

GERARDO HERNANDEZ AIRPORT SECURITY ACT OF 2014

JULY 3, 2014.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. McCAUL, from the Committee on Homeland Security,
submitted the following

R E P O R T

[To accompany H.R. 4802]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security, to whom was referred the bill (H.R. 4802) to improve intergovernmental planning for and communication during security incidents at domestic airports, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Gerardo Hernandez Airport Security Act of 2014”.

SEC. 2. DEFINITIONS.

In this Act:

(1) **ASSISTANT SECRETARY.**—The term “Assistant Secretary” means the Assistant Secretary of Homeland Security (Transportation Security) of the Department of Homeland Security.

(2) **ADMINISTRATION.**—The term “Administration” means the Transportation Security Administration.

SEC. 3. SECURITY INCIDENT RESPONSE AT AIRPORTS.

(a) **IN GENERAL.**—The Assistant Secretary shall, in consultation with the Administrator of the Federal Emergency Management Agency, conduct outreach to all airports in the United States at which the Administration performs, or oversees the implementation and performance of, security measures, and provide technical assistance as necessary, to verify such airports have in place individualized working plans for responding to security incidents inside the perimeter of the airport, including active shooters, acts of terrorism, and incidents that target passenger-screening checkpoints.

(b) **TYPES OF PLANS.**—Such plans may include, but may not be limited to, the following:

(1) A strategy for evacuating and providing care to persons inside the perimeter of the airport, with consideration given to the needs of persons with disabilities.

(2) A plan for establishing a unified command, including identification of staging areas for non-airport-specific law enforcement and fire response.

(3) A schedule for regular testing of communications equipment used to receive emergency calls.

(4) An evaluation of how emergency calls placed by persons inside the perimeter of the airport will reach airport police in an expeditious manner.

(5) A practiced method and plan to communicate with travelers and all other persons inside the perimeter of the airport.

(6) To the extent practicable, a projected maximum timeframe for law enforcement response.

(7) A schedule of joint exercises and training to be conducted by the airport, the Administration, other stakeholders such as airport and airline tenants, and any relevant law enforcement, airport police, fire, and medical personnel.

(8) A schedule for producing after-action joint exercise reports to identify and determine how to improve security incident response capabilities.

(c) **REPORT TO CONGRESS.**—Not later than 90 days after the date of the enactment of this Act, the Assistant Secretary shall report to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the findings from its outreach to airports under subsection (a), including an analysis of the level of preparedness such airports have to respond to security incidents, including active shooters, acts of terrorism, and incidents that target passenger-screening checkpoints.

SEC. 4. DISSEMINATING INFORMATION ON BEST PRACTICES.

The Assistant Secretary shall—

(1) identify best practices that exist across airports for security incident planning, management, and training; and

(2) establish a mechanism through which to share such best practices with other airport operators nationwide.

SEC. 5. CERTIFICATION.

Not later than 90 days after the date of enactment of this Act, and annually thereafter, the Assistant Secretary shall certify in writing to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate that all screening personnel have participated in practical training exercises for active shooter scenarios.

SEC. 6. REIMBURSABLE AGREEMENTS.

Not later than 90 days after the enactment of this Act, the Assistant Secretary shall provide to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate an analysis of how the Administration can use cost savings achieved through efficiencies to increase over the next 5 fiscal years the funding available for checkpoint screening law enforcement support reimbursable agreements.

SEC. 7. NO ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.

No additional funds are authorized to be appropriated to carry out this Act, and this Act shall be carried out using amounts otherwise available for such purpose.

SEC. 8. INTEROPERABILITY REVIEW.

(a) **IN GENERAL.**—Not later than 90 days after the date of enactment of this Act, the Assistant Secretary shall, in consultation with the Assistant Secretary of the Office of Cybersecurity and Communications, conduct a review of the interoperable communications capabilities of the law enforcement, fire, and medical personnel responsible for responding to a security incident, including active shooter events, acts of terrorism, and incidents that target passenger-screening checkpoints, at all airports in the United States at which the Administration performs, or oversees the implementation and performance of, security measures.

(b) **REPORT.**—Not later than 30 days after the completion of the review, the Assistant Secretary shall report the findings of the review to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

PURPOSE AND SUMMARY

The purpose of H.R. 4802 is to improve intergovernmental planning for and communication during security incidents at domestic airports, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

On November 1, 2013, a lone gunman entered Terminal 3 at Los Angeles International Airport (LAX) and began a shooting rampage, which left Transportation Security Officer Gerardo Hernandez dead and three other individuals wounded. While the response by law enforcement, TSA personnel, and emergency responders was heroic and impressive, after-action reports conducted on the incident showed gaps in communications and coordination procedures.

H.R. 4802 is a bipartisan bill that seeks to improve security incident preparedness by directing the Transportation Security Administration (TSA) to verify that airports across the United States have incorporated procedures for responding to active shooters targeting security checkpoints into their existing incident plans. Additionally, the legislation directs the Administrator of TSA to report to the appropriate Congressional committees the Administration's findings regarding the levels of preparedness at airports. The bill also mandates that TSA establish a mechanism by which best practices in security incident mitigation can be shared with airports across the country and requires that the agency certify to the appropriate Congressional committees that all screening personnel have participated in training for active shooter scenarios. Additionally, TSA is required to provide an analysis to the appropriate Congressional committees on how cost savings can be used to increase funding for reimbursable agreements for airport law enforcement over the next five years. Finally, the legislation requires TSA to conduct a review of the interoperable communications capabilities of the law enforcement, fire, and medical personnel responsible for responding to a security incident at airports in the United States.

The Subcommittee conducted outreach regarding this bill to a number of stakeholders, including airport operators, local law enforcement, airport police, labor organizations representing airport employees and screeners, the Government Accountability Office, and TSA.

HEARINGS

No hearings were held on H.R. 4802, however the Committee held the following hearings.

On March 28, 2014, the Subcommittee on Transportation Security held a field hearing at the Los Angeles International Airport entitled “Lessons from the LAX Shooting: Preparing for and Responding to Emergencies at Airports.” The Subcommittee received testimony from Hon. John S. Pistole, Administrator, Transportation Security Administration, U.S. Department of Homeland Security; Ms. Gina Marie, Lindsey, Executive Director, Los Angeles World Airports; Mr. Patrick M. Gannon, Chief of Airport Police, Los Angeles World Airports; and Mr. J. David Cox, Sr., National President, American Federation of Government Employees.

On May 29, 2014, the Subcommittee on Transportation Security continued its series of hearings with a hearing entitled “Lessons from the LAX Shooting: Airport and Law Enforcement Perspectives.” The Subcommittee received testimony from Mr. Frank Capello, Director of Security, Fort Lauderdale—Hollywood International Airport; Mr. Michael J. Landguth, President and Chief Executive Officer, Raleigh-Durham Airport Authority, Raleigh-Durham International Airport; Mr. Kevin Murphy, President, Airport Law Enforcement Agencies Network; and Mr. Marshall McClain, President, Los Angeles Airport Peace Officers Association.

COMMITTEE CONSIDERATION

The Committee met on June 11, 2014, to consider H.R. 4802, and ordered the measure to be reported to the House with a favorable recommendation, amended, by voice vote. Prior to consideration, the Chair discharged the Subcommittee on Transportation Security from further consideration of H.R. 4802. The Committee took the following actions:

The following amendments were offered:

An Amendment by MR. HUDSON (#1); was ADOPTED by unanimous consent.

Page 1, beginning at line 3, strike section 1 and insert a new “Sec. 1. Short Title.”

An Amendment by MR. PAYNE to the Amendment in the Nature of a Substitute (#2); was AGREED TO by voice vote.

Page 4, after line 23, insert a new section entitled “Sec. _____. Interoperability Review.”

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto.

No recorded votes were requested during consideration of H.R. 4802.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has held oversight hearings and made findings that are reflected in this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX
EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 4802, the Gerardo Hernandez Airport Security Act of 2014, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 24, 2014.

Hon. MICHAEL MCCAUL,
Chairman, Committee on Homeland Security,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4802, the Gerardo Hernandez Airport Security Act of 2014.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Megan Carroll.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 4802—Gerardo Hernandez Airport Security Act of 2014

H.R. 4802 would direct the Assistant Secretary of Homeland Security, acting through the Transportation Security Administration (TSA), to undertake a variety of activities aimed at enhancing security at airports where TSA performs or oversees security-related activities. The bill would require TSA to verify that all such airports have plans in place for responding to security threats and to provide technical assistance as necessary to improve such plans. H.R. 4802 also would require TSA to disseminate information on best practices for addressing security threats and ensure that all screening personnel have received training in how to handle potential shooting threats. Finally, H.R. 4802 would require the Department of Homeland Security's (DHS's) Office of Cybersecurity and Communications to report to the Congress on the capacity of law enforcement, fire, and medical response teams to communicate and respond to security threats at airports.

Based on information from DHS, CBO estimates that implementing H.R. 4802 would cost about \$2.5 million in 2015, assuming appropriation of the necessary amounts. Of that amount, CBO assumes the department would spend about \$1.5 million to provide additional technical assistance to airports and about \$1 million to evaluate the interoperability of communication systems used by emergency response teams. H.R. 4802 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 4802 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Megan Carroll. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 4802 contains the following general performance goals and objectives, including outcome related goals and objectives authorized.

This legislation requires the Administrator of the Transportation Security Administration to submit a report to the Congress on the findings of the Administration's outreach to airports regarding their security incident preparedness, as well as certify that screening personnel have completed active shooter scenario training. The legislation also requires the Administrator to conduct a review of the interoperable communications capabilities of law enforcement, fire, and medical personnel responsible for responding to a security incident at airports across the country. Lastly, TSA must submit to the appropriate Congressional committees a report on how the agency can increase funding for reimbursable agreements to airport law enforcement at checkpoints through cost savings related to general efficiencies.

DUPLICATIVE FEDERAL PROGRAMS

The Committee finds that H.R. 4802 does not contain any provision that establishes or reauthorizes a program known to be duplicative of another Federal program.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with rule XXI of the Rules of the House of Representatives, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of the rule XXI.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

PREEMPTION CLARIFICATION

In compliance with section 423 of the Congressional Budget Act of 1974, requiring the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt State, local, or Tribal law, the Committee finds that H.R. 4802 does not preempt any State, local, or Tribal law.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that H.R. 4802 would require no directed rule makings.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section provides that bill may be cited as the “Gerardo Hernandez Airport Security Act of 2014”.

Sec. 2. Definitions

This section defines “Assistant Secretary” as the Assistant Secretary of Homeland Security (Transportation Security) of the Department of Homeland Security, and “Administration” as the “Transportation Security Administration” (TSA).

Sec. 3. Security incident response at airports

This section requires the Assistant Secretary to conduct outreach to all airports at which TSA performs or oversees the performance of security measures and provide technical assistance to verify that airports have active plans for responding to security incidents at their respective airports. These plans can include, but are not limited to:

- A strategy for evacuating and providing care to persons inside the airport;
- A plan for establishing a unified command post during an incident;
- A specified schedule for testing of communications equipment;
- An evaluation of how emergency calls placed inside the airport will reach airport police in an expeditious manner;
- A method and plan to communicate with travelers inside the airport;
- To the extent practicable, a projected maximum timeframe for law enforcement response;
- A schedule of joint exercises and training to be conducted by the airport, TSA, other stakeholders such as airport and airline tenants, and any relevant law enforcement, airport police, fire, and medical personnel; and
- A schedule for producing after-action joint exercise reports to identify and determine how to improve security incident response capabilities.

This section also mandates that the Assistant Secretary submit a report to Congress on the current level of preparedness at airports to deal with an active shooter scenario or other security incident. It also allows and encourages flexibility for airports to maintain or develop security incident response plans, based on the airports individual needs and challenges. The Committee does not expect airports to create duplicative plans, as many airports already address security incident response in their existing Airport Emer-

agency Plan, Airport Security Program, or both. Rather, this bill is intended to verify that airports have security incident plans in place and encourage the incorporation of more robust procedures into existing plans, should there be a need to do so.

The Committee believes it is imperative that airports have plans in place for responding to a security incident, including an active shooter incident, and that plans are, to the extent feasible, understood by the frontline workforce, including Transportation Security Officers and, where applicable, private contract screeners, as well as employees of tenants of the airports and others who work in the airports.

Sec. 4. Disseminating information on best practices

This section requires the Assistant Secretary to identify and share with airports nationwide, best practices for security incident planning, management, and training.

Sec. 5. Certification

This section requires the Assistant Secretary to, not later than 90 days after enactment, and annually thereafter, certify to the House Committee on Homeland Security and the Senate Committee on Commerce, Science, and Transportation that all screening personnel have participated in practical active shooter training scenarios.

In the wake of the shooting at Los Angeles International Airport, the Administrator of the TSA required that all employees complete virtual active-shooter training by no later than March 31, 2014. Further, the Agency's after-action report on the shooting stated that the TSA's Office of Training and Workforce Engagement was working to develop additional training scenarios for employees. The Committee believes it is important that screening personnel receive practical training for active shooter scenarios tailored to their work environment.

Sec. 6. Reimbursable agreements

This section requires the Assistant Secretary to, not later than 90 days after enactment, report to Congress on how TSA can increase available funding for reimbursement of law enforcement support at screening checkpoints over the next five years, using savings achieved through efficiencies.

The Committee understands that while staffing levels among the ranks of State and local law enforcement stationed at airports has remained relatively consistent, the reimbursement provided to such law enforcement by TSA has steadily declined in recent years. Due to the critical role that airport law enforcement play in providing security within the airport environment, including passenger-screening checkpoints, this section seeks ways to increase TSA funding to law enforcement who provide support at screening checkpoints through the savings achieved in other areas where TSA may find efficiencies.

Sec. 7. No additional authorization of appropriations

This section clarifies that no additional funds are authorized to carry out this Act; rather, the Act should be carried out with existing appropriations.

Sec. 8. Interoperability review

This section, offered as an amendment during Full Committee consideration by Representative Donald Payne, Jr. (D-NJ), requires the Assistant Secretary to, not later than 90 days after the date of enactment, conduct a review of the interoperable communications capabilities of the law enforcement, fire, and medical personnel responsible for responding to a security incident, including active shooter events, acts of terrorism, and incidents that target passenger-screening checkpoints, at all airports in the United States at which TSA performs, or oversees the implementation and performance of, security measures. This section also requires the Assistant Secretary to, not later than 30 days after the completion of the review, report the findings of the review to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

The response to the shooting at LAX on November 1, 2013, highlighted that not all law enforcement, fire, and medical personnel responding to security incidents at airports across the nation have the capacity to communicate via interoperable radios. The Committee believes TSA should be aware of the interoperable communications capabilities of law enforcement, fire, and medical personnel responsible for responding to security incidents at airports and use that knowledge to help inform incident response.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

As reported, H.R. 4802 makes no changes to existing law.

