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BENNIE G. THOMPSON, MISSISSIPPI
RANKING MEMBER

**One Hundred Twelfth Congress
U.S. House of Representatives
Committee on Homeland Security
Washington, DC 20515**

August 12, 2011

The Honorable John S. Pistole
Administrator
Transportation Security Administration
601 S. 12th Street
Arlington, VA 20528

Dear Administrator Pistole:

I am writing to you concerning the Transportation Security Administration's (TSA) pilot program at Boston Logan International Airport. It is my understanding that Behavior Detection Officers (BDO) are currently being trained and will be deployed to "interview" 100% of passengers moving through checkpoint security screening. These "interviews," conducted by "Assessors" will be in addition to other security measures currently in use.

On August 9, 2011, TSA officials briefed Committee staff about the training of selected BDOs as "Assessors" for this pilot program. It is my understanding that the pilot program will begin on August 15, 2011 and will end on or about October 15, 2011. Although the BDOs may not have interviewed a sufficient number of passengers to yield a statistically significant result during this 60 day period, TSA representatives indicated during the briefing that the agency plans on using the results of the pilot to determine whether the "Assessor" program should be expanded.

These developments are troubling. Previously, I have written to you about my concerns regarding the Screening Passengers by Observation Technique (SPOT) program and the role of BDOs at commercial service airports. To date and despite repeated inquiries, TSA has not responded to my letter dated June 21, 2011. As you may recall, in that letter, I expressed my misgivings about the lack of a rigorous scientific validation of SPOT as well as the lack of training and safeguards to prevent racial and ethnic profiling.

My questions about the scientific premise for SPOT were underscored by the Government Accountability Office's (GAO) findings that TSA deployed SPOT nationwide before first determining whether a scientifically valid basis supported its use or a scientifically supported

case could be made for using behavior and appearance indicators as a counterterrorism measures within the airport environment.¹

Unfortunately, TSA has failed to address GAO's findings or my concerns. It is my understanding that the validation study completed this year by the Department of Homeland Security's (DHS) Science and Technology Directorate was not designed to fully validate whether behavior detection can be used to reliably identify individuals who pose a security risk to aviation. The study concluded that further research to explore elements of reliability and validity is still needed.²

GAO also found that TSA deployed SPOT without conducting a comprehensive risk assessment and cost-benefit analysis, or implementing a revised strategic plan for its deployment.³ As Congress and the Executive Branch continue to negotiate historic reductions in federal spending, it is curious that TSA continues to deploy personnel and devote dwindling budget resources to this unproven, costly and potentially ineffective security screening protocol.

As explained to Committee staff by TSA representatives, the Assessor screening technique involves asking passengers personal questions. The responses to those questions will determine whether a passenger is sent for additional questioning, secondary screening or referral to a law enforcement officer. As the Assessor questioning protocol was not considered in the DHS Science and Technology validation study, there is no scientific validation, limited or comprehensive, of the efficacy of the Assessor model of screening to detect persons who pose a security risk to aviation. In essence, instead of attempting to comply with concerns raised by GAO, it appears that TSA is "doubling down" by using the SPOT model as the basis of another scientifically unproven technique which would require greater personal interaction with passengers.

Finally, I was dismayed to read recent media accounts about apparent racial profiling by BDOs at Newark Liberty International Airport over a two-year period.⁴ Arrest data evaluated by GAO indicated that over a four year period 40% of individuals arrested based on a SPOT referral were arrested on immigration status issues, not for any terrorist activity. This account highlights the likelihood that ethnic and racial minorities are disproportionately interrogated and referred to law enforcement by BDOs. Unfortunately, TSA has failed to provide me with a report on the causes or corrective action taken at Newark as requested in my June 21st letter.

Because reasonable questions raised by me involving several aspects of the SPOT program remain unanswered by TSA, I cannot support the expansion of the program or the initiation of the "Assessor" pilot. Until TSA is able to articulate the manner in which the implementation of

¹ U.S. Government Accountability Office, *Efforts to Validate TSA's Passenger Screening Behavior Detection Program Underway, but Opportunities Exist to Strengthen Validation and Address Operational Challenges* (GAO-10-763), p.15, Washington, D.C., 2010.

² U.S. Department of Homeland Security Science and Technology Directorate, *SPOT Referral Report Validation Study*, Washington, D.C., 2011.

³ U.S. Government Accountability Office, *Efforts to Validate TSA's Passenger Screening Behavior Detection Program Underway, but Opportunities Exist to Strengthen Validation and Address Operational Challenges* (GAO-10-763), pp. 22 and 24, Washington, D.C., 2010.

⁴ Report: Newark airport screeners targeted Mexicans and Dominicans, <http://www.cnn.com>, June 15, 2011.

the "Assessor" program is scientifically validated and will enhance airline security, I urge you to immediately postpone implementation of the program. Further, in the absence of the information requested in June, I urge you to cease implementation of the SPOT program and redeploy BDOs to essential passenger and baggage screening at passenger checkpoints and throughout the baggage handling system.

If you have any questions please contact Cherri Branson, Chief Counsel for Oversight, Committee on Homeland Security (Democratic Staff) at 202-226-(b)(6)

Sincerely,

A handwritten signature in black ink that reads "Bennie G. Thompson". The signature is written in a cursive style with a large, prominent "B" and "T".

Bennie G. Thompson
Ranking Member

OSO

For Administrator's
Signature

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