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Before

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Committee on the Judiciary**

on

Sharing and Analyzing Information to Prevent Terrorism

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Sharing and Analyzing Information to Prevent Terrorism
Patricia Cogswell Testimony

Chairman Conyers, Congressman Smith, and members of the Committee: Thank you for this opportunity to testify on sharing and analyzing information to prevent terrorism

The attempted attack on December 25, 2009, was a powerful illustration that terrorists will go to great lengths to try to defeat the security measures that have been put in place since September 11, 2001. The Department of Homeland Security (DHS or the Department), along with our interagency partners, is determined to thwart those plans and disrupt, dismantle and defeat terrorist networks by employing multiple layers of defense that work in concert with one another to secure our country. This is an effort that involves not just DHS, but many other federal agencies and the international community as well.

As our part in this effort, DHS is a consumer of the U.S. government's consolidated terrorist watchlist, which we use to help keep potential terrorists off flights within or bound for the United States, or, in appropriate cases, to identify travelers for additional screening. We work with foreign governments and with air carriers to strengthen global air travel security by advising them on security measures and on which travelers may pose a threat. We also work with air carriers and airport authorities to perform physical screening at TSA checkpoints and to provide security measures in flight.

Immediately following the December 25 attempted attack, DHS took swift action at airports across the country and around the world. These steps included enhancing screening for individuals flying to the United States; increasing the presence of law

enforcement and explosives detection canine teams at air ports, and of air marshals in flight; and directing the FAA to notify the 128 flights already inbound from Europe about the situation. Nonetheless, Umar Farouk Abdulmutallab should never have been able to board a U.S.-bound plane with the explosive PETN on his person. As President Obama has made clear, this Administration is determined to find and fix the vulnerabilities in our systems that allowed this breach to occur.

Agencies across the federal government have worked quickly to address what went wrong in the Abdulmutallab case. The effort to address these vulnerabilities is well underway, with cooperation among DHS, the Department of State, the Department of Justice, the Intelligence Community, and our international partners, among others. As a consumer of terrorist watchlist information, DHS welcomes the opportunity to contribute to the dialogue on improving the federal government's ability to connect and assimilate intelligence. We are also focused on improving aviation screening and expanding our international partnerships to guard against a similar type of attack occurring again. To those ends, today I want to describe the role that DHS currently performs in aviation security, how DHS responded in the immediate aftermath of the attempted December 25 attack, and how we are moving forward to further bolster aviation security.

DHS' Role in Multiple Layers of Defense

Since 9/11, the U.S. government has employed multiple layers of defense to secure the aviation sector and ensure the safety of the traveling public. Different federal agencies bear different responsibilities. In addition, other countries and the private sector – especially the air carriers themselves – have important roles to play.

DHS has several screening programs in place to prevent individuals with terrorist ties from boarding flights that are traveling to or within the United States or, in appropriate cases, to identify them for additional screening. Specifically, DHS:

- uses information in the Terrorist Screening Database (TSDB), managed by the Terrorist Screening Center (TSC), as well as other information provided by law enforcement and the Intelligence Community, to screen individuals;
- operates the travel authorization program for people who are traveling to the United States under the Visa Waiver Program (VWP)¹;
- works with foreign governments, international and regional organizations, and airlines to design, improve, and implement security standards worldwide;
- conducts routine checks against Interpol databases on wanted persons and lost or stolen passports for international travelers traveling to the United States;
- and
- performs checkpoint screening at airports in the United States.

To provide a sense of the scale of our operations, every day, U.S. Customs and Border Protection (CBP) processes 1.2 million travelers seeking to enter the United States by land, air or sea; the Transportation Security Administration (TSA) screens 1.8 million travelers at domestic airports; and DHS receives advanced passenger information from carriers operating in 245 international airports that are the last point of departure for flights to the United States accounting for about 1,600 to 1,800 flights per day. Ensuring

¹ The 36 countries in the Visa Waiver Program are: Andorra, Australia, Austria, Belgium, Brunei, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece Hungary, Iceland, Ireland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, the Netherlands, New Zealand, Norway, Portugal, San Marino, Singapore, Slovakia, Slovenia, South Korea, Spain, Sweden, Switzerland, and the United Kingdom (for the U.K., only citizens with an unrestricted right of permanent abode in the U.K. are eligible for VWP travel authorizations).

that DHS employees and all relevant federal officials are armed with intelligence and information is critical to the success of these efforts.

Safeguards for Visas and Travel

One of the first layers of defense in securing air travel consists of safeguards to prevent dangerous people from obtaining a visa, travel authorization, and a boarding pass. To apply for entry to the United States prior to boarding flights bound for the United States or arriving at a U.S. port of entry, most foreign nationals need a visa issued at a U.S. embassy or consulate or, if traveling under the VWP, a VWP travel authorization issued through the Enhanced System for Travel Authorization (ESTA).²

Issuing visas is the responsibility of the Department of State. At certain embassies and consulates the U.S. Immigration and Customs Enforcement (ICE) has stationed Visa Security Program personnel to assist State Department personnel in identifying visa applicants who may present a security threat or national security concern. For individuals traveling under the VWP, DHS operates ESTA, a web-based system through which individuals must apply for travel authorization prior to traveling to the United States. DHS screens each ESTA applicant to assess whether he or she could pose a risk to the United States or its citizens, including possible links to terrorism. DHS has transitioned to enforced ESTA compliance where air carriers confirm that VWP travelers have an approved ESTA prior to boarding a flight to the United States. DHS also checks to make

² Exceptions would be citizens of countries under other visa waiver authority such as the Western Hemisphere Travel Initiative or the separate visa waiver program for Guam and the Commonwealth of the Northern Mariana Islands, or those granted individual waivers of the visa requirement under the immigration laws.

sure that the person's visa has not been denied or revoked. If it has, DHS will notify the carrier to prevent boarding.

The Department works closely with other federal agencies and our foreign partners to prevent possible terrorists from boarding aircraft bound for the United States. These include the application of the No-Fly List and the implementation of Secure Flight program, which I explain below.

Pre-departure screening

As another layer of defense, DHS conducts pre-departure passenger screening in partnership with the airline industry and foreign governments in order to prevent known or suspected terrorists from boarding a plane bound for the United States or, as appropriate, to identify them for additional screening. DHS uses TSDB data, managed by the Terrorist Screening Center, to determine who may board, who requires additional screening, who should not be admitted, or who should be referred to appropriate law enforcement personnel.

Specifically, to help make these determinations, DHS uses the No-Fly List and the Selectee List, two important subsets within the TSDB. Individuals on the No-Fly List should not receive a boarding pass for a flight to, from, over, or within the United States. Individuals on the Selectee List must go through additional security measures prior to boarding an aircraft.

Through the Secure Flight Program, the Department is making an important change to the process of matching passenger identities against the No-Fly List and Selectee List, and fulfilling an important recommendation of the 9/11 Commission. Previously, responsibility for checking passenger manifests against these lists rested with

the air carriers. Under the Secure Flight program, DHS will conduct these checks directly. Implementation is well underway. DHS expects to complete the transition for domestic flights later this spring and complete the transition for international flights by the end of this calendar year. In addition to creating a more consistent matching process for all domestic and international travel to the United States and strengthening the effectiveness of redress in preventing misidentifications, Secure Flight will flag potential watchlist matches and immediately trigger law enforcement notification and coordination.

For international travel to the United States, DHS also uses the Passenger Name Record information (PNR), the Advanced Passenger Information System (APIS), and the Immigration Advisory Program (IAP) to assess passengers' level of risk and, when necessary, flag them for further inspection. PNR data, obtained from the airline reservations systems up to 72 hours before travel, contains various elements, which may include optional information on itinerary, co-travelers, changes to the reservation, and payment information. PNR data is evaluated against "targeting rules" that are based on law enforcement data, intelligence and past case experience. APIS data, also referred to as "manifest data," which carriers are required to provide to DHS at least 30 minutes before departure, contains important identifying information that may not be included in PNR data, including verified identity and travel document information, such as a traveler's complete name, date of birth, citizenship, travel document number, and document's country of issuance. DHS screens APIS information on international flights to or from the United States against the TSDB, as well as against criminal history information, records of lost or stolen passports, and prior immigration or customs

violations. APIS is also connected to INTERPOL's stolen and lost travel documents database for routine queries on all inbound international travelers.

Another layer in the screening process is the Immigration Advisory Program (IAP). The CBP officers stationed overseas under the IAP program at nine airports in seven countries receive referrals from CBP screening against the TSDB. IAP officers can make "no board" recommendations to carriers and host governments regarding passengers bound for the United States who may be deemed inadmissible upon arrival at a U.S. port of entry, but do not have the authority to arrest, detain, or prevent passengers from boarding planes.

Checkpoint screenings and in-flight security

A further layer of defense for air travel in which DHS plays a role is the screening of passengers and their baggage. TSA screens passengers and baggage at airports in the United States, but not in other countries. When a traveler at a foreign airport is physically screened, that screening is conducted by either the foreign government, air carriers, or the respective airport authority—depending on the location—as required for compliance with the International Civil Aviation Organization (ICAO) and TSA requirements for flights to the United States.

Domestically, TSA employs a layered approach to security, which includes measures both seen and unseen by travelers. The 48,000 Transportation Security Officers at hundreds of airports across the country screen passengers using a variety of advanced technology x-ray systems, walk-through metal detectors, explosive trace detection equipment, trained canines, vapor trace machines that detect liquid explosives, Advanced

Imaging Technology, full-body pat-downs, explosives detection systems to screen checked baggage, Bomb Appraisal Officers, and Behavior Detection Officers – at both the checkpoint and throughout the airport. Through programs such as the Aviation Direct Access Screening Program, TSA also uses random and unpredictable measures to enhance security throughout the airport perimeter and in limited access areas of airports. The \$1 billion in Recovery Act funds provided to TSA for checkpoint and checked baggage screening technology have enabled TSA to greatly accelerate deployment of tools that enhance our abilities to detect threats.

In an effort to enhance international screening standards, TSA conducts security assessments in accordance with security standards established by ICAO at more than 300 foreign airports, which include foreign airports from which flights operate directly to the United States and all airports from which U.S. air carriers operate. If an airport does not effectively carry out these standards, TSA works with the appropriate host government authorities to rectify the deficiencies and raise the airport's security to an acceptable level. Ultimately, it is the foreign government that must work to address any security deficiencies. In long-term or significant circumstances of non-compliance with international standards, TSA may recommend suspension of flight service between these airports and the United States. In addition, TSA inspects all U.S. and foreign air carriers that fly to the United States from each foreign airport to ensure compliance with TSA regulations, standards, and security directives. Should air carrier security deficiencies exist, TSA works with the air carrier to achieve compliance. If an airport is located within one of the 36 VWP countries, DHS conducts additional audits and inspections as part of the statutorily mandated VWP designation and review process.

To provide immediate response on flights, TSA's Federal Air Marshal Service (FAMS) deploys air marshals on high-risk domestic and international flights where international partners allow FAMs to enter their country on U.S.-flagged carriers. Thousands more volunteer pilots serve as armed Federal Flight Deck Officers. Additionally, armed law enforcement officers from federal, state, local, and tribal law enforcement agencies that have a need to fly armed provide a force multiplier on many flights.

DHS Response to the December 25 Attempted Attack

The facts of the December 25 attempted bombing are well established and were relayed in the report on the incident that the President released on Jan. 7, 2010. On Dec. 16, 2009, Umar Farouk Abdulmutallab, a Nigerian national, purchased a round-trip ticket from Lagos, Nigeria to Detroit. Abdulmutallab went through physical security screening conducted by foreign airport personnel at Murtala Muhammed International Airport in Lagos on Dec. 24 prior to boarding a flight to Amsterdam Airport Schiphol. This physical screening included an x-ray of his carry-on luggage and his passing through a walk-through metal detector. Abdulmutallab went through additional physical screening, conducted by a security contactor at Schiphol, when transiting through Amsterdam and boarded Northwest Flight 253 to Detroit, and presented a valid Nigerian passport with a U.S. visa. Abdulmutallab was not on the No-Fly or Selectee Lists. Accordingly, the air carrier was not alerted to prevent him from boarding the flight or to require additional physical screening, nor did the IAP officer advise Dutch authorities of any concerns.

As with all passengers traveling on that flight, and similar to all other international flights arriving in the United States, CBP evaluated Abdulmutallab's information while the flight was en route to conduct a preliminary assessment of his and the other passengers' admissibility and to determine whether there were requirements for additional inspection. During this assessment, CBP noted that there was a record that had been received from the Department of State, which indicated possible extremist ties. It did not indicate that he had been found to be a threat, or that his visa had been revoked. CBP officers in Detroit were prepared to meet Abdulmutallab upon his arrival for further interview and inspection.

Immediate DHS response

The attack on board the flight failed in no small part due to the brave actions of the crew and passengers aboard the plane. Following the first reports of an attempted terrorist attack on Northwest Flight 253 on December 25, DHS immediately put in place additional security measures. TSA directed the Federal Aviation Administration to apprise 128 U.S.-bound international flights from Europe of the attempted attack and to ask them to maintain heightened vigilance on their flights. Increased security measures were put in place at domestic airports, including additional explosive detection canine teams, state and local law enforcement, expanded presence of Behavior Detection Officers, and enhanced screening. That evening, DHS issued a security directive for all international flights to the United States, which mandated enhanced screening prior to departure and additional security measures during flight.

Shortly after the attempted bombing, TSA issued a new Security Directive and Emergency Amendment, which put in place new screening requirements that increased the use of enhanced screening technologies and mandated threat-based and random additional screening for passengers on U.S. bound international flights. These measures have been implemented with extraordinary cooperation from our global aviation partners, both in government and industry.

One of our most important conclusions was that it is now clearer than ever that air travel security is an international responsibility. Indeed, passengers from 22 countries were aboard Flight 253. Accordingly, DHS has embarked upon an aggressive international program designed to raise international standards for airports and air safety. Since January, Secretary Napolitano has participated in three international meetings hosted, respectively, by the Spanish Presidency of the European Union, Mexico, and Japan, to build consensus on strengthening global aviation security, to bolster international aviation security measures and standards, and identify specific steps that nations can take individually and collectively to protect all passengers. These meetings have resulted in joint declarations to strengthen the international civil aviation system among the participating countries. In the near future, the Secretary will travel to the Africa and the Middle East to meet with countries in those regions on the same issues. Additionally, DHS, in cooperation with the Department of State, is leveraging the G-8, including by assuming the chair of the Transportation Security Subgroup; the 5 Countries Conference; Asia-Pacific Economic Cooperation (APEC); ICAO; and other established international forums to press for enhanced security standards, information sharing, and screening measures throughout the entire international aviation system.

Steps Forward to Improve Aviation Security

While these immediate steps helped strengthen our security posture to face current threats to our country, as President Obama has made clear, we need to take additional actions to address the systemic vulnerabilities highlighted by this failed attack. On Jan. 7, Secretary Napolitano joined Assistant to the President for Counterterrorism and Homeland Security John Brennan to announce five recommendations DHS made to the President as a result of the security reviews ordered by President Obama. At the President's direction, DHS is pursuing these five objectives to enhance the protection of air travel from acts of terrorism.

First, DHS is working with our interagency partners to re-evaluate and modify the criteria and process used to create the terrorist watchlist, including adjusting the process by which names are added to the No-Fly and Selectee Lists. The Department's ability to prevent terrorists from boarding flights to the United States depends upon these lists and the criteria used to create them. As a consumer of this intelligence and the operator of programs that rely on these lists, the Department is working closely with our partners in the Intelligence Community to make clear the kind of information needed to ensure the watchlist system is an effective tool for DHS.

Second, DHS is establishing a partnership on aviation security with the Department of Energy and its National Laboratories in order to use their expertise to bolster our security. This new partnership will work to develop new and more effective technologies that deter and disrupt known threats, as well as anticipate and protect against new ways that terrorists could seek to board an aircraft with dangerous materials.

Third, DHS is accelerating deployment of Advanced Imaging Technology to provide enhanced capabilities to identify materials such as those used in the attempted December 25 attack; and we will encourage foreign aviation security authorities to do the same. At the end of February, TSA had 40 machines deployed at nineteen airports throughout the United States. Earlier this month, , TSA began deploying 150 backscatter imaging technology units purchased with American Recovery and Reinvestment Act (ARRA) funds. TSA plans to deploy a total of approximately 450 imaging technology units in 2010. TSA continues to work to ensure that Advanced Imaging Technology is implemented in a way that protects travelers' privacy, civil rights and civil liberties. DHS will also seek to increase our assets in the area of explosives-trained canines, explosives detection equipment, and other security personnel.

Fourth, DHS is strengthening the presence and capacity of law enforcement in the aviation environment. As an interim measure, we are deploying law enforcement officers from across DHS to augment Federal Air Marshals to increase security aboard U.S.-flagged carriers' international flights. At the same time, we will maintain the current tempo of operations to support high-risk domestic flights, as we look to longer-term solutions to enhance the training and workforce of the Federal Air Marshal Service.

Fifth, as mentioned earlier, DHS is working with international partners to strengthen international security measures and standards for aviation security. Much of our success in ensuring that terrorists do not board flights to the United States is dependent on what happens in foreign airports and the commitments of our foreign partners to enhance security – not just for Americans, but also for their nationals traveling to this country.

In all of these action areas to bolster aviation security, we are moving forward with determination to safeguard the privacy, civil rights, and civil liberties of travelers.

Conclusion

The attempted attack on December 25 serves as a stark reminder that terrorists motivated by violent extremist beliefs are determined to attack the United States.

President Obama has made clear that we will be unrelenting in using every element of our national power in our efforts around the world to disrupt, dismantle, and defeat al-Qaeda and other violent extremists.

While we address the circumstances behind this specific incident, we must also recognize the evolving threats posed by terrorists, and take swift and appropriate action to ensure that our defenses continue to evolve in order to defeat them. We live in a world of ever-changing risks, and we must move as aggressively as possible both to find and fix security flaws and anticipate future vulnerabilities in all sectors. President Obama has clearly communicated the urgency of this task, and the American people rightfully expect swift action. DHS and our federal partners are moving quickly to provide just that.

Chairman Conyers, Congressman Smith, and members of the Committee: Thank you for this opportunity to testify. I would be pleased to answer any questions.