

JAN 30 2012

U.S. Department of Homeland Security
601 South 12th Street
Arlington, VA 20598



Transportation
Security
Administration

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

Dear Congressman Thompson:

Thank you for your letter of November 22, 2011, regarding the Transportation Security Administration's (TSA) screening practices at Honolulu International Airport (HNL).

As stated in my previous responses, the U.S. Department of Homeland Security does not tolerate the unlawful profiling of any nationality. If allegations arise, TSA promptly conducts an investigation and takes corrective action as warranted. In the case involving the HNL Screening of Passengers by Observation Techniques (SPOT) Program, TSA conducted SPOT refresher training for the entire Behavior Detection Officer (BDO) workforce at HNL. The refresher training is a newly developed 3-day course that ensures the BDOs understand the SPOT behaviors and criteria, and it emphasizes the importance of correctly using the established SPOT standard operating procedures. The entire TSA BDO workforce is scheduled to receive refresher training by the end of fiscal year 2012, and then every 18 months thereafter. Additionally, the BDOs involved in the allegations have been removed from the SPOT Program pending the outcome of the investigation. TSA will continue to monitor SPOT operations at HNL and conduct additional site visits as necessary.

In addition, you should know that TSA and the DHS Office for Civil Rights and Civil Liberties (CRCL) accept complaints from anyone alleging a civil rights violation by Department personnel or programs. Several members of my staff have met with representatives from the Embassy of Mexico and various members of their consulates to make them aware of this resource. Our responses to your specific requests for information are on the enclosed.

I appreciate the time you took to share your views with me and hope this information has been helpful. If I may be of any further assistance, please do not hesitate to contact me personally or the Office of Legislative Affairs at (571) 227-2717.

Sincerely yours,

A handwritten signature in black ink, appearing to read "John S. Pistole".

John S. Pistole
Administrator

Responses to Questions from Ranking Member Bennie Thompson

- 1. TSA's internal report on the Honolulu International Airport SPOT program and any other reports TSA have [sic] conducted to investigate inappropriate activity by Behavioral Detection Officers at any and all U.S. airports.**

A copy of the report prepared by the covert team of SPOT Transportation Security Managers (TSMs) is on the enclosed compact disk (CD). The report contains Sensitive Security Information (SSI) and has been portion-marked. Please consult with TSA to redact SSI if your office plans to release this report publicly.

Regarding your request for any other reports related to the investigation of inappropriate activity by BDOs, my September 21, 2011, response to you included copies of three reports related to the investigation of the SPOT Program at Newark International Airport (EWR) and an Initial Decision of the Merit Systems Protection Board upholding TSA's disciplinary action against an EWR SPOT manager. EWR is the only other airport where allegations have been made of unlawful profiling by BDOs.

- 2. A narrative describing the manner in which the number of BDO interviews is factored into a BDO's rating, salary or any other performance measure or evaluation.**

The frequency with which a BDO conducts interviews is not considered in any rating, salary, or other performance measure or evaluation. The Performance Accountability and Standards System (PASS), a pay-for-performance management system conducted yearly for all Officers, evaluates an individual's competencies and procedural performance.

TSA uses a standardized interview process for promotions into the SPOT Program as well as for new management positions (*e.g.*, promotion to SPOT Manager). The SPOT Referral interview rate is not factored into these decisions.

- 3. Specific steps taken by TSA to address the racial profiling allegations at Honolulu International Airport and to alert Federal Security Directors at airports with Behavior Detection Officers of best practices to avoid racial and ethnic profiling in behavior detection activities. Please provide action items that relate to initial training and recurrent training, outside of guidance included in the training manual.**

The DHS Office of the Inspector General conducted an inspection of the program at HNL and did not find any evidence of profiling. However, the Behavior Detection Officers (BDOs) involved in the allegations at HNL are still being investigated and have been removed from the SPOT program pending the outcome of the investigation.

As previously stated, upon being informed of the allegations concerning the HNL SPOT Program, TSA conducted refresher training and a covert visit, and will conduct a Standardization visit in the near future. The Standardization visits include providing the 3-day refresher course to all members of the local SPOT Program as well as performing inspections of the required programmatic administrative requirements. The inspectors also make operational observations to ensure local officers are properly applying SPOT Standard Operating Procedures (SOP) when

performing SPOT. During the covert visit, members of the team did not observe any instances of the alleged misconduct.

Avoiding racial and ethnic profiling is a frequent topic during formal and informal interaction between the SPOT Program Office and SPOT field personnel. During calendar year 2011, TSA addressed this topic during the Federal Security Director's Conference, the Assistant Federal Security Director's Conference, and the Annual SPOT Manager's Conference. Further, the issue is frequently broached during monthly teleconferences between SPOT managers and the SPOT Program Office. TSA's Office of Civil Rights & Liberties, Ombudsman and Traveler Engagement provides a liaison with the SPOT Program to assist in reviewing SOP drafts and to provide civil rights/liberties guidance in meetings with SPOT management. The consistent message is that unlawful racial profiling is inappropriate and counterproductive.

While there are no action items relating to initial training and recurrent training outside of guidance in the training manual, SPOT personnel are required to annually complete seven separate on-line civil rights courses and the airport's SPOT Programs are to receive SPOT Standardization assist visits every 18 months.

4. Please provide a copy of the comprehensive training program for BDOs, Assessors and managers in the field. Please provide a timeline outlining recurrent training for all BDOs across the United States.

TSA is currently evaluating the recurrent training requirements for BDOs. The Operational and Technical Training (OTT) Division recently completed a Training Task Analysis (TTA) to identify the gaps in the SPOT curricula and provided recommendations for moving forward with new training modules and courses. This TTA will be reviewed and completed on a yearly basis to better inform the training plan.

Assessor Training is still in the proof-of-concept stage and is not available to the general BDO population. A copy of the training document is on the enclosed CD. Please be aware that the Assessor Course Workbook is a copyrighted publication of International Security Defense Systems, LLC, and contains, in addition to SSI, information which is proprietary to that company. Proprietary information includes trade secrets and commercial or financial information which would be exempt from public release under the Freedom of Information Act (FOIA). Please consult with TSA to redact proprietary and SSI information if your office plans to release these training materials publicly.

The training program for BDOs and managers consists of the instructor-led courses listed below. Copies of the following course materials are on the enclosed CD.

- SPOT Certification Training (one time/new hire, seven academic days)
- SPOT Refresher Training (every 18 months, three academic days)
- Additional Behavior Detection Training (one time/at least six months as BDO, three academic days)

These materials contain SSI and are portion-marked. Please consult with TSA to redact SSI if your office plans to release these materials publicly.

Additional annual training requirements for BDOs include the following:

- Guidance Regarding the Use of Race for Law Enforcement Officers
- On Common Ground: Sikh American Cultural Awareness for Law Enforcement
- Introduction to Arab American and Muslim American Cultures for DHS Personnel
- The First Three to Five Seconds: Arab and Muslim Cultural Awareness Training for Law Enforcement
- Introduction to Civil Rights
- Culture of Privacy Awareness
- TSA Policy on Employee Responsibilities and Conduct
- SPOT Recurrent Training Referral Report Form Tutorial
- SPOT BDO Explosive Trace Detection (ETD) and Physical Property Search Training
- SPOT Plain Clothes Operations (PCO)
- Sensitive Security Information (SSI) Awareness Training
- TSA Watch: Recurrent Web-based training (Interactive Web-based training that presents the BDO with situational awareness scenarios and opportunities for reporting suspicious activities. The course is designed to improve situational awareness while performing security-related duties.)

The training program for BDO Transportation Security Managers includes all of the above courses, as well as an instructor-led Transportation Security Manager Technical Training Course titled *Leading People and Managing Operations* (LPMO) that focuses on best practices for management within the airport environment, and administrative and communication skills (one-time course, four academic days).

A copy of a comprehensive recurrent (refresher) training plan is on the enclosed CD. Under this plan, which was implemented in October 2011, all 2,986 BDOs will be trained by the end of calendar year 2012.

5. A list of countries of origin for each foreign national arrested as a result of a referral from TSA BDOs in Honolulu.

TSA's SPOT database does not collect passenger data related to country of origin. Therefore, we have no responsive records for this request.

6. In your letter dated September 21, 2011, you indicated that by the end of the 2011 calendar year, TSA would complete a comprehensive risk assessment on SPOT. Please provide a copy of this comprehensive risk assessment.

TSA is working to finalize this report and expects it will be completed in the near future, after which time we will provide it to you.

7. In your letter dated September 21, 2011, you indicated that by the end of the 2011 calendar year, TSA would (sic) comprehensive cost-benefit analysis of SPOT. Please provide a copy of the final report detailing a cost-benefit analysis of the SPOT program

including a comparison of SPOT to other security screening programs and existing security measures at airports.

TSA is working to complete a comprehensive cost-benefit analysis of SPOT, which is incorporated into the risk assessment. TSA is working to finalize this report and expects it will be completed in the near future.