OFFICE OF INSPECTOR GENERAL

Allegation of Granting Expedited Screening through TSA Pre✓® Improperly (OSC File No. DI-14-3679) (Redacted)

Homeland Security

March 16, 2015
OIG-15-45

Review Request

The U.S. Office of Special Counsel (OSC) received a whistleblower disclosure alleging a sufficiently notorious convicted felon was improperly cleared for TSA Pre✓® screening, creating a significant aviation security breach. The disclosure identified this event as a possible error in the TSA Secure Flight program since the traveler's boarding pass contained a TSA Pre✓® indicator and encrypted barcode. On October 16, 2014, OSC referred this allegation to the Secretary of Department of Homeland Security (DHS). The Department subsequently requested our assistance with this allegation.

Conduct of Review and Summary of Evidence Obtained

Our Office of Inspections recently assessed security enhancements needed to the TSA Pre✓® initiative and conducted the review of this allegation. We interviewed the whistleblower and TSA senior officials responsible for the TSA Pre✓® initiative. We also analyzed documentation regarding the TSA Pre✓® inclusion and screening processes to determine whether a gap in aviation security exists.

We analyzed the following documents:

- Memoranda establishing risk assessment rules;
- TSA briefings on risk assessment rules;
- TSA's Office of Security Operations (OSO) screening checkpoint procedures;
- OSO incident reporting; and
- Public documents relating to the traveler's background and criminal history.

Summary of Results

We determined that TSA did not grant the traveler TSA Pre✓® screening through the TSA Pre✓® Application Program or managed inclusion (MI). TSA granted the traveler TSA Pre✓® screening through risk assessment rules in the Secure Flight program. TSA's use of [redacted] to provide TSA Pre✓® screening to unknown passengers creates an aviation security vulnerability. We recommend TSA [redacted] limit TSA Pre✓® screening to known passengers that TSA determines to be members of trusted populations. We also determined the Transportation Security Officer (TSO) followed standard operating procedures, but did not feel empowered to redirect the traveler from TSA Pre✓® screening to standard lane

screening. We recommend TSA modify standard operating procedures to clarify TSO and supervisory TSO authority to refer passengers with TSA Pre✓® boarding passes to standard screening lanes when they believe the passenger may be a threat to transportation security.

Passenger's Background and Criminal History

The traveler is a former member of a domestic terrorist group. While a member, the traveler was involved in numerous felonious criminal activities that led to arrest and conviction. After serving a multiple-year sentence, the traveler was released from prison.

Passenger did not Gain Access to TSA Pre✓® Screening through the TSA Pre✓® Application Program

TSA vets TSA Pre✓® applicant biographic information and fingerprints against intelligence, law enforcement, and immigration automated data systems to determine membership eligibility. TSA will deny membership to an applicant confirmed to be a match to an intelligence-based data system, convicted of any of the 28 disqualifying criminal offenses, or not a U.S. citizen or Lawful Permanent Resident.

TSA's Security Threat Assessment Operations (STAO) verified that the traveler did not apply to the TSA Pre✓® Application Program.[1] An STAO official confirmed that if the traveler had applied, STAO would have issued the traveler a Preliminary Determination of Ineligibility Letter because of the traveler's convictions for murder and offenses that involve explosives. TSA would then allow the traveler 60 days to submit a redress request and provide documentation showing that the traveler was not convicted of a disqualifying offense; however, it is publicly known that the traveler was convicted and served [redacted] years in prison.

Passenger did not Gain Access to TSA Pre✓® Screening through Managed Inclusion

TSA piloted MI in October 2012 to regulate passenger throughput and wait times during peak hours at airport security checkpoints. MI allows passengers without a TSA Pre✓® indicator on their boarding passes to go through TSA Pre✓® lanes. Since the traveler's boarding pass had a TSA Pre✓® indicator and encrypted barcode, we conclude that the traveler was not extended TSA Pre✓® screening through MI.

[1] STAO adjudicates TSA Pre✓™ applications.

Secure Flight Screening to Determine TSA Pre✓® Eligibility

TSA's Secure Flight program screens individuals prior to granting them access to an airport's sterile area. The program allows TSA to determine the level of security screening passengers should receive at the airport checkpoint. The program compares self-reported traveler information provided to TSA from air carrier reservations, such as name, date of birth, and gender, to lists of low-risk travelers, the Terrorist Screening Database (TSDB) No Fly and Selectee Lists, as well as to other intelligence-based data systems maintained by TSA and other Federal Government agencies.

In October 2013, TSA began applying TSA Pre✓® risk assessment rules in Secure Flight to identify and increase the percentage of passengers screened through the TSA Pre✓® screening process. [redacted]

[redacted]

Passengers eligible [redacted] can print boarding passes with the TSA Pre✓® indicator. [redacted]

TSA Pre✓® [redacted] Create an Aviation Security Vulnerability

TSA was unable to provide documentation regarding the traveler's Secure Flight vetting results for the traveler's flight on June 29, 2014, as Secure Flight purges these records within 7 days of completed travel. However, we know that the traveler is [redacted] U.S. citizen, born on [redacted] At the time of [redacted] the traveler [redacted] The traveler's [redacted] the traveler [redacted]

[redacted][2] TSA relies on these data systems to be complete and accurate. A senior TSA official said [redacted] the traveler's [redacted] the traveler [redacted] The traveler [redacted] the traveler's [redacted] the traveler [redacted] the traveler's [redacted]

The TSO Followed Screening Checkpoint Procedures

According to the OSO screening checkpoint standard operating procedures, TSOs may increase the level of screening a passenger receives at the checkpoint based on an articulable belief. The procedures define an articulable belief as "a belief that can be put into words and explained to others and is based on observations that suggest an individual or item may be a threat to transportation security." If an articulable belief continues after using professional experience and judgment to assess the situation, a TSO should report it to the supervisory TSO. Supervisory TSOs may use their discretion to mitigate a possible security threat.

In this circumstance, the TSO recognized the sufficiently notorious convicted felon based on media coverage, and verified the traveler's identity documents. Upon scanning the traveler's boarding pass, the TSO received a TSA Pre✓®

[2] OSO places passengers that violate certain transportation security regulations on the PDP list temporarily or permanently, making them ineligible for TSA Pre✓®.

eligibility notification. However, the TSO knew of the traveler's TSA Pre✓® disqualifying criminal convictions. The TSO followed the standard operating procedures and reported this to the supervisory TSO who then directed the TSO to take no further action and allow the traveler through the TSA Pre✓® lane. As a result, TSA does not have an incident report for this event.

The TSO knew that the traveler's criminal history should disqualify the traveler from receiving TSA Pre✓® screening. However, the TSO did not feel empowered to redirect the traveler to the standard screening lane, as the traveler did not demonstrate physical or verbal signs that would result in action based on the TSO's understanding of articulable belief. The TSO thought that supervisors and Behavioral Detection Officers (BDOs) had the discretion to make such decisions, but that TSOs do not have the authority to do so. In addition to the TSO's supervisor, the TSO also contacted a BDO and requested that he raise the issue with the Assistant Federal Security Director (AFSD) for screening to determine how the traveler received TSA Pre✓® eligibility. The AFSD for screening [redacted] the traveler's [redacted] even though no reason was provided to the TSO.

We are making two recommendations to address this aviation security vulnerability.

Recommendations

Recommendation 1. We recommend that the TSA Chief Risk Officer: Discontinue [redacted] in the Secure Flight program [redacted]

Recommendation 2. We recommend that the TSA Assistant Administrator for Security Operations: Modify standard operating procedures to clarify TSO and supervisory TSO authority to refer passengers with TSA Pre✓® boarding passes to standard screening lanes when they believe that the passenger should not be eligible for TSA Pre✓® screening.

Management Comments and OIG Analysis

We evaluated TSA's written comments and made changes to the report where we deemed appropriate. A summary of TSA's written response to the report recommendations and our analysis of the response follows. A copy of TSA's response, in its entirety, is included as appendix A. In addition, we received technical comments from TSA and incorporated these comments into the report where appropriate. TSA did not concur with Recommendation 1 and

concurs with Recommendation 2. We appreciate TSA's comments and contributions.

Management Response to Recommendation #1: TSA officials did not concur with Recommendation 1. In its response, TSA said that with respect to individuals who may pose an elevated security risk to commercial aviation, the U.S. Government's approach to domestic aviation security relies heavily on the TSDB and its Selectee List and No Fly List subcomponents. TSA said, had the intelligence or national law enforcement communities felt that this traveler posed an elevated risk to commercial aviation, they would have nominated the traveler to one of these lists and prevented the traveler from being designated as lower-risk.

TSA said it conducts additional measures to mitigate and reduce risk in TSA Pre✓® at 124 airports. TSA said these measures encompass both random and targeted screening methods, which build unpredictability into the screening process. These methods include BDOs conducting observations and engaging passengers at 87 airports, strategically positioning Canine Teams at 37 airports, and the use of Explosive Trace Detection technology to randomly swab hands. TSA set Unpredictable Screening Procedures at [redacted] to ensure passengers undergo additional security measures in the TSA Pre✓® lanes. A [redacted] Walk Through Metal Detector net alarm rate in the TSA Pre✓® lanes results in passenger undergoing additional screening through Advanced Imaging Technology (AIT) if available. TSA has deployed AITs in TSA Pre✓® lanes at 68 airports.

OIG Analysis: We consider TSA's actions nonresponsive to the intent of Recommendation 1, which is unresolved and open. TSA said it relies on the U.S. Government watchlisting process to identify individuals that represent an elevated risk to commercial aviation. However, not all non-watchlisted passengers are lower-risk and eligible for TSA Pre✓®. For example, TSA has established disqualifying criteria, in addition to the watchlisting process, for an applicant seeking TSA Pre✓® Application Program membership. TSA will deny membership to an applicant convicted of any of the 28 disqualifying criminal offenses or not a U.S. citizen or Lawful Permanent Resident. Even though the traveler is not watchlisted, the traveler would be permanently ineligible for TSA Pre✓® given the traveler's criminality. Conversely, [redacted]

[redacted] This

recommendation will remain unresolved and open pending our receipt of documentation that TSA has discontinued [redacted]

Management Response to Recommendation #2: TSA officials concurred with Recommendation 2. In its response, TSA said the Assistant Administer for OSO disseminated clarifying guidance to the field workforce on November 21, 2014. According to TSA, this guidance contained information regarding articulable belief and the use of critical thinking skills during the screening process. In addition to OSO's guidance, TSA said the same content was included in the National Shift Brief provided to frontline officers for review.

TSA said it will review the language already contained in the Screening Checkpoint Standard Operating Procedures, to ensure it provides sufficient clarity regarding TSOs and supervisory TSOs raising concerns where they have an articulable belief that a person or item may be a threat to transportation security.

OIG Analysis: We consider TSA's actions responsive to the intent of Recommendation 2, which is resolved and open. This recommendation will remain open pending our receipt of the November 21, 2014, clarifying guidance and the results of TSA's review of the Screening Checkpoint Standard Operating Procedures.

Appendix A
Management Comments to the Draft Report

SENSITIVE SECURITY INFORMATION

U.S. Department of Homeland Security
601 South 12th Street
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Transportation Security Administration

DEC 23 2014

INFORMATION

MEMORANDUM FOR: John Roth
Inspector General
U.S. Department of Homeland Security (DHS)

FROM: John S. Pistole
Administrator

SUBJECT: Transportation Security Administration's Response to DHS Office of the Inspector General (OIG) Draft Letter Report, *Allegation of Granting Expedited Screening through TSA Pre ✓® Improperly - Sensitive Security Information (OSC File No. DI-14-3679)*

Purpose

This memorandum constitutes the Transportation Security Administration's (TSA) response to the DHS Office of the Inspector General (OIG) draft letter report, *Allegation of Granting Expedited Screening through TSA Pre ✓® Improperly,* dated December 4, 2014.

Background

The U.S. Office of Special Counsel (OSC) received a whistleblower disclosure alleging [redacted] was improperly cleared for TSA Pre✓® screening, creating a significant aviation security breach. The disclosure identified this event as a possible error in the TSA Secure Flight program since [redacted] boarding pass contained a TSA Pre✓® indicator and encrypted barcode. On October 16, 2014, OSC referred this allegation to the DHS Secretary. The Department subsequently requested the assistance of DHS OIG to review this allegation.

OIG interviewed the whistleblower and TSA senior officials responsible for the TSA Pre✓® initiative. OIG also analyzed documentation regarding the TSA Pre✓® inclusion and screening processes, and determined that this passenger was designated eligible for expedited screening via a TSA Pre✓® screening lane through Secure Flight [redacted]. OIG recommended TSA [redacted] limit TSA Pre✓® screening to known passengers that TSA determines to be members of trusted populations. They also recommended TSA modify standard operating procedures to clarify Transportation Security Officer (TSO) and Supervisory TSO authority to refer passengers with TSA Pre✓® boarding passes to standard screening lanes when TSA believes the passenger may be a threat to transportation security.

WARNING: **This record contains Sensitive Security Information that is controlled under 49 CFR parts 15 and 1520. No part of this record may be disclosed to persons without a "need to know", as defined in 49 CFR parts 15 and 1520, except with the written permission of the Administrator of the Transportation Security Administration or the Secretary of Transportation. Unauthorized release may result in civil penalty or other action. For U.S. government agencies, public disclosure is governed by 5 U.S.C. 552 and 49 CFR parts 15 and 1520.**

SENSITIVE SECURITY INFORMATION

U.S. Department of Homeland Security
Transportation Security Administration (TSA)

Response to DHS Office of the Inspector General (OIG) Draft Letter Report, *Allegation of Granting Expedited Screening through TSA Pre ✓® Improperly*
(OSC File No. DI-14-3679)

Recommendation #1: We recommend that the TSA Chief Risk Officer: Discontinue [redacted] in the Secure Flight program [redacted].

TSA does not concur. With respect to individuals who may pose an elevated security risk to commercial aviation, the U.S. Government's approach to domestic aviation security relies heavily on the Terrorist Screening Data Base and its Selectee List and No Fly list subcomponents. Had the intelligence or national law enforcement communities felt that this passenger posed an elevated risk to commercial aviation, they would have nominated [redacted] to one of these lists, and [redacted] would have been prevented from being designated as a lower-risk traveler.

TSA conducts additional measures to mitigate and reduce risk in TSA Pre✓® lanes at 124 airports. These measures encompass both random and targeted screening methods that build unpredictability into the screening process. These methods include Behavior Detection Officers conducting observations and engaging passengers at 87 airports, strategically positioning Canine Teams at 37 airports, and the use of Explosives Trace Detection technology to randomly swab hands. Unpredictable Screening Procedures are set at [redacted] to ensure passengers undergo additional security measures in the TSA Pre✓® lanes. A [redacted] Walk-Through Metal Detector net alarm rate in the TSA Pre✓® lanes results in passenger undergoing additional screening through Advanced Imaging Technology (AIT) if available. AITs in TSA Pre✓® lanes are currently deployed in 68 airports.

Recommendation #2: We recommend that the TSA Assistant Administrator for Security Operations: Modify standard operating procedures to clarify TSO and Supervisory TSO authority to refer passengers with TSA Pre✓® boarding passes to standard screening lanes when they believe that the passenger should not be eligible for TSA Pre✓® screening.

TSA Concurs. The TSA Assistant Administrator for the Office of Security Operations (OSO) disseminated clarifying guidance to the field workforce on November 21, 2014. This guidance contained information regarding articulable belief and the use of critical thinking skills during the screening process. In addition to the OSO Communications, the same content was included in the National Shift Brief, which is provided to the frontline Officers for review.

In addition, TSA will review the language already contained in the Screening Checkpoint Standard Operating Procedures (SOP) to ensure it provides sufficient clarity regarding TSOs and Supervisory TSOs raising concerns where they have an articulable belief that a person or item may be a threat to transportation security.

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