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OVERSIGHT OF THE TRANSPORTATION SECURITY ADMINISTRATION

HEARING

BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

NOVEMBER 17, 2010

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ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

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OVERSIGHT OF THE TRANSPORTATION SECURITY ADMINISTRATION

WEDNESDAY, NOVEMBER 17, 2010

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Committee met, pursuant to notice, at 9:35 a.m. in room SR–253, Russell Senate Office Building, Hon. John D. Rockefeller IV, Chairman of the Committee, presiding.

OPENING STATEMENT OF HON. JOHN D. ROCKEFELLER IV, U.S. SENATOR FROM WEST VIRGINIA

The CHAIRMAN. This hearing will come to order.

My opening statement. And then, as I explained to the distinguished witness, I have to go rescue the healthcare bill in the Finance Committee, where it's going to be assaulted on all sides. And so, Byron Dorgan will take over, as he should.

So, my statement: Turn on the TV, pick up the newspaper—in the past 48 hours, there have been a steady stream of stories about airport screening procedures—on pat-downs, full-body scanners, and comments from spouses in all directions.

I appreciate peoples' concerns. I understand that there's a frustration. I realize some of these screening procedures appear invasive. Our witness and I had a terrific long session at the beginning of this week, and we went into a lot of this.

The new pat-down procedures embody the enormously difficult task—unavoidably difficult task—impossible task—of balancing the need to protect the public and the need to maintain their privacy. How do you do that on a pat-down? Well, one of my first questions for you, Mr. Pistole—who—I think, you're doing a—Mr. Pistole, you're doing a great job—concerns these procedures and how you came to develop the new security regulations. I do recognize the threat that we face.

I used to chair the Senate Intelligence Committee. I'm still a member. I can tell you that the threats are, as we indicated the other day in our conversation, extremely real and extremely ongoing. And it's evolving every day. And they only haven't—something hasn't happened because the intelligence has been so good. And that won't always be the case. So, we've had a kind of a lucky run, here. But, we can't expect that to last. We face a deadly and determined enemy who seeks to do us harm—enemy from without, enemy from within. It's easy to put together a package, stick it in

underwear, in shoes, whatever, and—you never know. But, the problem is, you always have to know. TSA always has to know.

So, consider the events of this last year. A terrorist boarded a plane bound for America on Christmas Day. He carried a deadly explosive onboard. Should have gone off, didn't go off. Federal agents uncovered a plot to bomb multiple subway stations in Washington, D.C. The terrorist's goal: to kill as many people as possible. Again, good intelligence gathering prevented this from happening. It should have happened. It didn't happen. We were lucky. Good intelligence.

Authorities recently disrupted a plot to blow up planes over the U.S. using bombs hidden in cargo. Again, excellent intelligence stopped this plot, which should have worked, from moving forward.

But, we cannot be complacent, therefore. Our transportation system remains a prime terrorist target, not just air—transportation, too, all forms. We must continue to bolster our defenses against a determined enemy, who will not relent, will not go away, and, in fact, will increase. And as terrorist methods evolve, therefore so must the TSA's.

TSA has massive responsibilities and multiple missions. They move a half a billion people through the U.S. aviation system every year, screen billions of pounds of domestic and foreign cargo as best as they can, protect our ports and our diverse public transportation systems, all of this with the prospect of not enough money to do the job that they would like to do. I do not doubt the difficulty of their mandate, but the agency must remain, somehow, well-resourced. We're not talking theology or ideology here, we're talking about protecting the American people. Gets to be a very different deal, sort of like FISA. A lot of Democrats didn't like FISA. They said it invaded privacy too much. Well, maybe a whole lot of really bad things didn't happen because there is FISA. And so, we have to just go back and forth on these things.

The agency must remain well-resourced, as I indicated, and they must remain nimble in their response to new and emerging threats. We must take appropriate action to close any security loopholes, while making sure our global transportation system continues to move people, freight, goods, faster and faster, and in an effective manner.

I continue to have concerns about general aviation. We discussed that. General aviation has gotten off pretty easy. I don't like going out to Dulles Airport and just walking right onto an airplane. Not a pat-down. Forget it. They don't even look at me.

So, clearly, the existing system of international cargo security needs a fresh look, which I know TSA and DHS have started to do.

We must also incorporate new technology that will make it harder for terrorists to exploit our transportation systems.

It's complicated, is it not, Senator Lautenberg?

And, as I've already stated, but I think it's important enough to say again, the balance between security and privacy, it always faces you, haunts you, Director Pistole; it haunts you. It's a delicate one. I believe TSA is committed to achieving this balance, to the extent that it can. I would urge all of us to consider that these procedures are in place to protect us from a very real risk. They're not there just for the doing of it.

In the coming weeks, I'll be working with my colleagues in Congress to make sure that TSA has the resources it needs to address key security concerns. That's going to be tough in this atmosphere. But, on this committee we have to sort of gather ourselves together to decide this is important.

I thank you for being here, today, very much. I think you're doing a terrific job. You have been at the helm of TSA for only several months now, and I know it has been a demanding time for you. So, I look forward to hearing your thoughts, which I won't, because I won't be here. And I explained that to you. So, I apologize for that.

And so, I will vacate the chair, turn to my Co-Chair, Senator Hutchison, and ask Senator Dorgan if he will assume the chair.

Thank you.

STATEMENT OF HON. KAY BAILEY HUTCHISON, U.S. SENATOR FROM TEXAS

Senator HUTCHISON. Mr. Chairman, thank you. And certainly I will look forward to working with you on the reauthorization of the Transportation Security Agency.

Well, Mr. Pistole, the last time you were here, we said this is going to be a tough job. I know you're finding out. And I agree with so much of what the Chairman said. Your job is just enormous. We are looking now at the cargo issue, an area in which this committee has been very active in trying to assure the security and contents of cargo, which is in so many of our passenger planes, as well as cargo planes bringing goods into our country. We've been active, but we have not been able to address that to our satisfaction. And now, with the situation with Yemen, it's very clear that, once again, we dodged a bullet, if you will. But, we've got to have procedures. And I hope that we are going to be working with the foreign countries, where there are gateways into America through aviation, to beef up security. And I know that our committee is going to be very active in that area.

Second, we're going to have to have intelligence gathering to do that, when we are at risk of so many airplanes coming into our airports with cargo—sometimes cargo only, sometimes in the passenger planes. We've got to have intelligence gathering that should be part of either your cooperation or direct control. Of course, you're from the FBI, so you understand that need.

In addition, you've got to be hearing the outcry about the invasive uses of pat-downs now in the airports. There has to be a way that you can figure out how to do what's necessary—because we all see people in the airports going through with long skirts and lots of cover-up possibilities, and that's what you're trying to address, and we understand that—there has got to be a way; however, for a privacy concern to be addressed, because it's a legitimate concern. And I know that you're aware of it, but we've got to see some action. And I know the Secretary is aware, as well. I've heard her say that she is concerned about the privacy issues. But, I think we've got to do more. The outcry is huge.

And I will just end by saying that—well, I have two more things to say. One is, I've also mentioned before that I'm concerned about our ports, which are also entries into America, and our trains, our

surface transportation. We've got to make sure that we're doing everything we can before the originality of our enemy comes forth, rather than always playing catchup, which is what we seem to do. And it's good that we learn from the past, that we learn from the mistakes, that we learn from the new iterations of the plots. However, we've got to start anticipating, through intelligence, what they're up to, before it happens.

The last thing I will mention is that it's my understanding that you haven't made any decision about changing the Federal law that prohibits screeners from striking. I hope that you—with all that's on your plate—will not try to change what is the law in this country. I think if you did decide to go the other way, that there would be an upheaval in Congress, and there would be great efforts to prevent it from happening. I don't think that's a fight that we want right now, when we should be concentrating on all these other issues that both the Chairman and I have mentioned.

So, with that, I'm glad you're here. I appreciate your being here. And I think that, in your short time, you are getting your hands around this. But, our job is to have oversight, and tell you what we think needs to be a priority, and hope to work with you on that.

Thank you very much.

STATEMENT OF HON. BYRON L. DORGAN, U.S. SENATOR FROM NORTH DAKOTA

Senator DORGAN [presiding]. Senator Hutchison, thank you very much.

We are going to begin some votes here in the Senate, I believe, at 11 o'clock today. We have only one witness: Mr. Pistole. And what I would like to do—I want to make a couple of comments, then call on colleagues for 2 minutes or so for opening statements, if they choose. And then we'll hear the testimony from Mr. Pistole.

Senator DORGAN. I want to just mention that the history of all of this goes back to the hijacking and the determination, with metal detectors, to keep guns out of airplanes, because airplanes were being hijacked, particularly to Cuba, but other places, as well. And then we saw the growth of the terrorist threat, creating a shoe in the form of a bomb, or arming a shoe as a bomb, and then fashioning liquids that could be used as a bomb in air, then a bomb disguised as underwear, or an underwear carrying a bomb, and now various more sophisticated things on the freight system on airplanes. And so, we've evolved with a series of threats, trying to respond to the threats to make sure that we have safety in the skies.

I think—I mean, I have a series of questions about the freight side and about general aviation, about the work to make certain that those who work at airports are properly screened. But, I think this—the most recent issue of full-body imaging and law-enforcement-style pat-downs with intimate touching, or what is described as intimate touching—I think those are very legitimate questions. As you know, the law-enforcement-style pat-downs were just initiated, nationwide, in October. So, we've only—it has only been a month. Not surprising to me that there'd be a lot of concern and anger by some, and protests by others, about this. And I think it's important for us to have a pretty full and complete discussion about, what does this mean? I would ask the question—and I will,

Mr. Pistole—have you had that type of pat-down that many Americans are now protesting? And has your staff had that pat-down? And perhaps, have U.S. Senators had that pat-down? And what's the impression of all of that?

We must make sure that people don't get on airplanes with bombs and blow that plane out of the sky and kill a bunch of people. I understand all that. The question is, how do we do that in a way that doesn't go to the nth degree to invade people's privacy and do things that most people would find unacceptable, as they try to get on a plane and get through an airport process.

So, these are important issues, and we appreciate your being here to be able to discuss them with you today. Your job is a tough one. You and your agency must succeed. We insist that you succeed, and want to make sure that we do everything we can to help you succeed on behalf of the interests of the safety of the American people.

Let me call on my colleagues for, if it's appropriate for them, two minute opening statements, so that we can get to the witness as quickly as is possible.

Senator Lautenberg.

STATEMENT OF HON. FRANK R. LAUTENBERG, U.S. SENATOR FROM NEW JERSEY

Senator LAUTENBERG. Thanks, Mr. Chairman.

And, Mr. Pistole, congratulations go to you and your team for the good work done with the cargo coming from Yemen. And although these packages were addressed to Chicago synagogues, investigators now believe the bombs were meant to blow up mid-flight, over the East Coast.

But, vulnerabilities in our system remain. And just 65 percent of cargo on international passenger flights bound for the U.S. are screened—well short of the 100-percent-screening mandate for cargo on passenger aircraft. Right now, DHS receives cargo manifest information from cargo—only aircraft—just 4 hours before arrival. That means that we may not learn about a bomb until it's well within our borders. And Robert Bonner, former Administrator of U.S. Customs, has said it makes sense to have the cargo information pre-departure, so you cannot only deny entry on arrival, but can potentially deny access to the airplane. So, while we want to strengthen aviation security in the United States—and my colleagues have talked about the humiliation that accompanies a pat-down; we've got to talk about that at more length—there are clearly areas that we can identify.

So, too often when we think of TSA, we think only of aviation security. But, we were reminded, last month, when the FBI arrested a man who was plotting to bomb four Metro rail stations in Northern Virginia. And one of the most important transit facilities is the D.C. Metro system, carrying a million passengers a day. And we can't make any mistakes. Passenger and rail transit systems are prime targets for terrorists throughout the world, as we've seen in London, Madrid, Mumbai, and Russia. So, we need to devote more attention, more resources to securing our surface transportation networks against these threats. The threat's real, and we can't afford to be anything less than vigilant about it.

And, once again, Mr. Pistole, congratulations on a job well done so far.

Thank you.

Senator DORGAN. Senator Lautenberg, thank you very much.

Senator Johanns.

Senator JOHANNS. Mr. Chairman, I'm going to submit any comments I have in writing, so hopefully we can expedite the process to get to the witness.

Thank you for the opportunity.

Senator DORGAN. Senator Johanns, thank you very much.

Senator Isakson.

STATEMENT OF HON. JOHNNY ISAKSON, U.S. SENATOR FROM GEORGIA

Senator ISAKSON. Thank you, Mr. Chairman. I also won't make an opening statement.

But, through you, I'd like to make a request of Chairman Rockefeller and Ranking Member Hutchison. And that is that, although this is an open hearing, which is appropriate, I think, at some point in time in the near future, we should have the Administrator and the Committee, in a classified setting, to understand the information that has led up to the changes in the procedures at the airports. And I would make that request, through you, to the Chairman and Ranking Member.

Senator DORGAN. That request is noted.

I might note that this committee has, on a previous occasion—it has been some long while now—had a closed hearing in which secret material was presented to us about transportation security.

Senator Klobuchar.

STATEMENT OF HON. AMY KLOBUCHAR, U.S. SENATOR FROM MINNESOTA

Senator KLOBUCHAR. Thanks very much, Chairman Dorgan.

I endorse Senator Isakson's idea here. I think it's very important. Obviously, there are some things—why some of these procedures were implemented—some things that we're not going to be able to talk about in public, for security reasons. I appreciate that.

I wanted to, first, again thank you for the role that TSA played in securing our Nation. Certainly these recent incidences with the bombs being sent to synagogues illustrated the importance of this screening. And I'm eager to work with my colleagues. I know work is going on right now. I know that Secretary Napolitano—and changes have been made in terms of countries that can no longer send in this cargo, which I appreciate. But, also, I've supported stronger screening in the future, and, both with this committee and Judiciary, look forward to working on these issues.

I want to say a few words on passenger screening, at my own risk, given the calls that have been coming in to our office on these screenings. I appreciate the steps forward that you've made. I have been a fan of the Advanced Imaging Technology. One, I think it's going to show things that we didn't know about before. That's very important, and is a deterrent to some of these activities. Second, as someone who has a hip replacement, I've been patted down in front of my constituents on every single flight I've taken, and I

kind of welcome this Advanced Imaging Technology, where you don't have to have a pat-down. So, I hope in your remarks you will discuss the rollout of that Advanced Imaging Technology so that people do have a choice in airports. I know they have them in ours now, in Minneapolis; if they want to go to the line with the advanced imaging technology, they can do that. If they want to have this pat-down, which we know we need some education out there, with the public, about what it is and what's happening, so they're not caught off guard when they're at the airport. And then, the fact that they're always offered a private screening, I think, is something that also has to be out there, because clearly people are going to feel uncomfortable with this. But, I think they have to understand that this is being done for their best interests and their safety, given some of the terrorist activity that we're seeing across the country.

So, I want to thank you for your work.

Senator DORGAN. Thank you, Senator Klobuchar.

Senator McCaskill.

STATEMENT OF HON. CLAIRE MCCASKILL, U.S. SENATOR FROM MISSOURI

Senator MCCASKILL. You know, TSA is always in a "damned if you do, damned if you don't" mode. I certainly appreciate that the American public demands safety and security on our commercial airplanes. And there is a price we pay for that, and that is sometimes an uncomfortable price for the American flying public.

I have gone on, in other committees and in this committee, about the ridiculous notion that I couldn't take my mascara on an airplane. And I understand that this is obviously much more serious to many Americans, in terms of intrusiveness.

But, I think we can do a better job on public education. And, like Amy, I have had my love pats every single flight I have taken, which is at least twice a week for the last 4 years of my life, because I have a knee replacement. So, I am wildly excited about the notion that I can walk through a machine instead of getting my dose of love pats.

So, I think we've got to work on this, make sure that the traveling public has choices, make sure they understand the risks that we're trying to address. And then I think we can—the majority of Americans, I think—I hope—will become supportive of the measures that TSA is trying to do to keep us safe.

I want to take the remaining time in my opening statement to congratulate the Department of Homeland Security. We have a tendency, in this process, to focus on the failures of government, and there have been some real successes. I think the way the H1N1 virus was handled, I think—while many Americans were very frightened for a number of weeks, I think that a good job was done there. And I think, between Homeland Security and our intelligence community, we should all be thanking the public servants that protected us from another explosion in midair, in terms of the incident at Yemen. And the intelligence community is—are the unsung heroes in this country. And this Administration has made a huge commitment to the intelligence community, and continuing to make sure that we have the right kind of intelligence and that we

have it at the right time. So, congratulations on keeping—continuing to try to keep America safe.

And I'll look forward to listening to your testimony today.

Thank you, Mr. Chairman.

Senator DORGAN. Senator McCaskill, thank you very much.

I know what Senator McCaskill meant, but I'm sure, Mr. Pistole, you will want to deny that there is any love-patting going on.

[Laughter.]

Senator DORGAN. But, I understood the——

Senator MCCASKILL. I'm just used to being—having the pat-down at TSA. I was being silly, but I think everybody understood. I hope——

Senator DORGAN. I understand.

Senator MCCASKILL. I hope they understood.

Senator DORGAN. Mr. Pistole, you are reasonably new to this job, and I know you've had to hit the ground running, and this committee really appreciates that work.

So, why don't you proceed. My understanding is, you have a slightly longer opening statement, by necessity. And this committee understands that. Why don't you proceed. And your entire statement will be made a part of the record.

STATEMENT OF HON. JOHN S. PISTOLE, ADMINISTRATOR, TRANSPORTATION SECURITY ADMINISTRATION

Mr. PISTOLE. Thank you, Chairman Dorgan—I appreciate your indulgence—and Ranking Member Hutchison, and distinguished members of the Committee. It is an honor to be here in my first oversight hearing with this committee since being sworn in on July 1 as the TSA Administrator.

As we begin this busy travel season next week, I would like to take just a moment to address the traveling public, and all those who are focusing on this issue right now, to make sure they know that the core mission of TSA, Homeland Security—really, the U.S. government—is to keep the traveling public safe.

Over the past year, we have seen further attempts by terrorists to attack subways, and aviation—both cargo and passenger. And as we talk about aviation and being informed by the latest intelligence, we know the terrorist intent is still there, as we've seen manifested. We know their capabilities, in terms of the concealment, and the design of improvised explosive devices.

So, we are using technology and protocols to stay ahead of the threat and keep you safe. We're continuing to deploy advanced imaging technology at more airports. And I want to be clear that AIT is the best available technology today. We're always looking at improved technology—and I'll talk a little bit about the Automated Target Recognition, if there's an interest in that—to try to enable us to detect the next generation of nonmetallic explosive devices that terrorists are using. AIT is safe for travelers, crew members, and our workforce. And that has been validated through a number of studies, whether it's by Johns Hopkins or FDA or the National Institute of Standards and Technologies.

We have protections in place to ensure that we respect the privacy of travelers. For example, on the pat-downs, those who want to have a private screening are allowed to do that. So, the use of

AIT remains optional for travelers, but the requirement for screening—equivalent screening—is not. We need to ensure, for everyone, for all the traveling public, that when they get on that plane, they have the high confidence that everybody else on that flight has been adequately screened.

And, by the way, everybody else on that plane must make sure I've been adequately screened or you've been adequately screened. So, that is what we come down to in this balance between privacy and security. And I'll talk more about that in response to questions.

So, we've adjusted our pat-down policy to simply be using techniques that are informed by the latest intelligence, going back to Christmas Day, in what we've seen with the cargo plot—again, the concealment and design of PETN—in ways that challenge our social norms and, I would add, from extensive covert testing by GAO, by the DHS Inspector General, and by our own Office of Inspection in TSA. I would want to go into a classified setting to go into details about how they get through security and what we need to do to address that. And that's what we have done, in some part. And again, we'd ask that we'd be able to go, at some point, into a closed setting to discuss that in more detail.

We've also been informed by what other countries' airport authorities around the world are doing. All of you have traveled to many places and have seen, and perhaps experienced, the type of pat-down that may be referred to as "love pats," or whatever else. But, the bottom line is that we are consistent with many countries—for example, throughout Europe—and less invasive than some countries around the world, as we know.

So, we need to have an effective pat-down, coupled with the best technology, to resolve anomalies discovered during the screening process. We believe that the AIT is the best technology today. Those who opt-out of that advanced imaging technology need to receive the same type of screening, as I said.

The bottom line is, few people in the overall scheme of things, will actually receive those pat-downs. Now, we've heard some examples. And obviously, there's a vocal group out there who've experienced this for the first time and, rightfully so, are raising some concerns such as, "What's behind this?" The bottom line is, we—the Transportation Security Officers, in particular—are trying to work in partnership with the traveling public to say, "We want to ensure that you're safe on this flight. Work with us in a partnership to provide the best possible security." That's what it comes down to.

One of the things that helps is just people being informed as they go through, whether it's to walk through metal detectors or advanced imaging technology, to make sure they know what the protocols are. With advancing imaging technology, you obviously have to take things out of your pockets. You "divest," as we say. You have to take everything out or it will show up as an anomaly. A lot of people don't know that. So, that's part of the education process. It's on me and the agency to help inform travelers. And we're doing that.

We've seen some public attempts to dissuade travelers from using AIT, and that's understandable. The analogy I use is if there are two flights going to the same place at the same time, and you

have the option of getting on one that you know has been thoroughly screened, and you have another flight where there's no screening—you can just get on that and go, there are no lines or anything, I think everybody will want to opt for the screening, with the assurance that that flight is safe and secure. I know flight crews obviously prefer that, and I know I would prefer that.

So, the workforce is fully trained in the new technology and the new screening procedures, and I expect them to act professionally at all times, and treat all passengers with dignity and respect. I, similarly, ask all passengers to remember that our officers are there to keep you safe, and they need your cooperation to do so. Security is a shared responsibility. And during the holiday travel season, indeed at all times, the cooperation between TSA and traveling public is essential.

I appreciate the kind words about the timely intelligence and international cooperation that we—and I use the collective "we" here, the law enforcement and intelligence communities—used, with aviation authorities, on the recent cargo plot. I went to Yemen, 5 days after the plot was discovered, to assess what they were doing. We sent a team of TSA security screening experts to work with the Yemeni authorities. I met with the Deputy Prime Minister and their Minister of Transport to say, "What are you doing? How can we work with you? This goes to your point, Senator Hutchison. We asked "What are your current protocols, processes? And what can we do, in terms of capacity-building, in terms of training techniques, tactics, and technology?" So, we've taken specific steps, which I'll be glad to get into, in response to questions. I go into considerable detail in my written statement on that plot.

We continue to work with our international partners on a number of issues relating to both passenger and cargo flights. And again, there is a lot more we can talk about in that regard.

I want to briefly update you all on my review of TSA's surface transportation program priorities, because that is a significant issue that we are addressing. We continue to work with surface transportation providers, particularly passenger rail and mass transit, to close vulnerability gaps with a risk-based intelligence-driven process. We want to target grant funds on high-risk critical infrastructure and on operational counterterrorism deterrents. TSA has expanded its Visible Intermodal Prevention and Response Teams (VIPR), has increased the number of surface inspectors, and has begun a successful mobile screening program with the New York City Police Department in the New York City subways.

The air cargo plot and the recently disrupted plot against the transit system here in D.C. show that our enemies are constantly evolving their methods and tools and tactics. At TSA, we are reshaping our approach to security so that everyone recognizes that we are one part of the continuum of national security for the United States.

To accomplish this, I have interconnected three priorities for TSA. One is to have the TSA counterterrorism focus on intelligence and cutting-edge technology. The second is supporting the TSA workforce. And the third is strengthening TSA's partnerships with stakeholders in the traveling public.

With that, Chairman Dorgan and Ranking Member Hutchison, I'd be glad to take questions.

Thank you.

[The prepared statement of Mr. Pistole follows:]

PREPARED STATEMENT OF HON. JOHN S. PISTOLE, ADMINISTRATOR, TRANSPORTATION SECURITY ADMINISTRATION, U.S. DEPARTMENT OF HOMELAND SECURITY

Good afternoon, Chairman Rockefeller, Ranking Member Hutchison, and distinguished Members of the Committee. I am honored to appear before you and this Committee for the first time since my confirmation as the Assistant Secretary of the Department of Homeland Security (DHS) for the Transportation Security Administration (TSA).

I appreciate the vote of confidence you gave me in June when you reported my nomination favorably from the Committee. I look forward to our dialogue today and your thoughts about how we can improve transportation security.

Before sharing with you my priorities for leading TSA through the next stage of its development as it matures into a truly high-performance, world-class organization, I want to update you on our efforts to address recent, serious threats to transportation, to our fellow citizens, and to our economy.

Air Cargo Packages from Yemen

Almost 3 weeks ago, the global counterterrorism community disrupted a potential attack when individuals in Yemen with ties to al Qaida in the Arabian Peninsula attempted to conceal and ship explosive devices in cargo on board aircraft that traveled through several foreign nations, and ultimately was bound for the United States.

This episode began on the evening of October 28 with a call I received from John Brennan, the President's top counterterrorism advisor, informing me of a credible terrorist threat. Later that evening, President Obama directed U.S. intelligence and law enforcement agencies, including the Department of Homeland Security, to take steps to ensure the safety and security of the American people, and to determine whether these threats were part of any additional terrorist plots.

We worked through the night, the next day, and the following weekend, staying in close contact both with our colleagues within the U.S. government and with our international partners and key allies. TSA and U.S. Customs and Border Protection (CBP) immediately took additional measures to enhance existing protocols for screening inbound cargo, including temporarily grounding all packages originating from Yemen destined for the United States. With constant communication and sharing of information, we were able to disrupt this plot before it did any harm.

After the initial response, we took a number of additional steps. In the days immediately following the attempted plot, at the direction of President Obama and Secretary Janet Napolitano, we deployed a team of security inspectors to Yemen to provide assistance and guidance to the Government of Yemen with their cargo screening procedures. I leveraged a previously planned trip to speak to the Aviation Security (AVSEC) World Conference in Germany to interact directly with my counterparts from Europe and elsewhere, as well as International Air Transport Association (IATA) Director General Giovanni Bisignani and Jim Marriott of the International Civil Aviation Organization, about the common transportation security threats we all face, and the common and cooperative actions we could take to address security vulnerabilities.

To get a firsthand view of the challenges we face, from Germany I flew to Yemen to receive briefings from, and express my gratitude to, the TSA inspectors we deployed there. I also met with Yemen Deputy Prime Minister Rashad al-Alimi, and government officials from Yemen's Directorate General of Civil Aviation and Ministry of Interior to discuss the threat with them. In addition, I spoke with our new U.S. Ambassador to Yemen, Gerald M. Feierstein, a seasoned specialist in Near East and South Asian Affairs who has served overseas in eight postings, and as a senior official in the State Department's Office of the Coordinator for Counterterrorism. These on-the-ground meetings with TSA staff and key government officials provide crucial context as we work to understand how to best address possible vulnerabilities within the transportation system.

Our collective actions to address cargo security continued as Secretary Napolitano spoke on November 2 with leaders of the international shipping industry, including UPS, DHL, FedEx, and TNT, about enhancing air cargo security. During the call, Secretary Napolitano underscored her commitment to partnering with the shipping

industry to strengthen cargo security through enhanced screening and preventative measures, including terrorism awareness training for shipping industry personnel.

Following her call with shipping industry leaders, Secretary Napolitano spoke with IATA Director General Bisignani about the Department's continued collaboration with our private sector partners and international allies to secure the global supply chain through a layered security approach that is designed to identify, deter, and disrupt threats. The Secretary also reiterated her commitment to ongoing coordination with the airline and shipping industries to uphold TSA security standards, including the vetting of personnel with access to cargo, employee training, and cargo screening procedures.

Security of the air cargo supply chain is critical, and we are developing security enhancements in close coordination with industry because we understand the value of air cargo to our country's economy. Together, FedEx, UPS, DHL, and TNT employ more than one million employees around the world, and own or operate more than 1,700 aircraft. Each of these companies has operations in more than 200 countries. In 2008, air merchandise trade comprised almost 30 percent of U.S. exports by value, totaling almost $390 billion, and almost 20 percent of U.S. imports by value, totaling over $417 billion. Combined, that represents more than $800 billion of U.S.-international merchandise trade.

As we continue to address the threat to air cargo, we are analyzing information and gathering intelligence on the packages intercepted from Yemen, and we have issued additional directives to the airline industry on the non-acceptance, or extra screening, of high-risk packages on passenger and cargo flights. Specifically, on November 8, Secretary Napolitano announced that:

- the ban on air cargo from Yemen will continue and has been extended to all air cargo from Somalia;
- no high-risk cargo will be allowed on passenger aircraft;
- toner and ink cartridges weighing 16 ounces or more will be prohibited on passenger aircraft in both carry-on bags and checked bags on domestic and international passenger flights inbound to the United States, as well as certain inbound international air cargo shipments; and
- all cargo identified as high risk will go through additional and enhanced screening, including inbound international mail packages, which must be screened individually and certified to have come from an established postal shipper.

With our colleagues at CBP, we are working collaboratively with industry and our international partners to expedite the receipt of cargo manifests for international flights to the United States prior to departure in order to more effectively identify and pre-screen items based on risk and current intelligence. We are also working with our international and private sector partners on the expansion of layered detection systems, including technology and other measures, to find ways to strengthen security that also maintain the critical flows of global commerce that are so important to our economic recovery. We will keep you informed of our progress.

Threats to Mass Transit

Another recent case highlights the importance of mass transit security. On October 27, the Federal Bureau of Investigation (FBI) arrested a Pakistan-born naturalized U.S. citizen for attempting to assist others whom he believed to be members of al Qaida in planning multiple bombings at Metrorail stations in the Washington, D.C., area. During a sting operation, Farooque Ahmed allegedly conducted surveillance of the Arlington National Cemetery, Courthouse, and Pentagon City Metro stations, indicated that he would travel overseas for jihad, and agreed to donate $10,000 to terrorist causes. A Federal grand jury in Alexandria, Virginia, returned a three-count indictment against Ahmed, charging him with attempting to provide material support to a designated terrorist organization, collecting information to assist in planning a terrorist attack on a transit facility, and attempting to provide material support to help carry out multiple bombings to cause mass casualties at D.C.-area Metrorail stations.

While the public was never in danger, Ahmed's intentions provide a reminder of the terrorist attacks on other mass transit systems: Madrid in March 2004, London in July 2005, and Moscow earlier this year. Our ability to protect mass transit and other surface transportation venues from evolving threats of terrorism requires us to explore ways to improve the partnerships between TSA and state, local, tribal, and territorial law enforcement, and other mass transit stakeholders. These partnerships include measures such as Visible Intermodal Prevention and Response (VIPR) teams we have put in place with the support of the Congress. As Secretary Napolitano stated in her speech at the International Association of Chiefs of Police

Annual Conference just 2 days before Ahmed's arrest, "Today's threats put state, local, tribal and territorial law enforcement around the country on the front lines of our counterterrorism effort in unprecedented ways." We are expanding our outreach and coordination with these frontline law enforcement entities to better protect vital transportation assets.

Priorities for TSA

In addition to dealing with these recent serious threats, I have been very busy in my new position. I came to TSA after more than 26 years at the FBI—a time that included playing a role in the United States' investigation and response to the terrorist attacks on September 11, 2001. That experience has informed my priorities as TSA Administrator.

Our enemies are observant, patient, stealthy, and ruthless. They constantly evolve their methods and tools—and it is our job to stay ahead of them. My job is to lead TSA through the next stage in its development as this young agency matures into a high-performance, world-class organization. To defeat our enemies, we have to do our job better and smarter, and reshape our security approach so everyone recognizes what it is: one part of a continuum that comprises the national security mission of the United States.

To make that happen, I have three basic priorities at TSA. I want to:

- improve TSA's counterterrorism focus through intelligence and cutting-edge technology;
- support the TSA work force; and
- strengthen TSA's relationships with stakeholders and the traveling public.

All of these priorities are interconnected and are vital to TSA's mission.

Improving TSA's Counterterrorism Focus Through Intelligence and Cutting-Edge Technology. A key lesson I took from 9/11 and from my years at the FBI is that one of the best tools we possess in our effort to combat terrorism is accurate and timely intelligence. It is with this in mind that I begin my day at TSA with an intelligence briefing with my senior staff—we are constantly honing our counterterrorism focus by working with DHS and our Federal partners to better operationalize this intelligence. The importance of accurate and timely intelligence has consistently been validated in my tenure at TSA to date.

For example, through better watchlisting capabilities and the implementation of our Secure Flight program, we continue to improve our efforts to prevent known or suspected terrorists from boarding flights. Under Secure Flight, TSA uses name, date of birth, and gender to vet airline passengers against terrorist watch lists up to 72 hours before those passengers are permitted to board planes. Passengers who are potential watch list matches are immediately identified for appropriate notifications and coordination.

Secure Flight vets 100 percent of passengers flying on U.S. airlines domestically and internationally, as well as passengers on many foreign airlines, and we are working hard toward fully implementing the program for remaining covered foreign air carriers by the end of 2010. Secure Flight currently vets over 99 percent of all airline passenger travel to, from, and within the U.S. I particularly would like to thank this committee for the strong support that you have provided to TSA and Secure Flight to enable us to reach this stage.

Even the best intelligence, however, does not always identify in advance every individual who would seek to do us harm. So we also rely on the security expertise of our frontline personnel—Transportation Security Officers (TSOs), Federal Air Marshals, explosive specialists, and Behavior Detection Officers, among others—to help prevent terrorists from harming Americans.

That reliance means that valuable intelligence must be distributed widely and rapidly to the field. One way we are improving this process is through the extension of secret-level security clearances to a greater number of TSA employees. This change significantly enhances TSA's ability to leverage the best intelligence and elevate our security practices across the board.

In addition to the improved use of intelligence, effective technology also is an essential component of our arsenal to detect and deter threats against our nation's transportation systems. TSA is deploying a range of next generation equipment—bottled liquid scanners, Advanced Technology X-Ray systems, and Explosive Trace Detection (ETD) units—to enhance our efforts.

On December 25, 2009, Northwest Airlines Flight 253 passenger Umar Farouk Abdulmutallab tried and failed to detonate concealed explosives. This event illustrates the fact that despite decades of advances in screening and significant reforms following 9/11, our global security network still faces an ever-evolving threat. Currently, the most effective technology for detecting small threat items concealed on

passengers, such as explosives used by Abdulmutallab, is Advanced Imaging Technology (AIT). AIT safely and effectively screens passengers for both metallic and non-metallic threats, including weapons and explosives, without physical contact. As of today, TSA has deployed 385 AIT machines to 68 airports nationwide, and our goal is to have nearly 1,000 AIT machines deployed by the end of calendar year 2011.

While we are rapidly deploying AIT machines, we also are exploring enhancements to it, such as Automated Target Recognition (ATR), or auto-detection software. This capability would make screening more efficient and would eliminate most privacy concerns about the technology. Ongoing ATR testing is designed to ensure effective detection with minimal false alarms.

While AIT has an important role in the future of aviation security, it is just one of the technologies we are exploring. For example, we also are working on long-term, technology-based solutions for screening liquids, aerosols, and gels that will distinguish between materials that present a threat and those that do not. In addition, we currently have dozens of qualified technologies for use in air cargo screening and are working with DHS and our industry partners to develop new technologies.

New technology provides only part of the picture for the future of checkpoint screening. It is important that we continue to discuss what the future holds, but the outlines are clear: new technologies must be developed that can be assimilated into an airport environment and rapidly identify and respond to emerging threats. The DHS Science and Technology Directorate, TSA, the Department of Energy, and the National Laboratories are working closely together to accelerate our ability to move to that future checkpoint.

New technology platforms should be capable of being upgraded with additional functionality as they are developed, including functionality developed by those who did not manufacture the original equipment. We seek screening equipment solutions that provide both better performance and a better screening experience for the public. The bottom line is that future screening solutions must focus on providing the best possible security for travelers in a targeted, intelligence-driven way that provides greater scrutiny to those who need greater scrutiny, and not using the same approach for everybody.

Supporting the TSA Workforce. An intelligence-driven agency using sophisticated technological tools to root out terrorists and deter potential attacks will not succeed without a professional, highly trained, fully engaged, and respected work force. As I stated above, the men and women of TSA are on the front line in detecting and defeating the terrorist threat. Since becoming the Administrator for TSA, I have logged thousands of miles to meet with them. I have been impressed by their professionalism, work ethic, and enthusiasm. I have listened carefully to their suggestions on improving operations and opportunities, and have learned from their insights. I also have challenged them to hold themselves to the highest standards of hard work, professionalism, and integrity that already are intrinsic parts of TSA's fabric.

I also am working to hone the workforce development strategy and to develop an environment of continuous learning for TSA employees that will help them meet both individual and organizational goals. As we continue to implement new technology to meet emerging threats, TSA routinely evaluates, updates, and upgrades its technical training curriculum. Over the next few months, technical training priorities include an update to procedures at the passenger screening checkpoint and support for the deployment of new technologies such as Advanced Imaging Technology. Over the next few years, our technical training portfolio will expand and enhance individual and team performance through the introduction of an assortment of skills and knowledge building courses, delivered using a variety of techniques.

We are also working on improving the training for the Transportation Security Inspector (TSI) work force. Along with revision of the TSI Basic Course on multimodal training, we are developing and delivering additional courses targeted to specific transportation modes. TSA also recently expanded the Surface Transportation Training Center located in Pueblo, Colorado, which I visited in July. This is an impressive facility that is significantly improving the training we are able to provide.

Through these efforts, we are finding opportunities to integrate elements that not only enhance technical skills, but also contribute to the professional development of the TSA workforce.

In addition, we are engaged in efforts to address and resolve workplace issues. The Ombudsman at TSA is one of many avenues through which TSA employees may raise workplace issues and concerns to see them resolved. As I travel around the country meeting with employees, I have invited employees to raise issues and concerns to me directly, and I have learned that many employees also place great value in established communications channels, such as the National Advisory Council, the Idea Factory, and local Employee Advisory Councils. Nevertheless, I also

know from my experience at the FBI that an effective Ombudsman program is a valuable resource for unfiltered, candid feedback on the state of the workplace environment, and I am committed to its advisory role to me and the rest of the TSA leadership team.

Strengthening TSA's Relationships with Stakeholders and the Traveling Public. Supporting and improving our commitment to our workforce will help TSA function better internally. But as an organization with millions of interactions with the public every day, we also need to deepen and broaden our relationships with our government colleagues both here and abroad, with transportation and related stakeholders, and with the traveling public.

This already has been a landmark year for improving security through collaboration. We are working to take it to the next level.

Following the attempted December 25 terrorist attack, at the President's direction and led by Secretary Napolitano, the United States engaged governments around the world at five regional summits on five continents, in a renewed effort to strengthen international aviation security. The International Air Transport Association and the Airports Council International engaged the world's aviation industry to complement this significant effort. This impressive showing of global cooperation reminded us that aviation security is a shared responsibility. We all face a similar threat environment that evolves as quickly as we can develop mitigation measures. To improve security, we have to continue to work together. It is through information sharing, development of best practices, and continual evaluation of risk that we will, together, as one community, continue to mitigate the threat.

In working to thwart the air cargo plot, our excellent relationships with our overseas counterparts were crucial. In early October, before the cargo plot emerged, Secretary Napolitano and I attended the International Civil Aviation Organization (ICAO) Assembly in Montreal with our partners from the Department of Transportation and the Federal Aviation Administration. At that meeting we built on our excellent working relationships with our colleagues from other countries and discussed our joint efforts to strengthen the global aviation system. For me, it was the first opportunity to meet many of these foreign leaders, and these contacts already have proven to be invaluable. After the cargo plot emerged, I worked with these foreign colleagues quickly and efficiently, and saw a number of them when I was at the AVSEC conference in Germany.

In the spirit of our commitment to engage the international community, last week the United States hosted an "Advanced Imaging Technology Policy Summit" to continue the discussions around AIT. Approximately 30 countries attended and discussed a wide range of policy questions, including deployment strategy, safety, privacy, legal issues, and checkpoint configuration.

The cargo plot also illustrates our need to strengthen the relationships we have with our private sector partners and stakeholders; we cannot do effective security without their proactive partnership and collaboration. Our collaboration with the world's major air cargo companies has been outstanding, and we are continuing to build that relationship and those with other private sector partners.

Our nation's security also is a shared responsibility with our neighbors and our colleagues in U.S. government agencies. So we are encouraging our citizens, our communities, and our transportation security and law enforcement partners across the United States to remain vigilant and continue to build a national culture of preparedness and resiliency. As you know, Secretary Napolitano has launched an expanding "If You See Something, Say Something" public awareness campaign. This simple and effective program was started by the New York Metropolitan Transportation Authority to raise public awareness of indicators of terrorism, crime, and other threats and to emphasize the importance of reporting suspicious activity to the proper transportation and law enforcement authorities. I have joined Secretary Napolitano in three separate events to partner with transportation sectors in the "If You See Something, Say Something" campaign—we met with Amtrak during a multi-stop train tour through New York City, Newark, NJ; Philadelphia, and Washington in early July, and with the general aviation community at Oshkosh in late July. Earlier this week, Secretary Napolitano and I launched the campaign at airports in the National Capital Region.

Conclusion

Thank you for the opportunity to appear before the Committee today to speak with you about recent threats and TSA's ongoing efforts to ensure the safety and security of the transportation domain. I look forward to your questions.

Senator DORGAN. Mr. Pistole, thank you very much for your testimony and your description of what your agency is doing.

I'd like to ask just a couple of questions. One is the issue of background screening for workers who work in and around the airport. All of us who travel see a lot of people that are serving in different ways on the airport grounds, and I know that they are screened for background screening. There's a current process for that screening, as I understand it, which involves, in large part, the private sector, and you are preparing to begin to change that. I don't—maybe you could describe to us what that change might be, how you're proceeding, and why it is necessary.

My understanding is—the information I've received is that the aviation workers pay about a third of the cost of port workers that are screened by the federal government, whereas aviation workers are screened with a private-sector system that is working. So, tell me what you're doing here.

Mr. PISTOLE. Sir, there are several issues here, Senator, and you've hit on two key issues. How do we harmonize, within the U.S. government, background checks that are done for workers at critical sensitive areas, whether it's ports, whether it's airports, whatever it may be that exposes people to risk? In the aviation sector, obviously we do thorough background checks on anybody who has access to the sterile area at an airport. At cargoes and ports, there are different processes and protocols and payments. It's something that I'm working closely with Commissioner Alan Bersin at CBP, because we have the most overlap—and then with the U.S. Coast Guard, in terms of, "How do we harmonize this? How do we provide, basically, one-stop shopping?" So, we're not there yet, but I would hope to be able to report back, after the first of the year, some good progress in that area.

Senator DORGAN. Yes, I mean, I'm—the reason I ask the question is, if it is accurate, as I've been told, that the aviation side costs one-third of what the port side costs, if you harmonize in circumstances where you get to what we're doing with the port side, and move from the private sector to the public sector and triple the costs, that probably is not the right approach. And I would like to get from you an analysis, if you would, of the efficiency and effectiveness of the aviation side at this point. My understanding is, that has worked fairly well.

Mr. PISTOLE. Right.

Senator DORGAN. Let me ask about the pat-down checks. And you, I think, have properly acknowledged there's reason from people to be concerned and express their—that concern publicly. You explained precisely why it is necessary for us to have advanced screening and imaging technology, and so on.

First of all—and I don't mean this in a humorous way—but, have you been subject to the law enforcement-style advanced pat-down that was implemented nationally in October?

Mr. PISTOLE. Absolutely, Mr. Chairman. I insisted that I receive that pat-down before I ordered that it be deployed nationwide. Also, Secretary Napolitano, Deputy Secretary Lute, other senior members of Homeland Security, received that pat-down to not just see, but experience what that involves, so we would know before we rolled that out.

Senator DORGAN. And your impression?

Mr. PISTOLE. That it is thorough.

Senator DORGAN. I understand that. But, your impression, beyond the fact that it was thorough.

Mr. PISTOLE. Well, the whole purpose is——

Senator DORGAN. Was it—did it make you uncomfortable? I mean, what was your——

Mr. PISTOLE. Yes.

Senator DORGAN.—impression, as a person?

Mr. PISTOLE. It was more invasive than what I was used to. Of course what is in my mind, from almost 27 years at the FBI and all the counterterrorism work since 9/11, is, "What are the plots out there? How are we informed by the latest intelligence and the latest technology? And what do we need to do to assure the American people that, as they travel, we are being thorough." So, yes, it is clearly more invasive. The purpose of that is to, obviously, detect those type of devices that we had not seen before, for example, last Christmas. I am very sensitive to and concerned about people's privacy concerns, and I want to work through that, as best we can. The bottom line is, we need to provide for the best possible security.

Senator DORGAN. My understanding is that the October change went from using the back of a hand—gliding across a person—to a different approach. You might describe that, number one. And—well, go ahead and describe that, if you would.

Mr. PISTOLE. Well, the back of the hand is still used in some aspects. I would prefer not to go into specific detail in an open hearing.

Senator DORGAN. All right.

Mr. PISTOLE. I don't want to give a roadmap to anybody to say, "OK, here's exactly what the technique is." And so, "How can we defeat that?" We've just seen the ingenuity, the creativity of al Qaeda of the Arabian Peninsula, particularly, with these last three attempts. I'd be glad to go into detail.

Senator DORGAN. OK.

Mr. PISTOLE. And obviously, any member who has not experienced that pat-down, but would like to do that—I would not offer but an experienced, qualified security officer would be glad to do that.

Senator DORGAN. All right.

And then the issue of full-body imaging. Most of us have seen—whether it's *Newsweek* magazine or *Time* magazine or on the Internet—the full-body imaging is very explicit. Would—you would agree with that, I assume. And then the question is, what kind of protection have you developed so that someone who has had a reasonably explicit photograph taken of them through this full-body imaging—that it's not going to be moved around, and that there's going to be a privacy relationship they can count on?

Mr. PISTOLE. We've implemented a number of privacy protocols to ensure that those types of things you describe do not happen. For one, the security officer who is viewing the image—again, it's not a photograph, it's an image, with the face blurred. What I've seen, by the way, on some of the news reports, is not accurate. Some of these very graphic displays are not what the security officer is seeing. So, I'm not sure where those are coming from.

Senator DORGAN. They have photoshopped them a little, have they?

Mr. PISTOLE. I'm not sure where they're getting those.

Senator DORGAN. All right.

Mr. PISTOLE. There's a little bit of more detail—quite a bit more, actually—on some of those I've seen.

Senator DORGAN. All right.

Mr. PISTOLE. So, the officer who sees the image never sees the person. The officer who sees the person never sees the image. And the machines are specifically disabled. The functions are disabled, in terms of any retention, storage, or ability to transmit those images. Of course, cell phones, cameras, or anything like that, are not allowed in that screening room. So, we believe we've implemented adequate privacy protections, if you will.

That being said, I'm also very interested in the next generation of advanced imaging technology, which is the automated target recognition, which basically has a stick figure, or a blob, if you will. These are two options—where, through automated target algorithms, an anomaly, wherever that might be on the body, would show up as a box, at the armpit, groin, whatever it may be. Then the pat-down would just focus on that area. So, that is the next generation. The only concern I have is that there is currently a high rate of false positives with that technology so we're working through that. But, we are currently testing that today. We have been for several months. It's in use in Schiphol Airport in Amsterdam. But, a high rate of false positive results in more pat-downs. So, we're trying to stay away from that.

Senator DORGAN. Mr. Pistole, I will send you some additional questions.

Thank you very much for your responses——

Mr. PISTOLE. Thank you, Mr. Chairman.

Senator DORGAN.—and for being here.

Senator Hutchison.

Senator HUTCHISON. Thank you very much, Mr. Chairman.

I think I'm, first of all, going to say to Senator Isakson that I think we should have a classified hearing. So, we will work on scheduling that.

Senator ISAKSON. I would welcome that. Thank you.

Senator HUTCHISON. Certainly, we'll talk to Senator Rockefeller. I believe he will agree.

I want to talk, now, on cargo. I'd like to ask you, first, is it feasible for all cargo operations—a cargo plane that does not have passengers—to be screened in the same—with the same specificity as our passenger processes? And, second, do we have practical solutions? And what I'm getting at is, there are now imaging machines that are used on the border for trucks for crossing the border. Are those technologically feasible to be used for air cargo? And is it, also, an affordable option that would be a common sense option?

Mr. PISTOLE. So, in response to your first question, it is not practical, at this point, to screen 100 percent of air cargo worldwide, if that's the question. We do screen, of course, 100 percent of all air cargo on passenger flights in the U.S., as of August, based on the 9/11 Act. And we screen what we describe as 100 percent of high-risk cargo coming into the U.S. on passenger flights.

That being said, there is still a lot of cargo out there. There's almost 9 billion pounds of cargo that come into the U.S. every year, about two-thirds on cargo flights, the other one-third on passenger flights. The challenge becomes, those packages not coming from known shippers, the large companies that either government and/or the actual cargo companies have relationships with. For example, take the two packages coming out of Yemen. An individual goes to a freight forwarder that then sends it to Dubai. That's where the U.S. cargo carrier picks it up. The challenge is, in that supply chain, whether he can assure, with 100-percent confidence, that packages have been properly screened. And, frankly, we can't do that right now. So, what we're doing is working with the International Civil Aviation Organization, ICAO, which just passed a security declaration last month in Montreal, at their triennial meeting. I was there, as well as Secretary Napolitano, and 190 countries signed off on this security declaration, mostly focused on passengers, but also some on cargo.

We're also working with the International Air Transport Authority, IATA, which deals with over 230 airlines around the world. Everybody—all the businesses—have the same interest to make sure that their flights are safe and secure. It's, "How do we best accomplish that?"

And so, ICAO and IATA are actually working on capacity development issues with some of these countries that perhaps don't have the same screening capabilities that we have in the U.S. That's part of our challenge.

Senator HUTCHISON. And are you working on more of your personnel being stationed in areas where there would be a priority?

Mr. PISTOLE. Yes, we are, Senator. We have over 100 TSA employees who are forward-deployed around the world, to act as inspectors, if you will, to work with host governments and aviation authorities for that very purpose.

Also, on the second part of your first question, we do have small, medium, and large aperture X-ray and advanced technology X-ray to look at cargo. It is just more of a challenge than it is with passengers. The larger the palette or the skids, and the more compact, the more difficult it is to discern. Now, we also, at least in the U.S., use explosive-trace technology detection equipment, perhaps K–9s, but that is not a consistent standard around the world.

Senator HUTCHISON. Let me just talk a little bit about the collective bargaining issue. And when I was talking about strikes, the reality is, if you have collective bargaining, it may not be the open strike, but it is the slowdown, the sick-outs—that sort of thing, which is a virtual strike. And my question is, where are you in this process? Is it something that you're looking at seriously, or have you decided that other priorities are more important?

Mr. PISTOLE. Well, obviously, one of the priorities that for the confirmation process was to deal with the issue, as I was asked to do an independent assessment of whether collective bargaining made sense for the TSA workforce. My one caveat that I laid out at that hearing, as you recall, and what I've stuck to, is, whatever the issues are, there cannot be adverse impact on security. So, I conducted an internal assessment. I've done a review. And I am close to announcing a decision on that. I will say that has been

complicated a little bit by a decision, last Friday by the FLRA, which ordered TSA to hold an election for exclusive union representation, but not collective bargaining.

It's somewhat of a confusing opinion, frankly. So, our experts are going back and working with other human capital experts and the FLRA, —their counsel to say, "OK, so what does that mean? How can we inform the work force?" But, I would say, I'm hoping, within the next 30 days, to make an announcement about where I believe we should be going in that regard.

Senator HUTCHISON. So, the Federal Labor Relations Board is ordering TSA to have an election for——

Mr. PISTOLE. The decision basically says that we should have an election for exclusive representation with one bargaining unit, one union, but not for purposes of collective bargaining, just for purposes of representation. Again, frankly, that doesn't make a whole lot of sense. So, we're working through that, and I'm confident that we have a good way forward.

Senator HUTCHISON. I'm glad you think it doesn't make a lot of sense.

Thank you very much.

Senator DORGAN. Senator Hutchison, thank you very much.

Senator Lautenberg?

Senator LAUTENBERG. Yes. Thanks, Mr. Chairman.

Mr. Pistole, the Department of Homeland Security requires manifest information to be provided 24 hours prior to loading for all maritime cargo that's entering our ports. But, the cargo entering our country by air—the manifests only have to be provided 4 hours prior to arrival of the material to the airport. That could be too late to stop something happening before it enters our airspace. Is—would it be feasible to ask that a longer amount—a longer time be allowed to—before the cargo gets aboard an airplane?

And this is challenging and—look, the primary thing that we're concerned about, obviously, is the security. But, what might it do to the efficiency of commerce around the world if we say, "OK, you want—you're going by air because you want a quick arrival."

Mr. PISTOLE. Right.

Senator LAUTENBERG. On the other hand, what happens if we said, "Well, OK, give us 24-hour notice of anything?" Have we looked at that part of the question?

Mr. PISTOLE. Yes, Senator Lautenberg, we have. We've worked very closely, particularly with CBP and Commissioner Bersin, and we've had a number of discussions on "How can we work with industry to get more advance notification without unduly affecting the bottom line for the cargo carriers?" The cargo carriers have been very open and receptive to looking for opportunities. But, the bottom line is, the more advance notification that goes to CBP—TSA doesn't actually get that; it goes to CBP—the better informed we can be, and the key is, "What action do we take?" So, if there's a high-risk package that has been identified coming from—you name the place in the world—what action can we take with that additional information? Let's say it's 8 hours. Let's say it's 24 hours. Can CBP and TSA then communicate with that freight forwarder to say, "OK, we're concerned about that package. Don't put it on the plane?" That's the key.

Senator LAUTENBERG. As we saw in the recent cargo bombing threat, information-sharing—key to foiling this plot—but, both the GAO and the National Security Council recently released reports finding that TSA needs to improve and expand its communication with passenger rail and mass transit agencies. What actions has TSA taken to meet the recommendations of GAO and the National Security Agency?

Mr. PISTOLE. There are a number of issues that we are addressing in the whole surface transportation arena, Senator. As you so well articulated, we've seen threats from Madrid and Mumbai and London and Moscow, and in the attempt last year by Najibullah Zazi, in New York City, and in the one, just last month, that my colleagues at the Joint Terrorism Task Force so well disrupted here in D.C. The key is, "How do we best engage State and locals, who have that first response and first prevention responsibility?" And it's in three ways. One is through the grants that we can allocate. One is through training. And that means training for, for example, additional VIPER teams and K–9s and things like that, or there is the actual hiring of officers, as we did, in terms of a grant to New York City last year, where they hired 120-plus officers—the only officers they were able to hire last year—specifically for New York City's subway, with over 450 subway stops.

Senator LAUTENBERG. Yes.

Mr. PISTOLE. So, those are the type of things we're doing.

Senator LAUTENBERG. Well, the Department recently completed an assessment of the nation's passenger rail and mass-transit system and found a significant security risk. And yet, surface transportation security has traditionally made up a very small percentage of TSA's overall budget. Agencies are currently reviewing their budget needs for the Fiscal Year 2012 budget. Will the budget request for TSA reflect a—more sensitivity to the need for rail and transit security?

Mr. PISTOLE. Absolutely.

Senator LAUTENBERG. I hope so. Because when we look at the number of people that are traveling by rail and see what—how inviting a target it was in other places in the world, that we can't continue to neglect—"neglect" is a strong word—to not focus more attention on the security in these transit systems.

Mr. PISTOLE. I agree, Senator. And my only other comment on that is, of course, the TSA budget, in terms of surface, does not reflect the large multiples of that in transportation security grant money. There is actually more that shows up because it goes through FEMA, but doesn't show up in the TSA budget. But, you're absolutely right.

Senator LAUTENBERG. Thank you.

Senator DORGAN. Senator Johanns.

STATEMENT OF HON. MIKE JOHANNS, U.S. SENATOR FROM NEBRASKA

Senator JOHANNS. Thank you, Mr. Chairman.

Mr. Director, under what circumstances would a passenger be subjected to both advanced imaging and then the law-enforcement-style pat-down?

Mr. PISTOLE. The advanced imaging technology is an option; people can opt out of that. Just for context, we actually deployed the first AIT in the fall of 2007.

Senator JOHANNS. Yes, but——

Mr. PISTOLE. This is not something that just happened overnight, but there's just a lot of public interest in it now.

Senator JOHANNS. Let me clarify my question.

Mr. PISTOLE. Yes.

Senator JOHANNS. I'll get to—let's assume the passenger goes through the advanced imaging——

Mr. PISTOLE. OK.

Senator JOHANNS.—doesn't object to it, and says, "Fine." Under what circumstances would you then subject that passenger to the second——

Mr. PISTOLE. So, if——

Senator JOHANNS.—pat-down?

Mr. PISTOLE.—when the person in the advanced imaging technology or the walk-through metal detector alarms—if the alarm goes off, alerts—there's something that needs to be addressed. The person may get an opportunity to go through a second time. And if it still alarms, then that's when the person would be asked to submit to a pat-down.

Senator JOHANNS. So, if a passenger were subjected to both—no alarm went off, no suspicion—would that be arbitrary, on the part of your people?

Mr. PISTOLE. To have a pat-down?

Senator JOHANNS. Yes.

Mr. PISTOLE. Yes, it would be a very rare instance for somebody to have a pat-down if there wasn't some type of alarm.

Senator JOHANNS. I'm wondering why I got both, a few weeks ago. I did use my Senate ID and was subjected to both. Now, I didn't object to going through the advanced imaging. Some do, some don't. How would you answer that question?

Mr. PISTOLE. Senator, I'd have to look into that. And if you went through advanced imaging technology and there were no alarms, in almost all instances, you would not be subject to a pat-down. There is a very, very small percentage that is done as random, so we can be unpredictable to the terrorists, even if they think everything is good. But, that is such a very, very small number, I would be surprised. But, I will look into it and get back with you.

Senator JOHANNS. Mr. Director, I've often wondered, as this has kind of developed over time, at what point there's a tipping point with the American public. You know, "Take off your belt. Take off your coat. Take off your shoes. Take out your liquids." On and on. And now, advanced imaging and, as you acknowledge, a very intrusive pat-down if you choose not to do that. Does that worry you—that maybe we're at a point here where this is not a vocal minority—that people just think you've overstepped?

Mr. PISTOLE. I am sensitive to that, Senator. I know the threats are real. And so, what it comes down to is, "How do we—and I believe that reasonable people can disagree—strike the balance between privacy and security?" So, we all agree that everybody wants to be secure on that flight. Where we don't necessarily agree is, "What is the proper balance between that security and privacy?"

So, yes, I am concerned about that, and I want to make sure we can address those privacy issues by affording people private screening, at their request, and to do all those things that address those concerns while, again, giving the highest level of confidence that everybody on every flight has been screened in a way so that they feel comfortable that everybody else on that flight is safe.

Senator JOHANNS. Well, let's examine that a little bit, because as I think about cargo in the belly of the airplane—passenger airplane—if you were to follow kind of the same approach, what you would do is, you would send it through advanced imaging of some kind for packages. If you saw something suspicious, or an alarm went off in that package, you would open up the package and you would examine that. Do we do that today?

Mr. PISTOLE. With cargo?

Senator JOHANNS. Yes.

Mr. PISTOLE. Yes. We use either X-ray, advanced technology X-ray, explosive-trace detection, K–9s, or physical inspection of packages. We do all those on cargo. And when I say "we," we do about half, and then there are 1,140 certified cargo security partners around the country, private businesses, that do that off airport grounds, so we don't have a bottleneck at the airport. And they then deliver that cargo in a secure fashion to the airport for delivery.

Senator JOHANNS. Every package?

Mr. PISTOLE. That goes on a passenger plane in the U.S., yes.

Senator JOHANNS. OK. What's your next step on this? I must admit, I get the impression that you're expressing your understanding. I'm thinking nothing's going to change.

Mr. PISTOLE. If your question is, "Do I understand the sensitivities of people?"—yes. If you're asking, "Am I going to change the policies?"—no. Because I think that being informed by the latest intelligence, the latest efforts by terrorists to kill our people in the air, no, I'm not going to change those policies.

Senator JOHANNS. OK. So, for all those listening in, it's still going to be the same. It will be the intrusive pat-down, and it will be the—or the advanced imaging. Or both.

Mr. PISTOLE. Well, again, people have the option to opt out of AIT, in which case they would receive a thorough pat-down.

Senator DORGAN. Senator——

Mr. PISTOLE. If the alarm——

Senator DORGAN. Senator Johanns, would you yield on that point?

Senator JOHANNS. Yes.

Senator DORGAN. I think that Mr. Pistole testified that the increase in advanced technology will, he hopes, lead them to a point where the advanced imaging technology will give stick figures rather the—rather than the full-body impression. Is that correct?

Mr. PISTOLE. Yes. That's the next generation that we're looking at. Again, with high false positives that we've seen in our testing, we're not there yet.

Senator JOHANNS. How far away is that?

Mr. PISTOLE. I would like to say months, but, again, it's all technology-driven, so there's a huge incentive, as you can imagine, to private businesses, to get this, as best they can, perfect, I'd like to

say. But, of course, nothing's perfect, in that regard. So, there's a huge incentive for them to do that, and there are a number of companies that are competing to do that. So, we are working on it very closely.

If you go out to Reagan Airport, just south of the airport, there's a Transportation Security Integration Facility where we test all of our equipment before we deploy it. And, I'd invite you to come out there and see what we're doing with the ATR—the Advanced Target Recognition software.

The nice thing about that is, from a budgetary standpoint, and just for a practicality, it's really a software modification to the existing hardware. So, we don't go out and buy all new hardware and things. It can be used in a software modification.

So, to answer your question a little bit more fully, I see us in an interim period right now where we're using the best techniques and tactics, given the intelligence, enabled by the best technology. My hope is that the technology will improve. Perhaps someday, not only do we have the stick figures; but people can walk through, they can take liquids through again, they can keep shoes on, and they don't have to take their computers out of their briefcases, and things like that. Those are all things that I would like to build to, recognizing the creativity of the terrorists that we've seen, with the toner cartridges, and knowing that they can put the explosive there and they can put it in a lot of other places.

Senator JOHANNS. Thank you, Mr. Chairman.

Senator DORGAN. Senator Johanns, thank you very much.

Senator Isakson.

Senator ISAKSON. Well, following up on Senator Johanns' comment, this is the automated imaging recognition picture—this is a little small—which was given to me, which clearly addresses the privacy issue in its entirety.

Mr. PISTOLE. Right.

Senator ISAKSON. What you are saying is that the square, or the red outlined area, which is an area of concern which would be subject to a pat-down——

Mr. PISTOLE. Correct.

Senator ISAKSON.—that you're having a number of false positives on that right now?

Mr. PISTOLE. Correct. Yes.

Senator ISAKSON. But, if that is worked out, then people would be going through these screens, without worrying about privacy, whether they're a child or an adult, because——

Mr. PISTOLE. Right.

Senator ISAKSON.—you see a stick figure.

Mr. PISTOLE. Right.

Senator ISAKSON. And they wouldn't be subjected to a pat-down unless there came out an area of recognition by the machine, is that correct?

Mr. PISTOLE. If the algorithm shows—and that box, as you say, shows on that part of the body where there's an anomaly, that part of the body would then be subject to the pat-down, whether it's the bottom of the foot, the armpit, the small of the back, the groin, whatever it may be. Just that area.

Senator ISAKSON. OK. It looks like technology can be a solution to the privacy issue.

Mr. PISTOLE. Oh, I think so. I'm very hopeful in that regard.

Senator ISAKSON. Technology is not a solution, however, to one issue, and that is good communication with the public——

Mr. PISTOLE. Right.

Senator ISAKSON.—which I think TSA and the Department of Homeland Security need to pay attention to, because some of the outrage has been in response to some of the comments that have been made.

I want to ask unanimous consent to submit to the record a 3-page statement by Ms. Pamela Robinson of Atlanta, Georgia.

Senator DORGAN. Without objection.

[The information referred to follows:]

PREPARED STATEMENT OF PAMELA ROBINSON,
U.S. ARMY VETERAN, ATLANTA, GEORGIA

I am a Diamond Member on Delta Airlines. I fly approximately 200,000 miles year to date 2010. This is my written testimony requested by the Office of Senator Johnny Isakson, United States Senator—Georgia November 15, 2010.

On Wednesday, November 10, 2010, I was returning home from a business conference in San Francisco, California USA to Atlanta, Georgia, USA. I was traveling on Delta Flight 2880 departing at 12 p.m. I arrived at the San Francisco airport around 10:40 a.m. After checking in at the Delta counter, I proceeded through security. I placed all my belongings and shoes on the belt, and proceeded through the metal detector.

The TSA agent told me to remove my top because it was too wide at the bottom. I pulled the top off my shoulder to show her that there was only a slip under the top. She allowed me through the metal detector, which did NOT signal. There was no machine for further scanning between the metal detector and this open area. Another female agent told me to go through the area with plastic walls until I stepped out on a black plastic mat and a chair.

The female TSA agent told me stand on this black mat and stated that she would be performing a pat-down from the waist down. She would rub her hand inside my "inner thigh" in my groin area. I felt disgusted and stated, "I don't think so. You will not touch me like that." She then tried to convince me by continuing to describe how she was now going to "pat" my entire body down with her hands. I felt sick just hearing her describe how she thought I was going to stand there and allow her to molest me in front of the public. She stated that I could go to a private room. I stated that I am not going into a private room to be molested either. She needed to find another way other than touch my vagina.

The TSA agent called over a male first-level supervisor. He said that I had to let her do it. I stated that I would not be touched like that. He got on a walkie-talkie and called another supervisor. I waited 10–15 minutes before anyone let me know what was going on. While we were waiting, I told the agent, "This is nothing against you. This is not your fault. You are just doing your job and what you are told, but this is wrong."

Since I was standing on the dirty floor, I asked, "Can I put my shoes on?" The TSA agent covered my belonging with her arm and abruptly stated, "Do not touch anything" as if I were a criminal. Everyone passing through security was watching with looks of fear on their faces as to say, "That could be me." I was so embarrassed. The agent stated that I could sit in the chair, but I said "I don't want to sit in the chair, I'm fine."

After 10–15 minutes, a second-level TSA female supervisor walked up and asked the agent, "Did the metal detector signal." The TSA agent responded, "No." There was silence as people continued to watch. I looked at the supervisor and said, "The metal detector did not go off, the first agent said my top was too loose." I showed the agent my slip underneath the same way I showed the first agent. Since this was the problem, I said "Fine, I will take off my top down to my slip and go back through the metal detector." The supervisor looked at me from head to toe and said, "It is not your top, your pants legs are too wide." I responded, "Are you [expletive deleted] kidding me? Have you lost your mind?" Then I stated, "fine I will take off my pants right here so you can see I have nothing on me, but you will not rub your

hand in my crotch." She stated, "That will not be necessary" She continued, "If you don't let the agent do this, you will not board the plane and will have to leave the airport." I could not believe what I was hearing. I had no other way to get back to Atlanta from San Francisco and I was prevented from touching my belongings to call anyone. Nor was I able to call the police because they would be the people to escort me from the airport. I felt helpless and [expletive deleted].

I still would not allow the agent to touch my vagina or anywhere near it. I stated, "At anytime I feel uncomfortable, I would stop this." I had to stop it four to five times. The agent did not fully explain what she was going to do and my immediate reaction was to stop her hand from touching me in areas that were inappropriate for anyone to touch that is not intimate with me or my doctor for medical reasons.

The agent went behind me while the supervisor stood there and everyone in the security area was watching and with an open hand touched my head with both hands in which I pulled away because it felt disgusting. She then rubbed her open hand down my neck, back and butt. Her hands never left my body. She then took her hand and tried to rub it in the inside of my thighs to my vagina, but I would not let her. The supervisor then said, "Can you get up there." (Meaning my vagina) and the agent said no. The supervisor said to me, "If she can not get there [between your legs], you will have to leave the airport." I could not believe what I was hearing. I said, "this is as wide as my legs will open." The agent moved on and began to feel inside my waist band of my pants. I stopped her again when she tried to put her hand inside the waistband of "my underwear" and I yelled, Ok you are going too far! She stopped for a moment. The supervisor was still standing there and passengers were still watching as this occurred. We also stood in silence.

I thought we were through until the agent then tried to feel my crotch again from the front but then stopped, because I pulled away. Then she tried to rub her entire hand on my breast and then lift my breast when 1 pushed her hand away and stopped this sexual assault. I began to walk toward my belongings and the agent said "I need to test my gloves to clear you." The supervisor said, "We [TSA employees] also feel this is way too invasive" She gave me a complaint form and said; "I am giving these to passengers to file a complaint."

She wanted to file a complaint to the molesting organization and their affiliates. When I looked up the supervisor was gone and I do not know where the agent was I just wanted to get the hell out of there.

My gate for my flight was immediately on the right hand side after security. I did not care about the flight or my first class seat. I immediately grabbed my cell phone and went online to get Senator Isakson's number. I called his office and asked if he was in Georgia this week. He was but was returning to D.C. on Monday. (I had met with Senator Isakson years ago when I took my then high school-aged son to visit Washington to show him the capital and how Congress works to offset what he was learning in school. When I returned to Georgia, I received a very kind letter from the Senator's office thanking me for my visit and that if I ever needed any help to let him know. I have never asked for anything but when I am in D.C., I stop by to visit and talk with the staff to stay in touch or sometimes I run into Senator Isakson during flights to D.C.)

I reached his Georgia office and the staff was very responsive to my request as I was in tears and had to fly home frustrated, [expletive deleted] and in shock. I needed a meeting immediately. Toni Brown helped me get a meeting on Monday, November 15, 2010 with Tricia Chastain, State Director and Michael Quiello, D.C. staffer for Senator Isakson. I shared this same experience with them as described in this testimony. Michael Quiello asked me to put it in writing for the hearing on Wednesday, November 17, 2010.

I already knew there was a hearing as I have spent the past week crying and dealing with the lingering psychological affects of sexual molestation. I have written President Obama to stop the molestation, I have sent tweets, and I have told everyone in my network, I have scanned every possible television outlet. I have done these things because I cannot go to the police or any law enforcement because this was the law. I am not a pilot or flight attendant protected by a union. I am a United States American who creates jobs and keeps the airline industry flying and for this, I am molested and told this will protect me from the terrorists!

Finally, I shared with Tricia that my grandmother turns 90 years old on Thanksgiving Day and I "was" going to surprise her by flying to Ohio on Thanksgiving Day. Because of this incident, I will not fly until this molestation stops. The thought of returning to any airport makes me sick to my stomach and I want to vomit. I will not return to the airport until the molestation stops. I am very concerned that the children. The children will be psychologically damaged for life; while the "adults' stood by and watched our children being molested in public. This is wrong. This molestation must stop immediately.

My constitutional rights in this country died when TSA passed this insane policy to molest their own citizens.

Senator ISAKSON. Ms. Robinson is a businesswoman, a Diamond traveler on Delta Airlines, and this testimony illustrates how Secretary Napolitano's statement the other day that, "Well, if you don't like it, there are other ways to travel," was sort of insensitive to the American business public. This woman was going to a meeting in San Francisco. There is no other alternative to get to San Francisco, other than 2 and a half days by rail, or 3 days by car, from Atlanta, Georgia. So, air travel is essential. And the comments by a rational person like Ms. Robinson, I think, need to be looked at to understand what Senator Johanns and the other Senators and I are dealing with on a daily basis, because the traveling public is significantly upset.

Mr. PISTOLE. Right.

Senator ISAKSON. The whole—the 9/11 Commission, in 2007, asked TSA to develop a CrewPASS program for the flight crews so they could expeditiously go through security in a safe and secure manner. It's my understanding that, in Columbia, South Carolina; and Pittsburgh, Pennsylvania, you have two—had two areas where you've been testing that for 2 years.

Mr. PISTOLE. And BWI.

Senator ISAKSON. Right, yes, and BWI. Well, what's taken so long to implement that at the airports around the country?

Mr. PISTOLE. That's one of the questions I asked when I first came on as administrator, in July. I think we have made good progress, especially recently, to the point where I am hoping to be able to announce something, here in the very near future, as to some significant improvements in that regard, using CrewPASS.

Senator ISAKSON. Well, I flew three times Monday, getting from Atlanta to Savannah to Charlotte to Washington, and rode with crew members on two of the three flights from two different airlines, and the first thing they raised was the CrewPASS issue, which is important to them. And I think anything you can do to expedite that process would be appreciated.

Mr. PISTOLE. Yes, I think we have a good way forward, Senator.

Senator ISAKSON. My last question and/or comment is this: other than the pat-down, the biggest amount of feedback I get are young children——

Mr. PISTOLE. Right.

Senator ISAKSON.—particularly if they're subjected to a pat-down. But, if they go through the machine—X-ray machine—one is the sensitivity of privacy, the other is the sensitivity of the amount of radiation they're exposed to. Has TSA done sufficient testing, in your judgment, to ensure that that—exposure to that radiation over time is not a problem?

Mr. PISTOLE. First, Senator, one thing that I did not do a good job of communicating is that children 12 and under are exempted from the enhanced pat-down. So, that's one issue. It's because of concerns about dealing with children.

Senator ISAKSON. That's a good decision.

Mr. PISTOLE. As far as the radiation exposure, I would again, defer to what those independent studies did, looking at all types of populations, including children, pregnant women, elderly, and

things like that, which found that the exposure is well within safety standards.

Senator ISAKSON. Thank you, Mr. Administrator.

Mr. PISTOLE. Thank you.

Mr. PISTOLE. Thank you, Senator.

Senator DORGAN. Senator Isakson, thank you.

Senator Klobuchar.

Senator KLOBUCHAR. Thank you very much. Thank you.

Just following up on Senator Isakson's line of questions about the advanced imaging technology. Senator Bob Bennett and I had a bill to expand the use of that technology. And I had mentioned, in my opening, that I think that this is very good option, as Senator Isakson had stated. We need to keep improving the technology. But, where are we in terms of the rollout? How many airports are they in? What's the maximum amount that we now plan to put in the airports?

Mr. PISTOLE. We have approximately 385 of the advanced imaging technology machines deployed in approximately 70 airports right now. What we have been authorized and funded for is around 490 by the end of the year. So, we are looking at another 100 or so by the end of the year, and then, another 500 to get us up to 1,000 by the end of next year.

Senator KLOBUCHAR. OK.

Mr. PISTOLE. So, that's what we're building toward.

Senator KLOBUCHAR. And are—is the plan to have them in—I assume, all the major airports, already in there—but, are you going to get to, like, Fargo, for instance—that airport?

Mr. PISTOLE. Yes. So, that's——

Senator KLOBUCHAR. OK.

Mr. PISTOLE.—obviously done on a——

Senator KLOBUCHAR. Yes.

Mr. PISTOLE.—an airport-by-airport basis. We try to be risk-based——

Senator KLOBUCHAR. Yes.

Mr. PISTOLE.—and intelligence-driven, and——

Senator KLOBUCHAR. I understand.

Mr. PISTOLE.—a number of factors. And ability for the airport to actually physically install in the space, and things like that.

Senator KLOBUCHAR. OK. On to the pat-down. Could you describe the decisionmaking process that went into strengthening the pat-down method, without revealing things you can't reveal?

Mr. PISTOLE. So, in a general way, when I came on as Administrator, in July, I looked at what we were doing to address the threat posed by the 12/25 Abdulmutallab, the underwear bomber and I also was informed by several GAO reports, DHS Inspector General reports, and our own TSA Office of Inspections. All three entities do covert testing. And, without going into too much detail, one of the things they found as a common denominator was, that when the covert tester was able to get through security, it was largely because we were not being thorough enough in our pat-downs.

So, the intelligence, coupled with the repeated covert testing, led me to conclude that we needed to be more thorough, to be more consistent with partners around the world, recognizing that we are

an interdependent system, as we saw on 12/25. If Abdulmutallab had been detected overseas and never would have made it here, obviously that would have helped. So, those are the issues. And I'd be glad to go into more detail in a closed setting.

Senator KLOBUCHAR. Sure. And do you believe these will be permanent now, these changes? Or, you know, is it something you adjust when you see new——

Mr. PISTOLE. Well, we're always trying to evolve our techniques and technology, as informed by intelligence, and are always aware that we don't want to just focus on yesterday's threat. So, what we are working very closely with, as part of the intel and law enforcement communities, are, "What do we see as tomorrow's threats, and how can that inform our judgments and actions today, in terms of what technology we need?" So, that's all part of that process.

Senator KLOBUCHAR. And then, I—Senator Isakson talked to you about the crew issue, and I know you're working on that. Just in terms of education, what do think could be done, especially with the holidays coming up, to inform the public?

Mr. PISTOLE. Thank you, Senator. I would just make an appeal to the American people to go to the TSA website to see what the latest practices, protocols, procedures are, and to be the best-informed travelers possible, especially when we're talking about perhaps once-a-year travelers, those going home, just for the holidays. The better informed they can be, the better partnership we can have to provide that best possible security.

Senator KLOBUCHAR. OK. Very good. And then, just quick questions about the screening. Do you feel that 2013 is a reasonable deadline for the 100-percent screening? And what is—could you talk about the present alternative right now, the risk-based approach?

Mr. PISTOLE. Sure. When we're talking about international air——

Senator KLOBUCHAR. I'm talking about the cargo screening.

Mr. PISTOLE.—the international air cargo coming to the U.S., we really divide it into two categories: known shippers and the trusted shippers and the known supply chain, and those who are unknowns, such as the individual packages and things. We have a very close relationship with the major cargo shippers, and they are working very closely with us to identify high-risk packages. Again, it's in their best interest not to have high-risk packages on their flights. The year 2013 is a challenge, but that is what we are working toward to ensure we can do that.

Senator KLOBUCHAR. OK. Very good.

Thank you very much.

Mr. PISTOLE. Thank you, Senator.

Senator DORGAN. Senator McCaskill.

Senator MCCASKILL. I'd like to talk a little bit about cargo and the capability of airports around the world to screen appropriately. What's the plan for high-risk cargo inspections for countries that don't have screening capabilities? I mean, we have—I mean, unfortunately, the people who want to harm our country are not operating under a flag or a sovereign nation, they are everywhere in the world, and they move continually, which is why we have to have the investment in intelligence. It seems like, to me, that

they're going to begin to try to pinpoint those countries that have no capability of screening, other than visual. And so, what is the plan on how we deal with those? And there are a number of those countries, I understand. Isn't that correct?

Mr. PISTOLE. There are, Senator. For example, when I was in Yemen, 2 weeks ago, to look at what they are doing in terms of cargo screening, I found that they used the X-ray machine pretty much exclusively. It's not a modern, advanced technology X-ray machine where you can see two-dimensional and things like that. No explosive trace detection. No, or very limited, physical inspection. No K–9s. So, you're right, it is uneven around the world.

What I see as the best way forward is what we do here in the U.S., working with the private sector in terms of a trusted screening facility. The certified cargo screening program that we have here has 1,140 or so private companies doing over 50 percent of the screening of cargo going on U.S. passenger flights. I think that's one of the models. We're working with ICAO and IATA towards capacity development for those very countries that you allude to that don't have the ability right now to do that type of screening.

For example, in Yemen, we sent a team there to work with them to train and equip them in practices and protocols, we also took explosive trace detection equipment and left it with them, in terms of building capacity, to do those very things you describe.

Senator MCCASKILL. Well, I loathe the notion that we would have to buy screening equipment for other countries. But, I'm very worried about the preponderance of countries out there that are not taking this seriously and have not made this a priority, because that is the weakest link.

Mr. PISTOLE. I agree, Senator. And I think what we will probably see—just from a private-sector business-risk model—is that they may likely not pick up packages that they assess as being high risk from certain areas of the world. And so, that will be the fallout, I think, from this. That's an extreme measure of risk management, but it's effective.

Senator MCCASKILL. Right.

Mr. PISTOLE.—I think that may be what we see.

Senator MCCASKILL. What about the other cargo measures? We have spent an awful lot of time in this hearing talking about air. But, what are the security measures that we're increasing in the other cargo venues, particularly maritime, where you—when you have remote ability to detonate, the damage that could be done—frankly, rail, maritime, any of that—what—can you give the Committee some reassurances that we're making progress on those fronts?

Mr. PISTOLE. Well, I can reassure the Committee we're making some progress. I would also want to manage expectations that there are clearly still some gaps and vulnerabilities. Of course, Customs and Border Protection has the lead, in terms of maritime and 24-hour notification, and then the Coast Guard has the lead in the port security. TSA has a role, but it's, frankly, a somewhat limited role, secondary or tertiary to CBP and Coast Guard.

Senator MCCASKILL. Well, this might be one that we'd want to talk to the Secretary about, because I—I know it has got to be frustrating, because, you know, you move one direction to try to really

address any gaps we have, and then it's—and then there's—another one opens up, and you move there, and then you've taken your eye off the first one. But, I do think that we've got to be sophisticated about the weakest links that we have in this. And clearly, I think, cargo—frankly, non-air cargo, may in fact be—along with those countries that aren't screening—are two places that we need to be all hands on deck.

So, thank you, Mr. Chairman.

Mr. PISTOLE. Thank you, Senator.

Senator DORGAN. Thank you very much.

Senator LeMieux?

STATEMENT OF HON. GEORGE S. LEMIEUX, U.S. SENATOR FROM FLORIDA

Senator LEMIEUX. Thank you, Mr. Chairman.

Administrator, good to be with you again.

I want to talk to you about the subject I know a lot of my colleagues have spoken to you about, which is this pat-down and what Americans are dealing with at airports across the country.

You and I spoke, before you were confirmed, about maybe relying more on behavioral evaluation, doing more of what other countries, like Israel, do. I'm, frankly, bothered by the level of these pat-downs. I've seen them firsthand in airports in Florida. I wouldn't want my wife to be touched in the way that these folks are being touched. I wouldn't want to be touched that way. And I think that we have to be focused on safety, but there's a balance. Now, you're going forward with more of these advanced imaging technology machines, which I think are fine and appropriate. And, although they're invasive, there's not a physical touching to them—you have procedures in place to keep that person, who's looking at the imaging, in another room, and there are some protections there. But, I also understand that you would like to do everything possible to keep American people safe. But, there are limits. There has to be a balance here. What can we do to right this balance? I think we've gone too far afield.

Mr. PISTOLE. Senator, I think there are a number of issues here. And one is that one is that people who would receive this pat-down, almost exclusively, would be as a result of some alarm, either through the walk-through metal detector or the advanced imaging technology. So, a very, very small number of people would receive a pat-down as a random or not as a result of alarm. So, that's first.

The second is, simply being informed by the intelligence that we've talked about—the GAO, the IG inspections, covert testing, which we could talk about in a classified setting, we know that there are additional things that we could be doing to detect things. And based on pat-downs and AIT, we have detected dozens and dozens of, let's say, artfully concealed objects that could pose a risk to aviation. So, for me, it comes down to that balance, as you say, and the fact that everybody wants to be secure on that flight, knowing that you've been screened, I've been screened, everybody's been screened properly, and we have confidence. And yet, we want to ensure the best possible privacy. So, how can we do that? And I think we do that with AIT. And if we move to ATR, with the stick figure, I think that will really go a long way.

So, how do we achieve that balance? In the final analysis, I think reasonable people can disagree as to what that proper balance is. If we take those two flights that I mentioned earlier—one, you have the option to be screened, and you know everybody else has been screened, and another flight, where there's no screening, and you go to the same place—I think almost everybody will get on that flight that had been properly screened. So, in my job, as Administrator, I just try to find that balance. I recognize the invasiveness of it. I also recognize that the threats are real. The stakes are high, and we must prevail.

Senator LEMIEUX. Well, and I appreciate the work you're doing. I know it's a difficult balance to strike. What I would hope for with the advancement in technology, without getting into anything that's confidential—you know, when you see little kids, or you see senior citizens who are traveling domestically in this country, maybe have never been outside of this country before, we know that the chance that they are a terrorist is very, very, very slim. No one wants to talk about profiling, because that's a scary word—but, we know that if you're a man who's 18 to 40, and you've been traveling around the world, there's a much higher chance that you would fall within that group of folks who could be a danger to this country than the rest of those folks. I mean, I would love to see a world where we had some kind of identification that when you went and they checked my driver's license, they would know my travel history, and you could screen people based upon the likelihood that they're a terrorist, and not just because they are walking onto an airplane.

Mr. PISTOLE. Right.

Senator LEMIEUX. Someone who's traveling between Minneapolis and Fort Lauderdale, that has never left the country and never had a criminal record—there is a very good chance that they're not concealing some kind of plastic explosive in their underwear.

Mr. PISTOLE. Right. And, to your point, Senator, I would restate the fact that, because we are trying to be a risk-based, intelligence-driven organization, the children 12 and under will not be subject to these pat-downs. We're working with pilots on their issues. They're in charge of the aircraft, so why do they go through the same type of screening? We are really trying to be as best informed about each individual traveler, similar to the Israeli model. We're using behavior detection extensively. We're picking up some good finds there. The bottom line is how to do that without profiling, as you say. And there's a dynamic tension there between safety, security, and privacy. And so, how do we resolve that dynamic tension while ensuring the bottom line is that that flight is secure?

Senator LEMIEUX. I appreciate your comments and your good work.

Mr. PISTOLE. Thank you, sir.

Senator LEMIEUX. Thank you, Mr. Chairman.

Senator DORGAN. Senator LeMieux, thank you very much.

Senator DeMint.

STATEMENT OF HON. JIM DEMINT,
U.S. SENATOR FROM SOUTH CAROLINA

Senator DEMINT. Thank you, Mr. Pistole. I appreciate the professionalism you're showing here today. And, frankly, I've heard most of the questions that I wanted to ask.

One of the things that Senator LeMieux was hitting at is the idea of whether we are going to continue to evolve and use common sense? And, particularly, I want to make sure that we're not overly concerned with being so politically correct that we would ignore high-risk targets as—and you mentioned the Israeli model.

We particularly appreciate you looking at ways to transition this technology that allows you to see things you need to see, and not see things you don't. Transition into something that's more animated. I think that would give people a lot of comfort. And then, looking at the, you know, rational-age thing.

I think if Americans know we're—that we're not just setting up rules—my concern is that your job is to keep people safe, not to keep them comfortable. And that can just—that can get out of control over time. And we need to make sure that travel, by air and other ways, is—continues to be a good experience. But, you seem to be trying to draw the best balance there, and that's very important. And evolving the technology as well as the personnel and the behavioral aspects of this is a pretty good package. And I think if you can keep us up to date on what you're doing, not just on hearings, but periodically, a memo or something, in ways—like you've asked today, that Americans partner with TSA and stay more informed. Because, if they haven't traveled in a year and they run into this, it's a pretty stunning thing. And we're getting hundreds of calls. And so, they want us to be on top of this.

Apparently you're doing what you can to try to modify this in a way that seems reasonable to people and to keep them safe. You've got a very tough job. But, I mostly just want to thank you for what you're doing.

Mr. PISTOLE. Thank you, Senator DeMint. I appreciate that.

Senator DORGAN. Mr. Pistole, just one final question.

Thank you very much, Senator DeMint.

We have had four events, really, that have been kind of defining events since we began much more enhanced screening after 9/11. One dealt with shoes. One dealt with underwear. One dealt with liquids. One dealt with cartridge toners. And so on. And so, each event reflects an offense by someone trying to commit—this case, murder. I mean, they want to get a bomb on an airplane. And then, you're involved in defense; we are involved in defense. And I guess the question I would ask you—we've ramped up the defense a lot. I mean, that's what this discussion's all about today. Tell me about the threat level. It appears to me the threat level continues to increase. You increase our defensive capabilities. Where are we, relative to where we were a few years ago? Is the offense ahead of the defense? The defense is way out there ahead of the offense? What's your sense?

Mr. PISTOLE. Yes, Senator, obviously, the operational tempo of al Qaeda and its affiliates, particularly in the Arabian Peninsula, has increased, as you've indicated. There are other groups around the world that are also interested in committing attacks, not only in

the U.S., but in Europe. You may have seen the Germans increase their level of security this morning in response to a current threat stream that we'd need to go into closed session about.

The way I look at this construct for TSA and Homeland Security is that we are on a continuum for the national security mission of the United States. At the one end, we have all the offensive actions of the military, whether in the tribal areas—Pakistan, Afghanistan—working with other countries, wherever it may be.

And hopefully there is some intelligence because of somebody who is detained on the battlefield said, "Yes, there's some current plotting against the U.S." That may not work.

And so, then we look at those other agencies, CIA and NSA, for HUMINT and SIGINT and those things that hopefully will inform us about plots that may be taking place here in the U.S.

That may not happen. And so, my former colleagues at the FBI, the Joint Terrorism Task Forces, hopefully they or the 750,000 to 800,000 State and local police officers, sheriffs, deputies, will be informed because they see something, say something—there is a threat—somebody sees something that's out of whack. But, that may not be the case.

And so, when it comes down to TSA, you're absolutely right, we are on the last lines of defense for the U.S. government. And whether it is a behavior detection officer, whether it's an explosive specialist doing the swabbing of hands and picking up of trace residue, whether it's a security officer, through the AIT or the pat-down—if somebody, such as Abdulmutallab, gets through all that and is able to get on that plane, then we're really down to the Federal Air Marshals, which is part of TSA, to be that last line of defense, or maybe armed pilots onboard. There are obviously concerned crew and passengers. For the U.S. government, it really comes down to that construct.

Senator DORGAN. What I was trying to ask is, the passenger that's taking a flight in this country today, they know—just by reading the newspapers and seeing the actions you're taking, they know that the threats have increased. But, also, your activities have increased to respond to the threats. Should they feel there is slightly less risk, the same risk, or more risk?

Mr. PISTOLE. Hopefully, they would see all the actions we're taking as deterrence to any putative terrorist. So, somebody who is planning an attack on aviation particularly, would see these actions as a way of moving them, unfortunately, to a softer target. We've done so much to harden the targets of aviation, and yet—and yet—they have done all these types of attacks. So, I hope it's a deterrent. That's the bottom line.

Senator DORGAN. Senator Hutchison.

Senator HUTCHISON. I do just have one more.

This rather high-profile person, Mr. Tyner, who left the San Diego airport after refusing to undertake the full body scan, now it's being reported that he is being investigated and that he may face up to a $10,000 fine. Is that the procedure? Are you investigating him?

Mr. PISTOLE. There are two parts to that. I've learned that TSA has the administrative authority to fine people who try to smuggle items on planes, prohibited items, things like that. That has been

fairly common—several thousand times—where that has happened. I'm not aware of any instance where somebody who has passively refused screening has ever been fined. So, it is being reviewed. I don't want to prejudge anything, but I do not anticipate anything coming from that, other than working with the public, to say, "Look, this is for your safety, security. Work with us. This is a partnership here."

Senator HUTCHISON. Well, I agree with you that it should be considered a partnership. And, in general, I have found, and mostly I hear, that the TSA employees are very aware of the privacy issues. They are sympathetic and are handling it very well. But, is it the policy of the agency not to fine someone who decides they do not want to be screened, and therefore, they leave?

Mr. PISTOLE. The policy is silent as to that issue, so it comes up for a decision. And so, when all the facts are at hand, when I'm briefed on all the facts, then I'll make a decision on that.

Senator HUTCHISON. Well, I would hope that we wouldn't go overboard if someone decides that they have the right to their privacy, and therefore, they walk out without injury to anyone. I can't see that that would be a fine offense.

Mr. PISTOLE. No, again, I am trying not to preview too much, because I would just like to make sure I have all the facts. But, I agree completely with you on that, Senator. Again, the fines, historically, have been primarily for people who have tried to smuggle items onboard.

Senator HUTCHISON. Actually—correct.

Mr. PISTOLE. And that's not this situation.

Senator HUTCHISON. All right. Thank you very much.

Mr. PISTOLE. Thank you.

Senator DORGAN. Mr. Pistole, thank you very much for your testimony. And thanks for the work that you do and your agency does.

And I want to mention that we will talk to the Chairman, and I expect that he would agree and want to have a classified briefing by you and the agency in the near future.

This hearing's adjourned.

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

A P P E N D I X

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN D. ROCKEFELLER IV TO HON. JOHN S. PISTOLE

Question 1. The Yemen air cargo threat incident has underscored the need to set up additional "tripwires" such as customer identity and accountability mechanisms to make it harder for terrorists to use international commerce as a means of attack. What responsibilities do shipping companies such as UPS, FedEx and their agents and subcontractors have to make sure customers who drop off packages bound for the U.S. are actually who they say they are? Are current protocols sufficient? If not, does TSA plan on increasing the identification verification requirements?

Answer. The Transportation Security Administration (TSA) requires all cargo carriers to inspect cargo accepted from shippers to ensure that the cargo does not pose a threat to the aircraft, its crew, and passengers. TSA does not require all cargo carriers to validate the shipper identity. TSA is aware that several air carriers have applied additional security measures such as identification checks for shippers as part of their security measures to protect their business operations.

TSA believes that validating shipper identification is one layer of an effective strategy to mitigate the security risk for air cargo. TSA is currently working with U.S. Customs and Border Protection to test the feasibility of using shipment data to target elevated risk cargo. TSA will assess the effectiveness of this approach and will modify its security requirements accordingly. TSA is also working closely with the air cargo industry to develop and share best practices for enhancing air cargo security.

Question 2. In February of 2010, the agency announced that it would reconsider the weight threshold it put forward under its original LASP proposal and stated it would release the new LASP requirements in the fall of 2010. The new LASP still has not been released. What is the status of this effort?

Answer. In response to the public comments received after issuing the Large Aircraft Security Program Notice of Proposed Rulemaking in October 2008, the Transportation Security Administration (TSA) is modifying the rulemaking proposal to take public comments into account and evaluate the feasibility/effectiveness of certain criteria, including aircraft weight, vetting of crew and passengers, and securing the aircraft. Currently, the Supplemental Notice of Proposed Rulemaking (SNPRM) is being prepared, and TSA expects the SNPRM to be released in mid–2011.

Question 3. The SAFE Port Act of 2006 included a mandate that DHS conduct pilot tests for the physical access component of the TWIC program, including card reader technologies and requisite security operations. TSA did not begin this pilot testing until 2009. Pilots are underway at seven locations, with multiple facilities and vessels participating in each venue. Until the analyses are performed, and the rules issued, workers will continue to show their TWIC card to gain access to a facility. What progress has TSA made with the card reader pilot program, and is TSA committed to finalizing the pilots and moving forward with broad deployment of the readers?

Answer. The Transportation Security Administration (TSA) has completed Initial Technical Testing which evaluated the technical capability of the Transportation Worker Identification Credential (TWIC) readers, documented environmental and reader specification conformance testing, and gathered and reported baseline operational and environmental data from participants. The Early Operational Assessment that provides for start-up learning curve and evaluates the technical performance of TWIC readers at test sites is underway or complete at all but four sites. The System Test & Evaluation which evaluates the operational and technical impact of installing and using TWIC readers at a variety of maritime facilities and vessels once readers/users achieve steady-state operation and includes an assessment of reader effectiveness, suitability, and supportability is complete at five sites.

TSA anticipates completing the Reader Pilot in early calendar year (CY) 2011. Under the current plans, the United States Coast Guard (USCG) estimates the No-

tice of Proposed Rulemaking (NPRM) should be published by the end of CY 2011 and a final rule published by the end of CY 2012.

Question 4. Is there a concern that in the absence of full TWIC card reader deployment, the use of TWIC as a "flash-pass" rather than a biometric card presents security risks at ports—especially those ports that traffic in especially hazardous cargo?

Answer. At this time there is no requirement for ports and facilities to use readers and the Transportation Worker Identification Credential (TWIC) reader pilot program has not been completed. The existing regulation requires visual verification of a TWIC in reducing security risks at Maritime Transportation Security Act (MTSA) regulated vessels and facilities. In the interim to fully leverage the security benefit of the TWIC, the Coast Guard has added an electronic TWIC handheld reader capability to existing MTSA and law enforcement programs to verify compliance with the TWIC requirements during vessel and facility compliance exams and/or security spot checks on a case by case basis.

Question 5. Some passenger and freight rail carriers have indicated that they do not have established relationships with their surface transportation security inspectors which creates confusion when a inspectors shows up for an inspection. Additionally, these groups have also stated the inspectors are inconsistent with their inspection efforts and seem to lack a focus. Finally, the GAO and some surface transportation inspectors have criticized the TSA for requiring some surface transportation inspectors to perform aviation-related duties, despite the fact that they do not have such expertise. How is TSA addressing these concerns?

Answer. Surface inspector relationships with rail agencies depend on a number of factors, including the size of the agency and whether or not they are located in a high-threat urban area and/or transport toxic inhalation hazardous (TIH) materials. Further, the surface inspection program is driven by the level of risk, which generally results in a focus on passenger rail agencies in high threat urban areas with large riderships and freight rail entities that carry TIH materials. The inspectors have worked closely with the top 100 mass transit/passenger rail agencies and all of the Class I freight railroads since 2006, conducting voluntary security assessments to include Baseline Assessment for Security Enhancement (BASE) reviews and Security Action Items (SAI), and performing regulatory inspections. Not all passenger rail agencies have large riderships and many short-line freight railroads do not carry TIH, so there will be some agencies/railroads that have minimal interaction with surface inspectors.

All Transportation Security Administration (TSA) inspectors are firmly grounded in developing depth of mode expertise. It is only after three or 4 years of extensive qualification that inspectors receive an orientation in another mode. All inspectors must have domain awareness to recognize security violations; however, inspectors will specialize in one mode in order to ensure deep subject matter expertise.

Question 6. The Center for National Response operated by the West Virginia National Guard in Gallagher, WV is a unique facility for training first responders in both disaster response and disaster recovery for highway, rail, transit, accidents or attacks in very close to real time simulations. Can you tell me more about TSA's efforts to coordinate both training and response with state and local organizations like the CNR?

Answer. As a matter of policy, the Transportation Security Administration (TSA) encourages those who may be involved with terrorist attack response to take full advantage of training opportunities, such as those offered by the Center for National Response (CNR). For example, since 2006, TSA, through the Federal Transit Security Grant Program, has awarded more than $115 million to transit systems nationwide for training front-line employees, and an additional $13 million has been awarded to conduct both table-top and full-scale security exercises.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BYRON L. DORGAN TO HON. JOHN S. PISTOLE

Question 1. In response to a question during the hearing on proposed TSA changes to the current aviation worker background screening process, you noted that the agency's work in this area is part of an ongoing effort to harmonize background checks for aviation workers, maritime workers and others with a goal of creating "one-stop shopping" for background checks. Can you please expand on the agency's long-term plans with regard to aviation worker vetting and what specific role TSA will play in the process beyond receiving biometric and biographic data on

prospective employees and conducting security threat assessments on those individuals?

Answer. The Transportation Security Administration (TSA) is currently preparing a proposed rule that will consolidate and harmonize existing transportation worker vetting programs, to the extent possible under law, and include new populations of persons that must be vetted. This rule is known as the "Standardized Vetting, Adjudication, and Redress Services Rulemaking" (TSA Universal Rule) and is intended to expand the extent to which TSA can determine that Security Threat Assessment (STAs) for different modes of transportation are comparable, reducing the need for redundant STAs and fees.

Question 2. Do you intend to assume any of the functions in the aviation worker background screening process currently performed by the private sector either in the short term or in the long term as you transition to the more "harmonized" approach outlined during the hearing?

Answer. As part of the long term rulemaking effort, the Transportation Security Administration (TSA) is reviewing the security threat assessment processes to identify areas for standardization across transportation workers, including aviation workers. The review includes all aspects of the security threat assessment process including data and fee collection, information submission, identity and immigration documentation, and adjudication processes and roles. In the short term, the proposed Aviation Channeling Services Project (ACSP) intends to provide choice to aviation stakeholders in the selection and use of Designated Aviation Channelers (DACs) for the purpose of aggregating applicant data and then transmitting that data to TSA. The roles and responsibilities in the pending ACSP are consistent with the roles and responsibilities that are performed today.

Question 3. If so, what specific roles do you envision federalizing?

Answer. The Transportation Security Administration (TSA) is reviewing the full security threat assessment process including current roles and responsibilities among the government, private entities, and individuals. TSA is considering changes to the data collection, document verification, fee collection and adjudication processes as part of the Standardized Vetting, Adjudication and Redress rulemaking. Prior to implementing any changes to the current processes, TSA will solicit comment and feedback from industry and stakeholders to better inform the decisions being made.

Question 4. I understand that the cost to workers in the aviation industry, or their employers, for required background checks are roughly one-third of what other transportation workers pay for similar checks as part of the Transportation Worker Identification Credential (TWIC) program or for a hazardous material endorsement. Please provide the Committee with an analysis of the efficiency and effectiveness of the existing aviation worker background screening model.

Answer. While the aviation worker program requires similar security threat assessment (STA) checks to the Transportation Worker Identification Credential (TWIC) program, the aviation worker STA and associated credential (Security Identification Display Area/SIDA badges) are not solely managed by the Transportation Security Administration (TSA). Unlike TWIC, in the current vetting program for airport and airline workers, TSA does not produce, issue, or manage secure credentials for these workers. Furthermore, the cost of operating contractor-provided enrollment and card activation services for TWIC applicants is also included in the TWIC fee charged to applicants.

TSA conducts the required security checks, but, unlike the TWIC program, TSA does not adjudicate the criminal history records check for the airports or the large aircraft operators; these functions are managed by the airports and airlines. Unlike the TWIC program, aviation workers are currently not charged for TSA costs related to the security threat assessment that TSA does conduct. TSA currently pays for these costs through appropriations.

In accordance with the pertinent laws, TSA must complete a rulemaking to collect user fees to pay for the costs of the vetting programs. TSA is in the process of completing a proposed rule that will cover fees for the aviation worker checks. However, TSA will continue to collect, on behalf of the Federal Bureau of Investigation (FBI), the Government fee of $17.25 for the fingerprint-based Criminal History Records Check (CHRC). Additionally, aviation workers are not provided the same redress opportunities (appeals, waivers, review by an Administrative Law Judge) as TWIC applicants.

The reason for the difference in redress between aviation workers and TWIC applicants lies in the governing statutes. In aviation, the statute (49 U.S.C. 44936) is very prescriptive about the kind of redress, list of crimes, and look-back periods that aviation workers must adhere to, and the statute does not authorize the ability to

apply for waivers, nor does it require ALJ review. For TWIC, the statute (46 U.S.C. 70105) specifically requires TSA to establish a waiver process and provide the opportunity for ALJ review.

Question 5. Please provide the Committee with the security rationale for the recent aviation worker background check proposal and explain what specifically the agency is doing to ensure that its efforts don't diminish security or disrupt the existing background check process at airports.

Answer. The Transportation Security Administration (TSA) is committed to providing a seamless expansion of service providers through the Aviation Channeling Services Project and fully understands the importance of the flow of information between airport stakeholders and TSA. TSA has sought industry input and met with aviation stakeholders to leverage their relevant expertise and experience as we introduce choice to airports and aircraft operators. These meetings and the feedback TSA has received from airports have helped inform our business and technical requirements and should serve to mitigate the risk associated with transitioning to an environment of choice among multiple Designated Aviation Channelers. Further, the Designated Aviation Channelers will undergo a thorough qualification and testing process and be required to comply with Federal information security and privacy requirements.

Question 6. Are the agency's efforts to change the existing aviation worker background screening system being driven by security or by other factors, such as a desire to promote competition in the screening process?

Answer. In response to Congressional inquiries, private industry, and aviation stakeholders, the Transportation Security Administration (TSA) is pursuing a model that will provide a choice of qualified channeling service providers for airports and aircraft operators and competition among the potential vendors.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. FRANK R. LAUTENBERG TO HON. JOHN S. PISTOLE

Question 1. Airlines have been charging passengers fees for checking their bags and as a result, more passengers are opting to carry the bags onboard aircraft. What is the impact on checkpoint security, including resource implications, as a result of more passengers bringing their baggage onto the aircraft as a carry-on, as opposed to checking their bag?

Answer. The Transportation Security Administration (TSA) has witnessed a 20 percent decrease in the number of checked bags submitted for screening during the last 2 years as most major air carriers have instituted baggage fees. The number of items X-ray screened as carry-on property has dramatically increased, resulting in a 17 percent reduction in hourly passenger screening throughput. This trend has forced TSA to reexamine resource allocation in terms of balancing checkpoint and checked baggage staffing requirements. It should be noted that at checkpoints serving air carriers that have not instituted checked baggage fees, the reduction in throughput has not been observed.

Question 2. The Department of Homeland Security requires manifest information to be provided 24 hours prior to loading for all maritime cargo entering our ports. However, for cargo entering our country by air, manifests only have to be provided 4 hours prior to arrival—which could be too late to stop a bomb before it enters our airspace. Shouldn't we require more advance notice for air cargo, particularly high-risk cargo, entering the United States?

Answer. The Department of Homeland Security (DHS) is working closely with industry and our international partners to expedite the receipt of cargo manifests for international flights to the United States prior to departure in order to identify and screen items based on risk and current intelligence. The Transportation Security Administration (TSA) and U.S. Customs and Border Protection (CBP) have already initiated joint pilot activities with industry to explore the feasibility of advanced information in the air cargo environment.

Question 3. The Senate Fiscal Year 2011 Homeland Security Appropriations Bill includes four million dollars above the President's request for air cargo security in order for TSA to conduct a voluntary pilot program to obtain air cargo information prior to departure. The purpose is to identify high-risk cargo for additional screening or even prevent it from being loaded on an aircraft. How soon will the Department be able to get this pilot program up and running?

Answer. On October 28, 2010, the global counter-terrorism community disrupted a potential attack when individuals with ties to Al-Qaida in the Arabian Peninsula in Yemen attempted to conceal and ship explosive devices in cargo on board aircraft

ultimately bound for the United States. The Transportation Security Administration (TSA) and the U.S. Customs and Border Protection (CBP) are working collaboratively and partnering with the private sector in the express consignment, passenger, and heavy all-cargo environment to identify strategies for strengthening air cargo security. This on-going collaborative effort is being extended throughout the air cargo industry and several pilot programs will be undertaken. The initial pilot within the express consignment environment commenced in December of 2010.

Question 4. The flying public has expressed privacy concerns about body scanners at airport checkpoints. There is a software upgrade being tested that could potentially address many privacy concerns by eliminating the actual body image and replacing it with a generic "stick figure" image, while still locating and identifying potential threats. When will the TSA have this technology installed at airports across the country?

Answer. Automated Target Recognition (ATR) software is used with Advanced Imaging Technology (AIT) and displays a generic stick figure-like image on the monitor attached to the AIT machine to show potential threats concealed on a passenger, and does not display the actual image of the passenger. It provides strong privacy protections and eliminates the need to staff an extra officer in a private room. Software development is currently underway and will be followed by testing to ensure it meets our screening requirements.

Question 5. The 9/11 Act included the requirement that DHS establish mandatory training standards for front-line employees in the rail, transit and bus industries. This was due in over 2 years ago, but the TSA has yet to establish these critical standards. Will the TSA complete this overdue requirement by the end of next year?

Answer. The Transportation Security Administration (TSA) has drafted a Notice of Proposed Rulemaking (NPRM) entitled Surface Transportation Employee Training, to meet the 9/11 Act requirement to establish mandatory training standards for front-line employees in the rail, transit, and bus industries. The draft NPRM is currently being reviewed and is estimated to be published in the fourth quarter of FY 2011. In the interim, TSA has continued to work with the rail, transit, and bus industries on security awareness training they provide to their employees.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARK PRYOR TO HON. JOHN S. PISTOLE

Question 1. I understand that in the days immediately following the attempted plot, at the direction of President Obama and Secretary Janet Napolitano, TSA deployed a team of security inspectors to Yemen to provide assistance and guidance to the Government of Yemen with their cargo screening procedures. Why did such a meeting not take place at an earlier date considering we knew such threats might be coming from this region and specifically this country?

Answer. Previous to the incident, U.S. efforts were targeted primarily to countries with direct air service to the United States or those otherwise served by U.S. aircraft operators; currently, direct air service to the United States from Yemen is not available and no U.S. aircraft operators provide service to/from Yemen. As a result of the incident, the Transportation Security Administration (TSA), through its Transportation Security Administration Representative (TSAR), has been working collaboratively with the Government of Yemen. TSARs are senior TSA personnel posted in key locations worldwide to work with the governments in the TSAR's assigned region, to improve their aviation security postures and aid governments in recognizing that the threat to the aviation sector remains high and therefore mitigation measures must be implemented to counter new and emerging threats as they arise.

Question 2. Was this threat not a concern prior to the discovery of this plot?

Answer. The Transportation Security Administration (TSA) was concerned about threats and vulnerabilities for cargo worldwide, including Yemen. Those concerns were expressed in a classified assessment (U//FOUO) Air Cargo Threat Assessment dated 7 October 2010.

Question 3. What other transportation threats from this region are of most concern to you and what proactive measures are you taking to prevent them?

Answer. The Transportation Security Administration (TSA) is concerned about worldwide threats to transportation, including those emanating from Yemen, the Arabian Peninsula, Horn of Africa and other areas. TSA documents threats to civil aviation including hijackings, improvised explosive devices, and Man-Portable Air Defense Systems (MANPADS) in our classified assessments. TSA also documents tactics, techniques, and procedures used by terrorist groups against other modes of

transportation, and share those with stakeholders in briefings, intelligence summaries, and threat assessments.

TSA is also highly engaged in outreach and assistance with the Government of Yemen. After the threat was uncovered in October 2010, TSA sent a team of Transportation Security Specialists to Yemen to aid the government in improving cargo security standards in Sana'a. TSA is also working to implement an Aviation Security Sustainable International Standards Team (ASSIST) program in Yemen. ASSIST is a comprehensive technical assistance program given to countries with demonstrated difficulty in satisfying the security Standards and appropriate Recommended Practices established by the International Civil Aviation Organization (ICAO).

TSA also participates in the ICAO Donor Nations group, which is a multilateral group comprised of several representative countries and regional organizations focused on assistance and capacity building activity with regard to aviation security. The purpose is to provide a forum for members to exchange information on respective capacity development initiatives to foster collaboration and avoid a duplication of effort. Participation in this group enables TSA to coordinate international capacity building efforts in Yemen.

Question 4. I understand that the U.S. and air cargo carriers put a hold on cargo shipments from Yemen and Somalia. Should we be concerned that this group will send packages from other points of origin?

Answer. The Transportation Security Administration (TSA) works to mitigate the risk that terrorist groups will send explosive devices from locations other than Yemen and Somalia through a variety of activities. TSA currently works to ensure the security of U.S.-bound air cargo through its Foreign Airport Assessment Program, which evaluates foreign airports' compliance with security standards established by the International Civil Aviation Organization (ICAO), as well as through air carrier inspections that evaluate air carriers' compliance with TSA regulatory requirements for operations to the United States. In order to address the requirement to screen 100 percent of all inbound air cargo, TSA has been working on a two-step process: (1) recognizing those National Cargo Security Programs of key foreign governments that provide a commensurate level of security as U.S. air cargo security requirements, with priority placed on the top 20 countries that represent 80 percent of all inbound air cargo to the United States; and (2) requiring additional measures for air carriers. TSA also conducts cargo security training courses for foreign governments needing assistance to improve their cargo security posture.

Additionally, TSA is working on an ICAO-led effort to identify ways to build upon the positive cargo security enhancements achieved through the recently adopted Amendment 12 to Annex 17 to the Convention on International Civil Aviation (Chicago Convention). Potential mitigation measures for the future that are being considered include: development of a common definition among States of high-risk cargo; creation of advanced cargo information requirements; creation of a hub concept for screening of high-risk cargo; establishment of standard compliance requirements; standardization of chain of custody requirements; and the creation of joint compliance and technology teams.

Question 5. I understand that much of air cargo security relies on foreign governments for screening implementation and enforcement. How is this system working?

Answer. The International Civil Aviation Organization (ICAO) is a specialized agency of the United Nations (UN) established in 1944 by the Convention on International Civil Aviation (Chicago Convention). The Chicago Convention is the primary international agreement on international civil aviation. ICAO currently has 190 Contracting States. The principal mandate of ICAO is to advance aviation safety and security worldwide. ICAO develops and promotes Standards and Recommended Practices (SARPs) for the security of international civil aviation. Security Annex 17 to the Chicago Convention contains standards for air cargo security and enforcement that all Contracting States are required to follow. The Transportation Security Administration (TSA) assesses all international airports with U.S. aircraft operations or that serve as a last point of departure for all flights to the U.S., for compliance with ICAO requirements. TSA conducts assessments every one to 3 years depending on the level of risk associated with each airport. When an assessment reveals that an international airport is not meeting ICAO minimal standards, TSA works with that airport and host government authorities to ensure that measures are taken to correct security deficiencies.

Question 6. How do non-UN participating countries conduct cargo screening?

Answer. The 190 countries that are signatories to the Convention on International Civil Aviation (Chicago Convention) agree to comply with the Standards and Recommended Practices put forward in Security Annex 17 to this Convention. Only air

carriers from countries that are signatories to the Chicago Convention are allowed to operate commercial air transport service to the U.S. The Transportation Security Administration (TSA) conducts assessments of airports with flights to the United States in accordance with 49 U.S.C. § 44907. TSA can only speak to international airports with U.S. aircraft operations or foreign air carriers with a last point of departure flight, which would follow the international standards in Annex 17.

Question 7. What security measures should shipping companies and airlines (large and small) be responsible for in screening cargo?

Answer. For international inbound cargo, the Transportation Security Administration (TSA) regulates only domestic air carriers, foreign air carriers flying from the last point of departure into the United States, and their authorized agents. Freight forwarders and shipping companies overseas are not subject to TSA regulations. These entities are regulated by foreign governments who provide compliance oversight.

In response to the recent cargo plot, many foreign governments have implemented enhanced security requirements for air cargo, which may include screening. Depending on the government's air cargo security program, requirements may apply to any supply chain.

Question 8. Currently commercial aviation passengers pay a $2.50 security fee per segment flown limited to $5 per one-way trip. This fee structure only covers 36 percent of aviation security, which is increasing every day. Should passengers pay more?

Answer. The administration believes that there should be a modest increase in the aviation security passenger fee, which has not risen since it was first implemented in 2002. While the nation as a whole benefits generally from aviation security, airline passengers derive significant direct benefits as well. Recognizing this, the original authorizing legislation (the Aviation and Transportation Security Act) that created the Transportation Security Administration (TSA) included passenger user fees to more closely allocate the cost of aviation security services to the individuals who directly benefit from this unique government service and simultaneously reduce the burden on the general taxpayer. The proportion of support that these fees provide for aviation security has decreased significantly as the level of funding required for more effective aviation security has risen. The increase in the passenger fee that the administration has proposed would come close to restoring the intended balance between appropriated funding and direct passenger contributions.

Question 9. Should air cargo face a similar fee?

Answer. The passenger fee model would not make sense in the air cargo context, because unlike passenger security much of the cost of cargo security is borne by industry, not the Transportation Security Administration (TSA). Currently TSA only collects fees that support security threat assessments of workers in the air cargo supply chain as well as security assessment fees for the Certified Cargo Screening Program.

Question 10. TSA is in the process of implementing new screening measures for passengers including the widespread use of Whole Body Imaging technologies and pat-downs. What are the different technologies used to conduct Whole Body Image searches?

Answer. There are two types of Advanced Imaging Technology (AIT) security screening systems currently used by the U.S. Transportation Security Administration (TSA) at airports: general-use (backscatter) x-ray and millimeter wave. Millimeter wave technology bounces harmless electromagnetic waves off the body to create a black and white three-dimensional image. Backscatter technology projects low level X-ray beams over the body to create a reflection of the body displayed on the monitor. Millimeter wave technology produces an image that resembles a fuzzy photo negative. Backscatter technology produces an image that resembles a chalk etching.

Question 11. Are there concerns with radiation levels for TSA employees, passengers (frequent fliers & pilots)?

Answer. There are two types of Advanced Imaging Technology (AIT) security screening systems currently used by the U.S. Transportation Security Administration (TSA) at airports: general-use (backscatter) X-ray and millimeter wave. There are no radiation safety concerns with the systems as long as they are properly operated and maintained. Advanced imaging technology is safe and meets national health and safety standards.

Backscatter technology was evaluated by the Food and Drug Administration's (FDA) Center for Devices and Radiological Health (CDRH), the National Institute for Standards and Technology (NIST), and the Johns Hopkins University Applied Physics Laboratory (APL).

All results confirmed that the radiation doses for the individuals being screened, operators, and bystanders were well below the dose limits specified by the American National Standards Institute (ANSI).

For comparison, the energy projected by millimeter wave technology is thousands of times less than a cell phone transmission. A single scan using backscatter technology produces exposure equivalent to 2 minutes of flying on an airplane.

Question 12. How is TSA dealing with complaints related to pat-down searches?

Answer. The Transportation Security Administration (TSA) welcomes feedback and comments on screening procedures from the traveling public through the TSA Contact Center via a toll-free telephone number, through the *www.tsa.gov* website, or by e-mail. A passenger can also register a complaint by U.S. Mail. When a passenger identifies an airport in his or her complaint, TSA refers that complaint to the Customer Support Manager (CSM) at the airport. Passengers can also contact the TSA supervisory personnel at each airport or the CSM directly or through the "Talk to TSA" section of the website which sends complaints directly to the airport. CSMs work with the Federal Security Director who is responsible for ensuring that the Transportation Security Officer workforce follows TSA's Standard Operating Procedures and adheres to the Agency's principles for professional and courteous checkpoint screening.

TSA's Office of Civil Rights and Liberties examines complaints alleging discriminatory conduct and violations of civil rights. If a complaint is disability-related, TSA's Office of Disability Policy and Outreach conducts the investigation.

All complaints are taken seriously, and volume and trends are reported to TSA leadership. Passengers may also contact the DHS Office for Civil Rights and Civil Liberties (CRCL). CRCL reviews and assesses information concerning abuses of civil rights, civil liberties, and profiling on the basis of race, ethnicity, or religion, by employees and officials of DHS. TSA is committed to doing everything we can to make the traveling experience as expeditious and comfortable as possible while ensuring the safety of all passengers. The Agency will continue to evaluate and adapt these procedures to strike the right balance between privacy and security, while ensuring we are addressing evolving threats.

Question 13. Is there another less-invasive way to check passengers for explosives?

Answer. Given the threat and currently available technology, the Transportation Security Administration (TSA) believes that the security measures in place best mitigate the risk posed by an adversary with a body-borne improvised explosive device. TSA will continue to examine its procedures and consider options to balance its important security requirements with the needs of the traveling public.

Question 14. TSA is currently reconsidering its proposed rule providing security measures for general aviation. The Large Aircraft Security Program (LASP) has not been finalized. When will TSA release a final rule?

Answer. In response to the public comments received after issuing the Large Aircraft Security Program Notice of Proposed Rulemaking in October 2008, the Transportation Security Administration (TSA) is modifying the rulemaking proposal to take public comments into account and evaluate the feasibility/effectiveness of certain criteria, including aircraft weight, vetting of crew and passengers, and securing the aircraft. Currently, the Supplemental Notice of Proposed Rulemaking (SNPRM) is being prepared, and TSA expects the SNPRM to be released in mid–2011.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. CLAIRE MCCASKILL TO HON. JOHN S. PISTOLE

Question 1. Yemeni officials screened and cleared the two packages destined for the Chicago, IL synagogues containing the explosive devices before placing them on passenger aircraft. During the November 16, 2010 Homeland Security and Governmental Affairs Committee (HSGAC) on Air Cargo Security you stated that the Yemeni officials had X-ray equipment, but lacked explosive detection equipment and didn't have the same level of screening standards that the U.S. has. You met with Deputy Prime Minister Rashad al-Alimi on November 3, 2010, and other aviation officials in Yemen on the recent events. I understand that you provided the Yemeni officials some guidance in standards and policies and you left them some explosive detection equipment. What type of commitment did you receive from the Yemeni government on increasing standards and policies when it comes to cargo screening? What is your confidence that they will follow through?

Answer. During the early November visit to Yemen, Transportation Security Administration (TSA) Administrator John Pistole met with Deputy Prime Minister

Rashad al-Alimi, as well as officials from the Yemeni Directorate General of Civil Aviation and the Ministry of Interior. During these and subsequent meetings with additional TSA officials, Yemeni government officials committed to work with the United States over the next 18 months to enhance its aviation security system. This year and a half long project will consist of three phases: building a foundation, finalization of all aviation security programs consistent with international standards, and, developing specialized skills. At this time, it is too early to evaluate the success of the program; however, TSA will be glad to report additional details as the program develops.

Question 2. Secretary Napolitano on her November 8 press release stated that she ordered a "ground halt on all cargo coming from Yemen." I know that there is a ban on all air cargo coming from Yemen and Somalia, but does a ground halt to all cargo coming from Yemen mean any resulting maritime, rail, or truck cargo that originated in Yemen? Is this ground halt extended to Somalia as well? Are you aware of other increased security measures in the other cargo venues (rail, truck, and maritime) since the failed air cargo attempts?

Answer. The term "ground halt" is typically applied to aircraft operations and means that no aircraft are allowed to be airborne. The Transportation Security Administration has not increased security measures applied to cargo originating from Yemen or Somalia for modes of transportation other than air cargo, nor are we aware of increased security measures in rail, truck, and maritime cargo since the failed attacks.

Question 3. DHS issued a Security Directives and Emergency Amendments that bans all air cargo from Yemen and Somalia, prohibits high risk cargo from being transported on passenger jets, prohibits toner or ink cartridges greater than 16 ounces in carry-on and checked luggage, prohibits toner or ink that can be transported on crewmembers or in cargo packages identified as high risk, and requires all-cargo aircraft operators to screen all high risk cargo using TSA-approved technology. This is to continue to 12/8/10. Why 12/8/10? What kind of analysis does DHS plan to perform to determine whether to extend all or some of the measures or to cancel the measures?

Answer. The Transportation Security Administration (TSA) issued the Security Directives and Emergency Amendments (SDs/EAs) that were effective on November 8, 2010. Those SDs/EAs expired on December 8, 2010. This 30-day period gave TSA time to monitor and assess the threat environment based on intelligence; discuss with industry, other Federal agencies, and foreign governments to assess the operational impacts of the requirements; and determine an appropriate next course of action. TSA has issued revised SDs/EAs in December 2010, which have modified and further extended the security requirements to ensure the safety of air cargo shipped on passenger planes and all-cargo planes.

Question 4. What obstacles are you coming across while trying to entice or enhance security standards and policies abroad? How can Congress help?

Answer. The Transportation Security Administration (TSA) strives to overcome the obstacles of new and emerging threats while trying to enhance aviation security standards and policies abroad. TSA would appreciate your continued support as we work to mitigate new and emerging threats. The process will always be evolving as terrorists find additional ways to exploit the system. We have been fortunate to develop close working relationships with our international partners, which have resulted in unprecedented collaboration to close gaps and mitigate threats.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TOM UDALL TO HON. JOHN S. PISTOLE

Question 1. Does TSA have a formal audit process in place to make sure that all procedures are followed regarding the use of AIT and pat-downs? If so, what is this process? If not, will you commit to implementing such a process?

Answer. Federal Security Directors coordinate with their staffs to ensure that screening procedures are conducted properly and in accordance with standard operating procedures. The Transportation Security Administration (TSA) is in the final stages of developing a Quality Assurance program that will soon be deployed nationwide.

Question 2. You stated in the hearing that Advanced Imaging Technology is evolving and the next generation of the machines will produce an image that is a "stick figure or a blob" so that individual passengers are not identifiable. You also said that this technology is already in use in Amsterdam, but it currently has problems

because there are too many false positives. Do you have an estimate of how long it will take for the technology to be ready for use in the United States?

Answer. The Dutch have been using a form of Automated Target Recognition (ATR) on their L–3 millimeter wave (MMW) Advanced Imaging Technology (AIT) units for approximately one year. They are experiencing a very high alarm rate and the majority of their passengers are being patted down. L–3 has since developed the next iteration of the ATR software which the Canadians, Dutch and the U.S. are testing in both the lab and in the field over the next several months.

Question 3. The *Washington Post* published an article on November 22, 2010 titled "Scientists say they have solution to TSA scanner objections." In the article it states that employees at Lawrence Livermore National Laboratory developed a program in 2006 that would make the images produced by AIT machines grossly distorted to protect passengers' privacy, but would still allow the machines to identify any objects on the body. One of the employees said that they presented the idea to DHS, but their offer was rebuffed. The article states that a current TSA spokesman could not immediately confirm the employees' 2006 conversation with federal officials about the program because it was during the previous administration. Has TSA been in contact with Lawrence Livermore during the current administration to explore whether their program would allow AIT to fully screen passengers while also protecting their privacy? If not, will TSA thoroughly review and test their program to determine its ability to modify AIT machines in a way that will protect privacy while maintaining their detection capabilities?

Answer. The Transportation Security Administration (TSA) has not been in direct contact with Lawrence Livermore National Labs (LLNL) about any image distortion initiatives that LLNL may have underway. At this time, TSA is addressing passenger privacy concerns through the development of Automated Target Recognition (ATR). ATR software is used with Advanced Imaging Technology (AIT) and displays a generic stick figure-like image on the monitor attached to the AIT machine. With the use of ATR, Transportation Security Officers will never view the actual image of a passenger. Therefore, ATR will render image distortion programs unnecessary. TSA is currently working with industry to develop ATR to meet TSA detection standards and will reach out to LLNL to determine if their proposals are applicable to AIT operations.

Question 4. In August 2009, suicide bomber Abdullah Asieri attempted to kill Prince Mohammed Bin Nayef, head of Saudi Arabia's counter terrorism operations. Asieri avoided detection by two sets of airport security and palace security by smuggling a pound of high explosives and a detonator in his body cavity. Although the prince was not killed in the explosion, it demonstrated that terrorists were able to smuggle explosives through various types of security screening. Would Advanced Imaging Technology or the newer enhanced pat-down procedures detect explosives hidden in a body cavity? If not, isn't the use of these procedures ineffective against a known threat and any passenger screened by TSA and allowed to board an aircraft could potentially have explosives hidden in their body cavity?

Answer. For security reasons, specific detection capabilities will need to be provided in a classified setting. The Transportation Security Administration (TSA) employs many layers of security that address a multitude of threats including explosive trace detection, explosives detection canines and behavior detection. Each layer of security is designed to work collaboratively with the others. The result is a system as a whole that is very difficult to manipulate and is adaptable to changing threats. TSA is currently deploying the best available technology to passenger checkpoints to detect threat items and appreciates the support that the Committee has provided.

Question 5. The recently implemented pat-down procedures don't only raise questions about passenger privacy, but also about TSO morale. While senior TSA officials are responsible for developing and implementing screening policies, the TSOs at airport screening points bear the brunt of passenger disapproval about these policies. What has TSA done to help TSOs deal with the stress of their jobs and to address morale problems related to performing invasive pat-downs? Has the implementation of new pat-down procedures had an impact on TSO recruitment and retention?

Answer. Prior to deploying enhanced pat-down procedures, the Transportation Security Administration (TSA) worked closely with our National Advisory Council, which is comprised of TSA airport frontline employees, including many Transportation Security Officers (TSOs) from across the Nation. We crafted new training for all TSOs tied directly to the new procedures; this training included anticipated passenger sensitivities and the risk-based reasons for the new procedures. We also piloted the new procedures at select locations. Since deployment nationwide, reporting from airports indicates TSOs have received a positive response by the general public

to the new procedures. In screening almost two million passengers daily, the relatively few occasions for the enhanced pat-downs (several hundred a day) have not had an impact on the performance of our TSOs who continue to perform their duties with a high level of professionalism. Federal Security Directors (FSDs) use daily shift briefs to address any perceived issues and to ensure the TSOs understand the reason why the policy is in place. Administrator Pistole's provided a video message, which highlights the purpose, value and instills to TSOS that they are doing the right thing and for a good cause. Also, the Deputy Administrator sent a message out to the workforce thanking them and asking them to continue to do great work. Additionally, TSA employees may receive assistance for job stress through the Employee Assistance Program. All of this is done to provide the workforce with motivation to do their job well and keeps morale high.

Question 6. There has been significant discussion recently about implementing the "Israeli model" for airport screening—that is, profiling, detailed interviews, highly invasive searches of suspect passengers, etc. Please provide your opinions on whether the "Israeli model" would work for airport screening in the United States. Specifically, please discuss how much adopting this type of screening might cost, how many additional employees the TSA would need to hire, and how it would compare to current TSA screening procedures in regards to civil liberties concerns.

Answer. The Transportation Security Administration (TSA) has not conducted a formal analysis of the cost required to implement a United States airport security system modeled on Israel's system. The substantially higher passenger volumes and the comparative complexity of the U.S. commercial aviation systems with its 450 geographically dispersed locations would likely pose considerable operational and financial challenges for transplanting the Israeli system in this nation. An analysis of Israel's system also must take into account not only differences in scale regarding passenger enplanement but also the differences in U.S. policy toward privacy and civil rights and civil liberties.

TSA has consulted extensively with Israel and adapted key techniques to meet U.S. aviation security needs. In particular, TSA already operates a behavior detection program that is based on Israel's model, and continues to increase the direct human evaluation of passengers during screening.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARK WARNER TO HON. JOHN S. PISTOLE

Question 1. Following the recent attention given to the enhanced pat-down procedure put in place November 1, TSA showed a willingness to revisit portions of its protocol (such as providing different procedures for pilots and young children). Given that this is a work-in-progress, can you tell me what additional changes to the enhanced pat-down procedure you are considering making in the near future? How often do you plan on reviewing current procedures?

Answer. The Transportation Security Administration continuously evaluates and adapts screening procedures to strike the appropriate balance between addressing evolving threats and the needs of the traveling public. TSA is sensitive to the concerns of all passengers and maintains an ongoing dialogue with groups representing a variety of segments of the population, including those with medical or developmental disabilities and victims of sexual assault, in order to better understand their needs.

Question 2. What are the most recent figures for the percent of the population receiving the enhanced pat-down? What is the percentage of the traveling public that is receiving pat-downs by opting out of the full body scan, and what percentage receives a pat-down or targeted search as a result of triggering an alarm or indicating some sort of anomaly when going through the scanner?

Answer. Approximately 2.79 percent of all passengers between October 31, 2010 and December 11, 2010, received the full standard pat-down (mainly when opting out of AIT screening) and approximately 3.2 percent of passengers received a targeted pat-down as a result of AIT anomalies.

Question 3. TSA currently uses both millimeter wave and backscatter technology in the full body scanners that it is bringing on line. In staff briefings, TSA officials have mentioned that they believe eventually one technology or the other will prove superior and will represent the dominant technology in the future. Will this result in the mothballing and storage of millions of dollars in equipment, considered obsolete, similar to what occurred with the "puffer" machines?

Answer. Both technologies have met the Transportation Security Administration's (TSA) qualification requirements and are effective security screening equipment.

Even if one particular technology ultimately proves superior and TSA determines to purchase only that technology in the future, TSA will continue to utilize the units it has already purchased. TSA does not expect to retire any AIT units prior to the end of their anticipated useful life.

Question 4. Administrator Pistole, you have mentioned that you are not employing technology that would show a generic "stick figure" image (Automated Target Recognition) rather than a naked body image in current scanners because you believe there would be complications with false positives. ATR technology, however, is already being used in airports in Europe. What specific challenges do you see in implementing this technology in the US? Can you provide a description of the events that must occur before this technology is employed here, and provide a timeline concerning when ATR can come into use?

Answer. As indicated, Automated Target Recognition (ATR) software is used with Advanced Imaging Technology (AIT) and displays a generic stick figure-like image to show potential threats concealed on a passenger. The main challenge in the development, testing and deployment of ATR remains the high number of false alarm rates experienced both in testing in the U.S. and in the field by the Netherlands. AIT alarms must be resolved through a physical pat-down process. A high number of false alarms increases the need for pat-downs and slows the overall screening process. Before ATR can be successfully deployed in the US, further software development and testing are required. TSA's preliminary lab results indicate that the false alarm rate is moving toward an acceptable level; however, this cannot be confirmed until the completion of field testing.

Proposed ATR Timeline:

- ATR Qualification Testing and Evaluation (QT&E) was completed at the Transportation Security Laboratory.
- Within the next 30 days ATR will be tested and evaluated in the field. This testing will take 60 days.
- A System Evaluation Report will be generated following the conclusion of the test process. Based upon findings, a DHS acquisition decision will be pursued for system-wide implementation.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARK BEGICH TO HON. JOHN S. PISTOLE

Question 1. Does the TSA intend to deploy Advanced Imaging Technology (AIT) equipment for passenger screening to airports in Alaska? If so, what is the timeline for deployment and which airports will receive the AIT equipment?

Answer. The Ted Stevens Anchorage International Airport is scheduled to receive Advanced Imaging Technology (AIT) units in calendar year 2011.

Question 2. When will Automated Target Recognition (ATR) software be ready for deployment to airport screening checkpoints nationwide?

Answer. Deployment of Automated Target Recognition (ATR) software is dependent on development by Advanced Imaging Technology (AIT) manufacturers and the successful completion of testing to ensure ATR meets Transportation Security Administration (TSA) requirements. ATR is being testing in a laboratory environment and field testing is scheduled to begin in February 2011.

Question 3. It seems the use of ATR would go a long way to alleviating many of the privacy concerns associated with AIT scanners. Is there anything that can be done to speed up the deployment of ATR software?

Answer. The Transportation Security Administration (TSA) is working closely with Advanced Imaging Technology manufacturers as they develop the next generation of Automated Target Recognition (ATR) software. This close working relationship provides valuable feedback to the manufacturers that they can use to enhance their current algorithms. In addition, TSA is working through the Department of Homeland Security's Science and Technology Directorate to identify other opportunities to accelerate ATR development.

Question 4. What training do Transportation Security Officers receive before they are cleared to screen passengers using enhanced pat-downs?

Answer. Each Transportation Security Officer (TSO), Lead TSO, and Supervisory TSO is required to successfully complete 6–6½ hours of training before he or she is permitted to independently perform the revised pat-down procedures. The Transportation Security Administration developed and deployed a training package that includes web-based components and a classroom instruction module that requires a proficiency demonstration at the end of the course.

Question 5. I've heard from numerous Alaskans who have previously been victims of sexual assault. The enhanced pat-downs employed by TSA have been extremely traumatic for some sexual assault survivors. Has the TSA provided Transportation Security Officers with any special or additional training regarding sensitivity to passengers who have experienced sexual abuse, medical procedures, are developmentally disabled, or have other special needs and circumstances that may make an enhanced pat-down a less appropriate screening method?

Answer. The Transportation Security Administration (TSA) is sensitive to the concerns of all passengers and maintains an ongoing dialogue with groups representing a variety of segments of the population, including those with medical or developmental disabilities, and victims of sexual assault. TSA officers currently receive specialized training for those with medical or developmental disabilities and it will be augmented to include sensitivity to victims of violence and sexual abuse based on feedback from groups representing those passengers. TSA officers are trained to treat all passengers with dignity and respect, and to fully communicate with each passenger to ensure they understand the process throughout screening. All passengers can request to be screened in a private location and can have a witness present when a pat-down is required. Pat-downs are primarily used to resolve an alarm or an anomaly, or on passengers who choose not to pass through the WTMD or Advanced Imaging Technology. Currently, statistics show that less than 3 percent of the traveling public receives a pat-down.

Question 6. How is TSA collecting and evaluating complaints about the enhanced pat-downs to ensure additional training or oversight is directed to airports with high complaint levels?

Answer. The Transportation Security Administration (TSA) welcomes feedback and comments on screening procedures from the traveling public through the TSA Contact Center (TCC) via a toll-free telephone number, through the *www.tsa.gov* website or by e-mail. A passenger can also contact TSA by U.S. Mail. When a passenger identifies an airport in his or her complaint, TSA refers that complaint to the Customer Support Manager (CSM) at the airport. Passengers can also contact the CSM or TSA supervisory personnel at each airport directly or through the "Talk to TSA" section of the website which sends complaints directly to the airport. CSMs work with the Federal Security Director who is responsible for ensuring that the Transportation Security Officer (TSO) workforce follows TSA's Standard Operating Procedures (SOP) and adheres to the Agency's principles for professional and courteous checkpoint screening. TSA passenger and baggage screening complaint data is reported to the public in a monthly Congressionally-mandated Department of Transportation (DOT) report, "Air Travel Consumer Report" as required by Section 421(a) of Vision 100—Century of Aviation Reauthorization Act, P.L. 108–176.

TSA's Office of Civil Rights and Liberties (OCRL) assesses complaints alleging discriminatory conduct and, may conduct an inquiry to determine what occurred, if the SOP was followed and whether a violation of the passenger's civil rights or civil liberties occurred. If a complaint is disability-related, TSA's Office of Disability Policy and Outreach (ODPO) conducts the investigation. Both OCRL and ODPO conduct outreach, monitor trends, provide targeted sensitivity and cultural awareness training, and, if necessary, work with TSA's Office of Security Operations to revise or develop new procedures.

TSA's Office of the Ombudsman provides confidential, neutral, and informal assistance in resolving questions and concerns from individuals about TSA processes, programs, and procedures when other available TSA resources for resolution have been unsuccessful. Finally, passengers may also contact the DHS Office for Civil Rights and Civil Liberties (CRCL). CRCL reviews and assesses information concerning abuses of civil rights, civil liberties, and profiling on the basis of race, ethnicity, or religion, by employees and officials of DHS.

Regardless of the avenue, all complaints are taken seriously, and volume and trends are reported to TSA leadership. TSA is committed to doing everything we can to make the traveling experience as expeditious and comfortable as possible while ensuring the safety of all passengers. The agency will continue to evaluate and adapt these procedures to strike the right balance between privacy and security, while ensuring we are addressing evolving threats.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. KAY BAILEY HUTCHISON TO HON. JOHN S. PISTOLE

Question 1. It is my understanding that the international air cargo supply chain still relies heavily on paper documentation instead of electronic information, which would be more easily scrutinized for anomalies or problems earlier in the shipping process. One area of improvement that I envision to bolster our intelligence and security efforts would be to transition from a paper-centric documentation system to an electronic system. Would this transition improve your counter-terrorism efforts in the air cargo sector, and are you working with industry to move in that direction?

Answer. The Transportation Security Administration (TSA) agrees that having an electronic based system would be beneficial to counter-terrorism efforts. TSA is currently working with industry stakeholders to leverage existing electronic capabilities and best practices, and the agency supports the greater use of electronic documentation across the air cargo industry. As industry moves more toward electronic records, TSA will continue to explore ways to obtain this information in a secure and timely manner for vetting purposes.

Question 2. At your nomination hearing, I emphasized the importance of the relationship between TSA and industry stakeholders. A safe and effective security system is mutually beneficial to industry and government alike. To that end, reports indicate that authorities suspect that several packages mailed from Yemen to Chicago in September 2010 may have been a "dry run" for this recent terrorist event. Given the knowledge of the "dry run," did TSA alert the cargo industry of the potential plot, so they could heighten their security analysis, especially in Yemen? If not, why?

Answer. While the specifics of this cargo plot were not known until hours before the discovery of the packages from Yemen, the Transportation Security Administration (TSA) regularly shares threat information with its stakeholders, including direct briefings when there are specific items of interest to the air cargo industry. Our logs indicate that TSA has provided information on threat related items to major cargo carriers on at least seven occasions since 2008. In addition, TSA produces an annual assessment of the threat to air cargo, which reviews relevant intelligence related to cargo threats. The assessment is used to inform stakeholders and the transportation security community.

Question 3. What role do canine units play in the all-cargo sector, and does TSA need more canine units?

Answer. The Transportation Security Administration (TSA) takes a risk-based approach toward deploying its canine resources. TSA currently does not use canine teams in the all-cargo environment. Presently, canine teams are used in the passenger air cargo environment. In this environment, the TSA uses two types of canine teams: teams led by local Law Enforcement Officers (LEOs) and proprietary teams (federal teams) led by TSA cargo inspectors to screen air cargo destined for transport on passenger aircraft. LEO-led canine teams, are contractually obligated to spend approximately 25 percent of their duty time in the air cargo environment and associated facilities providing law enforcement presence and screening air cargo.

120 TSA proprietary canine teams are primarily dedicated to screening air cargo at high-volume air carrier facilities to enhance air cargo security. As part of the layered security approach, the canine teams conduct routine security sweeps for the detection or deterrence of explosive threats where cargo is staged, consolidated, or otherwise prepared for transport. TSA canine teams also conduct random patrols at various areas within the cargo environment during peak and non-peak hours. Based on current air cargo volume, and the fact that industry has attained 100 percent screening in the U.S., TSA does not have an immediate need for more canine units, but continues to assess operational needs.

Question 4. Following 9/11, several airports and air carriers, under the understanding that they would be reimbursed, invested in costly in-line baggage systems at airports and various airport terminals. Today, some airports and air carriers have yet to be reimbursed for those costs, and some are reimbursed at a lower percentage than others. Will TSA set aside resources to start reimbursing these airports and air carriers to create a clean slate moving forward?

Answer. The Transportation Security Administration (TSA) takes a risk-based approach to investing in security programs; therefore, the agency must prioritize limited funding toward airports that do not have in-line baggage systems in place. Reimbursement for all or a portion of these costs absent prior formal TSA agreements is not possible. TSA appreciates the investments made by these airports to enhance

security; however, reimbursement of previous efforts outside a formal agreement comes at the cost of advancing current or future security measures.

Question 5. Please provide a list of the airports, air carriers, or other entities that have requested full or partial reimbursement for the installation of Explosive Detection Systems (EDS) after the 9/11 terrorist attacks that have not received full or partial reimbursement?

Answer. The Transportation Security Administration has received requests for reimbursement from the following entities who invested in in-line baggage systems without prior formal agreements: Anchorage (ANC), Atlantic City (ACY), Chicago Midway (MDW), Detroit (DTW), Fairbanks (FAI), Harrisburg (MDT), Honolulu (HNL), Indianapolis (IND), Kahului (OGG), Miami (MIA), Nantucket (ACK), American Airlines/New York (JFK), Orlando (MCO), Pittsburgh (PIT), Richmond (RIC), SW Florida (RSW), Tampa (TPA), Theodore Francis Green (PVD), Yampa Valley Regional (HDN).

Question 6. Additionally, it is the Committee's understanding that TSA has not been timely in responding to Freedom of Information Act (FOIA) requests pertaining to documents related to requested reimbursement funds for EDS installation. Please provide the Committee with a list of EDS installation related FOIA requests that have been requested by either airports, air carriers, or other entities since the 9/11 terrorist attacks, along with the status of those requests and justification for non-response, if applicable.

Answer. Since September 11, 2001, TSA has received 13 requests under the Freedom of Information Act for information related to installation of Explosive Detection Systems, and has fully responded to 9 of the 13. Four recent requests, all received in this fiscal year, are still outstanding and are in the process of providing a response. A complete list of the 13 requests is provided below.

Case Number	Description	Status	Status as of 12/6/10
FY2010			
TSA10–0044 (case received in FOIA Office 10/22/09)	Documents regarding a variety of work, including EDS installation, done at Providence, RI airport	Closed on 12/6/10	Closed
TSA10–0117 (case received in FOIA Office 11/23/09)	Documents related to EDS installation at JFK airport in New York, NY, including documents related to TSA's reimbursement of entities for airport facility improvements	Interim response provided 12/10/10	Case in final review
TSA10–0636 (case received in FOIA Office 7/6/10)	Contractual, payment, and settlement information related to in-line baggage screening system installation at Cleveland, OH airport	Open as of 12/6/10	In processing
TSA10–0803 (case received in FOIA Office 9/1/10)	All TSA contracts (including technical information) for EDS systems entered into between 1/1/2008 and 9/1/2010	Open as of 12/6/10	In processing
FY2009			
TSA09–0844	Documents, including payments, requests for payment, and correspondence between federal and local governments, related to EDS installation at Kansas City, MO airport	Closed 10/22/09	Closed
FY2008			
TSA08–0450	Contracts, proposals, and award letters related to design, procurement, and installation of EDS machines	Closed 7/9/2009	Closed

Case Number	Description	Status	Status as of 12/6/10
FY2007—None			
FY2006			
TSA06–0594	Contracts, work orders, and drawings regarding EDS installation at Minneapolis-St. Paul International Airport	Closed 9/19/06	Closed
FY2005			
TSA05–0004	Request for EDS installation-related contract	Closed 11/8/04	Closed
TSA05–0141	Request for EDS installation-related contract	Closed 4/14/05	Closed
TSA05–0442	Contract with Boeing for EDS installation and maintenance	Closed 7/28/05	Closed
FY2004			
TSA04–0306	Documents related to Massport EDS installation	Closed 4/22/04	Closed
TSA04–0528	Wide-ranging request for documents that included request for "documents and records related to the schedule of deployment of inline EDS systems for 2004 and 2005" and documents related to the seven airports that had received letters of intent to reimburse for construction	Closed 3/22/04	Closed
FY2003			
TSA03–0223	Copy of "any contract between FAA and Boeing" related to EDS installation	Closed 8/28/03	Closed

Question 7. TSA's role in surface transportation security is clearly much different than its role in aviation. While TSA Agents serve as frontline screeners at all airports, this is obviously not feasible when it comes to surface modes. Speaking broadly, how do you view TSA's role when it comes to surface transportation security? What would be the most important improvement that TSA could make to increase its oversight of surface transportation security?

Answer. The Transportation Security Administration (TSA) is mandated to protect the surface transportation system and to ensure the freedom of movement and the security of people and commerce. In accordance with the 9/11 Act, TSA is responsible for assessing security threats, vulnerabilities, and consequences in all surface transportation modes and taking appropriate responses to mitigate the risk. This mission is accomplished largely by a consortium of federal, state, local, and private entities optimizing resources in a risk-based approach to security.

TSA is working to enhance surface transportation security through its resource allocations, training, risk assessments, intelligence sharing and other discrete areas of focus. For example, the Transportation Sector Security Risk Assessment was completed and delivered to Congress on June 30, 2010, and is designed to inform the development or maintenance of risk mitigation strategies and actions that include, but are not limited to, the development of security standards, grants, programs, countermeasures, and resource allocations. It provides a cross-modal analysis as well as individual analyses focused on the unique risks in each transportation mode. TSA will use this assessment when looking to improve oversight of surface transportation security. TSSRA 2.0 is expected to be completed in December 2011.

Question 8. The recently uncovered plot targeting the D.C. Metro system is another indication of the threat our nation's mass transit system faces. At a hearing of this Committee in April, we discussed the need for TSA to better coordinate with transit operators. Has TSA made any progress in this area?

Answer. The Transportation Security Administration (TSA) has and continues to make progress coordinating with transit operators. Examples include:

- On a regular basis, TSA conducts conference calls with the Transit Policing and Security Peer Advisory Group and over 100 varying transit agencies. Both calls include an unclassified briefing from TSA's Office of Intelligence and an opportunity for transit stakeholders to ask questions.
- TSA issues Random Surge Operations Messages to expand collaboration between TSA and the transit community, especially the Tier I and II Transit Security Grant Program security partners, and promote random, unpredictable activities. The surge operations include a list of precautionary and voluntary security protective measures with some possible funding options.
- TSA also worked with stakeholders on implementing recommendations from the Government Accountability Office (GAO) Public Transit Security Information Sharing Report (GAO–10–895 September 22, 2010).

Question 9. A March 2010 Inspector General's report recommended that TSA better support passenger rail agencies by improving its assessments of emergency procedures and response capabilities. What is TSA doing to improve these assessments?

Answer. The Transportation Security Administration (TSA) has taken a number of steps to improve the Baseline Assessment for Security Enhancement (BASE) program. The BASE program assesses the status of a transit system's implementation of 17 Security and Emergency Management Action Items and measures compliance with existing TSA Security Directives. During these comprehensive system-wide assessments, which include an assessment of security management and accountability systems, TSA inspectors identify security weaknesses, including weaknesses in emergency response planning and employee training.

First, TSA has modified the frequency of BASE assessments to focus on passenger rail agencies that have not done as well as other agencies in improving security. Second, TSA has developed a program to assist the agency in addressing significant vulnerabilities. A Performance Improvement Action Plan (PIAP) is written with objectives and milestones within a structured timeframe, and TSA inspectors make increased visits to the agency to help the agency implement the PIAP. Third, TSA has developed a matrix that is available to the passenger rail agency to identify aids, brochures, websites, templates, and other forms of assistance that will strengthen its security posture and improve assessments. Fourth, an initiative is underway to establish a panel with representatives from the transit industry as well as representatives from TSA's federal security partners (Federal Transit Administration and Federal Emergency Management Agency) to further coordinate with TSA on the BASE assessment tool.

Question 10. In addition to aviation and other modes of passenger transportation, we must also consider the vulnerability of our nation's pipelines. How does TSA oversee the security of the 2.5 million miles of pipeline in our country?

Answer. The Transportation Security Administration (TSA) was mandated by the Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Act) to review pipeline operator adoption of DOT's security recommendations issued in 2002. Pub. L. 110–53 §§ 1557 and 1558 (codified at 6 U.S.C. 1207 and 1208). Through Corporate Security Reviews, TSA assesses companies' security plans and procedures. In addition, TSA conducts Critical Facility Inspections to examine the physical security companies have in place. At the conclusion of these visits, TSA provides recommendations to facility operators on how to strengthen the security posture of the facility. TSA's approach emphasizes information sharing and the provision of technical assistance to collectively protect the nation's pipeline network. Through these and other programs, TSA has built a strong working relationship with the pipeline industry, a relationship which has served to help pipeline operators secure their critical facilities.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN ENSIGN TO HON. JOHN S. PISTOLE

Question 1. The DHS Office of Inspector General report of November, 2009 reiterated by the GAO report of June 2010, found deficiencies in the chain of custody between the parties that control the cargo prior to its loading onto the aircraft, as part of the TSA's Certified Cargo Screening Program (CCSP). The GAO report also stated that while the TSA directs when and how to achieve cargo security with various technologies, it does not issue ". . . standards for the types of technologies that should be used." What has been the TSA's progress with improving the chain of custody and the issuance of standards regarding technologies to be used for cargo secu-

rity, and the level of cooperation received from the certified cargo screening facilities (CSF) to correct this problem, including any objections or issues on the part of the CSFs?

Answer.

Improvement of Chain of Custody

One way that the Transportation Security Administration (TSA) has focused its efforts to improve the chain of custody is by developing training modules that will ensure consistent training across regulated parties. TSA plans to provide these modules to the air carriers, Indirect Air Carriers, Certified Cargo Screening Facilities (CCSF), Independent Cargo Screening Facilities, and authorized representatives. The modules will include training covering the following areas:

- Acceptance and transfer procedures;
- Cargo screening procedures;
- Chain of custody measures;
- Facility security;
- Security coordinator training, and;
- Handling of Sensitive Security Information and Personally Identifiable Information.

Each module will include instructor and student guides and tests. TSA intends to finalize the modules, post the materials for industry comment, and educate industry on the use of the modules in the first quarter of calendar year 2011.

Technology Standards

TSA is in the process of updating the security programs for those participating in the Certified Cargo Screening Program (CCSP). The next updates are designed to provide a process for TSA review and approval of chain of custody technology (*i.e.,* Tamper Evident Technology- seals, tape, etc.).

Outreach and Compliance Activities for the CCSP

TSA has engaged in extensive outreach to CCSP participants to assist CCSFs in complying with TSA regulations. TSA works with each CCSF to ensure that they understand the security program requirements. TSA also has compliance inspectors that conduct routine, as well as random inspections of CCSFs to determine whether the facilities are in compliance with TSA regulations and security program requirements, including chain of custody requirements. TSA evaluates industry feedback regarding chain of custody best practices and uses applicable industry practices in the development of future security programs and chain of custody procedures.

Question 2. The use of pat-downs has raised the competing concerns of security versus privacy. Does TSA have a written policy in place regarding the use of pat-downs of air travelers? If so, please provide it to the Committee.

Answer. Written policies and procedures are contained in Transportation Security Administration (TSA) Standard Operating Procedures. These documents are Sensitive Security Information and can be provided in a closed setting to the Committee.

Question 3. Does TSA keep statistics on how many travelers have gone through pat-downs, whether because of a decision to opt out of the full body scan or because of other alerts or anomalies? If not, has your agency discussed this and what were the details of that discussion?

Answer. Yes, TSA is now collecting this data. Approximately 2.79 percent of all passengers between October 31, 2010 and December 11, 2010 received the full standard pat-down (mainly when opting out of AIT screening and approximately 3.2 percent of passengers received a targeted pat-down as a result of AIT anomalies).

Question 4. A type of passenger screening equipment that uses a lower level of radiation and depicts a less realistic body image was mentioned in news reports recently. This machine is built by L–3 Communications Security & Detection Systems, a Massachusetts-based company. The machine is used by Amsterdam's Schiphol Airport. Which company manufactures the screening equipment currently in place at U.S. airports, as well as those machines that are waiting to be deployed?

Answer. Current Advanced Imaging Technology units are manufactured by Rapiscan Systems, Inc. and L3 Communications, Security & Detection Systems Division.

Question 5. Why was the current model of screening equipment chosen rather than a type similar to this Massachusetts-based machine?

Answer. The Transportation Security Administration (TSA) has purchased and deployed the Massachusetts-based screening equipment, manufactured by L3, in addition to Rapiscan's screening equipment. At this time, L3 and Rapiscan are the only two companies that have successfully completed testing to demonstrate that they meet the TSA's requirements. The image produced by the L3 millimeter-wave scanner is similar to the image produced by the Rapiscan backscatter x-ray machine; both machines detect anomalies on a passenger's body.

Question 6. Were any studies done on the medical effects of the body scanning equipment currently in use? If so, please provide those results.

Answer. Advanced Imaging Technology is safe and meets national health and safety standards. Backscatter technology was evaluated by the Food and Drug Administration's Center for Devices and Radiological Health, the National Institute for Standards and Technology, and the Johns Hopkins University Applied Physics Laboratory. All results confirmed that the radiation doses for the individuals being screened, operators, and bystanders were well below the dose limits specified by the American National Standards Institute. For comparison, the energy projected by millimeter wave technology is thousands of times less than a cell phone transmission. A single scan using backscatter technology produces exposure equivalent to 2 minutes of flying on an airplane.

TSA performed evaluations to ensure the systems meet the applicable regulatory requirements and national safety standards prior to deployment. TSA takes all measures to ensure the safety and health of the traveling public and TSA employees when purchasing and deploying new technology. Before TSA purchases technology, the technology is validated by manufacturers, through third party testing, or additional evaluations sponsored by TSA to ensure it meets regulatory requirements and national safety standards.

Question 7. As part of the Screening Partnership Program (SPP), airports can opt out from having TSA employees do the screening and instead choose private contractor screeners. As I understand it, this is the situation at 16 airports in the U.S. Please provide a listing of:

The specific airports whose SPP applications are pending;

The length of time each application has been pending;

The reasons for each application's continued delay (if applicable); and,

The estimated date of decision for each application.

Answer. The specific airports whose Screening Partnership Program (SPP) applications are pending and length of time the applications have been pending are:

1. West Yellowstone, MT (WYS)—15 Months (September 2009)
2. Glacier Park, MT (GPI)—15 Months (September 2009)
3. Missoula, MT (MSO)—7 months (June 2010)
4. Butte, MT (BTM)—20 Months (March 2009)

The SPP program applications are currently under review by the Administrator of the Transportation Security Administration. A decision on all of the applications will be made following the completion of the review.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN THUNE TO HON. JOHN S. PISTOLE

Question 1. Because of the obvious publicity generated from new TSA screening policies do you plan to revisit these procedures in the near future?

Answer. The Transportation Security Administration (TSA) continuously reviews and updates screening policies based on threat assessments and intelligence and balances the need to safeguard aviation with the needs of passengers. TSA has been and will continue to be receptive to input from the traveling public. TSA strives to keep the traveling public informed of policies through our website, established aviation stakeholder partnerships, and other public forums.

Question 2. As part of the Air Cargo plot that was disrupted last month, do you believe that air cargo companies should be required to disable certain package tracking information that could be used to estimate when and where a package is during the course of its journey?

Answer. Package tracking information is a concern to the Transportation Security Administration (TSA). TSA is evaluating the potential impact of disabling this tracking information on industry operations.

Question 3. Thankfully a number of terrorist acts have not been carried out over the past few years in the United States (Detroit bombing last December, Times Square bomb plot, Richard Reid, and the most recent explosive devices that originated in Yemen). How many of those failed plots do you attribute to increased TSA security screening practices and how much was pure luck or related to the quick thinking of alert bystanders?

Answer. The Transportation Security Administration (TSA) and the Department of Homeland Security (DHS) have a layered approach to aviation security. Every day, TSA Transportation Security Officers screen almost 2 million passengers. More than 50,000 trained transportation security officers, transportation security inspectors and behavior detection officers are on the front lines guarding against threats to the system every day. Many are veterans of the U.S. military who have previously fought terrorism overseas, and they are now serving our country at home. Screening both provides a deterrent against attacks and serves as the nation's last line of defense for aviation security.

Intelligence, information sharing and cooperation are critical in the fight against terrorism. TSA works with all of their partners, the traveling public, foreign governments, the private sector and law enforcement to increase global aviation security and enhance information sharing. As TSA sees the ever evolving nature of the threat, TSA adapts to use the latest intelligence and cutting edge technology to keep the traveling public safe. TSA has engaged our partners to ensure passenger vetting by Secure Flight, and we are seeing the increased use of technology, including Advanced Imaging Technology (AIT), in other locations. Together with DHS, TSA has launched a nationwide expansion of the "If You See Something, Say Something" campaign—a simple and effective program to raise public awareness of indicators of terrorism, crime and other threats and to emphasize the importance of reporting suspicious activity to the proper transportation and law enforcement authorities.

The combination of all these efforts provides the greatest safeguard against the terrorist threat.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHNNY ISAKSON TO HON. JOHN S. PISTOLE

Question 1. I have received, and continue to receive, very angry calls, letters, and e-mails from my constituents about the intimate and aggressive nature of the pat-downs. One constituent, Pamela Robinson who is a Diamond Medallion Member on Delta Airlines and flies approximately 200,000 miles year, described her experience at the TSA checkpoint in San Francisco. She did not set off the magnetometer; however, a TSA agent told her that her shirt was too loose and her pants too wide, so she needed to be patted down.

Reading from her statement to my office: "The agent described how she would rub her hand inside my 'inner thigh' in my groin area." I felt disgusted and stated, "I don't think so. You will not touch me like that." She then tried to convince me by continuing to describe how she was now going to "pat" my entire body down with her hands. I felt sick just hearing her describe how she thought I was going to stand there and allow her to molest me in front of the public. She stated that "I could go to a private room." I stated that "I am not going into a private room to be molested either."

Another constituent, a law enforcement officer who was patted down, told my staff that the type of pat-down he received is, in his experience, reserved for suspects who demonstrate probable cause. Recognizing that TSA is not a law enforcement agency, it leads me to my questions:

Does TSA view each passenger as if they have probable cause that they are a terrorist?

Answer. The Transportation Security Administration's (TSA) authority to search passengers at checkpoints does not require probable cause or any level of individualized suspicion about a passenger. TSA's specific authority to screen passengers and their property is set forth in Sections 101 and 110 of the Aviation and Transportation Security Act (ATSA). Under Section 101 of ATSA (codified at 49 U.S.C. § 114 (e)(1)), the TSA Administrator "shall be responsible for day-to-day Federal security screening operations for passenger air transportation and intrastate air transportation." Under Section 110 of ATSA, (codified at 49 U.S.C. § 44901(a)),"The Under Secretary of Transportation for Security shall provide for the screening of all passengers and property, including United States mail, cargo, carry-on and checked baggage, and other articles, that will be carried aboard a passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation." Particular screening methods, however, are not prescribed by stat-

ute. Federal courts have held screening is lawful when no more extensive or intensive than necessary to detect the presence of weapons and explosives. *See e.g.,* United States v. *Aukai*, 497 F.3d 955 (9th Cir. 2007) (en banc); *United States* v. *Hartwell*, 436 F.3d 174 (3rd Cir. 2006). Federal courts have held that airport security screening is a valid special needs search, and need not be based on probable cause or any level of individualized suspicion. As discussed in *Aukai* and *Hartwell*, suspicionless searches, such as aviation checkpoint security screening, are lawful under the Fourth Amendment when they serve a special need distinct from ordinary law enforcement and are tailored to minimize the intrusion on personal privacy. Additionally, as the court stated in *Hartwell*, absent a search, there is no effective way to detect which passengers pose a threat, and "as yet there is no foolproof way of confining the search to the few who are potential hijackers." *Hartwell*, at 180.

Question 2. Where does TSA derive its authority to conduct these physical screenings? Is it explicit under legislation such as the Aviation and Transportation Security Act (ATSA), the Intelligence Reform and Terrorism Prevention Act of 2004, and the Implementing Recommendations of the 9/11 Commission Act of 2007, or is it a legal interpretation by your lawyers?

Answer. The Transportation Security Administration's (TSA) authority to screen is explicit under sections 101 and 110 of the Aviation and Transportation Security Act (ATSA). TSA has the statutory mandate to screen all passengers and property that will be transported on passenger aircraft. This is codified in 49 U.S.C. §§ 114 and 44901. In addition, under Section 4013 of the Intelligence Reform and Terrorism Prevention Act of 2004 (codified at 49 U.S.C. § 44925), Congress has directed that TSA "shall give a high priority to developing, testing, improving and deploying, at airport screening checkpoints, equipment that detects nonmetallic, chemical, biological, and radiological weapons, and explosives, in all forms, on individuals and in their personal property." Particular screening methods, however, are not prescribed by statute.

Question 3. During the hearing, Senator Dorgan asked what I thought was a very good question. In asking whether you were sensitive to the growing concern over the new pat-downs, he said: "Does that worry you that maybe we're at a point where this is not a vocal minority, that maybe we have overstepped?" You responded: "Yes, I'm concerned about that, but, no I'm not going to change the policy." If you are, by your own admission, concerned that TSA is overstepping, then why not have a review of the policy and make changes?

Answer. My concern was based on the intensity of the feedback we received, not the efficacy of the screening policies themselves. As always, the Transportation Security Administration will continue to evaluate and adapt screening procedures to strike the appropriate balance between privacy and security, while ensuring that we are addressing evolving threats. A review of travel during the recent Thanksgiving and December high-travel period shows that the screening process went very smoothly throughout the country.

Question 4. I recognize that security is a balancing act, and that we must balance the free flow of commerce and freedom of movement with security in the post 9/11 world. I was disappointed that Secretary Napolitano said that "if people want to travel by some other means" they have that right, and when she implied that air travel is not a right. That comment does not reflect an understanding of the necessity of air travel for many and its importance to our nation's economy.

I also do not think that DHS and TSA have done a good enough job of explaining the meaning and intent of its aviation security regulations and policies to the traveling public, or to its field representatives who are charged with enforcing them. For example, one constituent relayed an experience in Atlanta where he was told he was now required to remove his wallet when going through screening. He asked when this new rule was implemented, and was told, "it has always been this way."

TSA, it seems, consistently fails to communicate these changes, especially when doing so could probably speed up the process and give travelers an idea of what to expect. If you travel through 5 different airports, you will have 5 different TSA experiences.

Do you agree with Secretary Napolitano that, for example, my constituents who need to travel the over 2,000 miles to the West Coast for business should find other means to travel?

Answer. The Transportation Security Administration (TSA) has responsibility for protecting the security of the aviation system and specific authority to screen passengers and their property. TSA appreciates the support and cooperation of those who fly. Title 49 Code of Federal Regulations (CFR) Part 1540.107 (a) however, provide that no individual may enter a sterile area of an airport without complying with the systems, measures, or procedures in place to control access to that area.

Further, no individual may enter a sterile area or board an aircraft without submitting to the screening and inspection of his or her person and accessible property in accordance with TSA's procedures. Simply put, TSA must ensure that all passengers are properly screened, and we know that all passengers want assurances that those traveling on their flight are similarly screened for their safety. Under Title 49 Code of Federal Regulations (CFR) Part 1503.401, TSA has authority to assess civil penalties for violations of these aviation security requirements. Thus, to ensure the safety of the public, civil penalties or the denial of air transportation will apply to those who refuse to comply with federal regulations.

Question 5. What will you do to ensure that TSA policies and regulations are properly understood and consistently enforced by TSA field representatives, and properly communicated to your customers, the traveling public?

Answer. The Transportation Security Administration (TSA) has a comprehensive training program in place to ensure that all TSA policies and regulations are understood by the entire screening work force. TSA uses a number of communications vehicles to reinforce messaging to the workforce and field leadership. Among these vehicles are agency-wide broadcast messages from the Secretary of Homeland Security, the TSA Administrator, and the TSA Deputy Administrator; daily shift briefs provided to the work force; transmittal of information via Intranet sites open to the work force; our public Internet site; Intranet sites dedicated to field leadership; leadership conferences; newsletters; and local town halls. Included in the training and messaging are periodic reminders of established avenues to report concerns with consistent enforcement of standards, to include the TSA Ombudsman.

For the traveling public, TSA provides extensive signage and audio messaging at airports; a user-friendly Internet site; a network of customer service managers at airports across the nation; and broad outreach for feedback from the public through the TSA Contact Center. We refine our public communications through close coordination with key government and industry stakeholders.

Question 6. As a grandfather of 9, most of whom are under the age of 6, I have a special interest in this question. My staff received a call from a constituent who at the time was at the airport and who was very upset that his 4 year old daughter had two options to be screened: either the advanced imaging screening or the physical pat-down. He has very legitimate concerns with the image produced by the advanced imaging screening, regardless of whether the TSA agent is in a private room where no one else can see the images, and has very legitimate concerns with the intimate nature of the physical screening. Can you clarify once and for all how TSA is treating child travelers?

Answer. Children who appear to be 12 years of age and younger receive a modified version of the pat-down when it is required. The modified pat-down is required if a child alarms the Walk Through Metal Detector, has Advanced Imaging Technology (AIT) anomalies, or if the child's parent or guardian requests a pat-down in lieu of AIT on the child's behalf. The modified version of the pat-down is less invasive than the pat-down conducted on adults. As with all of the Transportation Security Administration's (TSA) pat-down procedures, the modified pat-downs are only conducted over clothed areas and can always be conducted in private with witnesses present; TSA will not separate a parent or guardian from a minor. In addition, targeted pat-downs on specific areas of individuals, including children, may be conducted if the individual or child is wearing bulky clothing that could conceal a prohibited item or resolution of an AIT anomaly is required.

Question 7. If a parent is traveling with a child that they do not want to be subjected to AIT radiation, what are their options?

Answer. A modified pat-down is conducted on children who appear to be 12 years old or younger if the child's parent or guardian refuses Advanced Imaging Technology (AIT) on the child's behalf. The modified version of the pat-down is less invasive than the pat-down conducted on adults. As with all the Transportation Security Administration (TSA) pat-down procedures, the modified pat-down is only conducted over clothed areas and can always be conducted in private with witnesses present. TSA will not separate a parent or guardian from a minor. The TSA website at *www.tsa.gov* contains information regarding radiation and AIT safety.

Question 8. My constituents have voiced a number of concerns with the advanced imaging technology (AIT) machines. The notion of a near naked image being seen by someone in a different room is disconcerting, regardless of whether that image is stored. They have voiced concerns with the radiation they are subjected to during the process. They also have voiced concerns with throughput at the machines which, by my own experience in Atlanta, I can tell you is very slow. What progress has TSA made in moving to the automated target recognition feature that would eliminate the viewing room and instead use a stick-figure image on the machine itself?

Answer. Software development is currently underway and will be followed by testing to ensure it meets Transportation Security Administration (TSA) screening requirements. If it meets these requirements, Automated Target Recognition (ATR) software will be used with Advanced Imaging Technology (AIT) and displays a generic stick figure-like image on the monitor attached to the AIT machine to show potential threats concealed on a passenger, and does not display the actual image of the passenger. ATR will provide strong privacy protections and eliminate the need to staff an extra officer in a private room.

Question 9. Can you guarantee that these images are not being stored, as we learned the U.S. Marshal Service was doing at an Orlando courthouse?

Answer. The Advanced Imaging Technology (AIT) that the Transportation Security Administration (TSA) deploys to airports cannot store, export, print, or transmit images. TSA directs AIT vendors to disable the storage capability of their machines at the factory. All images are automatically deleted from the system after they are reviewed by the remotely located operator. No cameras, cellular telephones, or any other device capable of capturing an image is permitted in the resolution room. Use of such a device is terminable offense.

Question 10. What studies has TSA done to ensure that the levels of radiation, especially by the backscatter machines, are not harmful?

Answer. Advanced Imaging Technology is safe and meets national health and safety standards. Backscatter technology was evaluated by the Food and Drug Administration's Center for Devices and Radiological Health, the National Institute for Standards and Technology, and the Johns Hopkins University Applied Physics Laboratory. All results confirmed that the radiation doses for the individuals being screened, operators, and bystanders were well below the dose limits specified by the American National Standards Institute. For comparison, the energy projected by millimeter wave technology is thousands of times less than a cell phone transmission. A single scan using backscatter technology produces exposure equivalent to 2 minutes of flying on an airplane.

Question 11. With regards to throughput, will TSA staff and run the security lines to a specific wait time? That is, can TSA guarantee that passengers will clear security within 30 minutes of beginning the process, for example? If not, why not?

Answer. Although the Transportation Security Administration (TSA) strives to process passengers through screening as efficiently as possible, application of screening protocols at a checkpoint is not tied to throughput and screening of individuals and property must be completed to ensure the safety of the traveling public. While TSA cannot guarantee a wait time of less than 30 minutes, historical data indicate that 99.4 percent of passengers wait less than 20 minutes.

Question 12. Please clarify that if a passenger clears the AIT machines with no anomalies, they do NOT have to have the "more invasive" pat-down.

Answer. That is correct. If a passenger clears the Advanced Imaging Technology machine with no anomalies, they do not have to undergo the standard pat-down.

Question 13. When we met prior to your confirmation, we discussed the fact that TSA uses a cookie cutter, one size fits all approach to security and screens everybody the same way, when what they should be doing is managing risk to the specific threats. We also discussed that the best way to do this is to use intelligence to determine who would need greater scrutiny and to apply it to those who need it, using behavioral detection officers at the TSA checkpoint and at the actual gate itself. At the time my understanding was that you agreed with this view.

My staff recently witnessed a situation in New York where TSA agents were working at the gate, and selecting passengers as they were walking on the airplane for screening. My understanding, again, is that these agents use behavioral detection to determine who should be screened.

Before starting to board the plane, the airline agent called for two specific passengers to board first. The TSA agent pulled one of the two people aside for screening as they were boarding. The person said "no ma'am, I don't think you want to screen me." The agent insisted, and began going through the person's belongings in full view of the rest of the passengers and before anyone else was allowed to board. Ultimately, the passenger was identified as an air marshal.

This concerns me, because to me it underscores the lack of communication between the TSA, the air marshals, and the airline. It also underscores that no intelligence is being used to determine who needs to have extra scrutiny applied to them. The situation forced the public identification of the undercover air marshals on this particular flight. Finally, it underscores the concerns that I hear from many of my constituents, and that is that TSA's policies and procedures are "security theater."

What guidance are your screeners given at the gate in determining whom to pull out for extra screening? Are they using behavioral detection or other intelligence, or are they pulling passengers out of line based on their own whims?

Answer. Transportation Security Officers (TSOs) are instructed to select passengers for gate screening based on random screening protocols or behavior detection. Specific procedures describe what actions should be taken if a Federal Air Marshal is selected for gate screening.

The Transportation Security Administration (TSA) employs several methodologies to determine flights chosen for gate screening operations, in addition to random selection, to include: collaboration with the TSA's Office of Intelligence using real-time intelligence for flights of interest, as well as with the Federal Air Marshals Service for flights that have gone through a risk-modeling process and are determined to be of interest for aviation security. The specific procedures for gate screening are Sensitive Security Information (SSI) that cannot be discussed in public. However, TSA will schedule a closed meeting at your convenience to brief the Committee on these procedures.

Question 14. Are breakdowns in communication between the TSA and air marshals like this common?

Answer. The airport sterile area is a fluid environment within which Transportation Security Administration (TSA) assets, to include Federal Air Marshals (FAMs), operates 365 days a year in an effort to ensure the safety of the traveling public. To strengthen security at our nation's airports, TSA implemented the random assignment of Transportation Security Officers (TSO) and Behavioral Detection Officers (BDO) to airport departure gates in an effort to remain unpredictable and thereby increasing the effectiveness of limited available resources.

On occasion, FAMs are scheduled for flights where departure gate screening occurs. The airport environment, varied flight schedules and the element of randomness introduced with departure gate screening increases the likelihood a FAM may be selected for departure gate screening. However, as a result of procedures currently in place, this is not a common occurrence.

TSA's Office of Security Operations (OSO) and Office of Law Enforcement/Federal Air Marshal Service (OLE/FAMS) have taken steps to mitigate the potential for a breakdown in communication between FAMs, TSOs and BDOs. FAMs are aware of the existence of random departure gate screening. FAMs are instructed to take measures to prevent being selected for screening. These measures include discreet communication with TSOs and/or BDOs as soon as it is evident their flight is selected for random screening in an effort to make their presence and identity known to the TSA elements conducting the screening.

Unfortunately, even with these measures in place there is no guarantee a FAM will not be selected for screening. For instance, boarding has commenced prior to a FAM team's arrival at the departure gate due to unforeseen circumstances (such as a flight delay or last minute schedule change) and discreet communication is not possible. In such an event, FAMs and TSOs are instructed to interact in a manner that would ensure the anonymity of FAMs.

TSA will continue to work to ensure such instances that you described are minimized or eliminated.

Question 15. What steps will you take to ensure that situations like this do not happen in the future?

Answer. Transportation Security Administration's (TSA) Office of Law Enforcement/Federal Air Marshal Service (OLE/FAMS) will continue to work closely with TSA's Office of Security Operations (OSO) to make certain breakdowns in communication occur as infrequently as possible. The potential for Federal Air Marshals (FAMs) to be selected for screening exists on a daily basis. However, TSA has put procedures in place to limit the potential for a breakdown in communication between FAMs, Transportation Security Officers (TSO) and Behavioral Detection Officers (BDO).

Question 16. As a member of the Senate Veterans Affairs Committee, I read with great interest recent articles (including: *http://travel.usatoday.com/flights/2010–08–25-airportscreening25_ST_N.htm*) regarding TSA's treatment of amputees. As you know many of our Operation Iraqi Freedom and Operation Enduring Freedom veterans have lost limbs in service to their country as a result of improvised explosive devices (IEDs).

My state of Georgia is home to the 3rd Infantry Division, 13 military installations including the Home of the Infantry at Fort Benning, as well as the Eisenhower Army Medical Center and the Charlie Norwood Veterans Hospital, which serves as a poly-trauma and rehabilitation center for our nation's active duty and retired wounded warriors from all our nation's military conflicts.

A recent article in *USA Today* highlighted the concerns of many amputees about TSA's use of CastScope and called on the TSA to "clean up its act" when screening people who have lost a limb. Many amputees find they have been subjected to "inconsistent, unfair, abusive and often embarrassing screenings" by TSA personnel.

Furthermore, the CastScope subjects passengers to a significant amount of radiation and, as one passenger who lost a limb as a result of a radiation overdose said, "It's ironic to lose my leg to a radiation overdose, and now, if I want to travel, I have to expose myself to more radiation."

My understanding is that our wounded warriors and other amputees have to subject themselves to CastScope and cannot opt out. Further, I have read the complaints many wounded warriors and amputees have had with regards to the insensitivity of TSA agents toward amputees, and the lack of understanding about how CastScope works.

For passengers who are amputees, what are the options beyond CastScope?

Answer. The Transportation Security Administration (TSA) is very sensitive to the special needs of amputees, including wounded warriors, and has been working closely with the Amputee Coalition of America to ensure proper training of TSA screeners and to improve screening processes generally for amputees. Persons who wear prosthetic devices will be screened using either Advanced Imaging Technology (AIT), or the Walk Through Metal Detector (WTMD), or they may opt-out of either and undergo a pat-down. If the person undergoes AIT or WTMD screening and either an AIT anomaly is identified or the WTMD alarms, a pat-down will be conducted. The pat-down may be conducted on all areas of the body except for the prosthetic device. A visual inspection will be conducted of the accessible exterior area of the prosthetic device. A pat-down and visual inspection can always be conducted in a private screening area. Upon completion of the pat-down and visual inspection, the person's hands, footwear, and prosthetic will be tested for explosives. In the airports where CastScope is available, it is used in addition to the other screening methods described previously. If the person declines the CastScope procedure, they will not be allowed to enter the sterile area of the airport and will be allowed to depart the screening checkpoint. Since June 2010, TSA has worked closely with the Amputee Coalition of America to identify ways to make the CastScope process safer and more comfortable to people with prosthetics. In addition, TSA is in the process of researching ways to increase the privacy of those undergoing CastScope screening through the use of privacy screens.

Question 17. What steps are you taking to ensure that TSA agents are all trained in the proper way to treat passengers who are amputees?

Answer. The Transportation Security Administration is working closely with the Amputee Coalition to develop new training to help TSOs gain a higher degree of sensitivity regarding screening persons with prosthetics. In addition, in direct response to concerns identified in a survey conducted by the Amputee Coalition last summer, TSA has recently made a number of changes to its CastScope procedures including requiring that some of the scans be conducted in the seated position. TSA also worked directly with the Amputee Coalition to identify specifications for the type of chair and stool needed to conduct these scans on amputees more safely and comfortably. In addition, training has been provided regarding minimizing the number of scans to that reasonably necessary to ensure that no prohibited items are present in the cast or prosthetic device. The frequency of the training provided to TSOs was also increased from yearly to a quarterly requirement so that TSOs will be able to carry out these procedures more effectively and expeditiously, thereby causing less inconvenience to passengers who are amputees.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. DAVID VITTER TO HON. JOHN S. PISTOLE

Question 1. Administrator Pistole, as you know, the federal government took over all aspects of security screening post-September 11, including the purchase and installation of Explosive Detection Systems known as EDS, at airports across the country.

In one instance, American Airlines was in the middle of constructing a new state-of-the-art terminal at New York's JFK International Airport when the terrorist attacks occurred on 9/11. Rather than stop construction or postpone the project, they made the bold decision to proceed—in my mind, a very good demonstration of corporate citizenship.

To keep the project on track while the new TSA was organized, American agreed to front the money for the EDS installation with a clear understanding that TSA would reimburse them. To date, that reimbursement has not occurred despite re-

peated attempts and countless correspondence that has changed hands between TSA, American and the Port Authority of New York.

In fact, I am aware of a FOIA request sent by American to TSA on October 29, 2009 (attachment #1) requesting certain documentation on this issue that TSA acknowledged on November 25, 2009 (attachment #2). As of today, there has been no reply, which I find completely unacceptable.

I am further aware of a joint letter sent by American Airlines and the Port Authority of New York to you dated August 20, 2010, requesting a meeting to discuss this matter and your response that took over 2 months to answer—on October 25, 2010—where you denied their request for a meeting, which I also find unacceptable. Can you tell me when TSA intends to respond to the FOIA request?

Answer. The Transportation Security Administration (TSA) sincerely regrets the delay in responding to the Freedom of Information Act request submitted by American Airlines for information related to the in-line baggage screening system at John F. Kennedy International Airport. TSA is actively processing this request and issued its first response on December 10, 2010.

Question 2. Furthermore, can you give me an explanation as to why you would refuse to meet with two of the largest stakeholders at the nation's busiest international airport on such an important issue?

Answer. TSA has been advised that American Airlines has filed suit against TSA on this matter in the U.S. Court of Appeals for the District of Columbia Circuit. TSA will respond to the lawsuit through appropriate channels.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MIKE JOHANNS TO HON. JOHN S. PISTOLE

Question 1. Please provide the information requested during the hearing regarding screening procedures for advanced imaging technology and pat-downs.

Answer. During the hearing on November 17, 2010 Senator Johanns stated that he had recently traveled by commercial aircraft and had been subjected to both Advanced Imaging Technology (AIT) and a pat-down and questioned the circumstances under which a passenger who did not alarm the AIT would subsequently receive a pat-down as well. While the Transportation Security Administration (TSA) cannot determine exactly what may have occurred when Senator Johanns was screened, the vast majority of passengers do not receive pat-downs. Pat-downs are primarily used to resolve anomalies observed during Advanced Imaging Technology (AIT) screening or alarms of the Walk Through Metal Detector (WTMD). Passengers who elect not to undergo WTMD or AIT screening will also receive a pat-down. Rigorous privacy safeguards are in place for both screening procedures. TSA's standard operating procedures for AIT and pat-downs are Sensitive Security Information and can be provided to the Committee in a closed setting.

Question 2. Regarding Advanced Imaging Technology, the TSA website states that, "This technology is optional to passengers in the U.S. Passengers who opt-out of imaging technology screening will go through alternative screening, including same-gender pat-downs."

Many passengers do not believe these are acceptable alternatives—either go through a machine that allows a TSO to see a highly invasive image of the passenger or have a TSO give a passenger a full pat-down. What steps is TSA taking to accommodate passengers who have legitimate concerns, including concerns based on religious beliefs, that either option is an unreasonable privacy violation?

Answer. The use of Advanced Imaging Technology (AIT) and the pat-down are among the layers of security the Transportation Security Administration (TSA) deploys to address the current threat to aviation security. Last year's Christmas Day plot and the recently thwarted plots to conceal and ship explosives on aircraft bound for the U.S. require that we use the most effective security measures available to protect the safety of the traveling public. We employ rigorous privacy safeguards to protect the privacy of the public when using either the AIT or conducting a pat-down. DHS's Office for Civil Rights and Civil Liberties and TSA's Office of Civil Rights and Liberties meet regularly with many religious groups to both hear their concerns and to educate them about TSA's screening procedures. Feedback from these dialogues are used to inform TSA's screening operations. We welcome such feedback and remain committed to do everything we can to make the travel experience as expeditious and comfortable as possible while ensuring the safety of all passengers. However, all passengers must undergo screening in order to ensure that they are not a threat to their fellow passengers or to the aircraft. This is in fulfillment of the requirements that Congress mandated that TSA implement in order to keep the traveling public safe.

ATTACHMENT 1

JONES DAY
Washington, DC, October 29, 2009

KEVIN J. JANET,
FOIA Officer, TSA–20
Arlington, VA.

Re: Freedom of Information Act Request; In-line Baggage Security System Installation at Terminal 8 of John F. Kennedy International Airport

Dear Mr. Janet:

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, as amended, and on behalf of American Airlines, Inc. ("American"), I hereby request that the Transportation Security Administration (TSA) provide copies of the following:

1. All documents related to, memorializing, or reflecting communications between American, TSA, the Office of Management and Budget (OMB), any Member of Congress, and/or the Port Authority of New York & New Jersey (PANYNJ) respecting the installation of and/or funding for the in-line baggage screening system at Terminal 8 of John F. Kennedy International Airport.

2. All documents related to TSA's reimbursement of airlines, airport managing authorities, or private non-airline entities for costs associated with the acquisition or installation of baggage screening systems, or other improvements designed to meet TSA requirements at airport facilities, including but not limited to: (a) requests for and payment of such reimbursements and all correspondence related thereto; (b) the development of reimbursement guidelines or ratios by TSA; and (c) communications within TSA or between TSA and OMB on the subject of reimbursement to airlines, airport authorities, or private non-airline entities for such projects.

3. All documents related to development of TSA's airport facility improvement reimbursement prioritization schedule called for by 49 U.S.C. § 44923, including but not limited to all internal guidance, communications with OMB, and communications with Congress related to the same.

For purposes of this request, the term "documents" should be interpreted as including, but not limited to, all records, correspondence, memoranda, reports, briefs, requests for clarifications, proposals, e-mails, e-mail attachments, electronic records including but not limited to Blackberry and/or other personal data assistant records, letters, papers, maps, charts, drawings, spreadsheets, scientific or technical data, meeting notes, telephone logs, audio recordings, voice-mail records, and notes documenting any communications, regardless of physical form or characteristics.

In responding to this request, TSA should identify and produce responsive documents wherever and with whomever found. In addition, TSA should specifically search documents currently or formerly maintained by the following individuals: David M. Stone, Kip Hawley, Michael Golden, John Reed, Rodger Dickey, Richard Hayes, Tom Blank, Jim Blair, Elle Han, Charlotte Pead, Jason M. Conley, Mohammad Siddiqui, Connie Thornton, James I. Murray III, Libby Waldman Strugatch, David Hobbs, Bill Britts, Kimberly Ennet, Marisa Maola, and Chuck Burke.

In the event TSA withholds any information responsive to this request, please provide an index identifying such information with a detailed explanation of the specific reason(s) and statutory basis for each document withheld. If part of any document or documents responsive to this request is claimed to be exempt from disclosure, TSA—through redaction or otherwise—should produce all non-exempt portions of such document or documents.

American is willing to pay fees associated with processing this request. In the event TSA estimates such fees will exceed $1,000, please contact me in advance to discuss.

In accordance with 5 U.S.C. § 552(a)(6) and 43 C.F.R. § 2.12, please send all responsive documents to my attention within twenty (20) days of receipt of this request. Production may be in electronic or hard-copy form.

Thank you in advance, and please feel free to contact me with any questions.

Sincerely,

GRANT H. WILLIS.

ATTACHMENT 2

TRANSPORTATION SECURITY ADMINISTRATION
U.S. DEPARTMENT OF HOMELAND SECURITY
Washington, DC, November 25, 2009

Mr. GRANT H. WILLIS,
Jones Day,
Washington, DC.

Re: TSA10–0117

Dear Mr. Willis:

This acknowledges receipt of your October 29, 2009, Freedom of Information Act (FOIA) request to the Transportation Security Administration (TSA), seeking information on behalf of your client, American Airlines, Inc. Your request was received in this office on November 23, 2009.

Due to the increasing number of FOIA requests received by this office, we may encounter some delay in processing your request. Per Section 5.5(a) of the TSA FOIA regulations, 6 C.F.R. Part 5, the Department processes FOIA requests according to their order of receipt. Although TSA's goal is to respond within 20 business days of receipt of your request, the FOIA does permit a 10-day extension of this time period. As your request seeks numerous documents that will necessitate a thorough and wide-ranging search, TSA will invoke a 10-day extension for your request, as allowed by Title 5 U.S.C. § 552(a)(6)(B). If you care to narrow the scope of your request, please contact our office. We will make every effort to comply with your request in a timely manner.

Provisions of the Act allow us to recover part of the cost of complying with your request. We shall charge you for records in accordance with the DHS Interim FOIA regulations as they apply to noncommercial requestors. As a non-commercial requestor you will be charged 10-cents a page for duplication, although the first 100 pages are free, as are the first 2 hours of search time, after which you will pay the per quarter-hour rate ($4.00, $7.00, $10.25) of the searcher. You stated in your request that you are willing to pay assessable fees up to $1,000.00. You will be contacted before any additional fees are accrued.

We have queried the appropriate program offices of TSA for responsive records. If any responsive records are located, they will be reviewed for determination of releasability. Please be assured that one of the processors in our office will respond to your request as expeditiously as possible. We appreciate your patience as we proceed with your request.

Your request has been assigned reference number *TSA10–0117*. Please refer to this identifier in any future correspondence. You may contact this office at 866.364.2872.

Sincerely,

KEVIN J. JANET,
FOIA Officer,
Freedom of Information Act Office.

ERIC D. MILLER,
Pueblo, CO

Dear Committee Members,

The following is a copy of the letter sent to Janet Napolitano in regards to the poor treatment of a TSA officer against my blind son in Colorado Springs, Colorado. I am submitting this letter for the Statement of Record of the TSA Oversight meeting on November 17, 2010.

Sincerely,

ERIC D. MILLER

Secretary JANET NAPOLITANO
Department of Homeland Security
U.S. Department of Homeland Security
Washington, DC

15 November 2010

Dear Madam Secretary,

I am writing to let you know of two events I witnessed during my brief visit through the TSA screening area in Colorado Springs, Colorado last Wednesday, November 10, 2010. My son, Garrett and I were traveling to Wilmington, North Carolina to celebrate his 10-years of cancer survivorship by participating in the Beach2Battleship Half Ironman distance triathlon. Garrett was diagnosed with a medulloblastoma (brain tumor) in June of 2000. Garrett was given a 50/50 chance of living 5-years. He was left blind, mute and paralyzed on a ventilator after his surgery. He endured 6-weeks of radiation and 64-weeks of chemotherapy. He spent 2 years in speech and physical therapy re-learning to walk and talk. To say Garrett has been through the ringer is a gross understatement. His resiliency has been reported on CNN, MSNBC, *USA Today,* and many other publications. His foundation, the Rush-Miller Foundation is responsible for donating over 90 tandem bicycles to blind and low vision children in 25 states and 6 countries.

Garrett's story was chosen to be profiled by the Beach2Battleship race and our sponsor. His face greeted all visitors to Wilmington arriving in the airport and could be seen all over Wilmington, including a front page news story. This trip was a victory for Garrett! After understanding Garrett's journey I believe you will be as concerned by the story I am about to relate.

While standing in line at TSA check point in Colorado Springs I witnessed one of the TSA employees near the metal detector. She was smiling and using a sticker to persuade a toddler to come through the detector. I vividly remember thinking to myself, "If every TSA employee was creative and friendly like this woman, they wouldn't have as many complaints." I really considered her gesture with this child above and beyond, a great example of superior customer service. Her name I found out later was Natasha.

Contrast the above story with this experience. As I came through the metal detector I was selected for further screening, likely due to my very baggy jeans. Garrett had passed through the screening just before me and I ask the screener to please have someone escort Garrett to a chair because he is blind. I went to the waiting area for my screening. I noticed the screener had done nothing to assist Garrett and he was becoming confused. I went back to the screener, "Ma'am, the boy right there with the white cane is blind and needs assistance finding an area to put his things on and let him know where I am please."

Again, unbelievably nothing was done. I went back a third time and ask, "MA'AM, the boy there is blind, this is very confusing to him, please find him some assistance." I then looked around the corner and identified a chair and directed Garrett verbally to the chair. I could see Garrett sitting in the chair getting very agitated because of all of the people and all of a sudden I was nowhere to be found. At this point I was getting very irritated! I went back to the screener and demanded, "Ma'am HE IS BLIND. LOOK AT HIM. HE IS CONFUSED. GET HIM SOMEONE NOW." Finally at this point she ask someone to help Garrett. I ask the man behind me in line if my perception of the event was accurate and all he could do was shake his head.

I cooperated with my screening and found a supervisor to let him know about the incident. And here is the irony. The person who provided the superior example of customer service to the toddler was the very same person who also provided some of the most blatantly inconsiderate customer service we have ever experienced, Natasha.

We are not a "poor us" disability rights family. We expect Garrett to compete against his peers regardless of physical abilities. We don't expect TSA or anyone else to bend over backward to help us. HOWEVER, my initial request should have been acted on immediately. Once his cane came out, there shouldn't have been any questions, but 4 times? ARE YOU KIDDING ME!

Garrett's story has resonated around the country. I don't believe Natasha was discriminating against Garrett, I don't feel she was rude to me. However she was just unbelievably inconsiderate and humiliating. Garrett has had enough taken from him, let alone his dignity. Frankly, when the cane came out, anyone of the many TSA people in Garrett's line should have asked if he needed any assistance. I am not asking for Natasha to face any disciplinary action. But this event does open the avenue for awareness and training for TSA in identifying people needing assistance.

Here is a link to Garrett's foundation and race. Put a face with Garrett's story. I believe an apology letter to Garrett from Natasha and her supervisor is not out of the question. If she would like to go to Garrett's school and talk to the kids about the TSA and how to go through airport security it would be a great learning experience for her and the kids, I am sure I can arrange a time at the Colorado School for the Deaf and Blind. Let's try to find a positive solution to this incident.

I look forward to your timely reply.

http://www.ppdi.com/beach2battleship/emiller.htm

Letters to Garrett may be addressed to:

Mr. Garrett D. Rush-Miller
2520 Spruce Street
Pueblo, CO 81004

Please feel free to contact me regarding more information surrounding this incident. I look forward to hearing from you.

Sincerely,

ERIC D. MILLER
Garrett's Dad

November 16, 2010

From: diana@frontier.net
To: ADAM DUFFY

Dear Honorable Committee Members,

I want to convey to you how outrageous the current tactics are from the TSA. These tactics (the body scanners and the pat-downs and now letting them put their hands down your pants) are physically and mentally intrusive, degrading, a health risk and safety issue. On top of that the TSA agents are rude power mongers. The only thing that I see that is coming out of these tactics is to instill fear in the American people.

There have been many documented situations of the body scanner pictures being compromised. There has also been many documented times the TSA agents have completely gone overboard with their authority. When you challenge them in anyway they threaten you that you will not be able to get on your flight, being arrested and/or fined. Case in point John Tyner of Oceanside as reported by the *SignOn San Diego News*.

When I fly I don't want to be handled like a criminal. I want to be treated with respect for the American citizen that I am. I have a right to be secure in my person and papers.

It is foreseeable that these tactics will have an effect on the airline industry. I don't think that is a desirable outcome Considering the state of the economy.

In addition I am a cancer survivor and have had enough radiation to last two life times. I don't need anymore radiation from the body scanners and I don't need to be touched inappropriately.

Even in writing this I am fearful that I will be put on one of those do not fly list.

These tactics need to be halted immediately. In utter disgust.

DIANA SAUDER
Durango, CO

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