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**BEFORE THE**

**SUBCOMMITTEE ON TRANSPORTATION SECURITY**

**COMMITTEE ON HOMELAND SECURITY**

**U.S. HOUSE OF REPRESENTATIVES**

**Regarding**

*TSA's SPOT Program and Initial Lessons From the LAX Shooting*

**November 14, 2013**



Good morning Chairman Hudson, Ranking Member Richmond, and Members of the Subcommittee:

I am Charles Edwards, Deputy Inspector General for the Department of Homeland Security (DHS). Thank you for inviting me to testify today about the Transportation Security Administration's Screening of Passengers by Observation Techniques program, commonly called SPOT. Our audit report, "*Transportation Security Administration's Screening of Passengers by Observations Techniques*" (OIG-13-91, May 2013) concluded that, under the SPOT program TSA cannot ensure that passengers at U.S. airports are screened objectively, show that the program is cost-effective, or reasonably justify the program's expansion.

My testimony today will discuss 4 issues in regard to the SPOT program, TSA's: (1) performance management, (2) training strategy, (3) outreach efforts, and (4) financial plan.

In 2003, TSA developed the Screening of Passengers by Observation Techniques (SPOT) program with assistance from the Massachusetts State Police. TSA began operational testing at Logan Airport in Boston, MA, and later expanded its testing at two other New England airports. According to the U.S. Government Accountability Office (GAO), in fiscal year (FY) 2007, TSA implemented SPOT, and was authorized 644 Behavior Detection Officers (BDO) for deployment to 42 airports. According to TSA, as of FY 2012, more than 3,000 BDOs were authorized for deployment to 176 U.S. airports. TSA's Behavior Detection and Analysis Division was responsible for developing strategic plans and program guidance for the SPOT program. The program emphasizes objective behavior observation and analysis techniques to identify potentially high-risk individuals who are engaged in some form of deception and fear discovery.

BDOs, working in pairs, primarily conduct SPOT at airport screening checkpoints by having brief verbal exchanges with passengers waiting in line, while observing passengers' behaviors. A BDO identifies passengers for additional screening based on an evaluation system of identified behaviors, which may require a referral to law enforcement. A law enforcement officer (LEO) may assess the situation by interacting or engaging the passenger to determine if law enforcement intervention is necessary. Passengers whose observed behaviors are not resolved during the referral process may not be permitted to board an aircraft.

TSA BDOs were required to document all relevant information regarding each passenger referral in a referral report and the Performance Management Information System (PMIS). However, the SPOT Standard Operating Procedure prohibited the collection of personally identifiable information in the referral report or PMIS. Reports on the results of SPOT operations, such as the *SPOT Situation Report Dashboard – All Airports*, were generated from the data entered into PMIS. According to TSA, SPOT referrals made from October 2011 through September 2012 resulted in 199 arrests, which included outstanding warrants, suspected drugs, and illegal aliens.

## **Audit Results:**

Since the Screening of Passengers by Observation Techniques program began in FY 2007, TSA data indicate that the program has expanded from \$20 million to \$205 million in expended costs and the number of airports with the program has grown from 42 to 176. However, TSA has not implemented a strategic plan to ensure the program's success. TSA did not: (1) assess the effectiveness of the program, (2) have a comprehensive training program, (3) ensure outreach to its partners, or (4) have a financial plan. As a result, TSA could not ensure that passengers at United States airports were screened objectively, show that the program was cost-effective, or reasonably justify the program's expansion. In FY 2012, TSA's Behavior Detection and Analysis Division developed a draft strategic plan that included a statement of mission, goals, and objectives. However, the plan had not been approved and implemented at the time of our audit.

## **Performance Measurement**

TSA could not accurately assess or evaluate the progress of the SPOT program because it did not have a finalized strategic plan that identified the mission, goals, and objectives needed to develop a system of performance measures. Furthermore, TSA did not collect accurate or complete information about the program's operations.

The SPOT program's Standard Operating Procedure indicates that its purpose was to identify high-risk individuals who may pose a threat to transportation security, but TSA has not developed performance measures for the program. As a result, the program collected data from referral reports that provided measurable outputs of specific activities; however, these outputs did not provide a measure of program effectiveness, because TSA has not established why these outputs support desired outcomes.

For instance, TSA documented the identification of prohibited items, undeclared currency, and illegal aliens, but the SPOT program has not defined how these outputs support achieving the SPOT program goals. As a result, TSA cannot assess the SPOT program's success without relative outcome-oriented performance measures. In August 2012, TSA provided its draft *Behavior Detection and Analysis Division Performance Metrics Plan*. This plan was intended to identify current gaps in performance metrics collection, proposed metrics solutions, and resource requirements for the next 3 years, but it had not been approved and implemented at the time of our audit.

Although program operations and outputs from referrals were recorded in the PMIS, the referral data captured was not always complete or accurate. BDO managers were required to review and approve all SPOT referral reports entered into PMIS, but the internal controls over data entry were ineffective. For example, PMIS was set up to automatically bypass manager review of a referral report after 72 hours, and the data entry quality assurance measures beyond a BDO manager review are insufficient. Of the 15 airports tested, 1,420 of the 18,152 (8 percent) referral reports recorded in FY 2012 bypassed management review. Five of the airports had more than 15

percent of the referral reports bypass management review. Only 1 of the 15 airports tested had 100 percent management review of referral reports recorded in PMIS.

BDOs were required to document information regarding each referral, including the reason(s) for a referral, the BDOs involved, and the resolution. However, passenger-specific data were prohibited from being recorded.

We assessed more than 110,000 referral records in PMIS from April 1, 2009, through September 30, 2012. Of those records—

- 7,019 did not identify the primary or secondary BDO;
- 1,194 did not meet the criteria for a referral;
- 442 were referral records that were deleted; and
- 143 did not contain a code for the airport where the referral was made.

Additionally, we identified duplicate records and one record that contained personally identifiable information.

Incomplete and inaccurate PMIS SPOT referral data may have been used to present program results to TSA senior leadership and oversight officials to illustrate the results of the SPOT program. In fact, 4 months after providing our audit team with PMIS data, the SPOT program office identified and corrected errors in the database before providing similar data to our investigators, who were conducting a separate investigation. We were not informed that the original data we received had been changed. SPOT program officials said they corrected errors in the level of LEO involvement and deleted duplicate records.

## **Training**

TSA had not developed a training strategy that addresses the goals and objectives of the SPOT program. A well-designed training program should be linked to the agency's goals and to the organizational, occupational, and individual skills and competencies needed for the agency to effectively perform.<sup>1</sup> As a result, TSA cannot ensure that training contributes to the uniform screening of passengers.

### **Formal Training**

TSA did not consistently offer formal refresher training to BDOs. Beginning in May 2006, all BDOs were required to attend the SPOT Basic Training course for BDO certification. TSA's training task analysis emphasized the importance of recurring training when it reported:

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<sup>1</sup> U.S. General Accounting Office, GAO-04-546G, *Human Capital: A Guide for Assessing Strategic Training and Development Efforts in the Federal Government*, March 2004.

...observation skills are among the perishable variety. They need to be constantly honed and refocused on some regular basis. Observation is the single most important task in the entire SPOT Program. ... but little training is provided to address its importance, and there is virtually no measurement of the skill in the current testing program.<sup>2</sup>

TSA did not start providing refresher training for currently certified BDOs until May 2011. The 3-day refresher training consisted of a review of SPOT Standard Operating Procedure requirements and addressed deficiencies in prior basic training courses. TSA determined that BDOs were not receiving training on 37 of the 63 (approximately 59 percent) required job tasks in the original versions of the basic training course.

BDOs with a year or more of experience were eligible to complete TSA's refresher training. According to TSA, 713 of the approximately 2,200 eligible BDOs (approximately 32 percent) received refresher training in the past 2 years. Of the 101 BDOs we interviewed, 88 were eligible to receive the refresher training. Of the 88 eligible BDOs, 65 (approximately 74 percent) did not receive the training. The SPOT program office reported that because of training staffing constraints, they needed to prioritize the training of new BDOs before conducting refresher training. As a result, BDOs who have not received the refresher training may be operating at varying levels of proficiency.

### Instructors

BDO instructors provided the only formal classroom training to BDOs. During July 2012, TSA provided training to BDO instructors and tested them on their teaching abilities. TSA identified six BDO instructors who did not have the instructor knowledge, skills, or abilities to instruct BDO classes. TSA provided remedial instruction to those instructors in order for them to become qualified to teach. However, TSA did not evaluate BDO instructors on their instructional abilities in their Performance Accountability and Standards System. Additionally, TSA did not have a program to provide recurrent training to BDO instructors. Therefore, the program office could not ensure that BDOs were effectively and consistently trained.

### Outreach

The relationship between BDOs and local LEOs is critical to the program and needed to be improved. TSA incorporated law enforcement response as an integral part of the SPOT program. However, the SPOT program office has not ensured that airports effectively engage local law enforcement. BDOs and local LEOs at the airports contacted said there was insufficient understanding of the roles and responsibilities that each had relative to the SPOT program. For example, LEOs at seven airports contacted said they had not received clear information about

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<sup>2</sup> Transportation Security Administration, *Training Task Analysis for the Screening of Passengers by Observation Techniques Program*, December 16, 2011.

BDO duties and why referrals from BDOs warranted law enforcement response. Conversely, BDOs expressed concerns about the consistency of LEOs' responses to referrals. BDOs said that local LEOs did not consistently respond to referrals or engage referred passengers. TSA data show that LEOs did not respond to 2 percent of the referrals between October 2011 and September 2012.<sup>3</sup> Additionally, TSA data indicate that LEOs did not question 13 percent of referred passengers during that same period.

Of the 15 airports we contacted, 3 had locally developed LEO outreach activities. At the airports using outreach activities, BDOs and LEOs reported more consistent and effective working relationships. The success of the program may be affected if BDOs and LEOs do not collaborate effectively.

### **Financial Plan**

The SPOT program's financial plan did not include priorities, goals, objectives, or financial performance measures. According to the SPOT program office, the program was allocated more than \$1 billion between FYs 2007 and 2012. TSA data indicated that the program expended an estimated \$878 million for the program office and SPOT personnel. OMB Circular A-11 describes budget formulation, development, and execution requirements that include needs analysis and budget development, budget execution, and expenditures tracking. Budget control is an integral part of an entity's planning, implementing, reviewing, and accountability for stewardship of government resources and achieving effective results.<sup>4</sup> Because the SPOT program did not have a financial plan that included priorities, goals, objectives, or measures, TSA could not: (1) show that SPOT was cost-effective, (2) identify opportunities for improvement, or (3) justify the program's expansion.

Prior to FY 2012, the SPOT program office did not fully determine priorities for future spending or develop an itemized forecast of future funding and expenditures. Performance information was not used to assess the effectiveness of program activities to develop budget priorities. According to program officials, the program's historical funding was the basis for spending estimates. Beginning in FY 2012, the Behavior Detection and Analysis Division developed spend plans that identified project funding requirements. According to the FY 2013 draft spend plan, the objective of the spend process was to collect, identify, and document funding requirements for the budget year with a 5-year forecast. However, the spend plans did not include a comprehensive accounting of SPOT funding requirements, such as BDO costs and training.

Although TSA had several areas that required improvement, SPOT officials have taken several steps toward meeting those objectives since our audit was issued.

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<sup>3</sup> This information is based on PMIS data, which may be incomplete and inaccurate due to errors identified.

<sup>4</sup> U.S. General Accounting Office, GAO/AIMD-00-21.3.1, *Standards for Internal Control in the Federal Government*, November 1999.

For instance, TSA officials have provided verification that comprehensive measures have been implemented to ensure completeness, accuracy, authorization, and validity of referral data entered into PMIS. They have also developed and implemented a plan to provide recurrent training for Behavior Detection Officer instructors and refresher training for the BDO workforce. Lastly, TSA officials have completed the BDO Communications Plan, which contains a number of workforce engagement tools designed to help the program office gauge selection, allocation, and performance of BDOs.

In closing, strategic planning is the keystone to a successful program. Because OMB Circular A-11 guidance identifies requirements for agency strategic planning, it would be prudent for agency programs to follow these same principles to help ensure program success and contribute to the agency's mission. Without the implementation of a SPOT strategic plan that contains key elements, TSA cannot ensure that passengers at U.S. airports are screened in an objective manner, show that the program is cost-effective, or reasonably justify the program's expansion to ensure that threats to aviation security are effectively prevented.

I would also like to take this moment to express my condolences on the tragic shooting incident at Los Angeles International Airport where TSA Officer Gerardo Hernandez was killed and other TSA officials were wounded.

Mr. Chairman, this concludes my prepared remarks. I welcome any questions that you or the Members of the Subcommittee may have.