

~~SENSITIVE SECURITY INFORMATION~~

UNITED STATES DEPARTMENT OF HOMELAND SECURITY
TRANSPORTATION SECURITY ADMINISTRATION
OFFICE OF TRAINING AND WORKFORCE ENGAGEMENT
SECURITY OPERATIONS TRAINING DIVISION



Transportation
Security
Administration

**Preventing Racial, Ethnic, and Religious
Profiling Spotlight**

Version 1.0

Instructor Guide

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Preventing Racial, Ethnic, and Religious Profiling Spotlight Instructor Guide

Purpose: The purpose of this briefing is to provide a reminder to all TSA Officers of their role in ensuring that behavior analysis security measures are appropriately and lawfully applied.

Lesson Time: 1 hour

Instructor Materials	Participant Materials
Instructor Guide	none

Icon	Description
	Activity identifies where activities take place during the delivery.
	Question Mark identifies where the instructor should ask questions.
	Reference identifies materials for the participant to reference for more or specific information.

Overview

The purpose of this briefing is to provide a reminder to all TSA Behavior Detection Officers (BDOs) of their role in ensuring that all TSA screening measures are appropriately and lawfully applied.

TSA is consistently acting to prevent any form of unlawful racial, ethnic and religious profiling.

Setting the Stage

Instructor Note: Emphasize to participants that it is important that this training will be an addition to the toolbox of all officers, in terms of effective screening techniques and avoidance of the pitfalls of practices that produce negative results.

There have been press reports alleging that TSA personnel were engaging in unlawful profiling to select passengers for additional screening through the application of behavioral analysis practices. Such allegations undermine TSA's relationship with the traveling public and they interfere with TSA's ability to carry out its mission of ensuring the free movement of people and commerce through our transportation systems.

Please understand:

- TSA management is in full support of keeping our workplace free of profiling.
- TSA management **does not** support profiling in concept or practice, whether it is in the workplace or when working with the traveling public.
- TSA management expects the workforce to immediately notify local management if there is a belief that profiling is being practiced. **Retaliation against anyone who makes a complaint about potential civil rights violations, which includes profiling based on racial, ethnic, or religious beliefs, is prohibited by federal law.**

The No Fear Act

Instructor Note: Read the excerpt from The Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002, known as the NO FEAR Act.

The No Fear Act

On May 15, 2002, Congress enacted the "Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002," Public Law 107-174, known as the No FEAR Act. One purpose of the act is to hold federal agencies accountable for violations of antidiscrimination and whistleblower protection laws. The act requires that federal agencies post on their public Web sites certain summary statistical data relating to equal employment opportunity complaints filed against the respective agencies.

A Federal employee with authority to take, direct others to take, recommend or approve any personnel action must not use that authority to take or fail to take, or threaten to take or fail to take, a personnel action against an employee or applicant because of disclosure of information by that individual that is reasonably believed to evidence violations of law, rule or regulation; gross mismanagement; gross waste of funds; an abuse of authority; or a substantial and specific danger to public health or safety, unless disclosure of such information is specifically prohibited by law and such information is specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

Media Attention

Instructor Note: Be sure to solicit opinions, and acknowledge that there may be a broad range of experiences and opinions. Do not respond in a judgmental way. Limit discussion to a representative sample of the participants in 2 to 3 minutes, depending on class size. Be careful not to have this degenerate into a heated debate.

We are all aware of the recent media attention related to stories about alleged profiling by TSA Officers.



Ask: How does this make you feel?

Answer: Answers will vary, and should include that when our practices are perceived to be biased or based on stereotypes, the public loses trust in TSA's ability to perform screening in a fair and equitable manner.



Ask: Is this an accurate portrayal of TSA in the media?

Answer: Answers will vary.

Let's review TSA's Core Values and the impact to your jobs as TSA Officers.

TSA's Core Values



Ask: What are TSA's Core values?

Answer:

- Integrity
- Innovation
- Team Spirit



Ask: How do you support or impact the mission?

Answer: Answers will vary.



Ask: Do you understand the meaning of each of these values, especially integrity? How is it demonstrated?

Instructor Note: Stress the importance of integrity as a TSA Officer.

Instructor note: Use the answers shown throughout the presentation to guide discussion, and encourage dialogue. Validate responses from participants, and encourage input from everyone in the audience.

Answer: While there are many ways to demonstrate integrity, team spirit and innovation, integrity is one characteristic that is critical for our workforce. The meaning of integrity is demonstrating core values daily by performing our assigned duties with professionalism, respect, vigilance and dedication. It is critical to mission accomplishment that all TSA personnel strive to uphold the highest standards of excellence when performing screening activities.



Ask: What is TSA's Vision?

Answer: TSA will continuously set the standard for excellence in transportation security through its people, processes, and technology.



Ask: What is your role in carrying out the vision?

Answer: Answers will vary.

Now that we've reviewed the TSA Mission, Vision, and Core Values, and how each individual plays a critical role in the success of the organization, let's discuss what constitutes profiling.

What is racial profiling?



Ask: What is racial profiling?

Answer: Here is the official definition of profiling from the Department of Homeland Security (DHS):

Racial profiling concerns the invidious use of race or ethnicity as a criterion in conducting stops, searches, and other law enforcement activities.

Source: Department of Homeland Security's Commitment to Race Neutrality in Law Enforcement Activities, June 1, 2004

Instructor Note: Use the suggested answers shown throughout the lesson to guide discussion, and encourage dialogue. Validate responses from participants, and encourage input from everyone in the class.

Instructor Note: Similar false assumptions would underlie profiling on the basis of religion or disability.

The general prohibition against racial profiling applies in the context of security screening, including SPOT Referral Screening. It is important also to state what is NOT unlawful racial profiling: Screening decisions may take into account race or ethnicity when, and only when, they are based on specific intelligence authorized by the FSD, and are an appropriately tailored response in terms of timing and reach.



Ask: Racial profiling is premised on an incorrect assumption. What is that?

Answer: Racial profiling is premised on the assumption that an individual of one race or ethnicity is more likely to engage in misconduct than an individual of another race or ethnicity.



Ask: Is profiling based on race, ethnicity, religion, or disability legal?

Answer: Absolutely not. Profiling or reliance upon generalized stereotypes of one's race or ethnicity is unconstitutional and illegal. The U.S. Constitution prohibits consideration of race or ethnicity in routine law enforcement activities as well as screening functions related to air transportation security.



Ask: Why is Profiling not considered a useful security tool?

Answer: Profiling is ineffective as a security tool because terrorism has no stereotypical face, race, nationality, or ethnicity.

Instructor note: Reference the supplied image, *Faces of Terrorism*. Point out that many varied ethnicities and racial groups are represented in the images.

In the past 30 years of experience with terrorism in the United States, the terrorists involved do not match any racial or ethnic stereotype. We have seen documented instances of terrorists of varying races, ethnicities, and religions.

Examples include:

- Anders Breivik, a Norwegian terrorist who killed a total of 77 people in 2 separate attacks
- Farouk Abdul Mutallab, a Nigerian terrorist who failed in an attempt to use a bomb planted in his underwear to blow up a plane as it landed in Detroit
- John Walker Lindh, a Caucasian American terrorist fighting with the Taliban in Afghanistan
- Richard Reid, a biracial man who attempted to use a shoe bomb to bring down a plane on which he was a passenger
- Ted Kaczynski, the Unabomber, an American Caucasian who used a campaign of terrorist bombings over a period of nearly 20 years, murdering 3 people, and injuring 23 others
- Timothy McVeigh, an American Caucasian, who used a truck bomb against a US federal building in Oklahoma City

The Negative Impacts of Racial Profiling

Instructor Note: Encourage discussion and input from participants. Ensure that discussion is respectful and professional. Validate responses, and discourage frivolous or insensitive responses.



Ask: How does the profiling diminish TSA's Mission, Vision, and Core Values?

Answer: Answers will vary but should include:

- Negatively impacts TSA's mission to protect transportation security
- Negatively impacts our integrity
- Negatively impacts the public's perception of TSA's integrity
- Breach of trust with the public
- It's a departure from the pledge to the traveling public



Ask: Does anyone know the TSA Pledge to Travelers?

Answer: The TSA Pledge to Traveler consist of seven points:

- We pledge to do everything we can to ensure that your flight is secure.
- We pledge to treat you with courtesy, dignity, and respect during the screening process.
- We pledge that if additional screening is required, we will communicate and explain each step of the additional screening process.
- We pledge to honor your request for a private screening at any time during the screening process.
- We pledge that if additional screening of your person is required, it will be provided by a screener of the same gender.
- We pledge to accept all feedback and to consider your input as a vital part of our effort to continually enhance the screening experience.
- We pledge to respond to your comments in a timely manner.



Ask: How does profiling misdirect valuable resources?

Answer: It diverts resources away from proven, more effective, standards-based techniques, thereby wasting resources and undermining behavioral detection training.



Ask: What kind of resources does profiling waste?

Answer: Answers may vary, but should include:

- Personnel
- Time
- Operational awareness

The Negative Impacts of Racial Profiling

On rare occasions, specific threat information may make it necessary for screening decisions to be based, temporarily and in part, on passengers' race or ethnicity.

For example, should TSA receive specific intelligence information suggesting that a small group of foreign nationals are planning violence at a certain place and at a certain time, an FSD may properly direct that such information be used as screening criteria. This direction is appropriate because it would be a tailored response to the intelligence information, and is not based on generalized stereotypes or assumptions.

Only the FSD may issue such a direction, and only in response to a specific intelligence. The response must be tailored in terms of timing and reach.

Understanding SPOT

Instructor Note: Drive the discussion to how the purpose of TSA screening procedures may be undermined if it is misdirected at finding people to arrest for non-security crimes. The point is to detect malintent by using the training. It is possible that people who are committing non-security crimes will be detected, but that is a by-product of TSA screening, not its purpose.



Ask: Are TSA screening procedures part of general law enforcement programs?

Answer: No. All TSA screening is oriented toward prevention of threats to transportation security. The purpose of TSA screening is NOT to identify or investigate criminal behavior or violations of law. Criminal violations, for example, drug and weapons violations, may come to light during any phase of any type of TSA screening, but are not the focus or goal of TSA's screening. The success of TSA's program or individual employees is not measured by how many such violations are uncovered.



Ask: What distinguishes TSA screening procedures and protocols, and the science behind them, from profiling?

Answer: TSA screening is based on science. Whether it involves metal detectors, explosive detection systems, pat-downs or behavior analysis, all procedures are based on science, not profiling.

When we speak of screening passengers and property using all of the procedures, equipment and protocols we have in place, ethnicity, race, and religion are **NOT** components of these techniques. If officers look only for one "stereotypical terrorist" type, a real terror threat may walk right past them. Terrorists are always adapting their techniques to defeat the latest security innovations and profiling would be easy to defeat.

The effectiveness of TSA's screening programs is only diminished by profiling.

Now that we have discussed profiling and the negative impacts it has to TSA, let's review a brief scenario on this subject.

Activity: Scenario Discussion



Activity: Scenario Discussion

Directions:

1. Direct participants to form three or four small groups, depending on class size
2. Read the scenario description to the entire class
3. List the questions shown below on a flipchart page
4. Have each group discuss the questions
5. After all groups have finished, but no longer than five minutes, have each group debrief their conclusions to the class

Scenario:

A male passenger approaches the TSA security checkpoint at the airport. He is wearing traditional ethnic attire of his destination, a tiny village in South America.

The individual submits his identification to the TDC, and he proceeds past the BDO. He properly submits his carry-on bag for screening and passes through the Walk-through Metal Detector (WTMD) properly. The x-ray inspection of the carry-on does not lead to a search of accessible property, the man does not alarm the WTMD, and all required additional screening measures for his head covering are completed.

B3; 49 U.S.C. § 114(r)

1.  **Ask:** Based on the scenario above, should the TSO refer the individual for additional screening?
2.  **Ask:** If the passenger is referred for additional screening under this circumstance, could racial profiling inappropriately play a role?
3.  **Ask:** How could appropriate screening enhance checkpoint security in this scenario?

4.  **Ask:** What aspects of TSA screening are in place to ensure racial, ethnic, or religious profiling are not practiced while conducting screening?
5.  **Ask:** When can we stray from using this methodology and use racial, ethnic, or religious profiling as a basis for our procedures and assessments?
6.  **Ask:** In your group, rewrite the scenario in a way that would make it appropriate for additional screening, yet still free of any racial, ethnic, or religious profiling. For instance, what if the FSD had received an intelligence report that a Bolivian male active in a known terrorist cell had stolen detonator cord from a local construction site yesterday and was expected to attempt to fly? A passenger fitting that description could be subjected to additional screening because it is based on a factual report, not on a general stereotype.

Scenario Key

Instructor Note: Use the answers shown here to guide discussion, and encourage dialogue. Validate responses from participants, and encourage input from everyone in the class.

Drive the discussion to how the purpose of SPOT may be undermined if it is misdirected at finding people to arrest for non-security crimes. The point is to detect malintent by using the behavioral training. It is possible that people who are anxious or evasive because of non-security crimes will be detected, but that is a by-product of the program, not its purpose.

Emphasize that SPOT becomes ineffective when paired with profiling. The science behind the analysis discounts any potential for profiling.

A male passenger approaches the TSA security checkpoint at the airport. He is wearing traditional ethnic attire of his destination, in South America.

The individual submits his identification to the TDC, and he proceeds past the BDO. He properly submits his carry-on bag for screening and passes through the Walk-through Metal Detector (WTMD) properly. The x-ray inspection of the carry-on does not lead to a search, the man does not alarm the WTMD, and all required additional screening measures for his head covering are completed.

Small Group Discussion Questions

1.  **Ask:** Based on the scenario above, should the TSO refer the individual for additional screening?

Answer: Answer is NO, because:

- No alarms on any equipment were reported by screening checkpoint TSOs.
- No prohibited items were discovered during screening of the individual or the individual's accessible or checked property.
- BDOs did not report any behaviors that merited referral for additional screening or LEO involvement.

2.  **Ask:** If the passenger is referred for additional screening under this circumstance, could inappropriate racial, ethnic, or religious profiling play a role?

Answer: Yes, the officer may inappropriately make a judgment based on race or ethnicity or even personal bias. However, it is never appropriate to stray from screening protocols and use racial or ethnic profiling to refer an individual for additional screening.

3.  **Ask:** How could appropriate screening enhance checkpoint security in this scenario?

Answer: Answers may include that an officer would focus on other passengers who may properly merit additional screening, or exhibiting suspicious behaviors, thus meriting BDO referral.

4.  **Ask:** What aspects of TSA screening are in place to ensure racial, ethnic, or religious profiling are not practiced while conducting screening?

Answer: Answers should include:

- Referral for Additional Screening is based on specific, quantifiable, specific measures, such as alarming the WTMD, AIT anomalies, x-ray search directed by the X-ray Operator, or BDO referral
- All equipment used by TSA employs very strict operational parameters and procedures, which produce consistent, quantifiable results based on scientifically verifiable results
- BDOs use standards based of behavior recognition techniques that have scientific basis, and do not employ profiling

5.  **Ask:** When can we stray from using this methodology and use racial, ethnic, or religious profiling as a basis for our procedures and assessments?

Answer: Never – at no time should any TSOs stray from this proven methodology and use any form of racial, ethnic, or religious profiling.

Screening must be conducted without regard to race, ethnicity, or religious affiliation.

The use of this type of profiling is ineffective and should never be used. It is often related to incorrect and otherwise inappropriate stereotyping of individuals or cultures.

The terrorist profile is independent of race, ethnicity, or religious background. We have seen this many times before with various individuals who want to cause harm.

6.  **Ask:** In your group, rewrite the scenario in a way that would make it appropriate for a referral to additional screening, yet still free of any racial or religious profiling.

Answer: In class debrief, answers may include any combination of prohibited items, equipment alarms, SPOT referral based on specific behaviors, or statements by the individual.

Additional Discussion QuestionsClass Discussion Questions

Instructor Note: Discuss these questions with the entire group. Use the answers shown here to guide discussion.



Ask: What kinds of factors can contribute to the practice of profiling?

Answer: Answers may include:

- Personal biases
- Stereotypes
- Organizational culture (For example, there could be a subtle yet widespread culture of encouraging profiling of specific groups within the airport)



Ask: What are the negative impacts of profiling in this scenario?

Answer: Answers may include:

- Civil rights may be violated
- Valuable resources are potentially being misdirected, and actual terrorist threats may elude security because attention is not being focused on them



Ask: Let's take a moment here to change the focus to profiling to detect potential criminal behavior. How might profiling with a view to detecting criminal behavior negatively impact security?

Answer: TSA employs a layered approach to aviation security. TSA screening relies on protocols and procedures that produce quantifiable, verifiable results upon which officers base actions, including clearing people and property. The Behavior-based screening programs rely on looking for behavioral indicators to prevent terrorist attacks, not identify other criminal behaviors or violations of law. Although criminal violations, for example drug and weapon violations, may come to light during the screening, identifying these violations is not the purpose of TSA screening.

TSA resources are limited. If officers are inappropriately focused on individuals because of their racial, ethnic or religious backgrounds, individuals with actual hostile intent may go undetected. In addition, the perception that this is occurring undermines the confidence of the workforce and the public.



Ask: How could the proper application of the TSA screening processes affect security?

Answer: The application of proper screening techniques and practices is legal, and enhances aviation security. All study data indicates that profiling is ineffective, whereas current screening practices and procedures provide the best opportunity for detecting individuals with hostile intent.

Conclusion – Key Takeaways



Ask: What are some key takeaways you have gotten from this session?

Answer: Answers will vary.

Teaching Point: Remind all participants that the principles laid out in this section are essential parts of TSA, and what it represents.