



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

August 13, 2012

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

Dear Administrator Pistole:

On August 12, 2012, the New York Times published an article revealing serious allegations of racial profiling by the Transportation Security Administration's (TSA) Screening of Passengers by Observation Technique (SPOT) program at Logan International Airport at Boston.¹

Unfortunately, this is not the first time profiling allegations and operational challenges stemming from TSA's SPOT program have been raised. In 2010, the Government Accountability Office (GAO) released a report, which found that TSA deployed SPOT nationwide before completing either a cost-benefit analysis or securing independent third party validation of the scientific premise of the program.²

It should be noted that the DHS Science and Technology Directorate sponsored the only prior study of SPOT. It appears that the purpose of that study was not to determine whether SPOT was useful in identifying travelers who may present a terrorist threat. Further, the GAO report indicated that of the 14,104 passengers detained and questioned under the program, none were deemed to pose a terrorist threat to the aviation system.³

In August 2010, I wrote to TSA expressing my concerns about the potential for SPOT to become a means for TSOs to engage in illegal practices such as racial profiling. Almost a year later, in June 2011, the first media reports began to surface regarding allegations of racial profiling by BDOs using the SPOT program at Newark International Airport.⁴

¹ Michael S. Schmidt and Eric Lichtblau. *Racial Profiling Rife at Airport, U.S. Officers Say*. New York Times. August

² U.S. Government Accountability Office. (2010). *TSA's Efforts to Validate TSA's Passenger Screening Detection Program Underway, but Opportunities Exist to Strengthen Validation and Address Operational Challenges*. GAO 10-763.

³ U.S. Government Accountability Office. (2010). *TSA's Efforts to Validate TSA's Passenger Screening Detection Program Underway, but Opportunities Exist to Strengthen Validation and Address*. GAO 10-763 P. 44.

⁴ Report: Newark airport screeners targeted Mexicans and Dominicans, <http://www.cnn.com>, June 5, 2011.

Later in 2011, similar reports about racial profiling began to surface in Honolulu, Hawaii. TSOs employed at Honolulu International Airport alleged racial profiling by BDOs throughout the SPOT operations.⁵ At that time, TSA stated that its investigation “determined the available evidence does not substantiate the allegations of racial profiling.”⁶

TSA must regard this most recent report—the third such report in one year—as a clarion call to take immediate and comprehensive action. It is my understanding that over 30 employees have come forward to express concerns about racial profiling at Logan Airport. Surely, this kind of outpouring should constitute “sufficient evidence to substantiate allegations of racial profiling.”

As the agency charged with the responsibility of protecting the nation’s transportation systems, TSA must make clear that racial profiling will not be tolerated. However, TSA cannot take decisive and meaningful steps while continuing to regard each report of racial profiling as an “isolated incident” perpetrated by a few ill-trained employees whose conduct can be ameliorated by additional training. It is likely that the similar and recurrent nature of these allegations at otherwise dissimilar airports may point to an endemic pattern pervading the SPOT program at its core.

Thus, TSA must conduct a comprehensive examination of the scientific validity and operational integrity of this program. However, I understand that such an assessment may be difficult. While the program has been in operation for over five years, to date, TSA has failed to provide Congress with any of the following documents that would be required to undertake such an examination:

- 1) An independent third party validation of the scientific premise of the program;
- 2) A comprehensive risk assessment, and
- 3) A cost-benefit analysis of SPOT.

I urge you to suspend the operation of the SPOT program until these documents are provided to this Committee and until an independent third party can complete a comprehensive examination of the scientific validity and operational integrity of this program. If you have any questions, please contact Cherri Branson, Chief Counsel for Oversight at (202) 226-(b)(6)

Sincerely,


Bennie G. Thompson
Ranking Member

⁵ Kerr, Keoki. November 8, 2011. *TSA Whistleblowers: HNL Screeners Target Mexicans. KITV 4 News*. Retrieved November 18, 2011 from <http://www.kit.com/news/29657196/detail.html>

⁶ Report: AP News Break TSA finds no profiling at Honolulu, <http://www.foxnews.com/us/2012/04/13/apnewsbreak-tsa-finds-no-profiling-at-honolulu/>, April 13, 2012. Retrieved on August 13, 2012.

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