



One Hundred Eleventh Congress
U.S. House of Representatives
Committee on Homeland Security
Washington, DC 20515

November 19, 2010

The Honorable John S. Pistole
Administrator
Transportation Security Administration
601 S. 12th Street
Arlington, VA 20528

Dear Assistant Secretary Pistole:

As strong advocates for the Transportation Security Administration (TSA), we strongly support the determined efforts of the committed men and women of TSA to secure our transportation systems from terrorist attacks. The country is more secure because there is a vigilant Federal workforce at our Nation's airports protecting the flying public. It is in that spirit that we are writing to you about the new enhanced pat down procedures being implemented at passenger security checkpoints at commercial service airports across the country. While we agree that security measures should be enhanced in the wake of recent attempted terrorist attacks on the aviation system, we are concerned about new enhanced pat down screening protocols and urge you to reconsider the utilization of these protocols. With Thanksgiving Day marking the beginning of the busiest travel season of the year, this request is timely.

As you know, on September 22, 2010, the Committee on Homeland Security held a Member briefing on a pilot that TSA was conducting at Boston Logan International Airport and Las Vegas McCarran International Airport to evaluate enhanced passenger screening protocols. At that time, Members viewed a demonstration of the protocols and expressed concern about their intrusiveness as well as about the risk of inconsistent nationwide implementation and urged TSA to work to educate the traveling public on the need for these reforms. Subsequently, TSA, over a two month period, began implementing these new protocols at our Nation's airports.

The American public has agreed, time after time, to submit to new screening protocols in the interest of security. Americans understand and accept the need to take off their shoes and coats and discard their liquids to foster greater aviation security. Before implementing this

new, more invasive pat down procedure, as a preliminary matter, TSA should have had a conversation with the American public about the need for these changes. Even before that conversation, TSA should have endeavored to ensure that these changes did not run afoul of privacy and civil liberties. Coupled with its duty to provide aviation security to the traveling public, TSA also has a duty to ensure that its procedures have been reviewed by experts in privacy and civil rights for constitutionality. In the absence of an Executive branch level Privacy and Civil Liberties Oversight Board that would evaluate decisions such as this, it was crucial that the Department of Homeland Security's Privacy Officer and Officer for Civil Rights and Civil Liberties thoroughly evaluate and publish written assessments on how this decision affects the privacy and civil rights of the traveling public. To date, the Department has not published either a Privacy Impact Assessment (PIA) nor a Civil Liberties Impact Assessment (CLIA) on the enhanced pat down procedures. Without a published PIA or CLIA, we cannot ascertain the extent to which TSA has considered how these procedures should be implemented with respect to certain populations such as children, people with disabilities, and the elderly. By not issuing these assessments, the traveling public has no assurance that these procedures have been thoroughly evaluated for constitutionality.

Further, given the sensitive nature of these changes to pat down protocols, it is incumbent on TSA to ensure that each Transportation Security Officer (TSO) receives the requisite training, evaluation, and supervision to ensure that the protocols are carried out in an effective and consistent manner. As you know, TSA has a long history of struggling with the management of TSO training programs. Most recently, on November 16th, the Department of Homeland Security's Office of Inspector General (OIG) found that there were weaknesses in TSA's training program and made a number of recommendations including the use of individual training test results to evaluate overall training program results, assigning standards for on-the-job trainers, and evaluating workforce and training needs to ensure screeners have the tools and time necessary to complete training requirements. At a time when TSA is deploying Advanced Imaging Technology (AIT) machines, the addition of enhanced passenger screening procedures further stretches the agency's already thin training resources. The introduction of these two new elements to passenger checkpoints may undermine TSA's ability to provide the training and oversight necessary to ensure high quality performance from this critical workforce.

For the reasons stated above including the privacy and civil liberties concerns raised by the public and advocacy organizations such as the American Civil Liberties Union, we respectfully request you reconsider the enhanced pat down protocols.

Further, pursuant to Rule X(3)(g) and Rule XI of the Rules of the House of Representatives, we request that you provide the Subcommittee with the following information in writing by December 1, 2010, in a manner consistent with any necessary classifications for sensitive information:

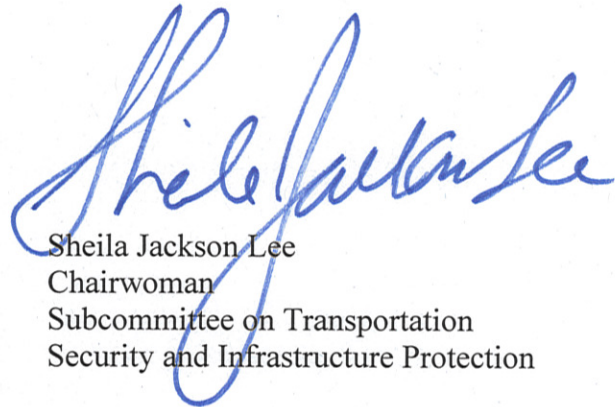
1. All internal studies, documentation and any other materials that support TSA's decision to implement the enhanced pat down procedures.
2. The extent, to date, to which enhanced pat downs are being conducted at airports and record keeping requirements in place to document the percentage of passengers subject to enhanced pat downs.
3. The process TSA has in place to document and review complaints from passengers regarding the enhanced pat down procedure.
4. Information on all complaints filed with respect to the enhanced pat down procedure.
5. Any forthcoming Privacy Impact Assessment on the enhanced pat down procedure.
6. Any forthcoming Civil Liberties Assessment on the enhanced pat down procedure.

We thank you for your prompt attention to this matter. If you have any questions or concerns, please contact Cherri Branson, Chief Oversight Counsel for the Committee, at 202-226-2616.

Sincerely,



Bennie G. Thompson
Chairman
Committee on Homeland Security



Sheila Jackson Lee
Chairwoman
Subcommittee on Transportation
Security and Infrastructure Protection