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U.S. DEPARTMENT OF HOMELAND SECURITY

BEFORE THE
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL
AFFAIRS

U.S. SENATE

CONCERNING

**OVERSIGHT OF THE TRANSPORTATION SECURITY ADMINISTRATION:
FIRST-HAND AND GOVERNMENT WATCHDOG ACCOUNTS OF AGENCY
CHALLENGES**

JUNE 9, 2015



Chairman Johnson, Ranking Member Carper, and Members of the Committee, thank you for inviting me here today to discuss important concerns related to the Transportation Security Administration and security at our Nation's airports.

The mission of the Transportation Security Administration is to ensure the freedom of movement for people and commerce, which is undeniably a difficult challenge. It is also the mission of the TSA to protect the traveling public against terrorist attacks. Balancing these two priorities is critical to the success of the Agency. The ability of TSA to execute its mission has been called into question by many oversight and watchdog groups.

My testimony today will focus on a number of the security concerns and agency policies that result in vulnerabilities and morale issues across our workforce.

Leadership

Over recent years, TSA has hired into leadership positions a number of former Airline Executives and others who place more emphasis on Customer Service and passenger wait times than on security and detection rates. This is demonstrated by the amount of scrutiny that is placed upon wait times by both the Regional Offices as well as TSA headquarters. Any wait time that is deemed by the agency as excessive requires immediate reporting, a thorough analysis, and corrective action. Wait times are tracked daily on a local level and are the first item listed on our daily dashboard. Conversely, the local monthly testing of our Transportation Security Officers to determine their ability to detect weapons and explosives is not associated with any performance metric. When this testing, referred to as the Aviation Screening Assessment Program (ASAP), results in a failure to detect the item, there is basic remedial training required before the Officer may return to duty. A Transportation Security Officer may never be subjected to a covert test, either by TSA, OIG, GAO, or other entity, based on the current volume of assigned tests each month, limited resources to conduct tests, and the sheer number of Security Officers. The lack of realistic testing on a regular basis leads to complacency in our workforce.

It is not until recently, actually within the past few weeks, that detection of Improvised Explosive Devices (IEDs) has become a topic of discussion in TSA. This is the direct result of covert testing at numerous airports identifying detection rates that caused great concern. I was briefed on the failure rates of a pilot program testing effort during in a classified briefing; therefore, I cannot discuss the specifics. In the briefing, TSA Leadership recognized that poor detection rates are, in part, related to the poor morale that exists across our workforce.

In addition to the pressure our Transportation Security Officers experience regarding wait times, there is also a hesitancy by some officers to resolve alarms on passengers which impacts detection rates. From my experience as a TSA Training Coordinator as well as the Acting AFSD-Screening for over 6 months, I recognize that while the Standard Operating Procedures may instruct TSOs to resolve alarms in a certain manner, they may be intimidated or fearful of physical contact with sensitive body areas. Again, with negative reports and encounters with uncooperative passengers, TSOs may understandably experience a level of discomfort when resolving certain alarms. It is important to have active oversight by STSOs and Screening Managers to ensure that the SOPs are followed consistently. In my limited experience as a role player for these types of ASAP tests, I have placed weapon parts in sensitive areas and taped simulated explosives in my upper thigh area, and, in each instance, the female TSO did detect the test items. Given time, training, and proper oversight, our TSOs will be able to detect prohibited items to include IEDs and weapon parts regardless of their location on a person or in their property.

Just last week, after pressure from the Secretary of the Department of Homeland Security and subsequent media reports related to the recent covert testing efforts and poor detection rates, TSA began a new initiative for Federal Security Directors to become actively engaged with our workforce with an emphasis on improving morale and increasing detection rates. It is critical to the success of the organization and the safety of the traveling public to continue down the path of dedicating resources to improve detection rates, and changing the culture so our TSOs do not feel pressure to sacrifice security in order to reduce wait times.

Morale

The 2014 Federal Viewpoint Survey resulted in the Department of Homeland Security receiving among the lowest ratings of any Federal Government agency, and the TSA receiving more than their fair share of low marks. The survey demonstrated that while our frontline employees feel strongly that the work they do is important, they are not valued by leadership. The job of a Transportation Security Officer is a challenging one, with a great deal of pressure and scrutiny. For example, the expectation is that a TSO working at the Ticket Document Check (TDC) position should average 12 – 13 seconds to process a passenger. That involves comparing the photograph on the identification to the passenger, scrutinizing the identification for signs of tampering, ensuring the name on the boarding pass matches the name on the identification, and finally reviewing the boarding pass for several other data points. If a TSO misses a data point, it typically results in a disciplinary action, regardless of the circumstances. A culture of fear and distrust has been created in the agency, also impacting morale and performance of employees. This is clearly documented in the results of the survey.

Morale has also suffered from the continuous realignment efforts of various departments within TSA. Our Behavior Detection Officers, FSD Staff, Transportation Security Managers, Federal Air Marshals, and now Transportation Security Inspectors have all gone through a realignment process where many positions were eliminated and pay bands downgraded. While it is important to improve efficiencies, TSA should also review the number of employees at TSA Headquarters for potential realignment opportunities, since the important work of day to day operations exists in the field rather than the Headquarters buildings.

PreCheck Risk Assessment Rules

Equally as troubling are the security gaps associated with the TSA Pre✓[®] program. While a risk based approach to passenger screening is essential, TSA has expanded PreCheck to large populations of passengers who have not enrolled in or paid for the program. In the fall of 2013, I expressed my concerns with the expansion of the PreCheck program to my leadership as well as the TSA Office of Inspections. I was informed that “I better watch what I said, and that my comments would be shared with the Administrator.” I later reported the concerns to the Office of

Special Counsel for investigation. The allegations were substantiated by the Department of Homeland Security Inspector General in a report titled *Security Enhancements Needed to the TSA PreCheck Initiative.*

According to the report, the OIG “determined that providing TSA Pre✓[®] screening to certain passengers using risk-based analysis by TSA’s Secure Flight Program creates a known aviation security vulnerability,” as alleged in my complaint. Even after the DHS OIG asked that TSA discontinue the practice, TSA did not comply.

TSA is handing out PreCheck status like Halloween candy in an effort to expedite passengers as quickly as possible, despite the self-admitted security gaps that are being created by the process. The TSA Pre✓[®] enrollment program did not meet expectations in terms of volume; therefore, PreCheck rules keep expanding as a matter of efficiency even though the agency is well aware of the associated security risks. Also acknowledged in the DHS OIG report is that “internal testing results reveal that TSA Pre✓[®] lane threat detection rates need improvement,” which is further documented in a classified report titled *Comparison through Testing Detection Rates of TSA Pre✓[®] and Standard Screening Lanes.*

In addition to the passengers who enrolled and paid to participate in the TSA Pre✓[®] program, TSA has now extended the privilege to wide populations of passengers, some based on their affinity to an organization (for example, TSA employees with Known Traveler Numbers (KTN)) and others based on a risk assessment performed during the Secure Flight system vetting process. From personal experience and documented incidents, I know that there are security gaps in the Secure Flight system that could be exploited by terrorists. This includes processes used to identify No Fly and Selectee designations in addition to the PreCheck passengers.

Based on the concerns I voiced regarding PreCheck and the associated DHS OIG reports, on April 30, 2015 The U.S. House of Representatives introduced H.R.2127 – Securing Expedited Screening Act. The intent of the bill is “To direct the Administrator of the Transportation Security Administration to limit access to expedited airport security screening at an airport security checkpoint to participants of the PreCheck program and other known low-risk passengers.” This legislation that would prevent TSA from continuing the practice of risk assessment rules to assign PreCheck status to passengers. I respectfully encourage your support of the bill as it progresses.

A second method to increase the volume of passengers through the PreCheck lanes is Managed Inclusion. There are two forms of Managed Inclusion, which are MI 1 involving the use of Passenger Screening Canine (PSC) teams, and MI 2 involving randomly selecting passengers at airport screening checkpoints to use the PreCheck lane. By randomly selecting passengers, felons or others with ill intent may be permitted to use the PreCheck lane. MI 2 includes some additional security procedures for those randomly selected to receive PreCheck privileges, to include interaction with the TSA Behavior Detection Officers (BDOs) and checks for explosives. I have no data to evaluate the effectiveness of detection rates using the MI 2 procedure, as there are currently no ASAP protocols designed for that specific process, nor are there any methods to validate the effectiveness of the techniques used by the BDOs.

MI 1 includes the PSC teams conducting Real Time Threat Assessments (RTTAs) and using vapor wake techniques to detect explosives. On several occasions, I have monitored the testing of the PSC teams by using decoys with real explosives on their person or accessible property to determine the effectiveness of the process. In each occasion, the K-9 alerted to the explosive and the item was discovered. Also, during a recent discussion with Officers from the Minneapolis Airport Police Department, I learned that after the failed attack by the "Underwear Bomber," the aircraft involved in the attack was in Minneapolis for maintenance. The Officers took this as an opportunity to test the effectiveness of the K-9 teams by walking through the aircraft with no knowledge of where the IED had been located. In each instance, the K-9 alerted to the exact location or a row adjacent to where the Underwear Bomber had been seated. Although even dogs can have a bad day, these personal observations as well as feedback from my peers who currently manage the PSC program at their airports suggest a higher level of confidence with the MI 1 risk based procedures.

Insider Threat

As documented in recent reports, the Insider Threat continues to present a security concern at our nation's airports. Although some form of screening is conducted on cargo that is transported on passenger aircraft, catering supplies, checked baggage, and, of course, passengers, there are other airport employees and contractors who have access to sterile areas of the airport as well as the aircraft who are subjected to only Criminal History Record Checks and Security Threat Assessments. A specific group of employees who are typically contractors of the air carriers present a known and greater risk, based on my experience. This group has unimpeded access to aircraft, and it was discovered that some of these SIDA

badged employees who had worked at the Minneapolis-St. Paul Airport later traveled to Syria to fight for ISIL. TSA has increased the use of the Playbook team with a focus on the Insider Threat, and needs to continue to use a risk based approach when determining the best locations to deploy the Playbook teams.

Recent reports also reveal that airports have exceeded the acceptable percentage of unaccounted SIDA identification, and failed to initiate renewal processes for the badge holders. TSA is in the process of collecting data to determine the number of unaccounted SIDA badges at each of our nation's airports. This data has not been provided to the field locations, so I have no information on the unaccountable percentages or measures to address this concern.

As an Assistant Federal Security Director for Inspections, it is my responsibility to ensure airports and air carriers are in compliance with the Transportation Security Regulations, and if incidents of non-compliance occur, ensure that they are documented and corrected. If the issue continues, it is my responsibility to initiate progressive enforcement action. I am fortunate that the airports in Minnesota are generally very proactive in terms of security; however, based on conversations with my peers, many airports and air carriers are not as proactive and consider security a "cost of doing business."

At many locations, and in my experience in the past, the Federal Security Director is reluctant to initiate enforcement action against the airport or the air carriers. Last week, at a summit with my peers, I learned of several accounts where AFSDs were instructed by their FSD not to move forward with enforcement action in fear of the impact it may have on the relationship between the TSA and the airport or air carrier. A conflict of interest exists when the FSD relies upon the airport and air carrier to provide space for passenger and baggage screening, common use baggage conveyor systems, queue line space, etc. and on the other hand has overall responsibility for execution of the regulatory program.

Additionally, Transportation Security Inspectors are being used by FSDs to perform a wide range of duties not related to their core functions. Such duties include conducting Administrative Inquiries of other TSA employees, being members of Safety Action Teams, moving bins at the checkpoints, and, perhaps most egregiously, conducting quarterly audits of Universal Enrollment Facilities to determine such items as whether or not there is hand soap in the restrooms and if the staff is friendly. These audits should be done by a Contracting Officer rather than Regulatory Inspectors. This would allow TSIs more time to focus on ensuring the safety of the traveling public. DHS should reconsider the reporting

structure for our Transportation Security Inspectors to eliminate any potential conflicts, misuse of their time, and potential pressure to use verbal counseling or administrative action in lieu of Civil Penalty enforcement actions against the airport or air carrier. TSA should consider training our Finance Officers in the field as Contracting Officer Technical Representatives (COTRs) to oversee the numerous contracts that must be monitored.

Prohibited Personnel Practices

TSA uses Prohibited Personnel Practices to pressure and even force employees to resign when management wants them removed from the agency. When allegations of misconduct occur by employees in certain positions, the Federal Security Director or other leader must refer the allegations to the TSA Office of Inspection (OOI). I have personally experienced and heard of multiple instances when the Federal Security Director is selective in terms of which items will be referred to OOI, based on their relationship with the individual. If the Office of Inspection does investigate, they send Criminal Investigators to conduct investigations of even minor administrative matters. The FSD can influence the scope and direction of the investigation. During the actual investigation, the OOI teams use heavy handed tactics to intimidate the subject as well as witnesses. In my experience, I was threatened with Criminal Prosecution, and I was later informed that the OOI Investigators told at least one person that they were simply using that tactic in an attempt to get me to resign, when they had no evidence to support the allegations. They interrogate witnesses, threaten them with polygraph testing, and design questions to obtain certain predetermined answers. Witnesses are instructed to say whatever they want against the subject, and they will not be held accountable, even if they are untruthful in sworn statements. It is a waste of taxpayer dollars to use Criminal Investigators to conduct routine administrative investigations and also destroys the morale and trust of the workforce.

Another technique used by TSA Leadership to “get rid” of employees is directed reassignments. A number of employees in leadership positions who are performing at levels that Achieve Excellence or Exceed Expectations have been given a notice of directed reassignment, with no reason or explanation. They are informed that if they do not report to the new location, they will no longer be employed. This includes employees who have not signed a mobility agreement as a condition of employment. Additionally, by TSA Management using disciplinary action to correct alleged performance issues, employees are disadvantaged financially and it causes distrust in the workplace.

The practice of using Criminal Investigators to conduct routine administrative inquiries is a huge waste of taxpayer dollars and causes morale issues in the agency. TSA should reduce the Criminal Investigator workforce, re-evaluate the Table of Penalties used by the Office of Professional Responsibility, and immediately discontinue the use of interrogations during routine inquiries.

Summary

I have over 25 years of Federal Government service, starting as a Federal Air Marshal with the Federal Aviation Administration Security Division, and later serving 2 years in Singapore under the umbrella of the US Embassy. I conducted Foreign Airport Assessments in Manila as Ramzi Yousef was actively plotting to blow up several U.S. aircraft departing from Southeast Asia. On the Thursday before the tragic events of 9/11, two Special Agents from the local Joint Terrorism Task Force shared with me a classified document regarding Zacarias Moussaoui, who was in custody in Minneapolis. According to the report, jihad was near, and Moussaoui was a member of a group planning to fly commercial aircraft into buildings, killing thousands. The following Tuesday, that exact thing happened, and I vowed to do what I could to ensure it never happens again. This is why I voiced my concerns regarding Secure Flight and PreCheck, initially through my chain of command and TSA Headquarters, and ultimately the Office of Special Counsel. Although the process is time consuming and extremely stressful, I refuse to give up until someone forces TSA to address these and other security concerns. That is why I agreed to testify today, despite the retaliatory actions that I may face by the Agency.

In conclusion, the culture that exists at TSA is one of fear and distrust. While TSA cannot control all the risks associated with aviation security, the Leadership of the Agency is certainly in a position to impact change. Better training and management of the workforce would result in an improvement to morale as well as detection rates. If employees feel valued and respected, the metrics will reflect this in a positive way. TSA should eliminate security gaps created by risk assessment rules in the Pre✓[®] program, and DHS should reconsider the reporting structure for Inspectors to avoid any conflicts.

Mr. Chairman, this concludes my prepared statement. I welcome any questions from you or other Members of the Committee.