



Transportation
Security
Administration

APR 28 2014

The Honorable Bennie G. Thompson
Ranking Member
Committee on Homeland Security
U.S. House of Representatives
Washington, DC 20515

Dear Ranking Member Thompson:

Thank you for your letter of April 10, 2014, co-signed by your Congressional colleagues, requesting information about the Transportation Security Administration's (TSA) behavior detection and analysis program. Behavior detection techniques are a common sense, non-invasive approach used by law enforcement and security personnel across the country and around the world. The work of our 3,131 Behavior Detection Officers (BDOs) is critical to our layered security efforts that are designed to detect and deter would-be terrorists.

Your letter cites the Government Accountability Office's (GAO) November 2013 report in which it recommends funding for behavior detection be limited until TSA provides scientifically validated evidence that behavioral indicators can be used to identify threats to aviation security. TSA did not concur with GAO's recommendation. Terrorists pose a persistent and significant threat to transportation and have demonstrated their ability to adapt and innovate to overcome security obstacles. TSA deploys behavior detection protocols because they are based on sound scientific principles, as validated in the 2011 U.S. Department of Homeland Security (DHS) Science and Technology Directorate's study. There is a significant body of research that was not referenced in the GAO report that provides a basis for the use of behavior detection protocols.

TSA continues to seek ways to improve security effectiveness, efficiency, and passenger experience, including behavior detection and analysis. Real time threat assessment is a key part of TSA's risk based security strategy, including teaming behavior detection with explosives detection capabilities to identify those that might be high-risk. Those that are not identified as high risk may be expedited through TSA Pre✓™. This is the Managed Inclusion process that I described during my appearance before the Committee on Appropriations Subcommittee on Homeland Security on March 25, 2014. On average, more than 160,000 people are expedited through TSA Pre✓™ every day through Managed Inclusion.

Consistent with GAO's recommendation to validate new concepts prior to fielding them, TSA is also developing and testing ways to strengthen the behavior detection capability. As you note in your letter, TSA initiated a small-scale Proof of Concept called Behavior Targeted Conversation (BTC) at one airport in March 2014. The BTC

protocol enhances current BDO effectiveness and capabilities by positioning BDOs in locations where they have greater opportunity to engage with the traveling public, as well as with employees to address the insider threat. It uses a more focused conversation protocol derived from the same engagement processes in use elsewhere by BDOs and Travel Document Checkers.

In designing the Proof of Concept, TSA considered the impact on passenger privacy and constitutional rights. TSA's Office of Civil Rights and Liberties, Ombudsman, & Traveler Engagement has been involved with the program office from the beginning and has worked closely to make certain that civil rights and civil liberties are protected, including adherence to the DHS Race Neutrality Memorandum. BTC training reinforces the DHS policies against unlawful racial profiling and the requirement to respect the needs of passengers with disabilities. The interaction is minimally invasive, and most passengers see no change in the screening process beyond a friendly exchange.

I appreciate that you took the time to share your concerns with me and hope this information is helpful. Responses to your specific questions are enclosed with this letter. Identical responses have been sent to Ranking Members Richmond, Conyers, and Cummings. If you have any questions, please do not hesitate to contact me personally or the Office of Legislative Affairs at (571) 227-2717.

*Sir,
good to see you at U.S.C.,
& look forward to our
follow-up conversation...*

Sincerely yours,



John S. Pistole
Administrator

Enclosure

APR 28 2014



Transportation
Security
Administration

The Honorable Cedric L. Richmond
Ranking Member
Subcommittee on Transportation Security
Committee on Homeland Security
U.S. House of Representatives
Washington, DC 20515

Dear Ranking Member Richmond:

Thank you for your letter of April 10, 2014, co-signed by your Congressional colleagues, requesting information about the Transportation Security Administration's (TSA) behavior detection and analysis program. Behavior detection techniques are a common sense, non-invasive approach used by law enforcement and security personnel across the country and around the world. The work of our 3,131 Behavior Detection Officers (BDOs) is critical to our layered security efforts that are designed to detect and deter would-be terrorists.

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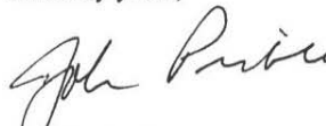
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Sincerely yours,



John S. Pistole
Administrator

Enclosure



Transportation
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APR 28 2014

The Honorable Elijah E. Cummings
Ranking Member
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Ranking Member Cummings:

Thank you for your letter of April 10, 2014, co-signed by your Congressional colleagues, requesting information about the Transportation Security Administration's (TSA) behavior detection and analysis program. Behavior detection techniques are a common sense, non-invasive approach used by law enforcement and security personnel across the country and around the world. The work of our 3,131 Behavior Detection Officers (BDOs) is critical to our layered security efforts that are designed to detect and deter would-be terrorists.

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Sincerely yours,



John S. Pistole
Administrator

Enclosure

APR 28 2014



Transportation
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The Honorable John Conyers, Jr.
Ranking Member
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Ranking Member Conyers:

Thank you for your letter of April 10, 2014, co-signed by your Congressional colleagues, requesting information about the Transportation Security Administration's (TSA) behavior detection and analysis program. Behavior detection techniques are a common sense, non-invasive approach used by law enforcement and security personnel across the country and around the world. The work of our 3,131 Behavior Detection Officers (BDOs) is critical to our layered security efforts that are designed to detect and deter would-be terrorists.

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Sincerely yours,



John S. Pistole
Administrator

Enclosure

Responses to Congressmen Thompson, Richmond, Conyers, and Cummings

1. A comprehensive list of peer-reviewed studies that have found that an individual's response to questions regarding travel can be used to determine whether an individual poses a threat to aviation security.

It is important to note that the response to the question regarding travel is not the focus of the Behavior Targeted Conversation (BTC) protocol. The intent of the BTC is to engage the passengers and then observe behavior indicators that may accompany an individual's response. The BTC concept is a more focused derivative of the current conversation techniques employed by Behavior Detection Officers (BDOs) today. These are just some of the studies that directly or indirectly support the active engagement or dialogue with individuals.

Porter, S., & Yuille, J. C. (1996). The language of deceit: An investigation of the verbal clues to deception in the interrogation context. *Law and Human Behavior*, 20, 443-458.

Clemens, F., Granhag, P. A., & Stromwall, L. A. (2011). Eliciting cues to false intent: A new application of strategic interviewing. *Law and Human Behavior*, 35, 512-522.

Ten Brinke, L., & Porter, S. (2011). Cry me a river: Identifying the behavioral consequences of extremely high-stakes interpersonal deception. *Law and Human Behavior*, 19, 1-9.

Frank, M. G., & Ekman, P. (1997). The ability to detect deceit generalizes across different types of high-stake lies. *Journal of Personality and Social Psychology*, 72, 1429-1439.

Vrij, A., Granhag, P. A., & Porter, S. (2010). Pitfalls and opportunities in nonverbal and verbal lie detection. *Psychological Science in the Public Interest*, 11, 89-121.

DePaulo, B. M., Lindsay, J. J., Malone, B. E., Muhlenbruck, L., Charlton, K., & Cooper, H. (2003). Cues to deception. *Psychological Bulletin*, 129, 74-112.

Vrij, A., Mann, S., Fisher, R. P., Leal, S., Milne, R., & Bull, R. (2008). Increasing cognitive load to facilitate lie detection: The benefit of recalling an event in reverse order. *Law and Human Behavior*, 32, 253-265.

2. A comprehensive list of peer-reviewed studies that have found that behavioral observation techniques can be used to identify low risk passengers.

As described above, this is not the Transportation Security Administration's (TSA) concept of operations. BDOs identify passengers who may be high risk, and they are excluded from being expedited through the TSA Pre✓™ lane.

3. Any and all documentation related to the privacy and civil liberties implications of the ongoing BDO Targeted Conversation Proof of Concept.

The BDO Targeted Conversation Proof of Concept was evaluated for privacy and civil liberties implications prior to its launch. The Proof of Concept and associated training were reviewed by the TSA Privacy Officer and Civil Rights Division. Further, a SPOT Program Privacy Impact Assessment is available on the U.S. Department of Homeland Security (DHS) Web site and may be updated, if needed, following TSA evaluation of the Proof of Concept.

4. A comprehensive list of terrorists prevented from boarding domestic commercial flights as a result of SPOT.

We are unaware of any cases of operational terrorists attempting to board domestic commercial flights since TSA's creation. Terrorism is, thankfully, a low base-rate event in the United States. The fact that the threat to commercial aviation emanates from overseas and is not prevalent here is no doubt in part a result of the combined efforts of the Intelligence Community, security measures implemented at our borders, and the screening measures deployed at the Nation's airports.

5. The total annual cost to date of TSA's behavioral observation program.

Behavior Detection and Analysis Program Budget

	FY2014 Enacted	FY2015 Estimate
Behavior Detection Officer (BDO) - FTE	3,131	3,131
BDO Personnel Compensation & Benefits	\$228,031,574	\$231,442,399
BDO Training	\$1,200,000	\$1,200,000
Program Management - Pay	\$3,785,000	\$3,785,000
Program Management Non-Pay	\$7,375,000	\$6,235,000
Total Budget	\$240,391,574	\$242,662,399

Congress of the United States

Washington, DC 20515

April 10, 2014

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

Dear Administrator Pistole:

Since 2007, the Transportation Security Administration (TSA) has spent over \$1 billion on its Screening of Passengers by Observation Techniques (SPOT) program. Despite known or suspected terrorists having passed through screening on 23 different occasions in airports where Behavior Detection Officers (BDOs) were deployed; zero terrorists have been identified, apprehended, referred to law enforcement or prevented from boarding an aircraft as a result of the program.¹

On November 13, 2013, the Government Accountability Office (GAO) released a report recommending Congress consider the absence of scientifically validated evidence for using behavioral indicators to identify aviation security threats when making future funding decisions to ensure security-related funding is directed to programs, unlike SPOT, that have demonstrated their effectiveness.² GAO made this recommendation to Congress because the Department of Homeland Security did not concur with the Comptroller General's recommendation that TSA limit future funding for SPOT until it provided scientifically validated evidence that behavioral indicators can be used to identify threats to aviation security.

Since this GAO report was released, TSA has not only refused to limit funding for behavior detection activities, but also has expanded the use and scope of these activities. This expansion has occurred via TSA's BDO Targeted Conversation Proof of Concept (PoC) and the use of BDOs in TSA's Managed Inclusion program.

According to documents obtained from TSA, the agency commenced the BDO Targeted Conversation PoC on March 5, 2014, at Baltimore Washington International Thurgood Marshall Airport (BWI). During this PoC, passengers traveling through BWI are required to respond to questions from BDOs regarding their "trip story." Despite the fact that BDOs ask these questions in a public setting, TSA has designated the list of questions that will be asked as Sensitive Security Information. Should a passenger refuse to answer questions posed by the BDO, they will be subjected to a form of secondary screening. This PoC represents an intrusion into the privacy of the flying public through a process TSA has not scientifically validated.

¹ GAO-10-763: Aviation Security: Efforts to Validate TSA's Passenger Screening Behavior Detection Program Underway, but Opportunities Exist to Strengthen Validation and Address Operational Challenges.

² GAO-14-159: Aviation Security: TSA Should Limit Future Funding for Behavior Detection Activities.

TSA-140410-009

During your appearance before the Committee on Appropriations Subcommittee on Homeland Security on March 25, 2014, you were asked about the expanded scope of work of BDOs via Managed Inclusion. You responded to a question regarding the effectiveness and cost efficiency of TSA's SPOT program by stating:

"[TSA] is using BDOs effectively through the Managed Inclusion program to identify low-risk passengers. So, if you want to say we are getting double bang for the buck, there are a number of people who are going through expedited screening today because they have been observed by BDOs as being lower-risk."

Though providing expedited screening to passengers while maintaining security is a laudable goal, your statement before the Committee on Appropriations directly contradicts the assertion you made in correspondence to the Committee on Homeland Security where you stated that BDOs are used in the Managed Inclusion program only for exclusion purposes.³ Given the lack of scientific validation that BDOs are capable of detecting the presence of an individual who poses a threat to aviation security, it is unlikely that scientific validation exists to show that the use of the same methodology would enable BDOs to identify an individual who is low risk and only requires minimal and expedited checkpoint screening.

The expanded use of BDOs subsequent to GAO's recommendation that TSA limit funding for SPOT until it can provide scientifically validated evidence that behavioral indicators can be used to identify threats to aviation security raises serious concerns. In an effort to gain a clearer understanding of TSA's use of behavior detection techniques please provide the following information by April 24, 2014:

1. A comprehensive list of peer reviewed studies that have found that an individual's response to questions regarding travel can be used to determine whether an individual poses a threat to aviation security.
2. A comprehensive list of peer reviewed studies that have found that behavioral observation techniques can be used to identify low risk passengers.
3. Any and all documentation related to the privacy and civil liberties implications of the ongoing BDO Targeted Conversation Proof of Concept.
4. A comprehensive list of terrorists prevented from boarding domestic commercial flights as a result of SPOT.
5. The total annual cost to date of TSA's behavioral observation programs.

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

³ See Letter from Administrator Pistole to Ranking Member Thompson dated February 11, 2013.

Sincerely,

Bennie G. Thompson *Cedric L. Richmond*

Bennie G. Thompson
Ranking Member
Committee on Homeland Security

Cedric L. Richmond
Ranking Member
Subcommittee on Transportation Security
Committee on Homeland Security

John Conyers, Jr.

John Conyers, Jr.
Ranking Member
Committee on the Judiciary

Elijah E. Cummings

Elijah E. Cummings
Ranking Member
Committee on Oversight and Government
Reform

cc: The Honorable Michael T. McCaul, Chairman, Committee on Homeland Security
The Honorable Richard Hudson, Chairman, Subcommittee on Transportation Security,
Committee on Homeland Security
The Honorable Bob Goodlatte, Chairman, Committee on the Judiciary
The Honorable Darrell E. Issa, Chairman, Committee on Oversight and Government
Reform

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CO-ordinate w/
Office of Chief Risk
Officer (CRS-old)
OIA, OCC, ~~235~~
clearance required P2