



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

November 22, 2011

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

Dear Administrator Pistole:

On November 8, 2011, a local news station in Honolulu, Hawaii reported that Transportation Security Officers (TSO) employed by the Transportation Security Administration (TSA) target Mexican passengers at screening checkpoints to ensure that they are traveling in the United States legally.¹

According to the media report, these allegations were divulged by two current TSA employees at the Honolulu International Airport (HNL) who work within the Screening of Passengers by Observation Technique (SPOT) program, a behavior based profiling program in use at several U.S. airports. According to the news report, the TSOs, known to their fellow employees as the "Mexicutioners," engaged in the pursuit of Mexican passengers through the SPOT program in an effort to appear "highly productive" to their supervising managers.

These allegations have not only underscored my original concerns regarding the scientific validity of the SPOT program but have led me to believe that serious management challenges remain which exacerbate my initial misgivings about the program's legitimacy.

Last Congress, I wrote to you requesting the suspension of SPOT until TSA permitted the Department of Homeland Security (DHS) to conduct an independent peer-reviewed assessment of the utility and efficacy of behavior detection as a passenger screening technology. At that time, I expressed my concerns about the possibility of legally impermissible racial profiling as a product of a program that relied upon physical appearance as a factor in split-second decisions by TSOs about which passengers should be targeted, stopped and questioned under the rubric of "behavior detection."

¹ Kerr, Keoki. November 8, 2011. TSA Whistleblowers: HNL Screeners Target Mexicans. *KITV-4 News*. Retrieved November 18, 2011 from <http://www.kitv.com/news/29657196/detail.html>

In June 2011, media accounts reported that BDOs at Newark Liberty International Airport targeted minority passengers. That revelation was also made possible through the actions of employees who realized that race and ethnicity were being used as a determinant factor in selection of passengers for questioning under the SPOT program.²

Taken together, the actions of BDOs at Newark and Honolulu raise concerns not only about the scientific validity of the program, but also about the training, curriculum and on-site supervision provided BDOs charged with administering SPOT.

In your response to my earlier letter, you indicated that:

“race and ethnicity are not factors taken into consideration in the SPOT program. Additionally, TSA has taken numerous steps to ensure that the behavior and other indicators used in the SPOT program do not result in unlawful racial profiling.”³

Moreover, your response provided a great deal of specificity on the efforts to assure that BDOs would be adequately trained to assure that racial profiling would not be a product of a program that relied upon split-second decisions about risk based on appearance and “behavior”. Specifically, in referencing the SPOT Standard Operating Procedures (SOP) and the BDO training, your letter states:

“Several procedures outlined in the SPOT standard operating procedures (SOP) and the SPOT training curriculums provide best practices to avoid racial and ethnic profiling in behavior detection activities. The SPOT SOP references 7 times (sic) that behavior detection activities be done without racial and ethnic profiling. The SOP includes the requirement that BDOs work in pairs to validate and confirm each other’s (sic) observations. The SOP also requires managers who oversee the SPOT program to spend time on the floor observing his/her (sic) BDOs to ensure SPOT is being performed correctly.

Your letter goes on to state:

“Additionally, as part of their basic training, BDOs who perform SPOT receive cultural awareness training and specific instruction with emphasis on the DHS policy against racial or ethnic profiling. BDO core training references 11 times (sic) that racial or ethnic profiling is not tolerated and that it detracts from the real threat as high risk passengers do not fit any specific profile.”⁴

Unfortunately, events described in June at Newark and in November at Honolulu do not support the contention that training and supervision insulate the program from racial profiling by BDOs. Further, TSA’s internal investigation of the Newark incident, which led to disciplinary action against a SPOT manager, retraining of the entire Newark BDO staff and the appointment of new management officials at Newark stand as clear testament to the flawed nature of this program despite explicit statements contained in the training manuals and “hands on” supervision by officials.

² CNN Report, June 15, 2011, *CNN Online*, Newark Airport Screeners Targeted Mexican and Dominicans, <http://www.cnn.com>, June 15, 2011.

³ Letter from TSA Administrator John S. Pistole to the Honorable Bennie G. Thompson, October 6, 2010.

⁴ Letter from TSA Administrator John S. Pistole to the Honorable Bennie G. Thompson, September 21, 2011.

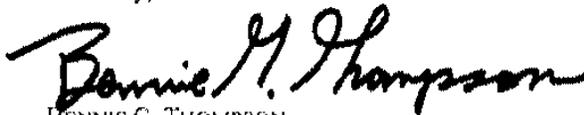
These incidents and the failure of both training and supervision to prevent the practice of racial profiling are clear indications that more research, evaluation, and testing must be completed before behavior detection can be successfully integrated at aviation security checkpoints.

Therefore, pursuant to Rule X (3) (g) and Rule XI of the Rules of the House of Representatives, I respectfully request that you provide the following information no later than December 16, 2011.

1. TSA's internal report on the Honolulu International Airport SPOT program and any other reports TSA have conducted to investigate inappropriate activity by Behavioral Detection Officers at any and all U.S. airports.
2. A narrative describing the manner in which the number of BDO interviews is factored into a BDO's rating, salary or any other performance measure or evaluation
3. Specific steps taken by TSA to address the racial profiling allegations at Honolulu International Airport and to alert Federal Security Directors at airports with Behavior Detection officers of best practices to avoid racial and ethnic profiling in behavior detection activities. Please provide action items that relate to initial training and recurrent training, outside of guidance included in the training manual.
4. Please provide a copy of the comprehensive training program for BDOs, Assessors and managers in the field. Please provide a timeline outlining recurrent training for all BDOs across the United States.
5. A list of countries of origin for each foreign national arrested as a result of a referral from TSA BDOs in Honolulu.
6. In your letter dated September 21, 2011, you indicated that by the end of the 2011 calendar year, TSA would complete a comprehensive risk assessment on SPOT. Please provide a copy of this comprehensive risk assessment.
7. In your letter dated September 21, 2011, you indicated that by the end of the 2011 calendar year, TSA would complete a comprehensive cost-benefit analysis of SPOT. Please provide a copy of the final report detailing a cost-benefit analysis of the SPOT program including a comparison of SPOT to other security screening programs and existing security measures at airports.

Thank you for your attention to this matter. If you have any questions about this request, please contact Cherri Branson, Chief Counsel for Oversight, at (202) 226-2616.

Sincerely,



BENNIE G. THOMPSON
Ranking Member
House Committee on Homeland Security