

National Shift Brief

September, 2012



Transportation
Security
Administration

Combating Racial, Ethnic and Religious Profiling

Introduction

The purpose of this briefing is to provide a reminder to all TSA screening personnel of their role in ensuring that our security measures are appropriately applied, and that we are consistently and actively combating any form of racial, ethnic and religious profiling. Recent press reports allege that TSA personnel have been using unlawful profiling to select passengers for additional screening. Such allegations undermine the relationship between TSA and the traveling public and the ability of TSA to carry out its mission of ensuring the free movement of people and commerce through our transportation systems. When our practices are perceived to be biased or based on stereotypes, the public loses trust in our ability to perform the job with fairness and integrity. While the focus of this briefing is on racial and ethnic profiling, TSA screening personnel must never use other discriminatory bases such as religion, gender, or disability, as a basis for screening decisions unless directed to do so by the Federal Security Director based on specific intelligence information.

TSA is committed to protecting the constitutional and civil rights of the traveling public and will not tolerate discriminatory practices in interactions with the traveling public.

TSA **does not** condone racial, ethnic, or religious profiling in concept or practice, and will take appropriate and immediate action to address any instance in which an employee is determined to have engaged in a discriminatory practice.

On very rare occasions, specific threat information may make it appropriate for screening decisions to be based, temporarily and in part, on passengers' race or ethnicity, and as narrowly tailored response to the serious risk. For example, should TSA receive specific intelligence information suggesting that a small group of Middle Eastern young men are planning violence at a certain place and at a certain time, an FSD may properly direct that such information to be used as screening criteria because this direction would be an appropriately tailored response to the intelligence information, not based on generalized stereotypes or assumptions. Only the FSD may issue such a direction.

TSA expects employees to immediately notify local management if they observe or believe that profiling or other discriminatory screening is being practiced. Employees must feel free to report allegations of profiling, among other things, without fear of retaliation. **Retaliation against anyone who makes a complaint about potential civil rights violations, which includes profiling based on passengers' racial, ethnic backgrounds, and/or religious beliefs, is prohibited by federal law and regulation, and will not be tolerated.**



Ask: What are TSA's Core Values?

Answer: To enhance mission performance and achieve our shared goals, TSA is committed to promoting a culture founded on:

- Integrity
- Innovation
- Team Spirit

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

Answer: While there are many ways to demonstrate our core values, integrity is best described to include honor, honesty, truthfulness, reliability and uprightness. We demonstrate our core values daily by performing our assigned duties as originally intended 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. Integrity is the opposite of dishonesty, in that internal consistency is a virtue, and something we must aspire to maintain each and every day.

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

Presenter 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.

What is profiling?



Ask: What is racial profiling?

Answer: Here is an official definition on profiling recognized by the Department of Homeland Security (DHS) and all of its component agencies:

“Racial Profiling is the offensive use of race or ethnicity as a criterion in conducting stops, searches, or other law enforcement activities.” The reference to searches in this definition includes Screening Passenger by Observation Techniques (SPOT) Referral Screening.

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



Ask: Profiling is premised on an incorrect assumption. What does that mean?

Answer: 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. This is a false assumption.



Ask: Is profiling based on race, ethnicity, or religion 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.

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Ask: Why is profiling **not considered to be** a useful security tool?

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

In the past 30 years, persons who have committed acts of terrorism have not matched any racial or ethnic stereotype. We have seen documented instances of Middle Eastern terrorists, African terrorists, British terrorists, Irish terrorists, American terrorists, Japanese terrorists, Chechen terrorists, Sri Lankan terrorists, and so forth.

In the United States alone, we've seen terrorist acts attempted or committed by:

- Richard Reid, a biracial man
- Farouk Abdul Mutallab, a Nigerian
- John Walker Lindh, an American fighting with the Taliban in Afghanistan, a Caucasian
- Ted Kaczynski, the Unabomber, a Caucasian
- Timothy McVeigh, another Caucasian, who used a truck bomb against a U.S. federal building in Oklahoma City.

Presenter note: Reference the attached image, *Faces of Terrorism*, and show it to the audience, if possible.

The Negative Impacts of Profiling



Ask: How does the practice of 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;
- It does not convey the respect that is a part of our core values;
- It's a departure from the pledge to the traveling public, and,
- Breach of trust with the public



Ask: Profiling is not only illegal, it is inefficient. Why?

Answer: It diverts valuable resources away from proven, more effective behavior observation and analysis techniques, thereby wasting resources and undermining and negating the value of the concepts and principles taught during behavioral detection as well as behavior awareness training.

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

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Understanding SPOT



Ask: What is the purpose of SPOT? Is it generally considered to be a law enforcement programs?

Answer: No. The SPOT program designed to look for behavioral indicators that may reveal possible hostile intent or other attributes that cause the individual to pose a higher risk to aviation security than other members of the travelling public. Its purpose is **NOT** to identify criminal behavior or other violations of law, although criminal conduct or immigration violations may come to light during the secondary screening, because the indicators might be similar. SPOT training focuses on observation and analysis of behaviors and activities that deviate from an established environmental baseline to identify an individual who could pose a risk to transportation security. Individuals whose behaviors meet or exceed a predetermined threshold may be referred for additional screening or law enforcement intervention. While law enforcement referrals are reported, the purpose of the program is to identify individuals who may pose a threat to transportation security and its success is **NOT** measured by how many criminal violations are ultimately uncovered.



Ask: What distinguishes the SPOT program and the science behind its analysis of behaviors from profiling?


Answer: The SPOT program's behavioral observation and analysis involves using behavior pattern recognition, not racial, ethnic or religious factors, to identify persons who may pose a threat to transportation security. TSA developed and implemented the SPOT program based on behavior pattern recognition techniques used by various government agencies.

When we speak of behavior recognition as a security tool, ethnicity, race and religion are **NOT** components of these techniques. If police officers or security officials were to look for only one "stereotypical terrorist," the real terror threat may walk right past them. Terrorists are always adapting their techniques to defeat **the latest security innovations**, and nothing would be easier to defeat than profiling.

Presenter notes: 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 hostile intent 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.

Behavior observation and analysis techniques are lawful and scientifically proven to be effective. Racial, ethnic and religious profiling are unlawful and undermine the Agency's ability to fulfill its transportation security mission.

Be sure to emphasize the importance of behavior recognition as a security tool.

<h1>National Shift Brief</h1>	 Transportation Security Administration
<p>September 2012</p>	

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