradecraft and associations.</u></p>		
<p>Through the Quiet Skies Program, TSA's office of Intelligence and Analysis designates potentially higher risk travelers for enhanced screening and security measures because they engaged in travel fitting intelligence driven, risk-based passenger targeting rules. Quiet Skies rules are triggered when individuals enter the United States from foreign locations.</p>		
<ul style="list-style-type: none"> • TSA I&A currently employs Quiet Skies rules to screen passengers. • Quiet Skies rules change based on current intelligence. • Quiet Skies rules target specific travel patterns or affiliations, for example: <ul style="list-style-type: none"> – Rules may target individuals who have spent a certain amount of time in one or more specific countries; or – Rules may target individuals whose reservation information includes email addresses or phone numbers associated to watch listed terrorism suspects. • Quiet Skies Selectees receive enhanced screening at security checkpoints. • Individuals who meet the requirements for addition to the Quiet Skies list remain on the Quiet Skies list for up to 90 days or 3 encounters, whichever comes first, after entering the United States. • TSA currently sees 40 – 50 Quiet Skies Selectees on domestic carriers nationwide each day. 		
<p>Special Mission Coverage</p>		
<p>Quiet Skies Selectees are different from traditional SMC subjects because they are not under investigation by any agency and are not in the Terrorist Screening Data Base (TSDB). However, SMC operations on Quiet Skies Selectees will be conducted in the same manner; with two exceptions:</p>		
<ol style="list-style-type: none"> 1. Briefings to SMC teams will not include traditional "derogatory" information. However, if available, teams will be briefed on which Quiet Skies rules the passenger triggered. 2. SMC AARs on Quiet Skies Selectees will not be shared with partner agencies unless significant derogatory information is documented by the FAM team. 		
<p>Requirements for submission of the SMC AAR for Quiet Skies Selectees remain the same.</p>		
<p><small>WARNING: This record contains Sensitive Security Information that is controlled under 49 CFR parts 15 and 1520. No part of this record may be disclosed to persons without a "need to know," as defined in 49 CFR parts 15 and 1520, except with the written permission of the Administrator of the Transportation Security Administration or the Secretary of Transportation. Unauthorized release may result in civil penalty or other action. For U.S. government agencies, public disclosure is governed by 5 U.S.C. 552 and 49 CFR parts 15 and 1520.</small></p>		

[REDACTED]

From: [REDACTED]
Sent: Monday, June 28, 2021 1:56 PM
To: [REDACTED]
Cc: TSA OIA Watchlist Program
Subject: RE: Memorialization to Remove 1/6 Subjects

[REDACTED]
That is correct.

[REDACTED]
Assistant Administrator
Intelligence & Analysis, TSA
[REDACTED] (office)
[REDACTED] (mobile)
[REDACTED] (24/7 Watch)

From: [REDACTED]
Sent: Monday, June 28, 2021 9:41 AM
To: [REDACTED] >
Cc: TSA OIA Watchlist Program [REDACTED] >
Subject: Memorialization to Remove 1/6 Subjects

Ma'am,

This email is to memorialize your verbal guidance to remove all of the 1/6 US Capitol subjects.

As of this email all subjects have been removed.

This does not include the one subject who made a verbal threat to flight attendants.

V/R
[REDACTED]
Watch Listing Analyst
Threat Mitigation & Network Targeting
Intelligence Warning Branch | Transportation Analysis Division
Transportation Security Administration
HQ Watch Listing Cell [REDACTED]
After Hours Assistance: HQ Watch Floor [REDACTED]
Cell Phone [REDACTED]
E-mail: [REDACTED]

SENSITIVE SECURITY INFORMATION

TSA_HSGAC_8-21-24/5-28-25_T2_0000473

[REDACTED]

From: [REDACTED]
Sent: Tuesday, December 20, 2022 3:37 PM
To: [REDACTED]
Subject: FW: TSA-I&A ESNR-3943-22; [REDACTED] (AIRPORTS: IAH-JFK) AIRLINE: B6
Attachments: ESNR-3943-22 [REDACTED].pdf

Close hold.

Suboptimal situation; but I don't anticipate any issues if everyone just does what they are supposed to do. Let me know if there are any questions or concerns.

Thx,

[REDACTED]

Sent with BlackBerry Work
(www.blackberry.com)

From: [REDACTED]@tsa.dhs.gov
Date: Tuesday, Dec 20, 2022 at 13:32
To: [REDACTED]@tsa.dhs.gov
Cc: [REDACTED]@tsa.dhs.gov, [REDACTED]@tsa.dhs.gov, [REDACTED]@tsa.dhs.gov, [REDACTED]@tsa.dhs.gov, ICS-SAC [REDACTED]@tsa.dhs.gov, [REDACTED]@tsa.dhs.gov
Subject: FW: TSA-I&A ESNR-3943-22; [REDACTED] (AIRPORTS: IAH-JFK) AIRLINE: B6

Hello Sir,

As per our conversation, attached is the ESNR travel itinerary, who is the wife of a HOU FAM. She has been covered in the past. This time she is traveling with her husband, who has the ability to fly while armed, which would require de-confliction prior to take-off. The FAM is listed as a ABR, rules based selectee for screening, due to association of traveling on the same itinerary as a KST. FAM is aware of the situation and the SMC Team will be brief on his awareness. TSC will submit a Special Handling Request (SHR) to prevent him from being secondary screened at the gate. I have contacted HOU SAC (FO of FAM) and WFO SAC (FO of team covering flight). Please let me know if you need any further from me.

[REDACTED]

Thanks,

[REDACTED]

[REDACTED]
Supervisory Air Marshal in Charge (Acting)
DHS TSA Federal Air Marshal Service
Information Coordination Section
Counter Terrorism Unit
[REDACTED]
[REDACTED]

REMARKS: This record contains Sensitive Security Information that is restricted under 49 CFR parts 15 and 1502. No part of this record may be disclosed to persons without a "need to know", as defined in 49 CFR parts 15 and 1502, except with the written permission of the Administrator of the Transportation Security Administration or the Secretary of Transportation. Unauthorized release may result in civil penalty or other action. For U.S. government agencies, public disclosure is governed by 5 U.S.C. 552 and 49 CFR parts 15 and 1502.

SENSITIVE SECURITY INFORMATION

TSA_HSGAC_8-21-24/5-28-25_T2_0000474

[REDACTED]@tsa.dhs.gov

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NOTE: This record contains Sensitive Security Information that is controlled under 49 CFR parts 15 and 1526. No part of this record may be disclosed or posted online or "read to loud", as defined in 49 CFR parts 15 and 1526, except with the written permission of the Administrator of the Transportation Security Administration or the Secretary of Transportation. Unauthorized release may result in civil penalty or other action. For U.S. government agencies, public disclosure is governed by 5 U.S.C. 552 and 49 CFR parts 15 and 1526.

EXPANDED SELECTEE NOTIFICATION REPORT (ESNR)											
Type: Domestic PRELIMINARY											
DO NOT CARRY OUT ADDITIONAL OPERATIONS OTHER THAN THOSE REQUIRED BY THE SOP UNLESS DIRECTED BY TSA HQ											
A. SUBJECT IDENTIFYING INFORMATION											
1. Given Name: [REDACTED]			5. TPN: 6 TSCID [REDACTED]			[REDACTED]					
2. Surname: [REDACTED]			7. Category Code: [REDACTED]			[REDACTED]					
3. Gender: Female			8. Travel Identification Document (Type: Issued by/Number)			[REDACTED]					
4. Date of Birth: [REDACTED]			None Available: ___/___/___			[REDACTED]					
			9. Travel Document Verified at Check-in: <input type="checkbox"/>			[REDACTED]					
B. FLIGHT INFORMATION											
Leg	Air Carrier Code / Flt #	Departure Airport Code	Departure Date/Time (Local Time Zone)	Arrival Airport Code	Arrival Date/Time (Local Time Zone)	PRL/PNR	Overflight	SF Non-Covered			
1	BG/1882	IAH	12/22/2022 17:01	JFK	12/22/2022 21:30	[REDACTED]	<input type="checkbox"/>	<input type="checkbox"/>			
2	/						<input type="checkbox"/>	<input type="checkbox"/>			
3	/						<input type="checkbox"/>	<input type="checkbox"/>			
4	/						<input type="checkbox"/>	<input type="checkbox"/>			
5	/						<input type="checkbox"/>	<input type="checkbox"/>			
<input type="checkbox"/> UPDATE: Itinerary Change Summary: [REDACTED]											
Flight Type: <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Military <input type="checkbox"/> General Aviation			Source: <input checked="" type="checkbox"/> SF <input type="checkbox"/> Airline Carrier <input type="checkbox"/> Gov. Agency <input type="checkbox"/> APIS/PNR Data								
C. SUBJECT ENCOUNTER STATUS & RESOLUTION ACTIONS											
<input type="checkbox"/> Airline directed to process as Selectee			<input type="checkbox"/> Watchlist Exclusion			<input type="checkbox"/> Checked-in, did not travel			<input type="checkbox"/> Flew Without Prior Notification		
<input type="checkbox"/> Offloaded Per CBP Request			<input type="checkbox"/> Canceled			<input type="checkbox"/> No Show					
<input type="checkbox"/> Inconclusive Match			<input type="checkbox"/> Negative Match			<input type="checkbox"/> Removed from Watch List					
<input type="checkbox"/> Other: _____											
D. ADDITIONAL INFORMATION											
1. Other watchlisted individuals on the flight(s): <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			Other watchlisted individuals on the same PRL(s)/PNR: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO								
2. Co-Travelers and Watchlist Boarding Pass Status:			Selectee: [REDACTED] DOB: [REDACTED]			ABR Selectee: [REDACTED] DOB: [REDACTED]			ABR: [REDACTED]		
3. Additional Comments:			Prelim ESNR. Fax has NOT checked in at this time.								
4. [REDACTED]											
E. REPORT REFERENCE INFORMATION											
1. Report Reference #: ESNR-3943-22			2. Report Date/Time: 12/19/2022 / 6:35 PM ET			3. Prepared by: [REDACTED]					
4. Approved by: [REDACTED] National Transportation Vetting Center, Watch Manager, Commercial Tel: [REDACTED]											
<small>WARNING: THIS RECORD CONTAINS SENSITIVE SECURITY INFORMATION THAT IS CONTROLLED UNDER 49 C.F.R. PARTS 15 AND 152. NO PART OF THIS RECORD MAY BE DISCLOSED TO PERSONS WITHOUT A NEED TO KNOW, AS DEFINED BY 49 C.F.R. PARTS 15 AND 152, EXCEPT WITH THE WRITTEN PERMISSION OF THE ADMINISTRATOR OF THE TRANSPORTATION SECURITY ADMINISTRATION OR THE SECRETARY OF HOMELAND SECURITY. UNAUTHORIZED DISCLOSURE MAY RESULT IN CIVIL PENALTY OR CRIMINAL ACTION. FOR U.S. GOVERNMENT AGENCIES, PUBLIC DISCLOSURE IS GOVERNED BY 5 U.S.C. 552 AND 49 C.F.R. PARTS 15 AND 152.</small>											

SENSITIVE SECURITY INFORMATION

TSA_HSGAC_8-21-24/5-28-25_T2_0000476

[REDACTED]

From: [REDACTED]
Sent: Monday, August 15, 2022 1:30 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: HOU Selectee Passenger 16AUG2022

Please note: For operational and administrative reasons, it is important that this subject's information (including Selectee flight information) not be distributed to any HOU FO personnel outside of this group (individuals on the To and Cc line). Barring exigent circumstances, all related SMC missions will be assigned to other field offices.

These details are close-hold and should be handled accordingly.

Please give me a call if you have any concerns.

Thank you,
[REDACTED]
SAC HOU FO
[REDACTED] mobile

From: [REDACTED]@tsa.dhs.gov>
Sent: Monday, August 15, 2022 1:07 PM
To: [REDACTED]@tsa.dhs.gov>; [REDACTED]@tsa.dhs.gov>; [REDACTED]@tsa.dhs.gov>
Cc: [REDACTED]@tsa.dhs.gov>; [REDACTED]@tsa.dhs.gov>; [REDACTED]@tsa.dhs.gov>; [REDACTED]@tsa.dhs.gov>
Subject: HOU Selectee Passenger 16AUG2022

Gentlemen,

FYSA, here is the unclassified information for the Domestic Inbound Selectee passenger scheduled to travel on Tuesday. Use the current national password to open the document. Let me know if you have any questions.

[REDACTED]
Field Intelligence Officer
George Bush Intercontinental Airport (IAH)
Transportation Security Administration
Department of Homeland Security
Office Phone [REDACTED]
Cell Phone [REDACTED]
Email [REDACTED]

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SENSITIVE SECURITY INFORMATION TSA_HSGAC_8-21-24/5-28-25_T2_0000477

[REDACTED]

From: [REDACTED]
Sent: Wednesday, January 18, 2023 5:05 PM
To: [REDACTED]
Subject: Timeline (HOU SMC Matter)
Attachments: Timeline Re HOU FAM SMC Matter.docx

AA [REDACTED] -

Good day. Ref today's conversation, please see attached timeline of events and advise if any additional information is needed at this time.

[REDACTED]

Thank you,
[REDACTED]
SAC Houston
[REDACTED] mobile



Note: Employee is a FAM assigned to the Houston Field Office (HOU) and currently works in the HOU Operations section.

- On 7/14/2021, the employee received a standard SMC email notification via the shared HOU SMC router, which was sent from the LE FAMS Information Coordination Section (ICS) indicating the assignment of a SMC. The employee opened the document and noticed that his spouse was the subject of the SMC. The employee immediately reported the issue to his supervisor and HOU leadership.
 - HOU leadership notified LE FAMS Headquarters, including OCC, ICS and Field Leadership.
 - FAMS ICS contacted HOU and indicated that they had spoken with the originating agency (FBI) as well as the case agent assigned to the investigation. The FBI indicated that the SMC subject is reportedly connected to the events at the United States Capital Building on 06JAN2021. FAMS ICS discussed the situation with the case agent and how the subject of the case had a spouse who was a FAM with potential access to SMC notifications due to his position working in HOU Operations. The FBI indicated to ICS that this was not an issue for their investigation and that only the spouse was under investigation.
 - Due to the sensitive nature of the issue, HOU leadership requested that ICS compartmentalize the information and to not include HOU on any SMC activities related to the situation.
 - HOU leadership met with the employee to gain some additional insight into the situation and to advise the employee to have no involvement with any official investigative activities related to the situation and to not discuss the matter with his spouse. Employee also indicated that he had no involvement in the situation and furthermore did not travel with the spouse to Washington, DC during the time in question.
- On 8/8/2022, a HOU FAM Team was assigned to SMC #22-58096 and in the after action report the FAM team included the following statement, *"FAM team spoke to the husband, a co-worker (Houston Field Office FAM) of SMC subject... He advised subject was going to visit family in New York."*
 - Because it was unknown why, where, when and how the FAM Team communicated with the husband (FAM) of the SMC subject regarding this special mission assignment, HOU management submitted an Incident Tracking Report (ITR) regarding the issue to the Incident Activity Coordination and Trends (IACT) section. IACT in turn submitted the incident via their e-mail routers to TSA INV, PERSEC, and PR for review.
 - LE FAMS SLT advised ICS to ensure all future SMC assignments involving this subject do not get assigned to HOU.
 - On 9/1/2022, the ITR was closed, no further action.
- On 12/20/22, the employee notified HOU management that he would be traveling on 12/22/22 (IAH-JFK) armed with his spouse to New York to visit family. Additionally, on that date, HOU management discussed the issue with ICS and FLT leadership and ICS indicated that they would discuss with TSA leadership. The following day, ICS indicated that the employee would be receiving a waiver because they are traveling on the same PNR as the SMC subject.

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**Law Enforcement Information Coordination Section (LEICS)
SPECIAL MISSION COVERAGE NOTIFICATION**
THIS DOCUMENT IS NOT TO BE DISSEMINATED OUTSIDE LE/FAMS
SMC 21-27274

SMC Date:	7/15/2021	SMC Requestor:	Secure Flight
LEICS FAM:	[REDACTED]	Contact #:	[REDACTED]

POINT OF CONTACT		FAM TEAM	STAFF #	CONTACT #
LEICS TSOC:	[REDACTED]	(TL) [REDACTED]	[REDACTED]	[REDACTED]
MOC:	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Field Office:	[REDACTED]			

SUBJECT INFORMATION		SUBJECT PICTURE
Last Name:	[REDACTED]	
First Name:	[REDACTED]	
Middle Name:	[REDACTED]	
DOB:	[REDACTED]	
Height/Weight:	UNK/UNK	
Eyes/Hair:	[REDACTED]	
Watch List Status:	[REDACTED]	
POB:	NEW YORK (US)	
Identifier:	[REDACTED]	
Additional Subject Information:		

Co-Travelers Identified on PNR
no known co travelers

Flight	Departure Airport	Date	Time	Arrival Airport	Date	Time
UA 1073	FLL	07/15/2021	1545	IAH	07/15/2021	1722

SMC Report v 20190312

WARNING: This record contains Sensitive Security Information that is controlled under 49 CFR parts 15 and 1520. No part of this record may be disclosed to persons without a "need to know," as defined in 49 CFR parts 15 and 1520, except with the written permission of the Administrator of the Transportation Security Administration or the Secretary of Transportation. Unauthorized release may result in civil penalty or other action. For U.S. government agencies, 5 U.S.C. 552 and 49 CFR parts 15 and 1520 govern public disclosure



SMC AFTER ACTION REPORT (Enhanced)

SMC Team Leader:	[REDACTED]
Approving Supervisor:	[REDACTED]

Co-travelers/Associates		
<i>Describe any apparent co-travelers or any apparent associates with whom the SMC subject spoke before, during or after the flight. Note all available details, including time and location of the interactions, physical descriptions, seat numbers, etc.</i>		
Name (if known)	Description of Contact/Association	Additional Descriptors/Details

Electronic Devices
<i>Describe any electronic devices (type, brand, etc.) the subject was seen using.</i>

Enhanced After Action Report Narrative
Nothing Significant to Report -

SMC Report v 20190312

WARNING: This record contains Sensitive Security Information that is controlled under 49 CFR parts 15 and 1520. No part of this record may be disclosed to persons without a "need to know," as defined in 49 CFR parts 15 and 1520, except with the written permission of the Administrator of the Transportation Security Administration or the Secretary of Transportation. Unauthorized release may result in civil penalty or other action. For U.S. government agencies, 5 U.S.C. 552 and 49 CFR parts 15 and 1520 govern public disclosure.



Special Mission Coverage After Action Report Instructions

- The completed report should be submitted to the appropriate field office supervisor for review and submission to LEICS
 - AARs are due to LEICS within 5 days of the completion of the SMC
 - If the AAR is returned to you for correction or additional information the revised report is due to LEICS within 3 days of notification
 - After reviewing and approving the AAR, supervisors should upload the AAR to [REDACTED] / in WORD format (DO NOT PASSWORD PROTECT), using the original naming convention under which you received the SMC document (i.e. SMC 15-xxxxx)
- AARs document the behaviors and activities of SMC subjects and those who interact with them in the transportation domain
 - Write the AAR in a timeline format documenting what was observed before, during, and after the mission
 - Include all details of co-travelers, electronic devices, activities, as well as pre and post-flight information observed/obtained.
- This report could become a discoverable document in a criminal investigation which you will use to testify in a court of law
- Contact the SMC Coordinator if you have any questions regarding the AAR

Significant Information

- Although FAMs on SMCs are not typically tasked to conduct extensive observations, minor details FAMs observe could be valuable to transportation security. The following are examples of potentially useful details to include in an AAR:
 - Unknown Subjects (UNSUBs) possibly travelling with the SMC subject
 - Note as many descriptors of the UNSUBs and their seat numbers if possible
 - Note the times and locations of the UNSUB relative to CCTV
 - Individuals with whom the subject has extended conversation
 - Any possible counter-surveillance or surveillance detection/disruption techniques, or other significant behavior by the SMC subject or UNSUBs
 - Any of the subject's activities observed during the SMC
 - Details of electronic devices the subject and co-traveler use or possess, including:
 - Type of cell phone (BlackBerry, iPhone, unknown Smartphone, etc.)
 - Type of electronic (laptop, tablet, eReader, Kindle) and (brand name, operating system)
- If unsure whether or not a detail regarding the SMC is significant, include it in the AAR

SMC Report v 20190312

WARNING: This record contains Sensitive Security Information that is controlled under 49 CFR parts 15 and 1520. No part of this record may be disclosed to persons without a "need to know," as defined in 49 CFR parts 15 and 1520, except with the written permission of the Administrator of the Transportation Security Administration or the Secretary of Transportation. Unauthorized release may result in civil penalty or other action. For U.S. government agencies, 5 U.S.C. 552 and 49 CFR parts 15 and 1520 govern public disclosure.



**Law Enforcement Information Coordination Section (LEICS)
SPECIAL MISSION COVERAGE NOTIFICATION**
THIS DOCUMENT IS NOT TO BE DISSEMINATED OUTSIDE LE/FAMS
SMC 21-27327

SMC Date:	7/17/2021	SMC Requestor:	Secure Flight
LEICS FAM:	[REDACTED]	Contact #:	[REDACTED]

POINT OF CONTACT		FAM TEAM	STAFF #	CONTACT #
LEICS TSOC:	[REDACTED]	(TL) [REDACTED]	[REDACTED]	[REDACTED]
MOC:	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Field Office:	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

SUBJECT INFORMATION		SUBJECT PICTURE
Last Name:	[REDACTED]	[REDACTED]
First Name:	[REDACTED]	
Middle Name:	[REDACTED]	
DOB:	[REDACTED]	
Height/Weight:	UNK/UNK	
Eyes/Hair:	[REDACTED]	
Watch List Status:	[REDACTED]	
POB:	NEW YORK (US)	
Identifier:	[REDACTED]	
Additional Subject Information:	[REDACTED]	

Co-Travelers Identified on PNR
NONE LISTED

Flight	Departure Airport	Date	Time	Arrival Airport	Date	Time
UA 1420	FLL	07/17/2021	1715	IAH	07/17/2021	1917

SMC Report v 20190312

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SMC AFTER ACTION REPORT (Enhanced)

SMC Team Leader:	[REDACTED]
Approving Supervisor:	[REDACTED]

Co-travelers/Associates		
<i>Describe any apparent co-travelers or any apparent associates with whom the SMC subject spoke before, during or after the flight. Note all available details, including time and location of the interactions, physical descriptions, seat numbers, etc.</i>		
Name (if known)	Description of Contact/Association	Additional Descriptors/Details

Electronic Devices
<i>Describe any electronic devices (type, brand, etc.) the subject was seen using.</i>

Enhanced After Action Report Narrative
<p>16:35 EST; Subject arrived at gate C-1 (pink t shirt, trump hat). Subject was walking with a disability like she had stroke, and the whole left side of her body was limp and a loss of muscle on her whole left side of body.</p> <p>16:45EST; Subject boarded and was screened by TSA before boarding plane.</p> <p>16:59 EST; Subject sitting in 7F.</p> <p>19:00 EST; Plane landed at IAH without incident (C 44).</p> <p>19:05 EST; Subject exited plane, observation was terminated due to connecting flight time.</p> <p>End of report.</p>

SMC Report v 20190312

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Special Mission Coverage After Action Report Instructions

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 - AARs are due to LEICS within 5 days of the completion of the SMC
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 - After reviewing and approving the AAR, supervisors should upload the AAR to [REDACTED] WORD format (DO NOT PASSWORD PROTECT), using the original naming convention under which you received the SMC document (i.e. SMC 15-xxxxx)
- AARs document the behaviors and activities of SMC subjects and those who interact with them in the transportation domain
 - Write the AAR in a timeline format documenting what was observed before, during, and after the mission
 - Include all details of co-travelers, electronic devices, activities, as well as pre and post-flight information observed/obtained.
- This report could become a discoverable document in a criminal investigation which you will use to testify in a court of law
- Contact the SMC Coordinator if you have any questions regarding the AAR

Significant Information

- Although FAMs on SMCs are not typically tasked to conduct extensive observations, minor details FAMs observe could be valuable to transportation security. The following are examples of potentially useful details to include in an AAR:
 - Unknown Subjects (UNSUBs) possibly travelling with the SMC subject
 - Note as many descriptors of the UNSUBs and their seat numbers if possible
 - Note the times and locations of the UNSUB relative to CCTV
 - Individuals with whom the subject has extended conversation
 - Any possible counter-surveillance or surveillance detection/disruption techniques, or other significant behavior by the SMC subject or UNSUBs
 - Any of the subject's activities observed during the SMC
 - Details of electronic devices the subject and co-traveler use or possess, including:
 - Type of cell phone (BlackBerry, iPhone, unknown Smartphone, etc.)
 - Type of electronic (laptop, tablet, eReader, Kindle) and (brand name, operating system)
- If unsure whether or not a detail regarding the SMC is significant, include it in the AAR

SMC Report v 20190312

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**Law Enforcement Information Coordination Section (LEICS)
SPECIAL MISSION COVERAGE NOTIFICATION
THIS DOCUMENT IS NOT TO BE DISSEMINATED OUTSIDE LE/FAMS
SMC 22-16181**

SMC Date:	12/23/2021	SMC Requestor:	Secure Flight
LEICS FAM:	[REDACTED]	Contact #:	[REDACTED]

	POINT OF CONTACT	FAM TEAM	STAFF #	CONTACT #
LEICS TSOC:	[REDACTED]	(TL) [REDACTED]	[REDACTED]	[REDACTED]
MOC:	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Field Office:	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

SUBJECT INFORMATION		SUBJECT PICTURE	
Last Name:	[REDACTED]		
First Name:	[REDACTED]		
Middle Name:	[REDACTED]		
DOB:	[REDACTED]		
Height/Weight:	UNK/UNK		
Eyes/Hair:	[REDACTED]		
Watch List Status:	[REDACTED]		
POB:	NEW YORK (US)		
Identifier:	[REDACTED]		
Additional Subject Information:	[REDACTED]		

Co-Travelers Identified on PNR

Flight	Departure Airport	Date	Time	Arrival Airport	Date	Time
B6 1882	IAH	12/23/2021	1714	JFK	12/23/2021	2129

SMC Report v 20190312

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SMC AFTER ACTION REPORT (Enhanced)

SMC Team Leader:	
Approving Supervisor:	

Co-travelers/Associates		
<i>Describe any apparent co-travelers or any apparent associates with whom the SMC subject spoke before, during or after the flight. Note all available details, including time and location of the interactions, physical descriptions, seat numbers, etc.</i>		
Name (if known)	Description of Contact/Association	Additional Descriptors/Details

Electronic Devices
<i>Describe any electronic devices (type, brand, etc.) the subject was seen using.</i>

Enhanced After Action Report Narrative
<p>Nothing Significant to Report - Subject traveling with family. One older female that seemed to be her mother and younger female that seemed to be her daughter. Nothing suspicious to report during this mission assignment. Subject is the spouse of a coworker and we didn't see anything suspicious to report.</p>

SMC Report v 20190312

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 - Any of the subject's activities observed during the SMC
 - Details of electronic devices the subject and co-traveler use or possess, including:
 - Type of cell phone (BlackBerry, iPhone, unknown Smartphone, etc.)
 - Type of electronic (laptop, tablet, eReader, Kindle) and (brand name, operating system)
- If unsure whether or not a detail regarding the SMC is significant, include it in the AAR

SMC Report v 20190312

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**Law Enforcement Information Coordination Section (LEICS)
SPECIAL MISSION COVERAGE NOTIFICATION**
THIS DOCUMENT IS NOT TO BE DISSEMINATED OUTSIDE LE/FAMS
SMC 22-16775

SMC Date:	12/27/2021	SMC Requestor:	Secure Flight
LEICS FAM:	[REDACTED]	Contact #:	[REDACTED]

POINT OF CONTACT		FAM TEAM	STAFF #	CONTACT #
LEICS TSOC:	[REDACTED]	(TL) [REDACTED]	[REDACTED]	[REDACTED]
MOC:	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Field Office:	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

SUBJECT INFORMATION		SUBJECT PICTURE
Last Name:	[REDACTED]	
First Name:	[REDACTED]	
Middle Name:	[REDACTED]	
DOB:	[REDACTED]	
Height/Weight:	UNK/UNK	
Eyes/Hair:	[REDACTED]	
Watch List Status:	[REDACTED]	
POB:	NEW YORK (US)	
Identifier:	[REDACTED]	
Additional Subject Information:	[REDACTED]	

Co-Travelers Identified on PNR	
1:	[REDACTED] (RLBTGX, [REDACTED]) - ABR Selectee

Flight	Departure Airport	Date	Time	Arrival Airport	Date	Time
B6 1881	JFK	12/27/2021	1310	IAH	12/27/2021	1604

SMC Report 20190312

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SMC AFTER ACTION REPORT (Enhanced)

SMC Team Leader:	[REDACTED]
Approving Supervisor:	[REDACTED]

Co-travelers/Associates		
<i>Describe any apparent co-travelers or any apparent associates with whom the SMC subject spoke before, during or after the flight. Note all available details, including time and location of the interactions, physical descriptions, seat numbers, etc.</i>		
Name (if known)	Description of Contact/Association	Additional Descriptors/Details

Electronic Devices
<i>Describe any electronic devices (type, brand, etc.) the subject was seen using.</i>

Enhanced After Action Report Narrative

All times are approximations.

1140 EST- FAM Team at the airport and ready for mission.

1305 EST- FAM Team observed the subject, [REDACTED] board the flight. The subject closely resembled the image that was given: approximately 5' 2" in height, 140 lbs wearing a #88 Dallas Cowboy's football Jersey , pink yoga pants, and carried a blue backpack.

1615 CST - FAM Team and subject deplane.

1625 CST - [REDACTED] waits for a female co-traveler to deplane (UNSUB 1).

1630 CST - [REDACTED] and UNSUB 1 meet up with Caucasian male (UNSUB 2) in baggage claim.

UNSUB 1 - approximately early 30s in age, purple shirt, black sweatpants, black sweatshirt tied around waist, white purse.

UNSUB 2 - approximately late 50's in age, navy blue collared shirt, blue jeans, gray beard.

1645 CST - FAM Team observes subject and co-travelers grab two gray roller bags from carousel.

1650 CST - Subject and co-travelers got on subway tram and departed scene.

SMC Report v 20190312

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Sensitive Security Information



Transportation
Security
Administration

Law Enforcement/Federal Air Marshal Service

*The subject did not sit in originally assigned seat 1D; she switched seats at the gate and sat in 6C.

END OF REPORT.

SMC Report v 20190312

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Significant Information

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SMC Report v 20190312

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**Law Enforcement Information Coordination Section (LEICS)
SPECIAL MISSION COVERAGE NOTIFICATION**
THIS DOCUMENT IS NOT TO BE DISSEMINATED OUTSIDE LE/FAMS
SMC 22-58096

SMC Date:	8/8/2022	SMC Requestor:	Secure Flight
LEICS FAM:	[REDACTED]	Contact #:	[REDACTED]

	POINT OF CONTACT	FAM TEAM	STAFF #	CONTACT #
LEICS TSOC:	[REDACTED]	(TL) [REDACTED]	[REDACTED]	[REDACTED]
MOC:	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Field Office:	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

SUBJECT INFORMATION	SUBJECT PICTURE	
Last Name:	[REDACTED]	
First Name:		
Middle Name:		
DOB:		
Height/Weight:		
Eyes/Hair:		
Watch List Status:		
POB:		NY - NEW YORK
Identifier:		[REDACTED]
Additional Subject Information:		

Co-Travelers Identified on PNR
None Listed

Flight	Departure Airport	Date	Time	Arrival Airport	Date	Time
WN 2880	IAH	08/08/2022	0630	BNA	08/08/2022	0820

SMC Report v 20190312

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SMC AFTER ACTION REPORT (Enhanced)

SMC Team Leader:	██████████
Approving Supervisor:	██████████

Co-travelers/Associates		
<i>Describe any apparent co-travelers or any apparent associates with whom the SMC subject spoke before, during or after the flight. Note all available details, including time and location of the interactions, physical descriptions, seat numbers, etc.</i>		
Name (if known)	Description of Contact/Association	Additional Descriptors/Details

Electronic Devices
<i>Describe any electronic devices (type, brand, etc.) the subject was seen using.</i>

Enhanced After Action Report Narrative
<p>All times are approximate and central standard time</p> <p>05:00. FAM team at IAH, gate A3E for Southwest flight 2880 to BNA. Flight was delayed till 7:40 departure.</p> <p>FAM team spoke to the husband, a co-worker (Houston Field Office FAM) of SMC subject ██████████</p> <p>He advised subject was going to visit family in New York.</p> <p>05:50 Subject was first observed in gate area wearing a black shirt, white long sleeve sweater and pink skirt.</p> <p>Subject looked like photo provided. Subject was carrying a black backpack.</p> <p>07:22 Subject boarded aircraft, seat 3D.</p> <p>Team did not observe any suspicious activity prior or during the flight.</p> <p>09:25. Subject exiting aircraft at BNA.</p> <p>Next FAM team notified.</p> <p>End of report.</p>

SMC Report v 20190312

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SMC Report v 20190312

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**Law Enforcement Information Coordination Section (LEICS)
SPECIAL MISSION COVERAGE NOTIFICATION**
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SMC 22-58097

SMC Date:	8/8/2022	SMC Requestor:	Secure Flight
LEICS FAM:	[REDACTED]	Contact #:	[REDACTED]

POINT OF CONTACT		FAM TEAM	STAFF #	CONTACT #
LEICS TSOC:	[REDACTED]	(TL) [REDACTED]	[REDACTED]	[REDACTED]
MOC:	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Field Office:	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

SUBJECT INFORMATION		SUBJECT PICTURE
Last Name:	[REDACTED]	[REDACTED]
First Name:	[REDACTED]	
Middle Name:	[REDACTED]	
DOB:	[REDACTED]	
Height/Weight:	[REDACTED]	
Eyes/Hair:	[REDACTED]	
Watch List Status:	[REDACTED]	
POB:	NY - NEW YORK	
Identifier:	[REDACTED]	
Additional Subject Information:	[REDACTED]	

Co-Travelers Identified on PNR
None Listed

Flight	Departure Airport	Date	Time	Arrival Airport	Date	Time
WN 9001	BNA	08/08/2022	1100	ISP	08/08/2022	1413

SMC Report v 20190312

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SMC AFTER ACTION REPORT (Enhanced)

SMC Team Leader:	[REDACTED]
Approving Supervisor:	[REDACTED]

Co-travelers/Associates		
<i>Describe any apparent co-travelers or any apparent associates with whom the SMC subject spoke before, during or after the flight. Note all available details, including time and location of the interactions, physical descriptions, seat numbers, etc.</i>		
Name (if known)	Description of Contact/Association	Additional Descriptors/Details

Electronic Devices
<i>Describe any electronic devices (type, brand, etc.) the subject was seen using.</i>

Enhanced After Action Report Narrative
<p>All times are local. 0923 Fam team in place at BNA, gate D3 0930 Subject identified at gate D3. Wearing a white long sleeve shirt, pink skirt and a black backpack. 1043 FAM team and subject onboard. Subject seated in 2C. 1110 Wheels up. 1410 Wheels down, ISP. Nothing to report. SMC terminated.</p>

SMC Report v 20190312

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SMC Report v 20190312

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**Law Enforcement Information Coordination Section (LEICS)
SPECIAL MISSION COVERAGE NOTIFICATION**
THIS DOCUMENT IS NOT TO BE DISSEMINATED OUTSIDE LE/FAMS
SMC 22-60331

SMC Date:	8/16/2022	SMC Requestor:	Secure Flight
LEICS FAM:	[REDACTED]	Contact #:	[REDACTED]

	POINT OF CONTACT	FAM TEAM	STAFF #	CONTACT #
LEICS TSOC:	[REDACTED]	(TL) [REDACTED]	[REDACTED]	[REDACTED]
MOC:	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Field Office:	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

SUBJECT INFORMATION		SUBJECT PICTURE
Last Name:	[REDACTED]	
First Name:	[REDACTED]	
Middle Name:	[REDACTED]	
DOB:	[REDACTED]	
Height/Weight:	[REDACTED]	
Eyes/Hair:	[REDACTED]	
Watch List Status:	[REDACTED]	
POB:	NY - NEW YORK	
Identifier:	[REDACTED]	
Additional Subject Information:	[REDACTED]	

Co-Travelers Identified on PNR

Flight	Departure Airport	Date	Time	Arrival Airport	Date	Time
WN 3001	ISP	08/16/2022	1450	BWI	08/16/2022	1554

SMC Report v 20190312

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SMC AFTER ACTION REPORT (Enhanced)

SMC Team Leader:	[REDACTED]
Approving Supervisor:	[REDACTED]

Co-travelers/Associates		
<i>Describe any apparent co-travelers or any apparent associates with whom the SMC subject spoke before, during or after the flight. Note all available details, including time and location of the interactions, physical descriptions, seat numbers, etc.</i>		
Name (if known)	Description of Contact/Association	Additional Descriptors/Details

Electronic Devices
<i>Describe any electronic devices (type, brand, etc.) the subject was seen using.</i>

Enhanced After Action Report Narrative

8/16/22 (all times approximations)
 12:50 EST, FAM team arrives at airport ISP and is ready for mission.
 13:05 EST, Observed the subject, [REDACTED] arrive at the airport. The subject closely resembled the image that was given. [REDACTED] was wearing a white skirt, white long sleeve button down over a pink shirt, and a white hat. [REDACTED] was carrying a black backpack and a gray fanny back slung across her chest. She appeared to have a slight limp.
 13:07 EST, [REDACTED] enters the security checkpoint.
 13:21 EST, [REDACTED] observed at CNBC news store on the secure side of the terminal.
 13:26 EST, [REDACTED] arrives at gate area and sits between gates A6 and A7.
 13:31 EST, [REDACTED] makes a short phone call.
 13:34 EST, [REDACTED] leaves the gate area and goes to the restroom. [REDACTED] leaves her black backpack unattended while she uses the restroom.
 13:40 EST, [REDACTED] returns to her seat and bag.
 14:02 EST, FAM [REDACTED] approaches gate A7 in order to check in. While FAM [REDACTED] is talking to the gate agent, [REDACTED] gets up and approaches the gate. [REDACTED] walks up to gate A7, looks at FAM [REDACTED] and the gate agent, and then returns to her seat without talking to anyone.
 14:15 EST, [REDACTED] boards the Southwest flight 3001, at gate A7, with the pre-board group.
 14:25 EST, [REDACTED] sits in seat 2F.
 15:49 EST, Southwest flight 3001 lands at BWI. [REDACTED] did not leave her seat during the flight.
 16:11 EST, [REDACTED] exits the aircraft at gate B15 and proceeds to walk towards the central food court and other terminals. [REDACTED] next flight leaves out of gate A9
 16:12 EST, A uniformed TSA agent is observed waiting at gate B15 as we exit the aircraft and is heard

SMC Report v 20190312

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saying "I have the subject and I am following," into his radio as [REDACTED] passes him. He then proceeds to follow her through the airport.

16:22 EST, [REDACTED] stops at a martini bar at the beginning of terminal A and orders a drink.

16:32 EST, The FAM team covering the next leg, from CHI, takes control of [REDACTED]

Comments/ additional information: none

End of Report

SMC Report v 20190312

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- This report could become a discoverable document in a criminal investigation which you will use to testify in a court of law
- Contact the SMC Coordinator if you have any questions regarding the AAR

Significant Information

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 - Any of the subject's activities observed during the SMC
 - Details of electronic devices the subject and co-traveler use or possess, including:
 - Type of cell phone (BlackBerry, iPhone, unknown Smartphone, etc.)
 - Type of electronic (laptop, tablet, eReader, Kindle) and (brand name, operating system)
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SMC Report v 20190312

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**Law Enforcement Information Coordination Section (LEICS)
SPECIAL MISSION COVERAGE NOTIFICATION**
THIS DOCUMENT IS NOT TO BE DISSEMINATED OUTSIDE LE/FAMS
SMC 22-60332

SMC Date:	8/16/2022	SMC Requestor:	Secure Flight
LEICS FAM:	[REDACTED]	Contact #:	[REDACTED]

POINT OF CONTACT	FAM TEAM	STAFF #	CONTACT #
LEICS TSOC:	(TL) [REDACTED]	[REDACTED]	[REDACTED]
MOC:	[REDACTED]	[REDACTED]	[REDACTED]
Field Office:	[REDACTED]		

SUBJECT INFORMATION	SUBJECT PICTURE
Last Name: [REDACTED]	[REDACTED PICTURE]
First Name: [REDACTED]	
Middle Name: [REDACTED]	
DOB: [REDACTED]	
Height/Weight: [REDACTED]	
Eyes/Hair: [REDACTED]	
Watch List Status: [REDACTED]	
POB: NY - NEW YORK	
Identifier: [REDACTED]	
Additional Subject Information:	

Co-Travelers Identified on PNR
Not Listed

Flight	Departure Airport	Date	Time	Arrival Airport	Date	Time
WN 1520	JAN	08/16/2022	1955	HOU	08/16/2022	2115

SMC Report v 20190312

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SMC AFTER ACTION REPORT (Enhanced)

SMC Team Leader:	
Approving Supervisor:	

Co-travelers/Associates		
<i>Describe any apparent co-travelers or any apparent associates with whom the SMC subject spoke before, during or after the flight. Note all available details, including time and location of the interactions, physical descriptions, seat numbers, etc.</i>		
Name (if known)	Description of Contact/Association	Additional Descriptors/Details

Electronic Devices
<i>Describe any electronic devices (type, brand, etc.) the subject was seen using.</i>

Enhanced After Action Report Narrative
<p>FAM team boarded WN1520 at 1947 and boarded a plane that [REDACTED] was already believed to be on.</p> <p>An individual that matched her general description was observed in seat 2B by FAM [REDACTED] as FAM [REDACTED] observed the back half of the plane due to the large volume (~87) of through travelers.</p> <p>No suspicious activity was noted during the flight and subject deplaned and went to baggage claim.</p>

SMC Report v 20190312

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- This report could become a discoverable document in a criminal investigation which you will use to testify in a court of law
- Contact the SMC Coordinator if you have any questions regarding the AAR

Significant Information

- Although FAMs on SMCs are not typically tasked to conduct extensive observations, minor details FAMs observe could be valuable to transportation security. The following are examples of potentially useful details to include in an AAR:
 - Unknown Subjects (UNSUBs) possibly travelling with the SMC subject
 - Note as many descriptors of the UNSUBs and their seat numbers if possible
 - Note the times and locations of the UNSUB relative to CCTV
 - Individuals with whom the subject has extended conversation
 - Any possible counter-surveillance or surveillance detection/disruption techniques, or other significant behavior by the SMC subject or UNSUBs
 - Any of the subject's activities observed during the SMC
 - Details of electronic devices the subject and co-traveler use or possess, including:
 - Type of cell phone (BlackBerry, iPhone, unknown Smartphone, etc.)
 - Type of electronic (laptop, tablet, eReader, Kindle) and (brand name, operating system)
- If unsure whether or not a detail regarding the SMC is significant, include it in the AAR

SMC Report v 20190312

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**Law Enforcement Information Coordination Section (LEICS)
SPECIAL MISSION COVERAGE NOTIFICATION
THIS DOCUMENT IS NOT TO BE DISSEMINATED OUTSIDE LE/FAMS
SMC 22-60333**

SMC Date:	8/16/2022	SMC Requestor:	Secure Flight
LEICS FAM:	[REDACTED]	Contact #:	[REDACTED]

	POINT OF CONTACT	FAM TEAM	STAFF #	CONTACT #
LEICS TSOC:	[REDACTED]	(TL) [REDACTED]	[REDACTED]	[REDACTED]
MOC:	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Field Office:	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

SUBJECT INFORMATION		SUBJECT PICTURE
Last Name:	[REDACTED]	[REDACTED]
First Name:	[REDACTED]	
Middle Name:	[REDACTED]	
DOB:	[REDACTED]	
Height/Weight:	[REDACTED]	
Eyes/Hair:	[REDACTED]	
Watch List Status:	[REDACTED]	
POB:	NY - NEW YORK	
Identifier:	[REDACTED]	
Additional Subject Information:	[REDACTED]	

Co-Travelers Identified on PNR
[REDACTED]

Flight	Departure Airport	Date	Time	Arrival Airport	Date	Time
WN 1520	BWI	08/16/2022	1755	JAN	08/16/2022	1920

SMC Report v 20190312

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SMC AFTER ACTION REPORT (Enhanced)

SMC Team Leader:	[REDACTED]
Approving Supervisor:	[REDACTED]

Co-travelers/Associates		
<i>Describe any apparent co-travelers or any apparent associates with whom the SMC subject spoke before, during or after the flight. Note all available details, including time and location of the interactions, physical descriptions, seat numbers, etc.</i>		
Name (if known)	Description of Contact/Association	Additional Descriptors/Details

Electronic Devices
<i>Describe any electronic devices (type, brand, etc.) the subject was seen using.</i>

Enhanced After Action Report Narrative
<p>ALL TIMES ARE APPROXIMATE AND IN CENTRAL DAYLIGHT TIME (CDT).</p> <p>1620: FAM Team at airport ready for mission.</p> <p>1631: Eyes on Subject [REDACTED] at the Martini Bar just in front of Terminal A. [REDACTED] was wearing a white baseball cap, white long-sleeved top, pink undershirt, khaki crop pants, light colored sneakers, and had a small gray purse slung around her shoulder. [REDACTED] also had in her possession a pink iPhone and a black backpack.</p> <p>1645: [REDACTED] left Martini Bar.</p> <p>1704: [REDACTED] took a seat at the gate.</p> <p>1725: [REDACTED] boarded aircraft.</p> <p>1909: Wheels down.</p> <p>1922: [REDACTED] exited aircraft.</p> <p>Nothing unusual to report. SMC Complete.</p>

SMC Report v 20190312

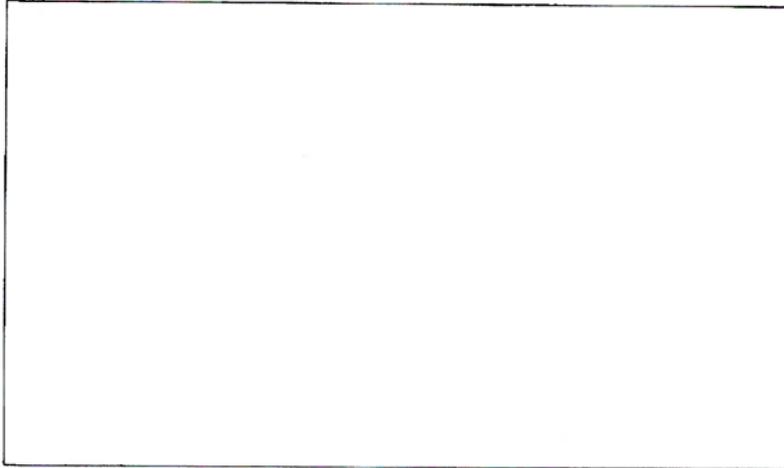
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Sensitive Security Information



Transportation
Security
Administration

Law Enforcement/Federal Air Marshal Service



SMC Report v 20190312

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SMC Report v 20190312

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**Law Enforcement Information Coordination Section (LEICS)
SPECIAL MISSION COVERAGE NOTIFICATION**
THIS DOCUMENT IS NOT TO BE DISSEMINATED OUTSIDE LE/FAMS
SMC 23-12626

SMC Date:	12/22/2022	SMC Requestor:	Secure Flight
LEICS FAM:	[REDACTED]	Contact #:	[REDACTED]

POINT OF CONTACT		FAM TEAM	STAFF #	CONTACT #
LEICS TSOC:	[REDACTED]	(TL) [REDACTED]	[REDACTED]	[REDACTED]
MOC:	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Field Office:	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

SUBJECT INFORMATION		SUBJECT PICTURE
Last Name:	[REDACTED]	[REDACTED]
First Name:	[REDACTED]	
Middle Name:	[REDACTED]	
DOB:	[REDACTED]	
Height/Weight:	[REDACTED]	
Eyes/Hair:	[REDACTED]	
Watch List Status:	[REDACTED]	
POB:	NY - NEW YORK	
Identifier:	[REDACTED]	
Additional Subject Information:	[REDACTED]	

Co-Travelers Identified on PNR	
1:	[REDACTED] - ABR Selectee
2:	[REDACTED] - ABR Selectee

Flight	Departure Airport	Date	Time	Arrival Airport	Date	Time
B6 1882	IAH	12/22/2022	1701	JFK	12/22/2022	2311

SMC Report v 20190312

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SMC AFTER ACTION REPORT (Enhanced)

SMC Team Leader:	[REDACTED]
Approving Supervisor:	[REDACTED]

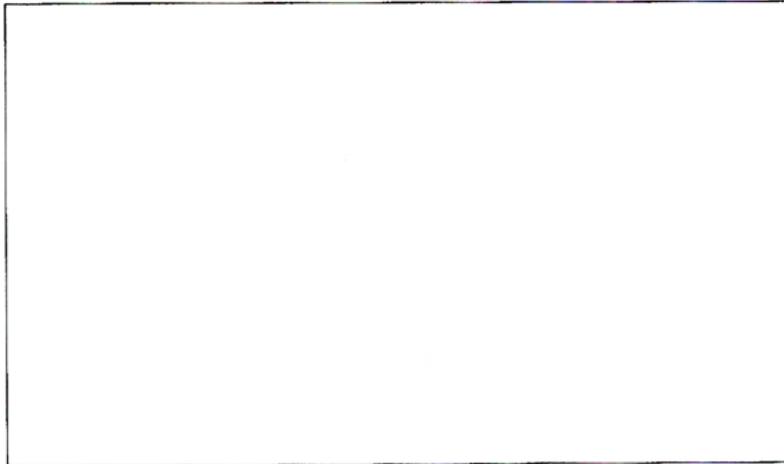
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Name (if known)	Description of Contact/Association	Additional Descriptors/Details

Electronic Devices
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Enhanced After Action Report Narrative
<p>AAR</p> <p>All times are approximate and in the Central Time zone.</p> <p>1615 - [REDACTED] was initially observed in the boarding area at gate A24 with her husband [REDACTED] (Off Duty LEO) and daughter.</p> <p>[REDACTED] was wearing a grey sweater, black pants, tan boots, and carrying a black backpack.</p> <p>1645 - FAM [REDACTED] discreetly briefed Off Duty LEO [REDACTED] with the FAM teams seat assignments.</p> <p>1800 - [REDACTED] and her family boarded the aircraft. [REDACTED] was seated in 6D.</p> <p>1945 - [REDACTED] was observed playing a game on her iPhone.</p> <p>2005 - [REDACTED] was observed conversing with a female passenger in 6C.</p> <p>2130 - [REDACTED] purchased two snack boxes and watched television.</p> <p>2315 - [REDACTED] family deplaned and exited the terminal.</p> <p>End of Report</p>

SMC Report v 20190312

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SMC Report v 20190312

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SMC Report v 20190312

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**Law Enforcement Information Coordination Section (LEICS)
SPECIAL MISSION COVERAGE NOTIFICATION**
THIS DOCUMENT IS NOT TO BE DISSEMINATED OUTSIDE LE/FAMS
SMC 23-14566

SMC Date:	1/1/2023	SMC Requestor:	Secure Flight
LEICS FAM:	[REDACTED]	Contact #:	[REDACTED]

POINT OF CONTACT		FAM TEAM	STAFF #	CONTACT #
LEICS TSOC:	[REDACTED]	(TL) [REDACTED]	[REDACTED]	[REDACTED]
MOC:	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Field Office:	[REDACTED]			

SUBJECT INFORMATION		SUBJECT PICTURE
Last Name:	[REDACTED]	[REDACTED]
First Name:	[REDACTED]	
Middle Name:		
DOB:	[REDACTED]	
Height/Weight:	[REDACTED] lbs	
Eyes/Hair:	[REDACTED]	
Watch List Status:	[REDACTED]	
POB:	NY - NEW YORK (USA)	
Identifier:	[REDACTED]	
Additional Subject Information:		

Co-Travelers Identified on PNR
None listed

Flight	Departure Airport	Date	Time	Arrival Airport	Date	Time
B6 1881	JFK	01/01/2023	1340	IAH	01/01/2023	1650

SMC Report v 20190312

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SMC AFTER ACTION REPORT (Enhanced)

SMC Team Leader:	[REDACTED]
Approving Supervisor:	[REDACTED]

Co-travelers/Associates		
<i>Describe any apparent co-travelers or any apparent associates with whom the SMC subject spoke before, during or after the flight. Note all available details, including time and location of the interactions, physical descriptions, seat numbers, etc.</i>		
Name (if known)	Description of Contact/Association	Additional Descriptors/Details

Electronic Devices
<i>Describe any electronic devices (type, brand, etc.) the subject was seen using.</i>

Enhanced After Action Report Narrative
<p>SMC 23-14566</p> <p>*all times below are approximate*</p> <p>1151EST, [REDACTED] checked in for flight B6 1881</p> <p>1310EST, [REDACTED] boarded flight at Gate 4 in Terminal 5</p> <p>1312EST, [REDACTED] took seat in seat 2B with co-traveler (UNK1) who sat in seat 2A</p> <p>1313EST, [REDACTED] expressed frustration with UNK1 that her bag was searched multiple times</p> <p>1316EST, [REDACTED] and UNK1 took selfie with [REDACTED] iPhone</p> <p>1325EST, [REDACTED] received phone call and expressed frustration with TSA</p> <p>1338EST, Aircraft is 'wheels-up'</p> <p>1400EST, [REDACTED] got up and went into galley to ask flight attendant how much longer until we pull off gate</p>

SMC Report v 20190312

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1401EST, UNK1 used lavatory

1402EST, ██████ sat down in her seat

1406EST, UNK1 sat down in her seat

1408EST, ██████ ate a sandwich

1432EST, ██████ purchased headphones for herself and UNK1

1535EST, ██████ and UNK1 used their respective phones to scroll through news

1612EST, UNK1 opened up settings on iPhone and top of screen showed ██████ iPhone

1632EST, ██████ used the lavatory

1637EST, ██████ exited lavatory

1638EST, ██████ helped UNK1 out of seat to use lavatory

1639EST, ██████ went to back of plane

1642EST, ██████ returned to seat

1643EST, UNK1 exited lavatory and returned to seat

1743EST, aircraft is 'wheels-down'

1751EST, ██████ and UNK1 exited aircraft

1752EST, UNK1 sat in wheelchair for assistance

1753EST, exited jetway toward baggage claim

1756EST, ██████ and UNK1 meet with a male outside of security (UNK2)

1800EST, ██████ UNK1 and UNK2 waited for luggage at carousel 4

1821EST, ██████ retrieved a Love Pink black small back and a large gray bag from carousel 4

1828EST, ██████ UNK1 and UNK2 are only ones left in baggage claim area

SMC Report r 20190312

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****unable to take subjects transportation due to issues with luggage****

description:

- met description given
- white nail polish
- walks with a limp

Clothing:

- navy blue Vineyard Vines long-sleeve T-shirt
- black Lululemon leggings
- navy blue Dallas Cowboys ball cap
- brown Ugg boots
- plaid patterned coat

Jewelry:

- silver ring on right ring finger
- diamond ring on left ring finger

Items:

- glasses (wearing)
- white iPhone 14 with pink case
- pink neck pillow
- black backpack
- sunglasses
- purse decorated with white fur

UNK1 description:

- gender: female
- age: 60-70 years old
- height: 5'4-5'6
- hair: gray, shoulder-length
- purple nail polish
- tattoos: green-colored (roughly the size of a quarter) (left wrist)

Jewelry:

- gold crucifix neckiace
- diamond band on right ring finger
- bracelet (white pearls) (right wrist)

SMC Report v 20190312

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- bracelet (purple pearls) (right wrist)

Clothing:

- pink sweatshirt
- blue jeans

Items:

- iPhone
- glasses (wearing)
- brown purse
- digital wrist watch (pink band)
- walking cane

UNK2 description:

- gender: male
- age: 45-50 years old
- height: 6'0-6'2
- weight: 260-280lbs
- facial hair: light-colored goatee

Clothing:

- blue short-sleeved U.S. Marines shirt
- green cargo pants
- green boots

Items:

- cell phone

End of Report

SMC Report v 20190312

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 - Individuals with whom the subject has extended conversation
 - Any possible counter-surveillance or surveillance detection/disruption techniques, or other significant behavior by the SMC subject or UNSUBs
 - Any of the subject's activities observed during the SMC
 - Details of electronic devices the subject and co-traveler use or possess, including:
 - Type of cell phone (BlackBerry, iPhone, unknown Smartphone, etc.)
 - Type of electronic (laptop, tablet, eReader, Kindle) and (brand name, operating system)
- If unsure whether or not a detail regarding the SMC is significant, include it in the AAR

SMC Report v 20190312

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**Law Enforcement Information Coordination Section (LEICS)
SPECIAL MISSION COVERAGE NOTIFICATION**
THIS DOCUMENT IS NOT TO BE DISSEMINATED OUTSIDE LE/FAMS
SMC 23-31529

SMC Date:	4/20/2023	SMC Requestor:	Secure Flight
LEICS FAM:	[REDACTED]	Contact #:	[REDACTED]

POINT OF CONTACT		FAM TEAM	STAFF #	CONTACT #
LEICS TSOC:	[REDACTED]	(TL) [REDACTED]	[REDACTED]	[REDACTED]
MOC:	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Field Office:	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

SUBJECT INFORMATION		SUBJECT PICTURE
Last Name:	[REDACTED]	[REDACTED]
First Name:	[REDACTED]	
Middle Name:	[REDACTED]	
DOB:	[REDACTED]	
Height/Weight:	[REDACTED] lbs	
Eyes/Hair:	[REDACTED]	
Watch List Status:	[REDACTED]	
POB:	NY - NEW YORK (USA)	
Identifier:	[REDACTED]	
Additional Subject Information:	[REDACTED]	

Co-Travelers Identified on PNR
none listed

Flight	Departure Airport	Date	Time	Arrival Airport	Date	Time
UA 0762	IAH	04/20/2023	1838	FLL	04/20/2023	2213

SMC Report v 20190312

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SMC AFTER ACTION REPORT (Enhanced)

SMC Team Leader:	[REDACTED]
Approving Supervisor:	[REDACTED]

Co-travelers/Associates		
<i>Describe any apparent co-travelers or any apparent associates with whom the SMC subject spoke before, during or after the flight. Note all available details, including time and location of the interactions, physical descriptions, seat numbers, etc.</i>		
Name (if known)	Description of Contact/Association	Additional Descriptors/Details

Electronic Devices
<i>Describe any electronic devices (type, brand, etc.) the subject was seen using.</i>

Enhanced After Action Report Narrative
<p>FAM Team did not have any contact with the Subject.</p> <p>This mission was DOWNGRADED to a TYPE- U SMC due to the subject canceling the itinerary per NTVG.</p> <p>End of Statement</p>

SMC Report v 20190312

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- This report could become a discoverable document in a criminal investigation which you will use to testify in a court of law
- Contact the SMC Coordinator if you have any questions regarding the AAR

Significant Information

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 - Note the times and locations of the UNSUB relative to CCTV
 - Individuals with whom the subject has extended conversation
 - Any possible counter-surveillance or surveillance detection/disruption techniques, or other significant behavior by the SMC subject or UNSUBs
 - Any of the subject's activities observed during the SMC
 - Details of electronic devices the subject and co-traveler use or possess, including:
 - Type of cell phone (BlackBerry, iPhone, unknown Smartphone, etc.)
 - Type of electronic (laptop, tablet, eReader, Kindle) and (brand name, operating system)
- If unsure whether or not a detail regarding the SMC is significant, include it in the AAR

SMC Report v 20190312

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**Law Enforcement Information Coordination Section (LEICS)
SPECIAL MISSION COVERAGE NOTIFICATION**
THIS DOCUMENT IS NOT TO BE DISSEMINATED OUTSIDE LE/FAMS
SMC 23-32023

SMC Date:	4/20/2023	SMC Requestor:	Secure Flight
LEICS FAM:	[REDACTED]	Contact #:	[REDACTED]

	POINT OF CONTACT	FAM TEAM	STAFF #	CONTACT #
LEICS TSOC:	[REDACTED]	(TL) [REDACTED]	[REDACTED]	[REDACTED]
MOC:	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Field Office:	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

SUBJECT INFORMATION		SUBJECT PICTURE
Last Name:	[REDACTED]	[REDACTED]
First Name:	[REDACTED]	
Middle Name:	[REDACTED]	
DOB:	[REDACTED]	
Height/Weight:	[REDACTED] lbs	
Eyes/Hair:	[REDACTED]	
Watch List Status:	[REDACTED]	
POB:	NY - NEW YORK (USA)	
Identifier:	[REDACTED]	
Additional Subject Information:	[REDACTED]	

Co-Travelers Identified on PNR
none indicated

Flight	Departure Airport	Date	Time	Arrival Airport	Date	Time
UA 0693	IAH	04/20/2023	1704	FLL	04/20/2023	2035

SMC Report v 20190312

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SMC AFTER ACTION REPORT (Enhanced)

SMC Team Leader:	[REDACTED]
Approving Supervisor:	[REDACTED]

Co-travelers/Associates		
<i>Describe any apparent co-travelers or any apparent associates with whom the SMC subject spoke before, during or after the flight. Note all available details, including time and location of the interactions, physical descriptions, seat numbers, etc.</i>		
Name (if known)	Description of Contact/Association	Additional Descriptors/Details

Electronic Devices
<i>Describe any electronic devices (type, brand, etc.) the subject was seen using.</i>

Enhanced After Action Report Narrative

4/20/23 *All times below are approximations.*
 1540 CST: FAM team at airport and ready for mission at IAH airport.
 1608 CST: FAMs observe [REDACTED] in the gate area for flight UA693.
 A description of [REDACTED] is as follows: White sweater, short purple skirt. Black backpack. Net basket
 1613 CST: [REDACTED] approaches gate agent to check on her standby status.
 1620 CST: [REDACTED] is observed using an iPhone in a pink case.
 1624 CST: [REDACTED] is observed talking to other passengers in the gate area.
 1638 CST: [REDACTED] approaches gate agent to check on her standby status.
 1643 CST: [REDACTED] joins boarding line.
 1646 CST: [REDACTED] approaches gate agent to check on her standby status.
 1700 CST: [REDACTED] gets secondary screening from TSA.
 1704 CST: [REDACTED] boards flight UA693 and sits in 36B
 1720 CST: Flight UA693 is Wheels up with FAM team and subject on board.
 1720CST- 2037 EST: [REDACTED] was sitting next to a member of the FAM team and engaged in conversation with him.
 [REDACTED] said she knows that FAMs follow her on all her flights. She knows that on her previous flight it was a BAL FAM following her. She knows that the secondary screening at the gate was because of her. She also says she knows exactly why she is on the Selectee list. At no time was she aware that she was conversing with a member of the FAM team. She voluntarily provided all the above information without knowing she was

SMC Report v 20190312

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talking
to a FAM and without any solicitation from the FAM.
FAM also observed her deleting messages and pictures off of her iPhone.
2037 EST: Flight UA693 is Wheels Down.
2050 EST: ██████ deplanes flight UA693.
2052 EST: ██████ enters the bathroom.
2055 EST: ██████ exits and continues towards baggage claim.
2058 EST: ██████ picked up a green roller bag from the baggage carousel.
2100 EST: ██████ went outside and waited on the curbside for her ride. She was talking on the phone the entire time.
2110 EST: ██████ is picked up by a White Female, blond hair, gray leggings, blank tank top. She was driving a Black Toyota Santa Fe, Florida License plate ██████

End of Report.

SMC Report v 20190312

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SMC Report v 20190312

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SMC 23-32366

SMC Date:	4/25/2023	SMC Requestor:	Secure Flight
LEICS FAM:	[REDACTED]	Contact #:	[REDACTED]

	POINT OF CONTACT	FAM TEAM	STAFF #	CONTACT #
LEICS TSOC:	[REDACTED]	(TL) [REDACTED]	[REDACTED]	[REDACTED]
MOC:	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Field Office:	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

SUBJECT INFORMATION	SUBJECT PICTURE
Last Name: [REDACTED]	[REDACTED]
First Name: [REDACTED]	
Middle Name: [REDACTED]	
DOB: [REDACTED]	
Height/Weight: [REDACTED] lbs	
Eyes/Hair: [REDACTED]	
Watch List Status: [REDACTED]	
POB: NY - NEW YORK (USA)	
Identifier: [REDACTED]	
Additional Subject Information:	

Co-Travelers Identified on PNR
NONE

Flight	Departure Airport	Date	Time	Arrival Airport	Date	Time
UA 0306	FLL	04/25/2023	1143	IAH	04/25/2023	1306

SMC Report v 20190312

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SMC AFTER ACTION REPORT (Enhanced)

SMC Team Leader:	[REDACTED]
Approving Supervisor:	[REDACTED]

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Name (if known)	Description of Contact/Association	Additional Descriptors/Details

Electronic Devices
<i>Describe any electronic devices (type, brand, etc.) the subject was seen using.</i>

Enhanced After Action Report Narrative

1013 EST FAM Team up.

1100 EST FAM Team boarded flight at different times to gain positive ID of Subject.

1120 EST Subject identified on plane seated in 7D. Subject was texting using a pink iPhone while AirPods in ear; Smart watch (non iPhone) on left wrist.

1327 PST Wheels down.

1400 PST FAM Team followed Subject to carousel 5 at IAH baggage claim. Subject entered elevator. FAM TL ended mission.

SMC Report v 20190312

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SMC Report v 20190312

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SENSITIVE SECURITY INFORMATION

Silent Partner / Quiet Skies Passenger Overview

Passenger: Ms. Tulsi Gabbard

Matched to: Silent Partner, Quiet Skies

Travel Dates: July 23, 2024 (Silent Partner), July 25, 2024 (Quiet Skies), July 26, 2024 (Quiet Skies), August 2, 2024 (Quiet Skies)

Date Moved to Cleared List: August 02, 2024

Intelligence and Analysis Selectee Coordination Report Details

Distribution: [REDACTED]

Purpose: Ensure that the passengers who are designated for enhanced screening receive appropriate screening by TSA Transportation Security Officers (TSOs) when the passengers are processed through the checkpoint.

Scope: The Intelligence and Analysis Selectee Coordination Report details travel records for the next 36 hours from the time of report generation.

Summary: The air carrier submits passenger travel record data for vetting to DHS. The Intelligence and Analysis Selectee Coordination Report details numerous passenger records, each of which correspond with a passenger who has matched to a Quiet Skies rule or been randomly selected for additional screening.

Each line of the report represents limited travel record information needed to facilitate screening at the airport specified in the record.

A passenger remains in Quiet Skies for three encounters or up to 90 days, whichever comes first, and is then automatically removed from Quiet Skies and moved to the Cleared List.

Intelligence and Analysis (OIA) Selectee Coordination Report Excerpt*

Passenger: Ms. Tulsi Gabbard

Excerpt Source Report Generation and Distribution Date: July 24, 2024

Number of Pertaining Travel Records in Source Report: Three (3)

Travel Record 1: Details a travel reservation on July 25, 2024. Mirrored in reports from July 24, 2024 - July 25, 2024.

Travel Record 2: Details a travel reservation on July 25, 2024. Mirrored in reports from July 24, 2024 - July 25, 2024.

Travel Record 3: Details a travel reservation on July 25, 2024. Mirrored in reports from July 24, 2024 - July 25, 2024.

* The enclosed excerpt has been marked as Sensitive Security Information and Privacy Act-protected information, as appropriate, for the information contained within.

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SENSITIVE SECURITY INFORMATION

SENSITIVE SECURITY INFORMATION																
PRIVACY ACT PROTECTED INFORMATION																
Traveling Class	Segment	Departure Airport Code	Departure Date	Departure Time	Arrive Airport Code	Arrival Date	Arrival Time	AO Code	Origin Flight Number	Last Name	First Name	Middle Name	Passenger Record Locator (PRL)	Date of Birth (DOB)	Gender	Passenger Status
Quiet Shias Selectee	AUS		7/25/2024	6:55:00	BNA	7/25/2024	9:00:00	WN	1392	GABBARO	TULSI				FEMALE	Active
Quiet Shias Selectee	AUS		7/25/2024	7:35:00	BNA	7/25/2024	9:52:00	OO	3898	GABBARO	TULSI				FEMALE	Cancel
Quiet Shias Selectee	AUS		7/25/2024	7:35:00	BNA	7/25/2024	9:52:00	OO	3898	GABBARO	TULSI				FEMALE	Active

NOTE: This record contains Sensitive Security Information that is controlled under 49 CFR parts 15 and 1502. No part of this record may be disclosed to persons without a "need to know", as defined in 49 CFR parts 15 and 1502, except with the written permission of the Administrator of the Transportation Security Administration or the Secretary of Transportation. Unauthorized release may result in civil penalty or other action. For U.S. Government agencies, public disclosure is governed by 5 U.S.C. 552 and 49 CFR parts 15 and 1502.

NOTE: This record contains Sensitive Security Information that is controlled under 49 CFR parts 15 and 1502. No part of this record may be disclosed to persons without a "need to know", as defined in 49 CFR parts 15 and 1502, except with the written permission of the Administrator of the Transportation Security Administration or the Secretary of Transportation. Unauthorized release may result in civil penalty or other action. For U.S. Government agencies, public disclosure is governed by 5 U.S.C. 552 and 49 CFR parts 15 and 1502.

SENSITIVE SECURITY INFORMATION

Silent Partner / Quiet Skies Passenger Overview**Passenger:** Ms. Tulsi Gabbard**Matched to:** Silent Partner, Quiet Skies**Travel Dates:** July 23, 2024 (Silent Partner), July 25, 2024 (Quiet Skies), July 26, 2024 (Quiet Skies), August 2, 2024 (Quiet Skies)**Date Moved to Cleared List:** August 02, 2024**Silent Partner / Quiet Skies Watchlist Complete Report Details****Distribution:** Sent daily to TSA Intelligence and Analysis (I&A)**Purpose:** Monitor and analyze the Quiet Skies and Silent Partner populations and the current impact of the rules on the traveling public.**Scope:** The Watchlist Complete Reports for Silent Partner / Quiet Skies detail the first travel record for a passenger until the passenger have met the criteria to be moved to the Cleared List.**Summary:** The air carrier submits passenger travel record data for vetting to DHS. The Watchlist Complete Reports for Silent Partner / Quiet Skies detail travel records of the first time a passenger matched to a Silent Partner or Quiet Skies rule.

Each line of the reports represents the travel record combined with the rule ID(s) and any changes in record status.

A passenger remains in Quiet Skies for three encounters or up to 90 days, whichever comes first, and is then automatically removed from Quiet Skies and moved to the Cleared List.

Silent Partner / Quiet Skies Watchlist Complete Report Excerpts***Passenger:** Ms. Tulsi Gabbard**Excerpt Source Report Generation and Distribution Date:** July 24, 2024**Number of Pertaining Travel Records in Source Report:** Three (3)**Travel Record 1:** Details a travel reservation on July 23, 2024 for rule ID [REDACTED] Mirrored in reports from July 21, 2024 - August 03, 2024.**Travel Record 2:** Details a travel reservation on July 23, 2024 for rule ID [REDACTED] Mirrored in reports from July 21, 2024 - August 03, 2024.

* The enclosed excerpt has been marked as Sensitive Security Information and Privacy Act-protected information, as appropriate, for the information contained within.

SENSITIVE SECURITY INFORMATION

TSA_HSGAC_8-21-04_T1_000244

SENSITIVE SECURITY INFORMATION										
Page No.	Page Title	Page Number	Page Date	Page Author	Page Editor	Page Reviewer	Page Approver	Page Status	Page Version	Page Comments
1
2
3
4
5
6
7
8
9
10

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SENSITIVE SECURITY INFORMATION

Silent Partner / Quiet Skies Passenger Overview**Passenger:** Ms. Tulsi Gabbard**Matched to:** Silent Partner, Quiet Skies**Travel Dates:** July 23, 2024 (Silent Partner), July 25, 2024 (Quiet Skies), July 26, 2024 (Quiet Skies), August 2, 2024 (Quiet Skies)**Date Moved to Cleared List:** August 02, 2024**Silent Partner / Quiet Skies Matches Report Details****Distribution:** Sent daily to TSA Intelligence and Analysis (I&A)**Purpose:** Enables system audits to ensure that passengers who are selected for Silent Partner or Quiet Skies enhanced screening match to the rule criteria and are moved to the Cleared List when they have met the applicable removal requirements.**Scope:** The Quiet Skies / Silent Partner Matches Report details travel records for the three (3) days prior to report generation, the day of report generation, and the two days following report generation.**Summary:** The air carrier submits passenger travel record data for vetting to DHS. The Quiet Skies / Silent Partner Matches Report details numerous passenger records, each of which correspond with a passenger who has matched to a Silent Partner / Quiet Skies rule.

Each line of the report represents a travel record combined with the rule ID(s) and limited travel data from when the passenger's data first matched to the Silent Partner rule.

A passenger remains in Quiet Skies for three encounters or up to 90 days, whichever comes first, and is then automatically removed from Quiet Skies and moved to the Cleared List.

Quiet Skies / Silent Partner Matches Report Excerpt***Passenger:** Ms. Tulsi Gabbard**Excerpt Source Report Generation and Distribution Date:** July 24, 2024**Number of Pertaining Travel Records in Source Report:** Four (4)**Travel Record 1:** Details a travel reservation on July 25, 2024. Mirrored in reports from July 23, 2024 - July 28, 2024 for rule ID [REDACTED]**Travel Record 2:** Details a travel reservation on July 23, 2024. Mirrored in reports from July 23, 2024 - July 25, 2024 for rule ID [REDACTED]**Travel Record 3:** Details a travel reservation on July 25, 2024. Mirrored in reports from July 23, 2024 - July 28, 2024 for rule ID [REDACTED]**Travel Record 4:** Details a travel reservation on July 23, 2024. Mirrored in reports from July 23, 2024 - July 25, 2024 for rule ID [REDACTED]

* The enclosed excerpt has been marked as Sensitive Security Information and Privacy Act-protected information, as appropriate, for the information contained within.

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SENSITIVE SECURITY INFORMATION

Silent Partner / Quiet Skies Passenger Overview**Passenger:** Ms. Tulsi Gabbard**Matched to:** Silent Partner, Quiet Skies**Travel Dates:** July 23, 2024 (Silent Partner), July 25, 2024 (Quiet Skies), July 26, 2024 (Quiet Skies), August 2, 2024 (Quiet Skies)**Date Moved to Cleared List:** August 02, 2024**Daily Quiet Skies / Silent Partner Federal Air Marshal Special Mission Coverage Report Details****Distribution:** [REDACTED]**Purpose:** Assist with FAMS SMC planning.**Scope:** The Daily Quiet Skies / Silent Partner Federal Air Marshal Special Mission Coverage Report details travel records for the day of report generation, and the two (2) days following report generation.**Summary:** The air carrier submits passenger travel record data for vetting to DHS. The Daily Quiet Skies / Silent Partner Federal Air Marshal (FAM) Special Mission Coverage (SMC) Report details numerous passenger records, each of which correspond with a passenger who has matched to a Silent Partner / Quiet Skies rule.

Each line of the report represents a travel record combined with the rule ID(s) the passenger matched to.

A passenger remains in Quiet Skies for three encounters or up to 90 days, whichever comes first, and is then automatically removed from Quiet Skies and moved to the Cleared List.

Daily Quiet Skies / Silent Partner Federal Air Marshal (FAM) Special Mission Coverage Report Excerpt***Passenger:** Ms. Tulsi Gabbard**Excerpt Source Report Generation and Distribution Date:** July 23, 2024**Number of Pertaining Travel Records in Source Report:** Three (3)**Travel Record 1:** Details a travel reservation on July 23, 2024. Mirrored in reports from July 23, 2024 - July 23, 2024 for rule IDs [REDACTED] and [REDACTED]**Travel Record 2:** Details a travel reservation on July 23, 2024. Mirrored in reports from July 23, 2024 - July 23, 2024 for rule IDs [REDACTED] and [REDACTED]**Travel Record 3:** Details a travel reservation on July 25, 2024. Mirrored in reports from July 23, 2024 - July 25, 2024 for rule IDs [REDACTED] and [REDACTED]

* The enclosed excerpt has been marked as Sensitive Security Information and Privacy Act-protected information, as appropriate, for the information contained within.

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SENSITIVE SECURITY INFORMATION

Silent Partner / Quiet Skies Passenger Overview**Passenger:** Ms. Tulsi Gabbard**Matched to:** Silent Partner, Quiet Skies**Travel Dates:** July 23, 2024 (Silent Partner), July 25, 2024 (Quiet Skies), July 26, 2024 (Quiet Skies), August 2, 2024 (Quiet Skies)**Date Moved to Cleared List:** August 02, 2024**Quiet Skies / Silent Partner Cleared List Report Details****Distribution:** [REDACTED]**Purpose:** Enables system audits to ensure that passengers are properly exempted from applicable rule groups and are removed from the Cleared List when they have met the applicable removal criteria.**Scope:** The Quiet Skies / Silent Partner Cleared List Report details travel records for the two (2) days prior to report generation, the day of report generation, and the two days following report generation.**Summary:** The air carrier submits passenger travel record data for vetting to DHS. The Quiet Skies / Silent Partner Cleared List Report details numerous passenger records that matched to a corresponding passenger on the Silent Partner / Quiet Skies Cleared List.

Each line of the report represents a travel record combined with corresponding Cleared List information. The Cleared List information contains the rule ID(s) the passenger previously matched to and limited travel data from when the passenger's data first matched to the rule.

A passenger remains in Quiet Skies for three encounters or up to 90 days, whichever comes first, and is then automatically removed from Quiet Skies and moved to the Cleared List. Passengers on the Cleared List are exempt from the rule(s) they previously matched to until they meet the 18-month criteria to be removed from the Cleared List.

Quiet Skies / Silent Partner Cleared List Report Excerpt**Passenger:** Ms. Tulsi Gabbard**Excerpt Source Report Generation and Distribution Date:** August 03, 2024**Number of Pertaining Travel Records in Source Report:** Two (2)**Travel Record 1:** Details travel on August 05, 2024. Mirrored in reports from August 03, 2024 - August 7, 2024 for rule ID [REDACTED]**Travel Record 2:** Details travel on August 05, 2024. Mirrored in reports from August 03, 2024 - August 7, 2024 for rule ID [REDACTED]

* The enclosed excerpt has been marked as Sensitive Security Information and Privacy Act-protected information, as appropriate, for the information contained within.

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SENSITIVE SECURITY INFORMATION

TSA_HSGAC_8-21-24_T1_0000257

From: [REDACTED]
To: [REDACTED]
Subject: Gabbard
Date: Tuesday, October 8, 2024 1:06:00 PM

Good Morning Sir,

On 7/22, while working in the TSOC, FAM [REDACTED] recognized Tulsi Gabbard's name on the Quiet Skies list. She notified me and asked for guidance on whether Gabbard should be covered under a Quiet Skies mission. I first verified that she was a "former" congresswoman and then asked [REDACTED] to verify the specific Quiet Skies rule hit. She confirmed the specific "affiliate" rule hit and did not see any potential errors/inadvertent hits listed in Upax. I told [REDACTED] to send the Quiet Skies mission for staffing. I confirmed the decision with ASAC [REDACTED] who was also in the Freedom Center on 7/22.

Just let me know if you need anything further.

[REDACTED]
Supervisory Federal Air Marshal
Federal Air Marshal Service – ICS
[REDACTED]

WARNING: This record contains Sensitive Security Information that is controlled under 49 CFR parts 15 and 1520. No part of this record may be disclosed to persons without a "need to know", as defined in 49 CFR parts 15 and 1520, except with the written permission of the Administrator of the Transportation Security Administration or the Secretary of the Transportation Security Administration or the Secretary of Transportation. Unauthorized release may result in civil penalty or other action. For U.S. government agencies, public disclosure is governed by 5 U.S.C. 552 and 49 CFR parts 15 and 1520.

SENSITIVE SECURITY INFORMATION

I am doing a OS with Tulsa Gabbard as the subject, why the heck is she a OS subject? SMH

07/22 13:09 It should have VIP instead of OS. The VP's get added to flights. There should be a OS subject on the flight as well

It just has her. Should I change it?

It's in Staffing requested if you want to take a look when you log in

07/22 13:13 Yeah...let me take a look. I just parked and should be on in a few

07/22 13:14 she left congress so she probably is the OS since she's not Vip anymore

I'm calling the yellow line

07/22 13:11 thank you

No problem

07/22 13:19 so Gabbard is an affiliate w/ a TSDB watch list subject, and since she's no longer in Congress that is probably why she hit for the rule.

Yeah I talked with about it and that's the conclusion we came to as well

07/22 13:13

WARNING: This record contains Sensitive Security Information that is controlled under 49 CFR parts 15 and 1520. No part of this record may be disclosed to persons without a "need to know", as defined in 49 CFR parts 15 and 1520, except with the written permission of the Administrator of the Transportation Security Administration or the Secretary of the Transportation Security Administration or the Secretary of the Department of Homeland Security. Unauthorized release may result in civil penalty or other action. For U.S. Government employees, public disclosure is prohibited by

SENSITIVE SECURITY INFORMATION TSA_HSCAC_8-21-24_T1_0000289

Chat Share

It's in Staffing requested if you want to take a look when you log in

0722 13:11
Yeah, let me take a look. I just parked and should be on in a few

she left congress so she probably is the OS since she's not Vip anymore

I'm calling the yellow fee

No problem

0722 13:19
so Cabbard is an affiliate w/ a 10308 watch list subject and since she's no longer in Congress that is probably why she hit for the rule.

0722 13:19
Yeah I talked with [redacted] about it and that's the conclusion we came to as well

I found who she's the affiliate with, remind me and I can show you where to look if you didn't find it already

0722 13:23
cool cool

0722 13:23
Didn't look. On LIDAX somewhere I assume

This Security Information that is controlled under 49 CFR parts 15 and 1502. No part of this record may be disclosed to persons other than those specifically authorized in writing by the Administrator of the Transportation Security Administration or the Secretary of Transportation. Disclosure to other persons may result in civil penalty or other action. For U.S. government agencies, public disclosure is governed by 5 U.S.C. 552 and 49 CFR parts 15 and 1502.

SENSITIVE SECURITY INFORMATION

WARNING: This report contains Sensitive Security Information that is controlled under 49 CFR parts 25 and 1538. No part of this report may be disclosed to persons without a "need-to-know," as defined in 49 CFR parts 25 and 1538, except with the written permission of the Administrator of the Transportation Security Administration or the Secretary of Transportation/inspector that retains any report or data priority or other status, for U.S. government agencies, public information purposes, by 7-1-12, 2012, and all 49 CFR parts 25 and 1538.

Case Number	Reporting Agency	Event Date	Event Type	Event Location	Event Status	Event Description	Event Outcome
00000001	TSA	8/1/2024 12:00	TS	1470	8/1/2024 14:00	TS	Incident resolved by TSA on Priority Status
00000002	TSA	8/1/2024 14:00	TS	1470	8/1/2024 16:00	TS	Incident resolved by TSA on Priority Status
00000003	TSA	8/1/2024 16:00	TS	1470	8/1/2024 18:00	MCP	Incident resolved by TSA on Priority Status
00000004	TSA	8/1/2024 18:00	TS	1470	8/1/2024 20:00	TS	Incident resolved by TSA on Priority Status
00000005	TSA	8/1/2024 20:00	TS	1470	8/1/2024 22:00	TS	Incident resolved by TSA on Priority Status
00000006	TSA	8/1/2024 22:00	TS	1470	8/1/2024 00:00	TS	Incident resolved by TSA on Priority Status
00000007	TSA	8/1/2024 00:00	TS	1470	8/1/2024 02:00	TS	Incident resolved by TSA on Priority Status
00000008	TSA	8/1/2024 02:00	TS	1470	8/1/2024 04:00	TS	Incident resolved by TSA on Priority Status

TSA_HSGAC_8-21-24_TI_000276

SENSITIVE SECURITY INFORMATION

TAUBARD
 TUSA

FEMALE
 BILUBOKU
 IIA
 - Select One -

United States Of America - US



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SENSITIVE SECURITY INFORMATION

TSA_HSGAC_8-21-24_T1_0000279



Federal Air Marshal Service
Information Coordination Section
Special Missions Coverage After-Action Summary

SMC # [REDACTED]	SMC Date/Time: 07/29/2024	
SRN Number:	XIR Number:	
Center: WN	Flight #: 3350	
Status: Wheels Down	Seat Assignment:	
Departure Airport: BNA	Departure Date/Time: 07/29/2024 14:50:00	
Arrival Airport: AUS	Arrival Date/Time: 07/26/2024 17:00:00	
Last Name: GABBARD	First Name: TULSI	Middle Name:
Gender: FEMALE	DOB: [REDACTED]	
TPN Number:	TSA SID:	TSC ID:

AAR Info

Was subject's appearance different from information provided?: Unanswered Notes:	Was subject observed with and/or using electronics?: Unanswered Notes:
Did the subject display counter surveillance techniques or seem abnormally aware of surroundings?: Unanswered Notes:	Team able to observe curbside?: Unanswered Notes:
Did you receive any information from the ATLAS team or other authorities (ie TSOC) about any incidents at the airport involving your subject?: Unanswered Notes:	Unknown subject interaction? (other than listed co-travelers): Unanswered Notes:

AAR Summary

AAR Narrative Notes:

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SENSITIVE SECURITY INFORMATION

TSA_HSGAC_8-21-24_T1_0000280



**Federal Air Marshal Service
Information Coordination Section**
Special Mission Coverage After-Action Summary



SMC: [REDACTED]	SMC Date/Time: 08/02/2024	
GRN Number:	XOR Number:	
Carrier: DL	Flight #: 2259	
Status: Wheels Down	Seat Assignment:	
Departure Airport: AUS	Departure Date/Time: 08/02/2024 08:20:00	
Arrival Airport: MCO	Arrival Date/Time: 08/02/2024 11:58:00	
Last Name: CABBARD	First Name: TULSI	Middle Name:
Gender: FEMALE	DOB: [REDACTED]	
TPN Number:	TSA SID:	TSC ID:

AAR Info

Was subject's appearance different from information provided?: No Notes:	Was subject observed with and/or using electronics?: Yes Notes: 2 iPhones, 1 Laptop
Did the subject display counter surveillance techniques or seem abnormally aware of surroundings?: No Notes:	Team able to observe curbside?: No Notes:
Did you receive any information from the ATLAS team or other authorities (ie TSOC) about any incidents in the airport involving your subject?: No Notes:	Unknown subject interaction? (other than listed co-travelers): No Notes:

AAR Summary

AAR Narrative Notes: NSTR

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SENSITIVE SECURITY INFORMATION

TSA_HSGAC_8-21-24_T1_0000281



Federal Air Marshal Service
Information Coordination Section
Special Mission Coverage After-Action Summary



SMC # [REDACTED] SMC Date/Time: 09/03/2024

SRW Number: XNR Number:

Carrier: DL Flight #: 2470

Status: Wheels Down Seat Assignment:

Departure Airport: ATL Departure Date/Time: 08/03/2024 08:10 00

Arrival Airport: TUL Arrival Date/Time: 08/03/2024 09:09 00

Last Name: GABBARD First Name: TULSI Middle Name:

Gender: FEMALE DOB: [REDACTED]

TPN Number: TSA SID: TSC ID:

AAR Info

Was subject's appearance different from information provided?: No
Notes:

Was subject observed with and/or using electronics?: No
Notes:

Did the subject display counter surveillance techniques or seem abnormally aware of surroundings?: No
Notes:

Team able to observe curbside?: No
Notes:

Did you receive any information from the ATLAS team or other authorities (ie TSOC) about any incidents in the airport involving your subject?: No
Notes:

Unknown subject interaction? (other than listed co-travelers): No
Notes:

AAR Summary

AAR Narrative Notes: Nothing significant to pass on.

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SENSITIVE SECURITY INFORMATION

TSA_HSGAC_8-21-24_T1_0000282



SENSITIVE SECURITY INFORMATION

Federal Air Marshal Service
Information Coordination Section



Special Missions Coverage After-Action Summary

SAC # [REDACTED]	SAC Date/Time: 09/03/2024	
SRN Number:	JNR Number:	
Carrier: DL	Flight #: 1548	
Status: Wheels Down	Seat Assignment:	
Departure Airport: MCO	Departure Date/Time: 09/03/2024 05:30:00	
Arrival Airport: ATL	Arrival Date/Time: 09/03/2024 06:58:00	
Last Name: GABBARD	First Name: TULSI	Middle Name:
Gender: FEMALE	DOB: [REDACTED]	
TPN Number:	TSA SID:	TSC ID:

AAR Info

Was subject's appearance different from information provided?: No Notes:	Was subject observed with and/or using electronics?: No Notes:
Did the subject display counter surveillance techniques or seem abnormally aware of surroundings?: No Notes:	Team able to observe outside?: No Notes:
Did you receive any information from the ATLAS team or other authorities (ie TSOC) about any incidents in the airport involving your subject?: No Notes:	Unknown subject interaction? (other than listed co-travelers): No Notes:

AAR Summary

AAR Narrative Notes: Nothing significant to report.

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SENSITIVE SECURITY INFORMATION
FOUO // LAW ENFORCEMENT SENSITIVE SA_HSGAC_8-21-24_T1_0000335

Monday, August 3

[REDACTED] 8:53:21 PM

I know where to find the QS rule hit number in UPAX, but is there a place to see how exactly the QS is affiliated to the watch listed subject? (example listed them on an ESTA application?)

8:53:22 PM

Let me ask around, I'm unsure.

[REDACTED] 8:53:23 PM

Thank you.

[REDACTED]

collected all the classified derog on the watch listed affiliate, just trying to learn how this traveler is precisely affiliated
I have to run out to my car. Feel free to message me here

8:53:40 PM

I'm looking into it, we are unsure and none of us are still at nor to ask

I'm gonna have a round with upax to see what I can find

[REDACTED] 8:53:41 PM

Thank man

8:53:42 PM

web doc shows these two for her as rule hits

[REDACTED] Affiliates Rule (Inbound)

[REDACTED] TSD8 Affiliates Rule (Inbound)

her pnr is connected to a TSD8 potential TSD8 affiliate

[REDACTED]

here we go

[REDACTED]

probably connected to this

[REDACTED]

SENSITIVE SECURITY INFORMATION
FOUO // LAW ENFORCEMENT SENSITIVE TSA_HSGAC_8-21-24_T1_0000336



her email is affiliated as well as PNR

[Redacted] 8:34:00 PM

Got it so [Redacted] phone number and email. Any idea if that means the OS traveler had that on an application?

Be CBP don't go through her phone. don't think

8:34:00 PM

so im sure she got lumped with the "Possible tsdb affiliate"

[Redacted] was the rule hit

[Redacted] 8:34:21 PM
Oh the [Redacted]

8:34:02 PM



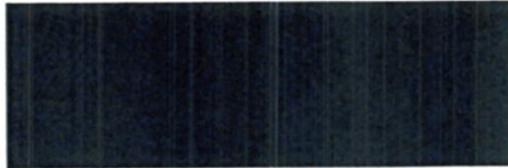
SENSITIVE SECURITY INFORMATION
FOUO // LAW ENFORCEMENT SENSITIVE TSA_HSGAC_8-21-24_T1_0000337

[REDACTED]
who is connected to [REDACTED]

[REDACTED] 07/14/2024
Correct

07/14/2024

[REDACTED] and gabbard have had multiple priu s connected since 07/17/2024
n 4 looks like because on that she went onto a QS list because of the PNR connection



from that original priu itinerary from [REDACTED]

[REDACTED] can call to explain to [REDACTED]

Sensitive Security Information TSA HSCAC 8-21-24/5-28-25 T4 0002484



National Terrorism Advisory System

Bulletin

www.dhs.gov/advisories

January 27, 2021 11:00AM ET

SUMMARY

The Acting Secretary of Homeland Security has issued a National Terrorism Advisory System (NTAS) Bulletin due to a heightened threat environment across the United States, which DHS believes will persist in the weeks following the successful Presidential Inauguration. Information suggests that some ideologically-motivated violent extremists with objections to the exercise of governmental authority and the presidential transition, as well as other perceived grievances fueled by false narratives, could continue to mobilize to incite or commit violence.

DURATION
This Bulletin will expire on or before **April 30, 2021** at 1:00 PM ET

DETAILS

- Throughout 2020, Domestic Violent Extremists (DVEs) targeted individuals with opposing views engaged in First Amendment-protected, non-violent protest activity. DVEs motivated by a range of issues, including anger over COVID-19 restrictions, the 2020 election results, and police use of force have plotted and on occasion carried out attacks against government facilities.
- Long-standing racial and ethnic tension—including opposition to immigration—has driven DVE attacks, including a 2019 shooting in El Paso, Texas that killed 23 people.
- DHS is concerned these same drivers to violence will remain through early 2021 and some DVEs may be emboldened by the January 6, 2021 breach of the U.S. Capitol Building in Washington, D.C. to target elected officials and government facilities.
- DHS remains concerned that Homegrown Violent Extremists (HVEs) inspired by foreign terrorist groups, who committed three attacks targeting government officials in 2020, remain a threat.
- Threats of violence against critical infrastructure, including the electric, telecommunications and healthcare sectors, increased in 2020 with violent extremists citing misinformation and conspiracy theories about COVID-19 for their actions.
- DHS, as well as other Federal agencies and law enforcement partners will continue to take precautions to protect people and infrastructure across the United States.
- DHS remains committed to preventing violence and threats meant to intimidate or coerce specific populations on the basis of their religion, race, ethnicity, identity or political views.
- DHS encourages state, local, tribal, and territorial homeland security partners to continue prioritizing physical security measures, particularly around government facilities, to protect people and critical infrastructure.

TYPES OF ADVISORIES

Bulletin
Describes current developments or general trends regarding threats of terrorism.

Elevated Alert
Warns of a credible terrorism threat against the United States.

Imminent Alert
Warns of a credible, specific and impending terrorism threat against the United States.

HOW YOU CAN HELP

- We ask the public to report suspicious activity and threats of violence, including online activity, to local law enforcement, FBI Field Offices, or their local Fusion Center.
- Your choice can make a difference. Choose non-violent ways to make your voice heard and support friends and family in doing the same.
- Communities are strongest when they are not divided: Strengthen your community by standing together against violence.

BE PREPARED

- Avoiding large crowds, including protests, is safest due to ongoing pandemic conditions. However, if taking part in protests do so peacefully, safely, and wear masks.
- Be responsible for your personal safety. Make note of your surroundings and security personnel. Carry emergency contact as well as medical and other needs information with you.
- Connect, Plan, Train, and Report to prepare businesses & employees.

STAY INFORMED

- Local, state and federal agencies will provide specific information about emerging threats as additional information is identified. The public is encouraged to listen to local law enforcement and public safety officials.
- Last year, DHS released a Homeland Threat Assessment to the public examining the threat environment through 2021.
- The DHS Lexicon on terrorism includes terminology for DVEs and HVEs.

If You See Something, Say Something . | For more information, visit www.dhs.gov/seesay.

The National Terrorism Advisory System provides information on homeland security issues and threats. It is developed by the Department of Homeland Security. More information is available at www.dhs.gov/ntas. To receive mobile updates, www.father.com/ntas.

WARNING: This record contains Sensitive Security Information that is controlled under 49 CFR parts 15 and 1520. No part of this record may be disclosed to persons without a "Need to Know," as defined in 49 CFR parts 15 and 1520, or to the extent otherwise permitted in writing by the Administrator of the Transportation Security Administration or the Secretary of Transportation. Unauthorized release may result in civil penalty or other action. For U.S. government agencies, public disclosure is governed by 5 U.S.C. 552 and 49 CFR parts 15 and 1520.



AIR MARSHAL NATIONAL COUNCIL

Integrity - Loyalty - Strength

10524 Moss Park Road | Suite 204776 | Orlando, FL

32832 Phone: (800) 864-6122 | Email:

info@airmarshalnc.com

October 2, 2025

The Honorable Rand Paul

Chairman

Senate Committee on Homeland Security and Governmental Affairs

295 Russell Senate Office Building

Washington, DC 20510

SUBJECT: Thank You for September 30, 2025, Hearing and Request for Sponsorship of Senate Bill on Federal Air Marshal Service Reform and Reorganization Act

Dear Chairman Paul,

On behalf of the Air Marshal National Council (AMNC) and the thousands of Federal Air Marshals we represent, I would like to sincerely thank you for convening the **September 30, 2025, hearing titled "Examining the Weaponization of the Quiet Skies Program."**

Your leadership in exposing the misuse of TSA's Quiet Skies and related administrative programs has provided critical oversight and accountability for both the traveling public and the Federal Air Marshal Service workforce. Your strong statement that "every official who approved or directed surveillance of Americans for protected speech must be removed from office" reflects the courage and integrity necessary to restore public trust in our aviation security system.

The Air Marshal National Council has long advocated for reform and reorganization of the Federal Air Marshal Service. As you heard in testimony and as documented by the DHS Office of Inspector General and the GAO, the TSA has mismanaged FAMS for decades, wasting taxpayer dollars and eroding both workforce morale and aviation security. TSA is fundamentally an administrative agency and should not be tasked with directing federal law enforcement operations.

Request for Action:

We respectfully request that you introduce the Senate version of the **Federal Air Marshal Service Reform and Reorganization Act**. The text of the proposed bill follows for your review and consideration.

Proposed Legislation

S. XXXX

To enhance aviation security and the stability of the Federal Air Marshal workforce by making the Federal Air Marshal Program a specialty aviation unit within Homeland Security Investigations, and for other purpose.

IN THE SENATE OF THE UNITED STATES

October 2, 2025

A BILL

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the “Federal Air Marshal Service Reform and Reorganization Act.”

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that the Federal Air Marshal Service is critical to aviation security and must be strengthened by:

1. Establishing FAMS as a specialty aviation unit within Homeland Security Investigations (HSI), improving aviation and transportation security effectiveness and morale.
2. Housing the Air Marshal program within a federal law enforcement agency, allowing augmentation by HSI’s 6,000+ Special Agents during times of heightened risk.
3. Creating 3–5 year rotational assignments to mitigate burnout and improve career sustainability.
4. Restoring high standards for training and firearms proficiency.
5. Ending TSA’s Quiet Skies and similar unvetted internal watchlist programs, focusing deployments on genuine threats.
6. Implementing DHS OIG recommendations to reduce size while strengthening team deployments.
7. Leveraging HSI’s international presence for more effective liaison and investigations.
8. Expanding successful integration of FAMS into BEST and other HSI task forces.
9. Enhancing HSI’s ability to target transnational criminal organizations and terrorist networks.
10. Aligning aviation security missions with U.S. law enforcement and intelligence community priorities.

SEC. 3 TRANSFER OF FEDERAL AIR MARSHAL SERVICE TO ICE.

Within one year of enactment, DHS shall transfer all FAMS programs, operations, personnel, and assets from TSA to ICE. ICE shall establish FAMS as a specialty aviation unit within HSI.

SEC. 4. CONVERSION OF FEDERAL AIR MARSHALS TO HSI.

- FAMS will convert to the GS pay scale with no reduction in pay.
- Within 5 years, FAMS will convert to 1811 Special Agent positions.
- Pay, retirement, leave, overtime, and Law Enforcement Availability Pay protections are preserved.

SEC. 5. ENHANCING AVIATION SECURITY BY CLARIFYING RISK-BASED

MISSIONS.

Amend 49 U.S.C. 44917 to:

- Ensure deployments are based on known or suspected risk, not TSA's Quiet Skies or successor programs.
- Prioritize long-haul non-stop flights, known or suspected criminals/terrorists, and missions in consultation with FBI, intelligence agencies, and carriers.

SEC. 6. TECHNICAL AND CONFORMING AMENDMENTS.

- Amend the Homeland Security Act and Title 49 U.S.C. to transfer authority from TSA Administrator to ICE Director.

Closing

Senator Paul, your leadership is essential to advancing this reform. By sponsoring this legislation, you will help restore integrity to the Federal Air Marshal Service, align it under true law enforcement leadership, and protect both taxpayers and the traveling public.

Respectfully,

Sonya LaBosco
Sonya Hightower-LaBosco
Executive Director
Air Marshal National Council

David Londo
David Londo
President
Air Marshal



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October 2, 2025

The Honorable Rand Paul

Chairman
Senate Committee on Homeland Security and Governmental Affairs
295 Russell Senate Office Building
Washington, DC 20510

Re: Federal Air Marshal Service Reform and Reorganization Act — Summary & Justification

Dear Chairman Paul,

On behalf of the Air Marshal National Council (AMNC) and Federal Air Marshals nationwide, we thank you for your leadership as **Chairman of the Senate Committee on Homeland Security and Governmental Affairs (HSGAC)** in holding the September 30, 2025, hearing entitled "*Examining the Weaponization of the Quiet Skies Program.*"

Your oversight has shed light on serious abuses, including the misuse of TSA's Quiet Skies program, the unconstitutional surveillance of innocent Americans, and failures of TSA leadership. Your strong statement that "*every official who approved or directed surveillance of Americans for protected speech must be removed from office*" underscores the urgency of reform and accountability.

Congressional Hearing Update – September 30, 2025

Key findings from the hearing included:

- Quiet Skies was used beyond its intended scope, raising constitutional concerns.
- Innocent travelers, including public officials, were surveilled without justification.
- Experts testified that such practices risk undermining civil liberties.
- You, Chairman Paul, emphasized the removal of officials who weaponized surveillance against Americans.

These findings reinforce the urgent need to dismantle Quiet Skies and adopt transparent, risk-based, and constitutionally sound mission deployments.

Why Reform Is Urgent

The **Federal Air Marshal Service Reform and Reorganization Act** will:

- Establish FAMS as a **specialty aviation unit within Homeland Security Investigations (HSI)** under ICE.
- Convert Federal Air Marshals into criminal investigators, bringing them under a true federal law enforcement structure.
- Save taxpayers an estimated **\$500 million annually** through right-sizing and streamlining operations.
- Terminate TSA's unvetted internal watchlist programs, which oversight bodies and Congress have deemed ineffective, wasteful, and unconstitutional.

Structural Reform

The DHS Office of Inspector General and GAO have repeatedly documented TSA's mismanagement of FAMS (GAO: 16-582; DHS OIG: 18-70; 19-17; 21-11). TSA is an administrative agency and should not control federal law enforcement operations. Moving FAMS to HSI ensures oversight and leadership are placed in the hands of a law enforcement agency with the training, authority, and accountability required to safeguard both national security and civil liberties.

Importantly, the **current FAMS field offices are geographically located near HSI offices across the nation**, making organizational integration and operational coordination straightforward. In addition, the **Federal Law Enforcement Training Center (FLETC)** already houses and trains new recruits for both HSI and FAMS, while also providing mandatory retraining for each component. This ensures that any relocation of FAMS offices or adjustments to training requirements would be **seamless, cost-effective, and immediately executable**.

Other nations have adopted this best practice: Air Marshal programs in **Canada, Great Britain, Germany, and Thailand** are all managed within federal law enforcement structures. The United States must do the same.

Call to Action

Chairman Paul, we respectfully urge you to enter into the official record and encourage you to **sponsor the Senate version of the Federal Air Marshal Service Reform and Reorganization Act**. Your leadership is vital to advancing this urgently needed reform and ensuring aviation security is led by law enforcement professionals, not bureaucratic administrators.

AMNC stands ready to provide you and your staff with additional materials, briefings, or testimony to support introduction and advancement of this legislation.

Respectfully,

Sonya LaBosco
 Sonya Hightower-LaBosco
 Executive Director
 Air Marshal National Council

David Londo
 David Londo
 President
 Air Marshal National Council

In the name of God, the Most Compassionate, the Most Merciful.
All praise and thanks belong to God, the Lord of the Worlds.
May peace and prayers be upon Prophet Muhammad and all of God's prophets.



Council on American-Islamic Relations
453 New Jersey Ave. S.E.
Washington, D.C. 20003
Tele 202-488-8787 Fax 202-488-0833
E-mail: info@cair.com URL www.cair.com

September 30, 2025

The Honorable Rand Paul, Chair
The Honorable Gary Peters, Ranking Member
Senate Committee on Homeland Security and Governmental Affairs
340 Dirksen Senate Office Building
Washington, D.C. 20510

RE: CAIR Letter for the Record – “Examining the Weaponization of the Quiet Skies Program”

Dear Chair Paul, Ranking Member Peters, and Members of the Committee:

On behalf of the Council on American-Islamic Relations (CAIR), the nation’s largest Muslim civil rights and advocacy organization, I write to commend the Committee for holding this important hearing on the Transportation Security Administration’s *Quiet Skies* program.

The *Quiet Skies* program was one of several administrative “add-ons” created after 9/11. It operated without statutory authority, public oversight, or meaningful accountability to the courts or Congress. Though publicly justified as a tool of aviation security, in reality, it became a vehicle for political favoritism and religious profiling, consuming hundreds of millions of taxpayer dollars while failing to prevent a single terrorist attack. Earlier this year DHS rightly dismantled the program. Its elimination was both necessary and overdue, and it acknowledges what civil rights groups have argued for years: secretive surveillance programs of this nature waste resources, erode constitutional rights, and do not make Americans safer.

Quiet Skies is not the first such program to collapse under scrutiny. The National Security Entry-Exit Registration System (NSEERS), launched in 2002, forced tens of thousands of Muslim and Arab men to register with the government, undergo interrogations, and risk deportation, even though it never produced a single terrorism conviction. NSEERS was widely condemned as discriminatory and ineffective before being dismantled in 2016. The end of NSEERS and the termination of Quiet Skies demonstrate that programs created without clear statutory authority, operating outside of public view, and directed disproportionately at minority communities cannot and should not endure.

Washington D.C.

Alabama Arizona California Colorado Connecticut Florida Georgia Illinois Kansas Kentucky Maryland
Massachusetts Michigan Minnesota Missouri New Jersey North Carolina New York Ohio Oklahoma
Pennsylvania Texas Washington State

Yet while these two programs have been eliminated, the broader federal watchlist enterprise continues to exist and remains the true source of ongoing constitutional harm.

CAIR's 2023 report *Twenty Years Too Many* revealed that more than 98 percent of the names on the FBI's 2019 Terrorism Screening Dataset were Muslim. Placement on these lists does not require arrest, charge, or conviction. Instead, it is based on vague suspicion, often tied to religious practice or protected political speech. Individuals are never notified of their placement, are denied access to the government's evidence, and are left without a meaningful process to challenge their status. The results are life-altering: American citizens are denied boarding passes, subjected to humiliating airport searches, stripped of employment opportunities, coerced into becoming informants, and stigmatized as "second-class citizens." These harms are amplified by the widespread dissemination of the lists to airlines, local police, and even foreign governments.

It is vital to underscore that this entire watchlist system is an administrative creation. Congress never authorized it. It was constructed by executive directive and interagency agreement after 2001. Because it was never legislatively created, it must not now be legislatively "fixed." To attempt to codify or modify the watchlist by statute would be to grant permanent legal existence to a program that has always operated outside the law. Just as with Quiet Skies and NSEERS, the proper path forward is administrative dismantlement. The same executive agencies that built this architecture should now be directed to unwind it.

The courts have also begun to recognize the constitutional infirmities of this system. In *Fikre v. FBI*, a case CAIR filed in 2013 together with co-plaintiff Brandon Mayfield and litigated with the pro bono assistance of Jenner & Block LLP, the United States Supreme Court unanimously held in 2023 that the government cannot evade judicial scrutiny of its watchlist practices by removing individuals from the No Fly List only after they file suit. That ruling was a milestone for accountability and an affirmation that secret watchlists implicate fundamental constitutional rights. But litigation alone cannot reform a program of this scale. Congressional oversight and executive action are both necessary to bring this system to an end.

For these reasons, CAIR respectfully recommends that the Committee and Congress:

- Affirm that the federal watchlist system was never authorized by Congress and should not be codified into law in its current form.
- Press the executive branch to dismantle the unconstitutional programs like the Terrorism Screening Dataset, the No Fly List, and related programs through administrative procedures, just as was done with NSEERS and Quiet Skies.
- Reject superficial legislative "fixes" that would grant statutory legitimacy to unconstitutional watchlists.
- Require DHS, DOJ, and FBI to publicly disclose criteria for placement, the number of Americans listed, and the scope of information-sharing with airlines, local law enforcement, and foreign governments.
- Guarantee meaningful due process by ensuring individuals receive notice, access to evidence, and an independent mechanism to challenge their inclusion on any watchlist programs that continue to operate.

- Prohibit reliance on religion, nationality, ethnicity, or protected political speech in security determinations.
- Defund discriminatory and stigmatizing initiatives such as TSA's *Silent Partner* and DHS's CP3 program, which embed suspicion of Muslim communities into ordinary civic life.
- Conduct regular hearings and oversight to ensure that dismantlement occurs and that new programs are not reconstituted under different names.

The end of Quiet Skies and NSEERS shows that discriminatory surveillance programs can be eliminated. Now, the larger watchlist system, the true source of ongoing surveillance and denial of rights to Americans, must be addressed. It is an unconstitutional administrative program that should never have existed and must not be legislated into permanence. We urge the Committee to lead in pressing the executive branch to dismantle it once and for all.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert S. McCaw".

Robert S. McCaw
Government Affairs Department Director
Council on American-Islamic Relations (CAIR)