

**S. 1447, IMPLEMENTATION OF THE AVIATION
AND TRANSPORTATION SECURITY ACT**

HEARING

BEFORE THE

**COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE**

ONE HUNDRED SEVENTH CONGRESS

SECOND SESSION

MAY 21, 2002

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ONE HUNDRED SEVENTH CONGRESS

SECOND SESSION

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S. 1447, IMPLEMENTATION OF THE AVIATION AND TRANSPORTATION SECURITY ACT

TUESDAY, MAY 21, 2002

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Committee met, pursuant to notice, at 9:35 a.m. in room SR-253, Russell Senate Office Building, Hon. Ernest F. Hollings, Chairman of the Committee, presiding.

OPENING STATEMENT OF HON. ERNEST F. HOLLINGS, U.S. SENATOR FROM SOUTH CAROLINA

The CHAIRMAN. The Committee will come to order. I am reminded of President Reagan. When he would go in the Cabinet Room he said, as the Good Lord said at the Last Supper, if you want any picture, everybody on this side.

[Laughter.]

The CHAIRMAN. We are delighted to have the hearing with respect to the implementation of airport security. Secretary Norman Mineta and the Under Secretary in charge of security, Mr. John Magaw. I am going to file my statement for the record. I would yield to Senator Burns.

[The prepared statement of Senator Hollings follows:]

PREPARED STATEMENT OF HON. ERNEST F. HOLLINGS,
U.S. SENATOR FROM SOUTH CAROLINA

Good morning Secretary Mineta and Under Secretary Magaw. It has been six months since the passage of the Aviation and Transportation Security Act, which symbolized a complete change in the way we approach and conduct security for our nation's air transportation system. We have asked not only you, but travelers all throughout the country to accept a new reality—one where everything is searched, and people are randomly checked.

In the name of security, we have asked people to give up some of their personnel freedoms to protect our country. The American public has shown great faith in our efforts—passengers are accepting the new process and returning to airports, which has allowed air carriers to resume flights at near normal levels—but we must be more vigilant than ever to ensure that “normalcy” does not translate into “complacency” as we move forward with implementing the requirements of the Security Act.

We set a series of tough deadlines in the Security Act—we knew they were hard to meet when we set them, but we did not want to let anything stop the moment to make changes. While you have generally met the requirements of the Security Act to this point—which I commend you on—two significant deadlines are looming by the end of the year. In particular, TSA is required to have Explosive Detection Systems or EDSs in use at all commercial airports and screening every bag that goes on a passenger airplane by December 31st, or use alternative means until EDSs are installed. The Security Act also mandated that the Federal government assume control of all airport security personnel by November 19th. I have concerns about your approach and timing to ensure these milestones are reached.

I have heard your views on EDS, Secretary Mineta, and I believe we must proceed with great caution not to set up a security system that appears strong, but offers a backdoor which leaves us extremely vulnerable to attack. In announcing that you would purchase 1100 EDSs to be used in conjunction with Trace Detection for large airports and trace only, for now, at small airports, you must make sure that you follow up and upgrade all of the airport security systems as soon as the next generation of EDSs are available. I also urge you to use additional procedures for small airports so that large and small airports receive equal levels of security.

However, when the Senate passed the Security Act by a vote of 100–0, it was mindful of not setting up a dual-tiered approach that would provide such a backdoor. We want one level of security, a system where large airports get better security than small airports is not acceptable to us. The picture of the hijackers going through Portland, Maine, remains clear to everyone. Nothing could be worse than a false sense of security that lulls us into lowering our guard.

With the success that the terrorists had on September 11th, they will undoubtedly try to find our weakness again. News reports are already indicating the likelihood of another attack, and this time we must be ready. The Israeli onion ring of security, a layered approach, constantly shifting to keep the terrorist of guard, is what I know you want to establish. I need you to convince me that your plans for EDS—short—and long-term—are viable. Time is of the essence.

Other matters also remain to be addressed. It seemed to me that you were off to a strong start in deploying a Federal screener workforce to every commercial airport in the country, but with the number of employees that you will require more than doubling by most accounts, I would like to hear about the status of these efforts as they now stand. I am also increasingly concerned about the security of the cockpits on passenger airplanes, so much that I recently introduced a bill, S. 2497, which will require that cockpit doors remain closed while in flight unless the plane is fitted with mantrap doors which provide secure entrance and exit for the flight deck.

These concerns are just the tip of the iceberg. I realize the enormity of your task. You can not fail. You must continue to work with us about your thoughts, your concerns, and your needs. The challenge remains to develop a system of security which considers all potential targets, recognizes every potential threat, and justifiably restores the confidence of the American people. We continue to expect this challenge to be met.

Finally, I have been reading with keen interest about the lack of coordination between the intelligence agencies. In the Security Act, we specifically included all of these groups so that you had the best information available. If you have any problems, please, I urge you to let us know.

**STATEMENT OF HON. CONRAD BURNS,
U.S. SENATOR FROM MONTANA**

Senator BURNS. Mr. Chairman, I do not have a statement to be filed.

The CHAIRMAN. Do you want me to make one for you?

Senator BURNS. That sounds like being the auctioneer, and you sell some of the sales, and the buyers and the bidders are a little bit draggy. I offered to handle their bid for them. I would go much faster, and the prices would improve with it.

Thank you, Mr. Chairman, for holding this hearing. I think its timing is good. We have all experienced new airport regulations and the implementation of those regulations. I can say that some of them are working. It cost me seven pairs of socks, Mr. Secretary. You cannot get through there with boots on. They always take your boots off. Now, you can have no holes in your socks, and for us who wear boots, the socks must match. Up until this point we have never had that problem. You just pick out two socks, put them on and come to work. I think the story has been reported they would not take my Senate ID card, but they did take my Sam's Club. I thought that was a step in the right direction.

But other than that, things are going pretty well. I want to hear from the witnesses today, Mr. Chairman, and get their assessment of how things are being implemented. I think it is going to become very costly, and we must be aware of that, but also what price do we pay for security of our flying public, and I thank both of you for coming today.

The CHAIRMAN. Thank you. Senator Wyden.

**STATEMENT OF HON. RON WYDEN,
U.S. SENATOR FROM OREGON**

Senator WYDEN. Thank you, Mr. Chairman, for holding this important hearing. The freeze-frame picture of Mohammed Atta breezing by the security checkpoint is now seared into the minds of the American people, and in recent days there have been new questions about the process for sharing information between intelligence and the aviation community that in my mind raises questions about whether the system is to a great extent dysfunctional.

The public, and it comes up at all of the meetings that I hold at home, wants answers, and particularly they want accountability. Those are going to be the questions that I zero in on this morning, and I very much thank you for holding this hearing, Mr. Chairman.

The CHAIRMAN. Senator Boxer.

**STATEMENT OF HON. BARBARA BOXER,
U.S. SENATOR FROM CALIFORNIA**

Senator BOXER. Mr. Chairman, I ask that my full statement be entered into the record.

The CHAIRMAN. It will be included.

Senator BOXER. First of all, welcome. I know you are working very hard, and we all must, because of the world we live in. As I think everyone knows, all four hijacked planes on 9/11 were headed for California. Thirty-nine Californians were simply trying to make their way home and they lost their lives.

We know we were caught off-guard. We know we cannot be caught off-guard again, and that is why I am so glad the chairman is holding this hearing, because every one of us has to keep each other's feet to the fire. You need to keep ours, Mr. Mineta, we need to keep yours.

I hope that we will discuss two major issues today. One is the notifications of airlines and airports of terrorist threats prior to the attacks on 9/11. Some people said, do not talk about that. Well, I am sorry, I am going to talk about that. I am going to ask questions about it. I have written to all of my airports asking them, did you get warnings that there could be hijackings in America by Osama bin Laden's people? That is my understanding of what the administration knew. So far, they did not get anything specific. American Airlines has put out a statement they never got anything that specific, either. United has told us verbally they never did.

So I want to know what guides us when it comes to telling the airlines and the airports. It seems to me if they knew hijackings in America by Osama bin Laden, and that is my understanding that they did have that information, maybe things could have been different, and as Condi Rice has said to us in our caucus, well, we

did not know they were going to use the planes as weapons, and she said, we could not shut down the whole system.

Well, that is a straw man, Mr. Chairman. There is a lot between shutting down the whole system and telling airlines that now there are a lot of potential hijackings coming our way, so that is one area.

The other is the air marshals. Mr. Mineta, I wrote the language with my chairman and Senator McCain dealing with air marshals, that they are supposed to be on all high-risk flights, and priority given to nonstop long distance flights.

Now, I have been briefed by Mr. Magaw on this a while back. I cannot go into where we are with air marshals, because that is nothing you want to discuss. I just want to know if you are satisfied with where we are, because I ain't, and I want to know when you feel you will meet the spirit and the letter of the law that we passed.

I have been troubled about buying enough machines to check for bombs. I think you have moved on that, but I still want to talk more about that, because bag match does not do it for us.

Lastly, CBS News investigation that showed people getting through security with fake ID's. I introduced legislation to provide for training of airline personnel to detect these false ID's, and I think it is very important that we move on that, so those are my concerns. I have deep concerns. I think we are safer now than we have been in a long time, but I do not think we are safe enough, and I am glad we are holding this hearing.

Thank you.

[The prepared statement of Senator Boxer follows:]

PREPARED STATEMENT OF HON. BARBARA BOXER, U.S. SENATOR FROM CALIFORNIA

Good morning. Mr. Chairman, I appreciate you holding this hearing.

On September 11, all four hijacked planes were headed for California. Consequently, 39 Californians who were simply trying to make their way home lost their lives in these attacks along with thousands at the World Trade Center and the Pentagon.

Terrorists transformed our aviation system into a weapon. The United States was caught off-guard. And we should never be caught off-guard again.

I want to address two major issues today. First, the notification of airlines and airports of terrorist threats prior to the terrorist attacks on September 11. I am greatly troubled that the Administration had warnings of potential hijackings and did not notify American or United Airlines or the airports of these specific threats.

The Administration has claimed that the airlines were notified. American Airlines has publically said that they "received no specific information from the U.S. government advising the carrier of a potential terrorist hijacking in the United States in the months prior to Sept. 11, 2001."

Today, I want to learn whether the procedures for notifying airlines and airports of potential threats have improved since September 11. My information is that the President knew that hijackings were being planned by Osama bin Laden to take place in America. Steps could have been taken to strengthen airport security.

Second, I want to discuss the implementation of the security legislation passed last fall. As we get further and further from September 11, we should not forget the importance of ensuring that our aviation system is secure.

Following the attacks, it was clear that Congress needed to act swiftly to make our nation's aviation security system the best it could be. And that is what Congress did when it passed the Aviation Security Act—which President Bush signed with flourish.

Air travel today is more secure than it was last September. But it can be made more secure.

I am concerned that we still don't have enough air marshals on planes. I know the number of air marshals is classified for security reasons. But, as the Senator who wrote the provision to ensure that air marshals are on board all high-risk

flights, with priority given to nonstop, long-distance flights, I will continue to actively monitor the Department of Transportation's (DOT) progress on this issue—which doesn't currently meet my idea of what is necessary.

I am also concerned that the baggage detection machines will not be in place by the end of this year. We need to ensure that these baggage detection machines are in place by the deadline if not sooner.

Finally, I was troubled by a CBS news investigation that showed people getting through security with fake IDs. Therefore, I introduced legislation to provide for training of airline personnel and the deployment of technology to address this problem. I trust this training will begin even before my legislation passes.

The United States has proven that we can successfully fight a war half a world away against tremendous odds, including rough terrain, bitter weather, and a fanatic enemy. We have been successful. And, we continue to be successful beyond all measure because of one thing: we have the will to win. We need that will to win in ensuring that our nation's aviation system is secure. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Boxer, you are right on target. I really resist this idea about second-guessing, as it becomes second nature. That is one of the primary functions of a Congress, is to second-guess, and oversight, and to find out how to second-guess, and that is what we are trying to do.

I can tell you here and now that was a tremendous, unfortunate, of course, intelligence failure. I could go into it very thoroughly, but let me recognize Senator Nelson.

**STATEMENT OF HON. BILL NELSON,
U.S. SENATOR FROM FLORIDA**

Senator NELSON. Mr. Chairman, as you know, Florida was the unfortunate site of aircraft flight training for terrorists. As a result, when you brought your bill through the Committee and took it to the floor, I was able, fortunately, to amend a part of that bill last fall that would require background checks on foreign students at flight schools, and it has been some 6 months since that bill became law, and it needs to be implemented.

As of today, the information that I have is that through the executive branch of Government that law has not been implemented. I think it is important that we bring that up today so that the Secretary, as he oversees this Goliath, and what a huge job you have, Mr. Secretary, it is all the more important, because now it has just come to light, the FBI Phoenix memo that specifically noted that Middle Eastern men were doing flight training at Embry-Riddle Aeronautical University at Prescott, Arizona. All the more underscoring the importance, as we approach terrorism in the future, of having these background checks done pursuant to the law that we passed, and that I had some little part of simply because of Florida being so vividly in my mind, what happened down there.

So I call that to the attention of the Committee. I call that to the attention of the Secretary and all the other thousands of things that he has to do, but I think this might be worthwhile, Mr. Secretary, for you to double-check that.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Secretary, we in the Congress have been dragging our feet. We have not really gotten serious about the war on terrorism. I say that advisedly. While we did pass airline security immediately, the seaport security has languished in the House of Representatives since before Christmas, the rail security has

languished on the calendar since before Christmas. We have not gotten serious about it at all.

We had a terrorism insurance bipartisan bill that was ready to go in this particular committee. Nothing has been done there, and yet they are over here talking about cloning and estate taxes. That is a real emergency? We need to hurry up and get the estate tax law made permanent from 10 years from now? I mean, that is the kind of nonsense we are going through politically, and some of that spills back into the Departments of Government.

So we welcome you here this morning, and I know we have both got a job to do. We would recognize now Secretary Mineta.

**STATEMENT OF HON. NORMAN Y. MINETA, SECRETARY,
DEPARTMENT OF TRANSPORTATION, ACCOMPANIED BY
HON. JOHN W. MAGAW, UNDER SECRETARY OF
TRANSPORTATION FOR SECURITY**

Secretary MINETA. Thanks very much, Mr. Chairman. Let me just parenthetically say that we strongly support your bill on port security.

The CHAIRMAN. And we appreciate that.

Secretary MINETA. We were able to get the administration's statement of the administration policy on that.

The CHAIRMAN. The White House will stand up to bin Laden, but they will not stand up to DeLay and Armev.

Secretary MINETA. On the rail security bill we tried to get Minority Leader Daschle to move on that bill, and hopefully we will still get action on that.

Mr. Chairman and Members of the Committee, I am very pleased to appear before you to give this update 6 months after President Bush signed the Aviation and Transportation Security Act into law. Accompanying me today is John W. Magaw, our Under Secretary of Transportation for Security, and the head of the Transportation Security Administration.

As you know, John has the day-to-day responsibility to build the Transportation Security Administration, or TSA up to full strength, and he is doing so under extremely tight statutory mandates.

Mr. Chairman, with respect to aviation security, much has changed in the last 6 months. My written testimony provides details about many of these changes, and I would like to highlight a few of them for you.

On 17 February of this year the Transportation Security Agency, or Administration, took over all civil aviation security functions that had previously been performed by private enterprises and overseen by the Federal Aviation Administration. As we complete the transition to Federal security screeners for all 429 commercial airports, the TSA has entered into contracts with many private companies to provide interim screening services, and we have begun the Herculean task of recruiting over 50,000 Federal passenger and baggage screeners for the 429 airports around the country.

We have already hired some 900 skilled individuals slated to fill transportation security screener supervisory positions. We have awarded a contract to train these new screeners in accordance with strict standards established by the law and by our procedures. The

screeners will receive some 40 hours of classroom, five times what they did previously, and 60 hours of on-the-job training in the use of sophisticated x-ray equipment, conflict resolution, sensitivity training, civil rights and customer service.

We are well on our way to hiring the Federal Security Directors for the major airports around the country, and these highly qualified FSD's provide the day-to-day operational leadership for security responsibilities at their assigned airports. They will answer directly to Under Secretary Magaw, and during a time of crisis they may be able to exercise the authority of my office, effectively closing and sealing airports pending resolution of the airport crisis.

Congress established an ambitious schedule for the screening of all checked baggage with explosive detection systems by December 31, 2002, and we fully intend to meet that goal. We have awarded contracts for the acquisition of both bulk EDS, the mini-sized machines, and the smaller explosive detection, trace detection machines, and both types of machines will enhance our capability to screen all checked baggage.

We also face a significant challenge, not fully contemplated during the legislative debate on this issue, namely, hiring the necessary employees to operate explosive detection equipment at airports. We estimate that we will need approximately 21,500 employees to operate this equipment in a manner that allows the aviation system to function without massive delays.

We will complete the phaseout of National Guard deployments by May 31, when all of the remaining 4,600 NET Guard personnel will be released, and I join with the rest of the Nation in thanking them for their faithful service. State and local law enforcement offices will replace the guard pursuant to agreements entered into with the Transportation Security Administration, and as we place TSA law enforcement officers at airports, we will phase out these agreements as well. We continue working aggressively to put in place a robust Federal Air Marshall program, and will remain exactly on track with the targets that we earlier provided to Congress in closed testimony.

Of course, executing changes of this magnitude requires the allocation of adequate resources. We have made great progress in implementing the statutory responsibilities that have been assigned to us for collecting security fees from certain airline passengers and domestic and foreign carriers.

Unfortunately, some Members of Congress have signalled a hesitancy to allocate the resources necessary to properly secure America's aviation system. They say we cannot afford the security commitment that was made some 6 months ago. The truth is, we cannot afford less than the \$4.4 billion that the President proposed. TSA will fulfill all of its statutory requirements, but without the full level of funding requested by the President, passengers at the Nation's airports will face long lines and flight delays.

And finally, let me say a few words about intelligence-gathering and sharing. Although I cannot disclose the details of our efforts in a public forum, I can assure you that the TSA remains focused on generating the best possible data on domestic and international terrorist threats in the aviation world and continues our long-

standing commitment to share all credible information with appropriate parties.

While the Aviation and Transportation Security Act gave the TSA broad authority for security responsibilities over modes of transportation other than aviation, it did not delineate specific authorities.

Mr. Chairman and Senator McCain, I appreciate the work of this Committee in moving S. 1214, the Port and Maritime Security Act of 2001, through this Committee and through the Senate. The administration strongly supports this bill, and so I look forward to the House passing its version so that the Senate and the House may proceed to conference.

Mr. Chairman, this concludes my statement. I ask unanimous consent that my full statement be made a part of the record, and Mr. Magaw and I will be pleased to answer your questions.

[The prepared statement of Secretary Mineta follows:]

PREPARED STATEMENT OF NORMAN Y. MINETA, SECRETARY, DEPARTMENT OF TRANSPORTATION, ACCOMPANIED BY HON. JOHN W. MAGAW, UNDER SECRETARY OF TRANSPORTATION FOR SECURITY

Good Morning Mr. Chairman, Senator McCain, and Members of the Committee. I am pleased to appear before you to give you an update on where we are, six months after the President signed the Aviation and Transportation Security Act (ATSA) into law. Accompanying me here today is the Honorable John W. Magaw, my Under Secretary of Transportation for Security and the head of the Transportation Security Administration (TSA). John has the day-to-day responsibility to build TSA up to full strength, perhaps the largest undertaking to create a new Federal agency since the Second World War, and he must do this under extremely tight mandates that you established last year in ATSA.

On February 5th of this year my deputy, Dr. Michael Jackson, appeared before you and gave you a detailed briefing midway between the 60th and 90th day following ATSA's enactment on November 19, 2001. Much has occurred since then.

When we last testified before this Committee, John Magaw had only recently been confirmed by this Committee and the full Senate. We had few staff on board TSA. We had not yet taken over the screening functions at airports throughout the United States. We had no federal screeners at all. We had not yet hired any Federal Security Directors (FSD) for our airports. We were in the process of evaluating bids for important contracts, including hiring and training of airport screeners, and the purchase of equipment to allow us to meet our mandate for screening checked baggage. We had not yet collected any of the security fees that Congress authorized in ATSA, from either passengers or air carriers. National Guard troops were on the scene at airports throughout our Nation. On the local scene, Ronald Reagan Washington National Airport was still under restricted flight schedules, causing what we all realized was economic dislocation to the area.

I am pleased to report that aviation transportation security is much better today than it was prior to September 11. It will be better next week, and will be better still once the Department's new, nationwide system stressing consistent and common sense security is fully in place.

On February 17th of this year, TSA took over all civil aviation security functions that had previously been performed or overseen by the Federal Aviation Administration (FAA). Until Federal security screeners can be hired at all commercial airports, TSA entered into contracts with many companies that provide screening services. At some locations, TSA also entered into other transactional agreements with some air carriers to reimburse them for screening services. In doing so, we increased the pay scale for many of these employees to induce them to remain at their posts until Federal screeners are in place. We had great concern that many of the contract screeners would leave, particularly since many of them do not qualify for Federal screener positions because of their citizenship status. This would have greatly disrupted the commercial air transportation system.

We have published a rule requiring certain aircraft operators using aircraft weighing 12,500 pounds or more to implement a strengthened security program that includes criminal history records checks on their flight crews and restricted access to the flight deck. These security regulations apply to both all-cargo and small

scheduled and charter passenger aircraft not already covered by a security program. These new requirements will take effect on June 24, 2002.

We have begun the Herculean task of hiring over 30,000 federal airport passenger screeners for the 429 airports around the country. We have advertised these positions throughout the country and by the Internet. We awarded a contract to NCS Pearson to assist us in reviewing the applicants' qualifications and in testing the applicants for the screening positions. Through them we have hired 900 skilled individuals who are slated to fill Transportation Security Screener Supervisory positions. We awarded a contract to Lockheed Martin to train the screeners in accordance with the new, strict standards established by ATSA and our procedures. The screeners will receive 40 hours of classroom and 60 hours of on-the-job training. We are using a "train-the-trainer" concept where a core group of contract employees are first trained. They in turn train other contract employees who serve as the cadre of trainers to train the prospective TSA airport screeners. The training will be rigorous. It is preparing the TSA screeners in use of sophisticated X-Ray equipment, conflict resolution, sensitivity training, civil rights, and customer service. The students are taught in a classroom setting, in a lab using real world scenarios, and with computer-based training. The students must pass a two-part examination that includes both a written exam and the use of the X-Ray equipment.

On April 30th we reached a watershed at Baltimore / Washington International Airport (BWI). At 4:00 a.m., TSA screeners from our Mobile Screening Force (MSF) took over responsibility for passenger screening at Piers A & B. These were the first fully TSA manned checkpoints in the Nation. BWI is serving as our laboratory as we begin to fully federalize the workforce. It is also where we are testing new procedures that will make the screening process not only more effective from a security standpoint, but more passenger friendly and efficient. On May 14, TSA assumed authority over all checkpoints at BWI. The MSF will later move around the country as we continue what we call our "Roll Out" strategy to bring all of the airports on line by the statutory deadline of November 18, 2002. My goal is to set in place a screening system that will effectively screen passengers and move them through the system in 10 minutes or less. BWI Airport is serving as the locale to test this goal. I am encouraged that a recent passenger survey at Dallas/Fort Worth International Airport showed that 93 percent of the participants had a security check-in process of 10 minutes or less.

As part of our goal to educate the flying public and minimize delays in the screening process, we recently published a revised set of "Prohibited Items" that passengers may not take through a security checkpoint. We have clarified those certain items that previously might have been prohibited, like nail clippers, nail files and tweezers, are now permitted. We are urging passengers to familiarize themselves with this list and to leave these items at home. We want to remind the traveling public of our motto: "No weapons, no waiting". To emphasize the importance of educating the public not to bring prohibited items through airport security checkpoints, from February 17 through April of this year, over 977,000 prohibited items were intercepted, resulting in 302 arrests. We will work hard to educate the public on this.

I am very pleased that we are rapidly hiring our Federal Security Directors for the major airports around the country. Those that have been selected so far are without doubt men and women of distinction. We are fortunate to have them. They come with extensive backgrounds in law enforcement, security and management. We have people like George Nacarra, a retired Coast Guard rear admiral at Boston's Logan International Airport, Gail Linkins of the U.S. Secret Service at Mobile Regional Airport, Leopoldo Vasquez, Jr. retired U.S. Army at the San Antonio Airport, and Willie Williams, former Chief of Police of the Philadelphia and Los Angeles police departments, at Hartsfield Atlanta International Airport, to name just a few. We have awarded a contract to Korn/Ferry International to assist us in the executive search for more of these fine managers. The FSD will provide the day-to-day operational leadership for Federal security responsibilities at the assigned airports. During a time of crisis, the FSD may be required to exercise the authority of my office, and effectively close and seal an airport, pending resolution of the event or crisis. I am confident that we have the right men and women for this critical job. While we are selecting the permanent FSD's for the larger airports, we have appointed Interim Federal Security Representatives for all U.S. airports having scheduled passenger service.

Congress established an ambitious schedule for us to provide for screening of all checked baggage with Explosives Detection Systems (EDS) by December 31, 2002. We are working hard to meet that requirement. We have awarded contracts for the acquisition of both bulk EDS, the so-called minivan sized equipment, and the smaller Explosives Detective Trace (EDT) machines. Both machines will enhance our abil-

ity to screen all checked baggage and meet the December deadline. We plan to purchase approximately 1100 bulk EDS machines this year. We have already ordered 500 machines and we have assurances from the suppliers that they can meet our needs.

We have also purchased and deployed more than 1100 EDT machines and we expect to acquire a total of between 4,600—4,800 for all airports. I realize that the physical installation of the bulk EDS machines is an issue at many airports. We have allocated \$350,000 per airport to help airports offset these costs. We understand that some airports have concerns that this is insufficient. If Congress provides additional direction and funding to increase the amount available for reimbursement we will follow this direction.

We are also facing a great challenge in hiring the necessary employees to operate the explosives detection equipment at the airports. This requirement was not fully considered when ATSA was drafted and the estimates of the number of proposed TSA employees were made. We estimate that approximately 21,500 employees will be required to properly man this equipment so that the aviation system functions on-time. Ultimately, we hope to be able to rotate baggage screeners and passenger screeners so that neither group of employees suffers from boredom and fatigue, a common problem with repetitive tasks.

We have also instituted or planned pilot projects to test different ways to screen all checked baggage at the Nation's 429 commercial airports. The pilot project locations were chosen to provide a cross-section of American airports and to test different configurations of equipment and procedures. We have selected 5 airports in Michigan, Virginia, Maryland, Texas and Florida.

As I testify before you today we are in the process of phasing out National Guard deployments throughout the country. Many have already left. We will complete the phase-out by May 31, when all of the remaining 4600 National Guard personnel will be released. I, along with the Nation, thank them for their faithful service. They have been or will be replaced by state and local law enforcement officers pursuant to agreements that TSA has entered into. These agreements will ensure the traveling public that we have trained law enforcement officers available to handle any crisis that might develop. We may phase-out these agreements as more and more TSA law enforcement officers are hired and placed at airports. We are aggressively moving forward on this front too. We selected the Federal Law Enforcement Training Center in Glynco, Georgia as the home of the new TSA Law Enforcement Academy. We are ramping up its training capability. We will be able to begin to train 200 Law Enforcement Officers a month by July.

I would like to briefly mention the Federal Air Marshal program. Although there is little that I can and should disclose in public, I can assure you that we are working aggressively to put in place a robust Air Marshal program. This will provide another layer of added security during flight operations. We are exactly on track with the targets that we provided to Congress in closed testimony.

We are also working hard in the difficult area of perimeter security at airports. We have convened a Perimeter Security TSA Advisory Council that includes TSA and airport personnel and we commissioned a dedicated perimeter security group to assess security gaps and develop recommendations. We are coordinating with other federal agencies in this task.

I am pleased to report to you that on March 13, I ordered the resumption of full commercial flight operations into Reagan National Airport by April 15, 2002. This is occurring with heightened security measures in place. Now we can move on to restoring General Aviation and charter airlines operations as well. My Assistant Secretary for Aviation and International Affairs testified two weeks ago before the House Government Reform Committee on this subject and we announced that by the end of this month we plan to publish proposed rules in the Federal Register to allow this to occur, again with appropriate security measures in place.

I am also pleased to report to you that we have made great progress in implementing the statutory responsibilities assigned to us for collecting security fees from certain airline passengers and domestic and foreign carriers. We began collecting the September 11 passenger security fees for February 2002 in March. For February we collected \$106 Million, and we collected \$146 Million for March. We expect to receive \$125 Million for the April fee, which is due on May 31st. The amount of this fee that we expect to collect each month is variable and is directly related to the number of qualifying passenger tickets that are sold each month. The first payment of the Aviation Security Infrastructure fee imposed on air carriers is also due on May 31st. The amount of this fee is based on data that the airline carriers are in the process of providing to us. We expect that the first payment, which will cover the period from mid-February through April 30th will be significantly larger than the monthly fees that we will collect thereafter.

While I am on the subject of money, I would note that I fully support the President's Supplemental Appropriations request that will provide much needed funds not only for TSA but also for the Coast Guard and other modes of transportation. I hope that the Congress will provide these much needed funds so that we can fulfill our statutory obligations.

Up until this point, I have only addressed aviation security issues. I would like to just briefly mention our continuing concern and responsibility for cargo and passenger security in all modes of transportation. We are fortunate to have succeeded in inducing Rear Admiral Richard Bennis, recently retired from the U.S. Coast Guard, to join TSA as the Associate Under Secretary for Maritime and Land Security. Admiral Bennis is assembling a staff of similarly outstanding professionals that will put together a comprehensive plan to ensure the safety of cargo from its point of origin to its point of destination. This will cover many different modes of transportation and will require the close cooperation of not only other Federal agencies, public port authorities and privately owned railroad, air cargo and trucking companies, but other national governments. We are working closely with the International Maritime Organization to begin the important effort.

While the Aviation and Transportation Security Act gave TSA broad authority for security responsibilities over modes of transportation other than aviation, we realize that specific authorities were not delineated in that Act. Mr. Chairman and Senator McCain, I appreciate the work of this Committee in moving S. 1214, the "Port and Maritime Security Act of 2001" through this Committee and through the Senate. The Administration strongly supports this bill. I look forward to the House passing its version so that the Senate and House may proceed to Conference.

This concludes my statement. Mr. Magaw and I will be glad to answer any questions of the Committee.

The CHAIRMAN. Thank you. Mr. Magaw, we can have a statement from you, or you can assist as we move along in the hearing here and with the answers.

Right to the point, on the \$4.4 billion, this Committee will work and make certain that you get sufficient money. Congress can readily vote \$190 billion for the farmers. I think it can find \$4 billion for security here, in the airline business, otherwise on the one hand—we have got to have, Mr. Magaw, better coordination with these airports. I have sort of faulted the FAA because it has been run by the pilots and the airlines.

On the other hand, what we have now is your security group in all the airports wondering where the machines are going to go and how they plan for it, and they are being told, well, when we decide, we will come and tell you, and that kind of thing. I think we can do a little bit better if we can coordinate it and give them some idea of the size, the location and everything else, get a team working on that so that when it comes about they will have a better idea on security.

But Mr. Secretary, on the other hand, with the FAA and the pilots and everything else like that, I have noticed with frustration this intramural about, first the pilots wanted guns, no, we will give them stun guns, then the flight attendants wanted metal bars 18 inches long, crowbars, and I guess we are going to give the passengers machetes and all and let them all just fight it out in the cabin.

If I was a terrorist I would say, whoopee, we do not have to worry about all the security and your EDS system and whatever else. They have got all the weapons on board for me. All I have to do is grab a bunch of them and take the plane over. It is intramural. It has been going on and on.

I sat at that table, Mr. Secretary, right where you sat. Senator Burns I know was with me, and we listened to the chief pilot of

El Al, and he was worth listening to, because they have not had a hijacking in 30 years on El Al, so he was talking about the onion ring of security and how it all worked, and then he said, and Senators, by the way, when I get to that cockpit door, once it is secured, it is never opened in flight. They can be assaulting my wife in the cabin. I go straight to the ground, and law enforcement meets me.

You and I know if a hijacking was attempted, whoopee, let us go to Havana, Cuba, I always wanted to go, and that kind of thing. Now the signals have entirely changed, and the terrorists know they may blow up a plane through the luggage and get past there, they might cause a fight and some injury back in the cabin itself, but they never can—let us see what happens. They never can take and come off of Reagan and go into the White House, come off of Reagan and go into the Capitol, come off La Guardia and go into the Empire State, or O'Hare and go into the Sears Building, go into a nuclear power plant.

If you just put in that rule, you do not have to have the planes flying all around, the National Guard supplementing everything. You do not have to have the pilots worrying about whether I can turn around in the seat quick enough before I get knocked on the head. I mean, they are all strapped up. What am I going to do with a pistol? They are to fly and not to fight.

You do not have to have this—I was on a plane yesterday coming in from Charlotte, North Carolina, and the pilot came on the loudspeaker system and says, now, folks, anybody who wants to go to the bathroom, hurry up, because once we take off, nobody is allowed to stand. If somebody stands in this flight we immediately, under the law, go to another field and land, and whoever stands is going to be taken off and arrested, to jail, yes, siree. I think that is the Magaw Secret Service rule, about ½ hour after take-off and ½ hour before landing.

None of that is necessary. None of that is necessary if you put in the tried and true method, so—everybody has got to go to the bathroom, but the astronauts do not say let us go back to Canaveral I have got to go to the bathroom. Come on, let us get with it. This is serious business.

The Vice President finally recognized the day before yesterday, he said, we are at war. Do not be asking about your President when we are at war. Well, why don't they act like it? It is so easy to put in the rule, and for the ones, the distaff side that wants privacy, fine, they can be assigned—these planes can be outfitted.

Yes, it is going to take some time. Right now, you might have to give them a ball job, but what we have got to do is have a rule, certainly on the short flights. You can put that rule in right now and cut out all the argument about stun guns, pistols, 30 minutes before, 30 minutes after, what about the buildings, and everything else like that, for a tried and true system, and you folks continue to debate it in my newspaper. Why the debate, Mr. Secretary? Why don't we act?

You know, this is our problem. We have a good memory, and the reason that the Republicans said that wait a minute, let us give this to Justice Department and not to Transportation is that Transportation crowd will debate with the pilots and the airlines,

and debate with the pilots and the airlines, and nothing gets done. That is why it passed 100 to nothing to go to the Justice Department.

What is your comment?

Secretary MINETA. First of all, I still feel that the decision that the Transportation Security Administration be within the Department of Transportation was the right one. These kinds of debates are not done in a vacuum, and they have got to be made given the realities of life, and to me, whether it is a log cabin or an astronaut that has to go back to Canaveral to go to the bathroom, pilots still have to go to the bathroom as well.

The CHAIRMAN. They can hold it for a flight. I can tell you that right now, we had two coming from Charlotte for an hour. Yes, siree, if somebody stood up we have to go to another airfield and land and anyone stood up is to be arrested.

Secretary MINETA. Senator, the original requirement on 1/2 hour going out of Reagan, or the 1/2 hour coming into Reagan was a Secret Service requirement for flights in and out of Ronald Reagan Airport.

The CHAIRMAN. That is right, and that is not any good. It is not even necessary. Just keep the cockpit door closed. You say the reality. The reality is, we have got a 30-year track record of success. You can put up a sign in Arab—that is typecasting, let us say, try to hijack, go to jail, put that in every one of the airports in America so they will all know hijacking is over with. You can get it over with, but you all continue to debate stun guns or real pistols.

Secretary MINETA. Well, a debate on that issue, of course—and I will let John speak to that, because we are about to make an announcement, but—

The CHAIRMAN. 6 months later you all are about to make an announcement. That is wonderful. Do not let it come out too quick.

Secretary MINETA. Just like legislation takes time, decisions coming out of the executive branch also require thought as well, and so we are not quick to jump to conclusions, and we are trying to balance the interests involved. I do not think we can be faulted on that. Maybe sometimes a little slow in making the decision, but in terms of trying to balance the interest, I think that is in the interest of public policy.

The CHAIRMAN. Senator McCain.

**STATEMENT OF HON. JOHN MCCAIN,
U.S. SENATOR FROM ARIZONA**

Senator MCCAIN. Thank you, sir. I take it from the last conversation that you are about to make a decision. Is that right, Mr. Magaw, on the guns?

Mr. MAGAW. Concerning firearms in the cockpit, yes, sir, after a lot of consultation and months of work.

Senator BURNS. Do you want to pull that microphone a little closer.

Senator MCCAIN. That will come out of Mr. Burns' time. Go ahead.

[Laughter.]

Mr. MAGAW. Utilizing the experience of my 40 years in law enforcement, and consulting with all of the interested parties and

having our staff with a lot of experience look at this issue, and obviously consulting all along the way with Secretary Mineta, I will not authorize firearms in the cockpit.

Senator MCCAIN. You will not?

Mr. MAGAW. No.

Senator MCCAIN. I thank you. The administration's supplemental funding request indicates there will be approximately 41,000 passenger and checked bag screeners at TSA. However, that report was issued over the weekend indicating that TSA will need 57,000 such screeners. It is a large disparity. How many screeners will the TSA need?

Secretary MINETA. Well, I have heard about this 57,000 figure, and I am not sure where it comes from. We have been using 51,232 as the number of FTE's for passenger screening, and this morning on WTOP I heard the figure 57,000, and I am not sure where that comes from, but in any event, what we are looking at for 2002 is 51,232 for fiscal year 2003. We are looking between 65 and 67,000 FTE's for fiscal year 2003.

Senator MCCAIN. Mr. Magaw, about what percentage of your staff is in place at this point within the TSA?

Mr. MAGAW. In terms of our headquarters, we expect to try to administer to the organization with about 1,300 people. We have about, a little over 400 presently.

Senator MCCAIN. About what percentage are we talking about that are in place, or you expect to be in place overall in America?

Mr. MAGAW. In our headquarters it would be a third. In the field, in the Federal Security Directors, we are about a third of that also. Screeners, we are well below that, but there are thousands of them in training, hundreds of them in training. On the Federal Air Marshalls, that schedule is right on board, as discussed with Senator Boxer a number of months ago, and that is right on schedule.

Senator MCCAIN. Thank you. Can we realistically expect all airports to have EDS equipment by the end of the year?

Mr. MAGAW. All airports would not have EDS equipment, as I think the Committee is referring to, and that would be the CAT-scan procedure. They will have either the EDS or the EDT, the trace equipment, or a combination of both in most cases.

Senator MCCAIN. Secretary Mineta, at a recent hearing before the Appropriations Committee, you announced you have no problem with diverting AIP funds, the airport improvement program funds, from capacity projects to security items in the short term. Do you have any estimates how much AIP funding will be required in 2002 or 2003?

Secretary MINETA. In terms of the total amount, it probably amounts to about 10 percent of the AIP funds that we would be using for security and operational requirements. Without a doubt, the airports have been telling us that their need for construction and other security requirements imposes this, and because from our perspective right now demand is down in terms of travel, so we have said okay, go ahead and use AIP for the security requirements.

Senator MCCAIN. Well, I think it is a little dangerous, because there are ongoing projects and proposed projects which exceed,

frankly, the amount of AIP funds available, so I think, Mr. Chairman, we ought to look at that situation over time.

I want to get back, Mr. Magaw, to this issue of the EDS equipment being installed. I am not sure I really understood the answer. In other words, according to the legislation, EDS equipment was going to be installed by the end of the year in every airport. That is not going to happen, is it?

Mr. MAGAW. The explosive detection equipment—there are two different kinds. There is the EDS, which is basically a CAT-scan type, and also trace. Using those two in combination, we expect to meet the commitment that that equipment will be in place by the end of the year, 31 December. If you were talking about all CAT-scans, which are the big SUV type, they will not all be there, because a lot of airports cannot even handle that kind of equipment.

Senator MCCAIN. It is kind of the argument that there will be different quality of equipment, depending upon the size of the airport.

Mr. MAGAW. Not so, sir. We have been working with our experts in the lab in Atlantic City and also with various company representatives. We have worked out pilot programs both at Salt Lake City—we are doing one now in Norfolk, and we are finding with the proper protocol, which I would be happy to discuss with you in confidential briefing, that these two technologies are comparable.

At the same time, as the Secretary said, we are looking for what also can come down the road from entrepreneurial work, smaller, better, accurate.

Senator MCCAIN. Well, I want to thank you for the work you are doing, both you and the Secretary, and this issue of guns in the cockpit is going to be a very controversial one, and I know you will explain all the factors that went into making that decision, and there is one other point. I and others have sought a review of policies overall, not just intelligence, but diplomatic, economic, and the role of the executive branch as well as the Congress in its oversight of functions of Government that led to 9/11. Part of that may have been a responsibility melee with this Committee and me personally.

I hope you will keep us very well-informed, not just in formal hearings but through periodic briefings, as to the measures that are being taken, particularly in light of the recent statements by the Director of the FBI and others about the, quote, inevitability of an attack on this country, so I think it really lends great urgency to us being kept informed quite frequently, and in some detail, otherwise we will have failed in our responsibilities perhaps, again, and as one of the architects of this legislation along with the distinguished chairman, I feel a special responsibility in this area, which was designed to cure many of the problems we saw were responsible for the tragedy of 9/11.

I thank you, Mr. Chairman.

The CHAIRMAN. Thank you. Senator Burns.

Senator BURNS. Thank you, Mr. Chairman. We get bogged down in this issue of screening for explosives. That is not what happened on 9/11. Explosives were already on board. We had better get in the people business, and finding out where they come from and where they are going and this type of thing, if intelligence tells us so.

The explosives on an airplane right now are not really of a concern to me. It is the kind of people who are determined to use the airplane as a weapon, and that is where I think we should be focused. Right now, I do not know how many people you are going to need for this. The cost is going to be monumental, but that is the cost of security, and we have to understand that.

Are you still going to use some funds out of the AIP trust to do some of this work around the airports?

Secretary MINETA. The construction for the explosive detection systems will still be done from the AIP.

Senator BURNS. Mr. Secretary, we are getting a lot of push back on that a little bit from our airports. Those funds have been designed for airport construction and infrastructure around that, and I guess if we could stretch the term, infrastructure, that could also be included, and I would imagine you have heard the same complaints whenever you hear from your airports.

Secretary MINETA. Having been just prior to 11 September talking about delays and capacity problems, I am very sensitive to that, but it is just that since September 11 we have gone from capacity and delay now to security, and to the extent we want to plug the security hole I am saying okay to this, but I want to get back to the legitimate capacity and delay issues for which the AIP was created as soon as possible.

Senator BURNS. Have you done any kind of study of what the impact on AIP that will have?

Secretary MINETA. The total amount, I believe it is somewhere in the area of about, I believe around \$600-\$700 million, I believe. I will have to look at that and see, and get back to you.

Senator BURNS. I think the Committee would be interested on the impact of that trust fund, because I think all of us have gotten about the same letters and everything like that.

Mr. Magaw, you made the announcement now that you are not going to allow firearms on the flight deck or the pilots to possess firearms on board an airplane. Are your air marshalls armed?

Mr. MAGAW. They are, sir.

Senator BURNS. What is the difference?

Mr. MAGAW. Training. The pilot flying the aircraft, the marshall taking care of business as it occurs in the passenger cabin. These marshalls are trained not only in the use of a weapon, but all of the kinds of things that would build up to that they can handle a lot of times by being in the right place at the right time with the proper physical leverage.

It is in a much narrower area, so they have to practice all of these things in a tight aircraft. They have to be recertified every 90 days, and if they are not recertified they do not fly. They have a special firearms training which is much more difficult, much more strenuous than any other firearms, save maybe our Delta Force and a few of those special units in the military, because obviously if that firearm is discharged, obviously we do not want them under the normal circumstances to hurt or kill an innocent person, but we certainly also do not want them shooting that firearm with the possibility of bringing that airliner down.

So their total function and total training and total commitment is the security of all of us who are on that aircraft, not only as we

board the aircraft, but a presearch of that aircraft, conferring with all of the attendants on that aircraft, a number of what-ifs planned, and seated in a place where they can respond, also procedures with the crew so that they do not respond if it is a ruse, so it is a total commitment to that function, the security of that aircraft as we move forward.

They will do whatever they have to, to the point of giving up their own life to make sure that that cockpit stays safe, and the cockpit and the aircraft is for the pilots to maintain positive control of that aircraft, and the positive control to them, and what is to me, is, get it on the ground as quickly as you can regardless of what is happening back there.

They also tell me that with slight maneuvers, you cannot do a lot with a big aircraft, but unless you are seatbelted in, they can make your equilibrium so that you cannot function. I am looking also at putting cameras back there so they can see what is happening, and see how they are making these people fall and move.

I know we have a short time here, but that is a fairly short answer to that question. It is really a detailed answer that needs to be there.

Senator BURNS. Well, are there more than one air marshal on a flight?

Mr. MAGAW. There is always more than one. When there are air marshalls on an aircraft, there would never be one by themselves. It would be more than one, and it could be more than that.

Senator BURNS. Whatever, and I do not want to bring anything to light here, but can both pilots fly the airplane?

Mr. MAGAW. Both pilots can fly the airplane.

Senator BURNS. You see, it just seems to me, when push comes to shove, and the element of surprise, and having qualified pilots that I entrust my life to up there, also go through the same training procedures, and I think the majority of them that want to be armed will submit themselves to that training, the same training you are putting your air marshalls through, and yes, they can make conditions back there unlivable, and a lot of things, but there are only certain things they can do, because there is always the possibility of passengers not being in the same condition physically or mentally than the people who fly and guard the airplane, and so I wish you would reconsider that, I really do.

I am a cosponsor on a bill that is going to allow them to do that, and if we have people on that airplane who are willing to die in the commitment of such an act, I see no reason why they should not do it a little bit before they get it done, and that is kind of a Marine way to look at it, but that is just the way I think, and I think if push comes to shove—and I like the idea of the cameras. I think they can be installed rather inexpensively, and there are companies now, one being in my State, who have already designed cameras and surveillance equipment that would tell the pilot what is going on in the cabin.

So I would ask you to reconsider that, with some strings attached. I think we should continue to look at that.

I thank the chairman.

The CHAIRMAN. Very good. Senator Wyden.

Senator WYDEN. Thank you, Mr. Chairman.

Mr. Secretary, the American people are now being barraged with reports that the Government warned the airlines in April of 2001 and again in June of 2001 that terrorists might be plotting to hijack or blow up an aircraft. I would like to know what the airlines were told by the Government, when they were told it, and in particular what guidance did the Government provide to the airlines about steps that they could take to address these threats in those three areas.

Secretary MINETA. Well, first of all, information circulars and security directives were issued by the FAA, probably starting in the April–May time frame and continuing on through, to the airlines and to the airports, but in reviewing all those reports, they really are of generalized information gleaned from the intelligence reports, and very little in terms of specificity about the method or kind of things that might take place.

I get an intelligence briefing on a daily basis, and I remember asking one time soon after September 11, is there a way of taking all the pieces of information that we have heard since I have been here on 20 January and putting those dots together to have anything point to anything? It is very, very difficult to do that.

Senator WYDEN. Mr. Secretary, do you know if any of these warnings were shared with the security screening companies? The reason I am asking is that as I look at these reports with respect to how the process works between the intelligence agencies and the aviation sector, I just see a process that seems dysfunctional, and what I want to do is work with you and the administration to repair it.

I think we have got a structural problem here, and I think it would be very helpful in particular to see if these warnings are transmitted to the people on the frontlines, and that is why I would like to know, in particular, whether the warnings got in a specific way to the security screening companies, because obviously, before September 11 they had a very key role.

Secretary MINETA. As to whether they were specifically, I know that my previous discussion had been with airports and airlines. In looking at a report here, it says, aviation industry security professionals. Now, whether that means screening companies, I cannot answer that, but I do know they were shared with airports and airlines. I will have to check to see whether or not they went specifically to the screening companies.

Senator WYDEN. Yesterday's Wall Street Journal, Mr. Secretary, reported the FBI informed the FAA a week before September 11 of the arrest of Mr. Moussaoui, the terrorist who wanted to learn, obviously, to fly large planes. The FAA chose not to pass along this information to the airlines, I gather because the individual was arrested. I think it would be helpful, though, to have you outline what are the criteria that are used to make these kinds of decisions, because again it goes to this process of how information is shared.

Secretary MINETA. Well, with regard to the September 5 cable, I had our FAA take a look at, our staff take a look at this. Our records clearly indicate that the FAA was not given any information at the time that would have required the issuance of a special alert. The FBI sent the FAA the following information in a cable

June 5. It was a classified cable, meaning its contents were not to be widely shared.

It said that Moussaoui's arrest was part of an ongoing FBI investigation. It stated that the only suspect was in custody, indicating any threat that he might have created had been removed. Nothing in the cable indicated that an event was imminent, and nothing in the cable indicated that the suspect had ties to any terrorist group.

Finally, one important point about the cable sent to the FAA by the FBI, I do not know what the FBI learned in its investigation, but the cable it sent to the FAA simply said that Mr. Moussaoui wanted to learn how to, quote, take off and land a 747, unquote. It did not—and I repeat, it did not say that he only wanted to learn how to take off, and was not interested in learning how to land.

The cable to the FAA said, rightly or wrongly, the only pilot training he wanted was how to take off and land, so take off and landing are the only two things that a suicide bomber is not interested in, and so based upon the nature of all of this information, the FAA decided the threat was general and nonspecific enough that it would wait for further information from the FBI before it should notify stakeholders in the aviation community.

Senator WYDEN. Let me ask you one other question, if I might, Mr. Secretary. As of today, Mr. Secretary, do you believe that the intelligence agencies are giving you sufficient information to evaluate these threats and to be able to make informed decisions concerning the precautions?

Secretary MINETA. I think in my daily briefings with the CIA they are, in fact, giving me the wide range of information, and that I am well-served by that daily briefing.

Senator WYDEN. One other question if I might, Mr. Chairman. I know the light is on.

Mr. Magaw, central to really strengthening this system for the future is accountability, and I am of the view that one of the key ways to do that is on an airport-by-airport basis. Do you plan on using undercover audits to look at the practices of airports on an airport-by-airport basis with respect to security?

Mr. MAGAW. Yes, sir, I do. In the structure of TSA is a unit that will, among many other things, do just that. The Department of Transportation Inspector General has already been doing some of that, and we encourage him to do continue that.

Senator WYDEN. I know my time has expired. I am going to follow up further with what is going to happen with those audits, and whether there are going to be consequences, because in the past we really have not seen those consequences. I thank you, Mr. Chairman.

The CHAIRMAN. Mr. Secretary, you say you have been briefed by the CIA. Is that ongoing with respect to the FBI? Does the FBI brief you with respect to terrorist activities?

Secretary MINETA. On counterterrorism, Mr. Chairman, they do.

The CHAIRMAN. Because the act itself says seven-man committee. You have got Justice Department, Homeland Security, DOD, NSC—

Secretary MINETA. On the domestic I get briefings from the FBI, and on the international I get briefings from the CIA.

The CHAIRMAN. Senator Boxer.

Secretary MINETA. Mr. Chairman, just in case I might have misspoken, I meant September 5 and not June 5, just in case, in my reference to the cable.

The CHAIRMAN. Very good. Senator Boxer.

Senator BOXER. Thank you.

Mr. Chairman, I agree with you that the issue of protecting the American people at airports belongs with Justice and that is to say nothing bad about my friends. They are terrific people, but that is not their job, but that is a whole other day, I hope maybe. We should revisit this, but be that as it may, it is where it is, and we have got to deal with it now.

I want to pick up on Senator Wyden's questioning about the warnings and what we did with it. The Wall Street Journal says a week—they are not talking about a June memo. They are talking about a week before.

Secretary MINETA. I meant September 5.

Senator BOXER. Now, they say investigators told the FAA that student pilot Zaccarias Moussaoui had been arrested and was under investigation as a potential terrorist with a potential interest in flying 747's. It said, the agency was told—that means the FAA—by the FBI that Mr. Moussaoui was being investigated after his instructors at a Minnesota flight school reported that he paid in cash to learn to fly Boeing 747's, and it goes on to say, the logic at the time—this is a senior law enforcement official—was that he intended to hijack a plane.

Now, I guess the answer that we did not have enough information is—it sounds a little bit weak to me. When someone's arrested and is being investigated for paying cash to learn to fly a jet, and the FBI is saying, a hijacking, and the fact is, we know that the President had a briefing that talked about hijacking, that talked about Osama bin Laden, that talked about on American soil, so looking ahead, not to look backwards, which I want the commission to do—I am supporting Senator McCain and Senator Lieberman. We have got to look at this, because this is a democracy and we should look at it, and I take great offense at those who say we cannot, we cannot look at mistakes, because if we take that route we are no better than dictatorships as far as I am concerned, so we need to look at that.

But looking ahead, what kind of warning do you need to have? It would seem to me the President knew, and as I understand it, he was in Texas at the ranch, and he could not do an oral briefing. They had a piece of paper that said Osama bin Laden, hijacking, American soil.

Now, when Condoleeza Rice was asked about it, her answer was, well, we could not shut down the whole system. Well, that is setting up a straw man, if you will. No one is suggesting shut down the system, but if you know Osama bin Laden, hijacking, American soil, it seems to me there could have been some specific warnings.

Now, American Airlines, we asked them did they get any warnings. They put out a press release. They said they receive FAA security bulletins, but they are extremely general in nature, do not identify specific threat or recommend—and this is the important thing—any specific security enhancements.

The FAA at that time closely regulated airline security, and the Federal security standards were not changed during the summer of 2001, so you had the briefing on Moussaoui, the President had the other briefing, and yet American Airlines never was told to do anything different. This is not about shutting down the system. It is just looking a little harder at people, so I am—I mean, Mr. Mineta, are you saying that you did everything right, I mean, I would like to ask you that question, after you received those warnings?

Secretary MINETA. I am not sure I can make that statement.

Senator BOXER. I asked San Francisco Airport. They heard nothing.

Secretary MINETA. I am not sure. I do know that we issued information circulars. We issued security directives.

Senator BOXER. I have a list of those.

Secretary MINETA. Now, whether that went specifically to San Francisco Airport, I am not sure, but as you go back over all of the intelligence reports of 2001, they are general. There is nothing in terms of specificity.

Senator BOXER. Wait a minute, I am confused. Isn't when they say, we have this person we have arrested, and he has taken flight school lessons, and we are worried about hijacking, that you do not consider that specific, that is general?

Secretary MINETA. So what does that tell you? Does that tell you—

Senator BOXER. I will tell you what it tells me, and I am trying to be fair here, I think, knowing what the President knew and what you knew, it seems to me that at the minimum we just give a more specific alert to the airlines and the airports. I have here, and I would ask unanimous consent to place in the record, a letter I received from San Francisco Airport showing the things that they got, the type of generalized circulars that they got.

The CHAIRMAN. That will be included.

[The information referred to follows:]

SAN FRANCISCO INTERNATIONAL AIRPORT
San Francisco, CA, May 17, 2002

Hon. BARBARA BOXER,
United States Senate,
Hart Office Building,
Washington, DC.

Dear Senator Boxer:

In response to your request for information regarding warnings from the federal government of threats prior to the attacks of September 11th, I want to provide you with a series of Department of Transportation notices received by San Francisco International Airport (SFO).

Eight Information Circulars and Emergency Amendments were received from the period of April 18, 2001 through September 11, 2001.

- April 18, 2001—Information Circular
Subject Continued Middle Eastern Threats to Civil Aviation
- June 22, 2001—Information Circular
Subject Possible Terrorist Threat Against American Citizens
- July 2, 2001—Information Circular
Subject Possible Terrorist Threat Against American Citizens
- July 12, 2001—Information Circular
Subject Man-Portable Air Defense System (MAN PADA) threat to Civil Aviation
- July 18, 2001—Information Circular
Subject Possible Threat—Arabian Peninsula

- July 31, 2001—information Circular
Subject: Continued Middle Eastern Threats to Civil Aviation
- July 27, 2001—Civil aviation Security Emergency Amendment
Subject: Additional Security Procedures
- August 16, 2001—Information Circular
Subject: Disguised Weapons

Please note that SFO, and all U.S. Commercial Airports, routinely receive both Civil Aviation Information Circulars and U.S. DOT/FAA Civil Aviation Security Emergency Amendments which notify and advise of potential aviation security concerns. In addition to these notices, the FAA issues further information exclusively to U.S. air carriers.

Very truly yours,

JOHN L. MARTIN,

Airport Director

Senator BOXER. Without beating a dead horse, I just believe we should have done, it seems to me, a little more than the general. I would have told, for example, the airlines, they have this guy who is going to flight school, we have another memo—why not share that type of information? It seems to me that you should share specific information, and I believe you had specific information.

Secretary MINETA. I understand what you are saying now in terms of the wider distribution of the information that is available.

Senator BOXER. Well, not wider. How about to the airports? How about to the airlines? Look, there is a lot of flap because Attorney General Ashcroft—it was announced on a news show before 9/11 that he was now no longer going to fly commercially, and on that same broadcast it said they knew of no specific threat against him, it was just a general thing. He was going to no longer fly commercial.

Now, it is a big flap, and now they are saying, well, there was a specific threat. I do not know, but I have got to tell you something, we all represent the people whose lives are very important. It just seems to me that when we have specific information—when I say that, I look at this as specific. An individual, we know his name. We know he is taking flight school training. He is paying in cash. We have other information on the other side that says hijackings could be expected on our soil, Osama bin Laden, and everyone knew about Osama bin Laden.

So enough. Enough said. I just think we need to do better in the future. I want to follow up on Senator McCain, the remaining minute I have, on the EDS machines. I know that we are not going to have as many as we need to have to do all the bomb check, and I think Senator Burns is right, the last time it was not about bombs in suitcases, it was about using an airplane as a bomb. Hopefully that day is over, but they will look at these other things.

Now you are using these trace—what do you call those machines?

Secretary MINETA. Trace detectors.

Senator BOXER. Are those certified?

Mr. MAGAW. They are certified.

Senator BOXER. Who certified them and when, because my information is, they are not certified.

Mr. MAGAW. They are certified, and they were certified by our Technology and Scientific Group in Atlantic City, so both technologies are certified.

Senator BOXER. Can you send me a copy of that certification, because I have not seen it. Will we have another round?

The CHAIRMAN. We can have another round.

Senator BOXER. I will hold, thank you.

The CHAIRMAN. Senator Cleland.

**STATEMENT OF HON. MAX CLELAND,
U.S. SENATOR FROM GEORGIA**

Senator CLELAND. Mr. Chairman, Members of the Committee, distinguished panelists, ladies and gentlemen, I am deeply disturbed. I have to admit that. First of all, in terms of pre-9/11 I do not think this Committee or any committee of the Congress or combination of committees is ever going to get at the totality of what really happened, so I do support—and I am an original cosponsor of Senator McCain's legislation, and Senator Lieberman's legislation to create an independent commission of stature and credibility that looks at the buildup to 9/11 and what happened and has the power of subpoena and has the power to access classified documents and find out exactly what happened, and inform the Congress and the American people so we can make sure it does not happen again.

We did this after Pearl Harbor. It worked. We should do that now, and so I am somewhat frustrated as an individual Member of this Committee, getting at the story of pre-9/11. My concern and my fear now is that we still have not sorted out who is in charge of alerting the American people to a domestic threat, a threat to our homeland.

Mr. Mineta, Mr. Secretary, I have to ask you this. Given the fact that before 9/11 various pieces of information were stovepiped and not communicated, and the dots were not connected so a decision-maker could understand what was going on, and given the fact that now the Vice President of the United States in the last few days, and now the head of the FBI just in the last day or so has given warnings to the American people that there might be another terrorist attack on this Nation, is there anything you want to share with this Committee, based upon your understanding of the threat to this country, the threat to the airlines, the threat to the traveling public? Is there anything you want to share with this Committee now, and the American people, particularly the flying public, that you know that we might be able to take into account in our daily lives? Is there a threat to the flying public now, or is there not?

Secretary MINETA. Well, I think in terms of security, the security today is much better. It is good, and I am completely satisfied and comfortable with where we are in terms of security.

From the perspective of intelligence, again, I think, given what the Office of Homeland Security is doing, and in terms of—and that is where it is presided by the President. I am a member of the Homeland Security Council, and George Tenet of CIA and Bob Mueller, head of FBI, the Attorney General, Tommy Thompson from HHS, and General Downing from NSC, a number of us are sitting at the table and meeting on a regular basis, and so I think to the extent that we are around the table, commonly getting this information, is a good thing.

I think in the absence of the ability to reorganize into some kind of Homeland Security Agency, I think what we have to be able to do is to have a data-mining and data dissemination mechanism. What I referred to in my suggestion was a data fusion center that would be headquartered probably within the Attorney General's Office in the Department of Justice, and that would get information from INS, Customs, Border Patrol, DEA, FBI, everybody, and become a repository for all this information.

It will take quite a while to put that kind of data fusion center together, but I think that is something that is needed, and something that would address a concern that you have.

Senator CLELAND. Well, Mr. Secretary, I think it is needed, too, which is why I support a Homeland Security Agency that has a Secretary that sits in the President's Cabinet and has access to intelligence from many sources, and has actually troops, they command troops, Customs, the Border Patrol, INS and other agencies, and they can be that nerve center domestically where that information is congregated and collected and ultimately disseminated, like we have a nerve center in the Pentagon that keeps us informed about information around the world.

I just think we need that. I think you are right on about aggregating intelligence information in a nerve center for domestic protection at least.

That leads to my second question. If there were to be a known threat to airlines, airline safety as we saw it earlier, before 9/11, would we under the current organization, or lack thereof, hear from you that there was a threat to the traveling public and therefore take precautions, or would we hear it from the Vice President, or would we hear it from the head of the FBI, or would we hear it from the Homeland Security Director? Who would we hear it from?

Secretary MINETA. I think under the present procedures you would hear it from the Homeland Security Director.

Senator CLELAND. Well, that is a real concern, but I understand where you are coming from. Can I ask you one more point here? We had an incident in Atlanta, at Hartsfield. They are a busy airport, where a young man broke through intentionally aviation security. We found out later, after he was apprehended, that breaking through aviation security at an airport is a misdemeanor. If you interfere with or breakthrough security in an aircraft, that is a felony.

Mr. Magaw, do you have an opinion here, with 40 years in law enforcement—I have legislation making the deliberate breach of security at an airport a felony, so we are able to treat that with the seriousness that it now deserves. Is that something you would like to see in law?

Mr. MAGAW. Yes, sir. If you remember back when I was testifying for my confirmation, the subjects came up, look at all the different issues you are dealing with, come back and tell us some of the things we need to do. You have already addressed that issue, which is important.

Senator CLELAND. Thank you very much. Thank you, Mr. Secretary. Thank you, Mr. Chairman.

[The prepared statement of Senator Cleland follows:]

PREPARED STATEMENT OF HON. MAX CLELAND, U.S. SENATOR FROM GEORGIA

Mr. Chairman, on December 10th, over 5 months ago, this Committee held its first hearing on aviation security since the landmark Aviation and Transportation Security Act was passed into law. I chaired that Atlanta field hearing in which we heard the Deputy Secretary of Transportation, Michael Jackson, describe the security safeguards which DOT and the FAA put in place after 9-11 and the first steps taken by his Department to implement the new law. Today, six months after President Bush signed the most sweeping aviation bill ever enacted into law, we will hold the third hearing on where the Department stands in the law's implementation. We'll get an update on two of the law's most formidable requirements: the conversion to a federal security workforce and the installation of explosive detection systems and explosive trace detection machines in every airport.

I think I can say that each Member of this Committee understands and appreciates the enormous challenges facing the Department of Transportation. To create a new agency from scratch. To lay the groundwork for the largest civilian workforce in more than half a century. To put in place a security safety net at 740 passenger screening checkpoints and 429 airports nationwide. To screen one billion bags for explosives by the end of this year. To balance efficiency and customer service with a new and higher standard of security nationwide. To ensure that the events of September 11th are never, ever repeated.

While we appreciate the challenges, we also have to address the problems in such an ambitious undertaking. The TSA budget has almost tripled over the past few months—from \$2.4 billion to more than \$6.8 billion. The number of TSA security personnel has more than doubled. In fact, the latest estimate of 70,000 has spurred the House Appropriations Committee to prohibit funds for more than 45,000 staff at the agency in the FY 2002 Supplemental. And just yesterday, at BWI, the TSA's test airport, large numbers of flights were delayed. I have heard that the reason for these delays was because the Transportation Security Administration, which has now taken over security at the Baltimore airport, did not have sufficient staffing to handle the passenger loads.

In light of the recent revelations—including information that as early as June 22 of last year the FAA issued a circular to the carriers warning of possible airline hijackings—we will have questions on what the DOT and FAA knew and when, on what the airlines knew and when, and who gave the directive not to share this information with the public and why. After September 11th, the government has shared information with the public about possible terrorist attacks—possible attacks on bridges in the West, for example, possible infiltrations of apartment buildings by terrorists, and now possible attacks by walk-in suicide bombers. To my knowledge, there have been no public warnings about possible attacks involving airlines, or any other mode of transportation for that matter. If such information comes to light, will the DOT and TSA choose this time to release the information to the public? Let me say that these questions will be asked with the full knowledge of this Committee that our panelists cannot divulge certain information which could compromise national security by benefitting those who wish America harm.

In closing, I am forcefully reminded of a briefing given to the Commerce Committee by officials from El Al shortly after September 11th. At that briefing El Al recommended a security model to the U.S. that puts the government in control of a multi-layered security net that relies on the sharing of information all the way up the ladder—from the screener who checks passengers and baggage to the airport operator, all the way up to the top government officials in the Israeli chain of command. El Al compared the various levels of intelligence sharing to the layers of an onion. The recent revelations here in the U.S. underscore in red the imperative in this country to coordinate not only our intelligence communities, the Department of Defense, our Homeland Security Office, the TSA and the DOT, but also our intelligence network in the aviation system as well—from the federal screeners at our checkpoints, to the local airport law enforcement personnel, to our federal airport directors, to John Magaw at the Transportation Security Administration, to Jane Garvey at the FAA, to Secretary Mineta. So I look forward to hearing from our witnesses on this and other vitally important issues of aviation security.

The CHAIRMAN. Thank you. Senator Dorgan.

**STATEMENT OF HON. BYRON L. DORGAN,
U.S. SENATOR FROM NORTH DAKOTA**

Senator DORGAN. Mr. Chairman, thank you very much.

First, Secretary Mineta, Mr. Magaw, let me thank you. I think you have taken some action that relates to an understanding that one size does not fit all with respect to threat assessments and threat evaluations. The first missive was a 300-foot rule at airports, and you know Dickinson, North Dakota. 300 feet took out their entire parking lot, so you begin to take steps dealing with different airports and different threat assessments, and I think you have used some common sense there. I, for one, appreciate that, and thank you for taking a good look at it.

Second, I think the chairman and others have said in different ways that we are busy in many ways preventing the last terrorist act, when our job really is to prevent the next terrorist act, and there is a big difference here. I would like to ask a question about the hundreds and hundreds of workers at many of the big airports that are doing catering, cleaning, a whole series of things on and around the airport, on and around the airplanes. That is also a very important security issue. What kind of progress are you making with that?

The reason I ask is, there have been some investigations that suggest that people have been walking on and off the tarmac dealing with airplanes that have not been secured, that have criminal records and so on. Mr. Magaw, can you tell me what kind of progress we are making in those areas?

Mr. MAGAW. The entire package you have described is a concern to us. It is a concern to the airport managers. It is also a concern to the airlines, and so what we have now that we did not have a few months ago is all of these entities talking about how we can close that.

Do we use technology to close some of it? Do we use manned human posts to close others? How do we secure the ramp, and when our Federal Security Directors are arriving there, they are discussing this, the whole airport, to include cargo, to include the overnight storage of the aircraft, to include the back gates and the parking for employees, and you are right, the catering units, all of those issues are being addressed. Some of the catering ones have been tightened up some, and we are looking at each one as we can get some personnel and people there to work with the airports in each of those areas.

And I visited a number of airports to look at the cargo situation, to look at the back gate, to look at the surrounding fence. We just talked with Dallas-Fort Worth yesterday. They just put miles of fence around that airport with barbed wire on the top and those kinds of things, so every area is being looked at, sir.

Senator DORGAN. Well, let me send you some questions on that, because I think when you talk about the catering companies, we are tightening up some. I think this has to be tight as a drum, because terrorists will find the weakest link.

But let me ask another question, Mr. Magaw, and perhaps it goes to Secretary Mineta. We in our Aviation and Transportation Security Act created an oversight board. Mr. Mineta, you indicated you are getting daily briefings on foreign and domestic security

issues. Is the oversight board working? That is supposed to be the Attorney General, DOT, Defense, National Security, Treasury, and Homeland Security.

The reason I ask that question is, I think what we have learned in recent days is that the bureaucracy and turf battles really have clogged the information systems that you need to have working, and so the question is, is the oversight board working? Are you a part of that? How often do you meet, and so on.

Secretary MINETA. We did have a meeting in, let us see, I believe it was in early April. Frankly, it has not been convened since, but it does meet quarterly, so right now we are not scheduled to meet until the end of July, but to that extent—and it is an oversight board, really, on the operational nature of the airport security, rather than on the intelligence side.

Senator DORGAN. I understand that, but airport security is reliant on the intelligence coming in to describe the potential threat to you, and it seems to me that it is obvious terrorists do not operate on a quarterly schedule, so I am a little concerned that this oversight board that Senator Hollings and Senator McCain have created, I am a little concerned that they have only met once and plan to only meet quarterly.

Now, Senator Hollings can better interpret that, but I do not think that was the intent of the legislation. My sense is that what we have learned in recent days is that there were disparate pieces of critical information in various places of the Government, but somehow it never came together, and the oversight board would bring all of that together, get rid of the turf battles, get rid of the bureaucracy that prevents information from flowing, essentially unplug these arteries of information.

So I think I will want to submit some questions there as well, but my sense is there is an urgency here, and I am a little concerned. I appreciate your frankness here. I know you are perhaps not the one that is describing how the oversight board, or the information works, or how often you meet, but I think the intention was to bring these people together frequently to evaluate what exists out there.

Now, let me ask you a question with respect to that. There has been a lot of discussion in the last 48 hours or so that Vice President Cheney and FBI Director Mueller and others have sort of said, not quite in these words, but it feels like something is about to happen. It feels like there is a greater urgency here. It feels like something is coming. I mean, that is what I get from all of this, including reading the paper this morning.

If that is the case, and if that is the message we are getting from everybody, is there something that is happening internally with your organization, Mr. Mineta, or your organization, Mr. Magaw, that reflects this new and changed reality in the last 48 hours, and if so, what is happening that reflects that changed reality?

Mr. MAGAW. Each morning and each afternoon the groups that you are talking about, whether it is the National Security Council, whether it is Homeland Security, or CIA, or FBI have a classified briefing. We get together over secure voice telephone and talk about these particular issues.

The concern, while not being as specific as we might like it, is a case where over the years, because of the way our country has functioned in terms of a very open democracy, cells of terrorists are virtually throughout the country, so the constant awareness of what they are doing, how they are doing it, why they are doing it is what the attention is on now, to try to not be caught like we were the last time, but to have the information and then act on it so that potential terrorist attacks can be stopped in their early nature.

So there is clearly much more attention to having all of these agencies on the line talking together. There is much more interest now in putting a person from TSA in each one of the organizations, and vice versa, so that they are right there, making sure—so those kinds of things are tightening up. The feeling is that with that much spread of intelligence cells throughout the country and throughout the world, that the 9/11 was not the only plan.

Now, what are the other plans? If you remember, in 1995, in the Philippines, a plan was uncovered there that was going to blow a number of United States commercial aircraft up as they came across the ocean, so there are bits and pieces of planning around let us dig into it more, just as you are suggesting in all your conversations here, to make sure it is pieced together and to make sure that we are deciphering better when warnings are needed.

Senator DORGAN. Mr. Magaw, just a final comment. Mr. Chairman, do not misunderstand our questions, or my questions. We want you to succeed. It is imperative for this country that you succeed in your mission, and it is a very, very difficult and daunting mission, so understand the questions are about wanting to figure out how we help you do your job and how we help you on behalf of this country succeed in that mission.

The CHAIRMAN. Thank you. Senator Allen.

**STATEMENT OF HON. GEORGE ALLEN,
U.S. SENATOR FROM VIRGINIA**

Senator ALLEN. Thank you, Mr. Chairman. I would like to ask you all some questions here. Let me say first I very much agree with Chairman Hollings' view on the importance of the cockpit being secure. I think that is the most important thing that can be done. I also want to commend you all. You have a very daunting task in improving security, as well as the economic viability of commercial aviation.

Security does have to improve, and the more expeditious deployment of personnel and new technology is important for commercial aviation. People will choose not to fly if given an opportunity, and that directly impacts our economy as well as security.

I want to inquire about a few things. First, let me make a statement. The small airports do have inadequate staffing. I do hope to work with you all for the small airports and their needs and their funding.

First, I want to inquire about Reagan National Airport. I want to commend you, Mr. Secretary, as well as Jane Garvey, for your advocacy of reopening Reagan National Airport. It is important for our economy here, for access to our capital and the 10,000 people

that work there. The restoration of general aviation at Reagan National is the last step toward 100 percent operation.

As you know, Senator Warner and I have written the President on this. Can you share with us any progress toward reopening general aviation opportunities at Reagan National?

Secretary MINETA. I think we have worked out all of the procedures now, and hopefully by the end of May we will be able to announce the opening of Ronald Reagan to general aviation and the return of Signature as the fixed base operator at Reagan National Airport.

Senator ALLEN. Great. That is good news.

Secretary MINETA. We are now trying to put the dots on the I's and cross the T's on that.

Senator ALLEN. That is good news. Thank you, Mr. Secretary.

I have stated on previous hearings my belief that modern-day aircraft could be operated remotely if a pilot was in extreme circumstances. In other words, turn the aircraft over to a remote location.

For example, there is research which would effectively limit where a plane may go. A topographic computer model of any route of any flight could be built that could designate any area off-limits. You could have a virtual fence around a city. You could have a virtual dome around a building that you wanted off-limits, such as nuclear power plant or the United States Capitol building.

Do you think that we could make use of this kind of technology in tandem with your security precautions you are talking about, which would serve as a protective model for aircraft? Have you done any research, study, or evaluation of these technologies to determine the economic and technological feasibility?

The New York Times just recently, on April 22, had an article on these new technologies that I think could help us become safer and certain, with off-limit areas.

Mr. MAGAW. In terms of the areas that you are talking about, there needs to be research in those areas. With everything else we have been getting started with at TSA, we have not started a specific study on those particular areas, but we have clearly identified more importance in terms of hiring technology research personnel to strengthen our efforts where it is located in Atlantic City.

We have been talking about the secure communications between the cockpit and the ground. I know that is not what you are dealing with now.

All the technology that is out there, and all the entrepreneurialship that we can bring forward, technology is a huge part of our answer. Where we will end up on those issues, Senator, I do not know, but I can guarantee you we will be looking at every piece of technology that is out there to see if it can work in a passage as you are describing.

Senator ALLEN. Thank you.

There is one final area I would like to discuss with you since you announced the position regarding pilots being able to carry firearms. As Senator Dorgan said we are looking at the future, not the past, but obviously you do have to do a post mortem, an analysis of what has happened in the past.

If the pilots on those commercial airlines which were commandeered on September 11 had had pistols to defend themselves and their planes, would that have made a difference?

I think in particular, if Captain Burlingame, the pilot of Flight 77 which hit the Pentagon, who was a Navy Reservist, had fought for our country, obviously trained in firearms, and able to land a wounded F-4 Phantom on the deck of a rolling aircraft carrier had had a firearm to protect himself and that plane, would that have made a difference in those situations?

Mr. MAGAW. Well, it may have, but that is a lot different today than it was then. My feeling is, is that you secure the cockpit as much as you possibly can, make it a secure area for them to function in, and then if something does happen on that plane, they really need to be in control of that aircraft, whether it is getting it on the ground, whether it is maneuvering it so it knocks people off-balance that are causing the problem, and to introduce that now, to put a weapon in there, there is a lot of discussion, areas that we have that would take too long here today, but the situation is different.

You now have the hardened doors, even more highly technological doors coming on board next year. Some cameras have been put in aircraft right now that the pilots can see what is going on back there. We are working through that. The air marshal program is a very large program now and getting larger, and so the air marshal program will be very helpful.

It also is a case of where we are still looking at in detail—and I need more time here—and that is less than lethal force for those pilots, and so I am looking at all of that technology at the same time, but it is clear in my mind, when I weigh all of the pros and cons, pilots should not have firearms in the cockpit.

It can be everything from what we have been discussing here to the type weapon, the training, 14,000 more pilots in airplanes carrying weapons, how many of them will want to do that, and how many will be able to pass the qualification? If they cannot pass the qualification, do they now not fly? I mean, there are huge issues here.

When I weighed all of them, I made a decision, and stick by that decision, because it has taken me long enough to make it, that I will not permit firearms in the cockpit. Obviously, if the Congress overrules that, or there is a law made, I will stand up and abide by it, and do everything I am asked to do. Absent that, I am not going to permit firearms in the cockpit.

Senator ALLEN. Thank you. Mr. Chairman, my time is up.

The CHAIRMAN. Senator Snowe.

**STATEMENT OF HON. OLYMPIA J. SNOWE,
U.S. SENATOR FROM MAINE**

Senator SNOWE. Thank you, Mr. Chairman.

Mr. Secretary, Mr. Magaw, thank you for being here today. I certainly appreciate it.

There has been a lot of discussion about who knew what and when. I was interested to read in William Safire's column yesterday that there was a report of a suicide bomber belonging to Al Qaeda's martyrdom battalion, which went to the National Intel-

ligence Council under the previous administration, warning of crash-landing of aircraft packed with high explosives into the Pentagon, the headquarters of the CIA, or the White House, and this report was dated in September of 1999, and nothing was done with that report in the previous administration, and it was deemed not actionable, so obviously the notion was out there.

Mr. Secretary, were you briefed in any way by your predecessors about this report, about this potential threat?

Secretary MINETA. No. I have no knowledge of this.

Senator SNOWE. None whatsoever?

Secretary MINETA. None.

Senator SNOWE. So this was not an issue within your Department when you assumed your position as Secretary of Transportation?

Secretary MINETA. Frankly, I missed yesterday's column, too. I did not see it.

Senator SNOWE. Well, I just think it is very interesting, because this was done with the National Intelligence Council, and that was back in September of 1999, and obviously nothing had happened then, and President Bush requested within 6 months a briefing on preexisting threats on domestic targets by potential terrorists. I just think it is interesting that it had been out there for 2 years on that whole notion, and nothing had been done previously.

Mr. Secretary, could you tell us how you would describe the process on aviation security at this point, given the mandates under the law, which are obviously numerous, but do you think that we are making excellent progress, good progress, fair progress? Where do you think we are?

Secretary MINETA. Well, I think we are making very good progress, and the only thing that is concerning me right now is the supplemental appropriations that is in the House, and the fact that they have cut back from the President's request, and so to the extent that they have cut back from the President's request, it just seems to me that the logical follow-on is either delays in implementing the program, or the fact that we will have longer lines at the airports in dealing with passengers.

Senator SNOWE. This summer?

Secretary MINETA. Yes, because right now by the end of May we will run into an Antideficiency Act problem, and so we will at that point start slowing down signing contracts on employing baggage screeners and passenger screeners, and equipment that we have purchased already will remain in the warehouses because we will not have money for installation or the people to operate those machines.

Senator SNOWE. So that is something we obviously have to address very quickly here.

Secretary MINETA. That is right.

Now, on the other hand, we will meet the dates that are mandated under the law, so that all it means is passenger delays rather than delays in meeting what is in the law.

Senator SNOWE. Now, on the baggage screening, what percentage of bags are being screened today with explosive detection devices?

Secretary MINETA. Well, because now we probably only have 35 percent of the machines online, I would say that roughly 35 percent

of the bags are getting checked right now. The bag requirement is December 31, and so to the extent that we have that number of bag explosive detection systems either in terms of EDS or ETD, I would say it is somewhere between 30 and 35 percent.

Senator SNOWE. Now, I do have some concerns about setting up a two-tiered system for security with respect to these detection devices, the EDS at the larger airports and the trace detection devices for the smaller airports. Is that a concern to you?

Secretary MINETA. It is not. We have gone through this over and over again, because I had that same concern that you have about a two-class citizen approach on security, and that is something that we do not want to have, and so one of the things that we have done is to make sure that in running the protocol on the EDS, and the EDS and the EDT go together, or having the EDT as a stand-alone, and in doing this over and over again, I am totally satisfied that the equivalency in terms of security is there, and that there is no less security because of the use of the ETD at the smaller airports.

Now, the explosive detection system, because it has such a high rate of false positives, has to have the ETD to check on it, and so again, I do not feel that the ETD is any lesser a machine.

Mr. MAGAW. Senator, may I say something just a moment? I apologize for taking your time to correct a mistake I made to Senator Boxer, but I have just been informed that the ETD machine, and correcting the record, the ETD machine has been qualified for use by FAA and use by TSA, but it has not been formally certified, as you indicated. It has met the performance standards. The formal reports and the formal, final approval for that is not yet done, but it is well underway, so I wanted to correct my statement. I apologize for that.

Senator BOXER. I appreciate that.

Senator SNOWE. On security personnel, the Washington Post described how many restricted areas at Dulles Airport are not guarded by security personnel and equipped with screening devices. Obviously, that poses a significant and potential threat. Do you plan or contemplate the idea of doing any audits with respect to this, these individuals and the personnel that have access to the planes and to the tarmac that also could pose a serious risk?

Mr. MAGAW. Yes, ma'am. As we work with the airports we are looking at airports, every airport as a single entity, and trying to determine not only the front door but all around the back door and the fence line and the people that come through it, and the cargo and equipment that comes through it. It has to be an entire package.

Right now, a lot of the attention is on the screeners and on the baggage, but as our Federal Security Directors arrive at the airports, which they are all over the country now, virtually a few each week, is that we are looking with all the airport personnel, the law enforcement, the airport manager, and taking the whole package, and is some of this being done by the local law enforcement, do we need more Federal personnel to help in that particular area, so everything from the control tower through the fence line, through all of the gates, through every entity has to be looked at, to include the passengers, observing as they are arriving in front of the building, because sometimes you can pick up unusual action that would

cause you then to be suspicious, so we are going to take it as an entire package at every airport.

Senator SNOWE. And what about cargo?

Mr. MAGAW. Cargo is a huge concern. You know, we talk about the Pan Am 103 was a bomb in the cargo hold. None of that is going to go away, and so we have to close those loopholes, and we have to deal with each one of those areas, and at the same time we are doing that, we cannot ignore the other areas of transportation, maritime, pipelines—

Senator WYDEN. Let me announce there is a vote on the floor now, and gentlemen, I have some additional questions, I think Senator Boxer has some additional questions, certainly the Senator from Maine can have another round as well, and so we are going to adjourn.

Senator BOXER. Mr. Chairman, because I cannot return, can I just make 1 minute's worth of comments as a close?

Senator WYDEN. Absolutely, and then after Senator Boxer's 1 additional minute, we will return for some additional questions.

Senator BOXER. I so appreciate it. I just want you to think about a few things. The video camera in the cockpit that you are thinking about, make that mandatory, please, because here is the point, it is like a rear view mirror in a car, right? I mean, I am driving a car. I have got to know what is going on behind me. These pilots, they are concentrating on their work, as they should be. They have no idea of what is going on back there.

And frankly, you know, in the issue of a gun in the cockpit, I respect your decision. I hope you will look at stun guns, but I have to say, I can understand where the pilots are coming from if there is no air marshal on the plane, and so I want to reiterate my concern about the long-haul flights, and Conrad Burns and I are going to have a briefing with you, a private briefing with you on that point.

So just in terms of the video camera, as you say, it is not expensive. It is not a new tech or high tech situation. It is a rear view mirror. Please do it. Do not wait. It is easy, do it. I will feel better. We will all feel better if we know that the pilot knows what is happening in his or her aircraft.

Mr. MAGAW. The ones, the aircraft that it is in now, they like it very, very much, so I expect us to move fairly quickly on that.

Senator BOXER. It is a good thing. Thanks.

Senator WYDEN. Gentlemen, we will reconvene in no more than 10 minutes.

[Recess.]

Senator WYDEN. Mr. Secretary, and Mr. Magaw, the history and the past with respect to aviation, particularly on safety and security is that laws get passed, and then there is not a whole lot of follow-through and implementation, and that is why I am especially interested this morning in hearing what steps are going to be taken to ensure accountability at airports and with airlines that do not measure up in terms of aviation security.

Now, in response to the earlier question I asked of you, Mr. Magaw, you said that you were going to do undercover audits. Those strike me as useful, and I would like to ask you next what is going to be done with that information?

For example, if one of those undercover audits finds that an airport does not have adequate security, are you going to make a recommendation at the airport Security Director be fired?

Mr. MAGAW. If it is a case where it is a violation, or it is an oversight that should have been noted and should have been taken care of, clearly we expected them to take care of it, they would have been fired.

Senator WYDEN. You would make a public recommendation in that kind of case?

Mr. MAGAW. The inspection unit would go out there, whether it be the IG or our inspection unit, and report back to me what their findings were. In the case of the IG they would report back to Mr. Mead, and he and I confer on all of those issues and would consult with each other on what action should be taken.

Senator WYDEN. But would it get out to the public? In other words, I am looking for your ideas on how you are going to put the heat on the airports and the airlines with respect to making sure that these security changes are put in place. Is this going to be a private conversation between a handful of fellows, or how is it going to get followed through on?

Mr. MAGAW. Well, in terms of your specific question, if we fired a Federal Security Director at an airport, as I sit here, I am not sure whether we would make that a public announcement or not. I would have to confer with legal counsel and our personnel laws and rules and regulations, but it would be clear throughout the organization that you perform or you are not going to be in that position.

Senator WYDEN. Earlier on, when we had the debate on the Hollings-McCain legislation, I was very interested in actually grading airlines and airports with respect to how they were doing, and my goodness, the hubbub that idea raised, I mean, it was sort of like western civilization is going to end because the country is going to find out about these deficiencies, and that will be a magnet for terrorists in and of itself, and so I held off.

But what are your ideas for holding airports and airlines accountable so that the security changes actually get put in place?

Mr. MAGAW. Well, you know, with the regulatory laws and regulations we have, we certainly on most violations have the ability to fine that airline. I want to see that when those decisions are made, that they are carried through very quickly, but more important than that, I want to work closely with those airlines, because none of them are really trying to be less safe, or be less concerned about security. It is a matter of their business of working with passengers and moving passengers at the same time, that that is a high priority for them. Security has to be a high priority, and it has to be in their intention span at all times, so I will work very closely with every airport and the entire airline industry and airline managers to make sure the entire package at that airport meets the standard.

Senator WYDEN. Well, Mr. Magaw, I think it is very constructive you are going to work with the airlines, but I will tell you a big part of the problem that I saw over the past, and year after year there would be this pattern, is basically the Government was too close with the airlines, and too close with the airports, and I do not

want to see us go back to those cozy days, so work with the airlines to try to push them, and the airports, and push them hard, but when they do not measure up, then you have got to send a strong message, and you are indicating that with respect to the Federal Security Director, and that is constructive.

Mr. Secretary, I want to ask you about this data fusion center that you talked about, because it seems to me that is in a measure an admission that the Government system of tracking terrorists is pretty fragmented. I mean, it is poorly coordinated, and pretty fragmented, and that is why we have got to have this data fusion center, which even by Government lingo sounds like a fairly exotic kind of concept.

But tell me a little bit more why, in your view, such a system is needed now.

Secretary MINETA. Well, first of all, just from my own experience as a military intelligence officer during the Korean War, in 1977, Speaker O'Neill did away with the House Intelligence Committee because it was roughly 46 members, and it was leaking like a sieve, and he reconstituted the Intelligence Committee in 1977, August of 1977, with seven members chaired by Eddie Boland and Ken Robinson from Virginia, and I was privileged to be one of the seven, and so I would like to think I have had some background in intelligence over the years.

As you know, the CIA is basically foreign intelligence, and does not dabble in domestic. The FBI has the responsibility for domestic intelligence, and so when you think about all the information that we are getting, it really became one of, how do we make sure that all these points of information are somehow being brought together in one place, and that is why, as a member of the Homeland Security Council, I was suggesting that we have a data fusion so that we could do the mining, the data mining and the data dissemination of all of this information, whether from domestic or foreign intelligence, and I just felt that something like that would be helpful.

We get it all right now, but it comes in a two-track system through the FBI and through the CIA channels, whereas this would give it the ability to have it in one place.

Senator WYDEN. Well, I will tell you, I think frankly this should have been done many months ago, and I sit on the Senate Intelligence Committee as well as serve on the Commerce Committee, and about 10 days ago I was able to add to the intelligence bill—and this is something that can be talked about publicly—legislation that would create a data base of known terrorists, known and suspected terrorists, and that information would be shared throughout the Government, and in doing it, the only thing that really seemed of special concern to me is, this should have been done months ago.

And I will tell you having a data fusion center sounds like a constructive step as well, but there is no question in my mind that the current system of sharing information is fragmented and poorly coordinated at best, so you go full steam ahead in terms of setting up a better and improved system in this area, and you will have my full support in it, because I think it is right at the heart of what we are challenged with in this country right now.

Let me ask one additional question at this point, then recognize the Senator from Texas. As you know, the airports prior to 9/11 in-

licated a variety of machines that were out there, were not being fully used, a variety of the security machines that were already in the airports that were just essentially sitting idle, or being used only a fraction of their capacity. Have you all monitored this particular issue, and what progress can you report as of this morning with respect to whether this idle machinery of the past is now on deck to protect the public.

Secretary MINETA. In terms of the use of the various machines the CTX machines that are available, it was in the low twenties, and that has now increased. To the extent that we now have more machines on board, they are probably, in terms of utilization, up in the 60, 65 percent range, so that we are getting better use of the machines that we do have, so therefore that also means that there is more luggage being also checked by the EDS system.

Senator WYDEN. Mr. Secretary, if you came to a town hall meeting in Oregon, if you went to Coos Bay, Oregon, and you said, given all that this country is facing with respect to aviation security, these machines, machines that are actually out there now are only being used 65 percent of the time, I think people would be incredulous, and very, very unhappy. What is it going to take to get those machines fully utilized, and how long?

Mr. MAGAW. Senator, the problem that we have in increasing it much more than that is that these machines, SUV in size, and I know you well know that, are placed in particular airline areas, and what we are trying to do is get those machines used by other airlines where we can, but it is almost, in a lot of areas you almost cannot get there from here. It becomes hugely difficult for them to transport bags from one terminal to another in order to do this, so it is more the location that is not allowing us to get up any higher. As the Federal Security Directors go in, as the Federal screeners go in, as these machines go in, they are going to be in most cases repositioned where they can get much better use.

Senator WYDEN. One last question. You touched briefly on the issue of cargo carriers, and I would like to know about charter carriers with large aircraft. This is another area where there has been significant public concern. What progress has been made on this front?

Mr. MAGAW. The large charter carriers, your concern is correct, because there are some that are almost exactly as the ones that were used on 9/11, and some even larger than that, and they do make long hauls, and so they are full of fuel. We are moving very rapidly towards requiring them to do the same thing, virtually the same as the passenger aircraft.

Senator WYDEN. When do you think that could be put in place?

Mr. MAGAW. Can I get back to you on that, Senator?

Senator WYDEN. Do you think that can be in place within 90 days? Do you think you can make the decision within 90 days?

Mr. MAGAW. I believe we can, yes, sir.

Senator WYDEN. The Senator from Texas.

**STATEMENT OF HON. KAY BAILEY HUTCHISON,
U.S. SENATOR FROM TEXAS**

Senator HUTCHISON. Thank you very much, Mr. Chairman. I appreciate your continuing the hearing, and I am sorry that I was late, and I hope that my line of questioning will not be duplicative.

I just came in this morning from Dallas, where I attended the Airport Executives National meeting where Mr. Magaw also spoke, and of course security was the number 1 issue on their agenda. Mr. Magaw, because you have just met with the airport executives, and I know some of their concerns, let me start out by saying that on April 26 you said that within 2 to 4 weeks Raytheon would visit all 426 airports to determine what mix of equipment would fit each airport's needs to meet the December 31 deadline for checking screened baggage. Where are you in that process?

Mr. MAGAW. The statement that I made then proved to be an inaccurate statement, because in the meantime what we decided to do was to do it differently. Rather than spend the funds to send teams to virtually every airport in the country, at least at that time to get the equipment ordered by taking a sampling of 25 of the various size airports. We were able to get what we feel is a proper number and balance of those that are ordered.

Within the next 6 weeks, they will have a person there working specifically with them. Some of them are arriving at different airports today. I think today DFW has theirs in today.

So my statement in terms of the time was off, but the machines in terms of order, in terms of the number, a they are being built, they will be deciding with the airports where they are placed. Places like DFW, a number of other airports who are in a real bind in terms of space and moving walls and things, we are trying to address first, but as you can imagine, it is a huge undertaking, and we are trying to make sure that as we do it there is a plan that agrees—those people, we are going to join their family, not vice versa, and so they already have a lot of plans at DFW, and others have terrific plans to show what they do, what they cannot do, and how it can be worked out, and so we will get that done as quickly as we can.

Senator HUTCHISON. Well, one of the concerns that the airport executives expressed is that they do not see enough of a plan on what the mix would be, and they know that part of the mix is going to be manual screening, and they do not see how they would be able to get from you the mix requirement and the manpower to do a mix by the end of the year, so can you reassure them that we will have plans in place for each individual airport, and a strategy to meet this year-end deadline?

Mr. MAGAW. Every airport is reporting in to us. There are a few airports around the country that figure that in moving walls, doing the construction that they have to do, they are going to need a specific mix, and even with that specific mix there is a concern as to whether they can meet the deadline, so what we are trying to do is identify those particular airports that need a little bit more time in trying to address those issues first, so we do have more time.

Secretary MINETA. Senator, if I might interject on that, that is really very, very dependent on the ability to get our \$4.4 billion, and the President's request of \$4.4 billion in the supplemental has

been short-changed by the House appropriations bill, and so to the extent we have been shortchanged—not only the \$400 million, but the additional \$542 million that they have now earmarked for other purposes, so that we have been shortchanged, we will not be able to come up with the machines, or we will get the machines. We will not have the people to be able to adequately staff the passenger screening and the baggage screening responsibilities that we have under the law.

Senator HUTCHISON. Will the baggage screeners be temporary until you have the equipment for checked bags?

Secretary MINETA. In some instances, we are gearing up for the baggage screeners. Hopefully, as we get to better equipment, that we will be able to back off on the number of screeners, but we do need that initial ramp-up, and then as we get our experience down, then we can back off of that number, but we do have to ramp up, and the number we use for fiscal year 2002 in terms of full-time equivalents is 51,232.

Senator HUTCHISON. But break that out between the ones who would be permanent, screening people going into the terminal, versus checked baggage screeners.

Secretary MINETA. Okay. I will have to get that for the record.

Senator HUTCHISON. I assume the checked baggage screeners are going to be temporary until you have the full equipment for checked baggage screening.

Secretary MINETA. Right.

Mr. MAGAW. But you will still have to have screeners, Senator. This equipment does not work by itself. These screeners have to look at the machine, read the machine, what it says.

Senator HUTCHISON. That is correct, but the part that you are using as backup, because we do not have the equipment, should be a large number of manual screeners making up for the fact that we do not have the equipment that could then be temporary in nature and let go, or put into another part of the workforce, but the 51,000 it seems to me should be a more permanent force, and then you have to ramp up, but it would be temporary, and I would like to know how many of the 51,000 would be more temporary.

Secretary MINETA. We will get that broken out for you in terms of the total number between the passenger screeners and baggage screeners.

Senator HUTCHISON. I understand you are still going to have to have someone working the equipment, but it would be one or two people, as opposed to people actually doing—

Secretary MINETA. It will not vary that much. It will not vary that much, but we will get that broken out for you.

Senator HUTCHISON. Well, common sense would say that it is going to take more people to back up the lack of equipment than it will take to operate a piece of machinery.

Mr. MAGAW. At these checkpoints, a lot of the checkpoints are just before you get on the aircraft. Some of that will be reduced also, so there will be some numbers less.

Senator HUTCHISON. By the way, since you mentioned the checking at the gate, has that brought forth anything that was not caught at the first stage, going into the terminal?

Mr. MAGAW. Yes. I think if we go much farther, we should do it in classified briefing, but the answer is yes, and once the Federal force is in place and functioning, I want to monitor that some more. If it goes away, which I believe it will, then we will be able to reduce numbers we were talking about before.

Senator HUTCHISON. Because it looks redundant, but if you have actually had catches, because it is a backup, then it looks as if that were a good decision.

Speaking of that, I had mentioned before that as soon as the major job of securing the terminal is done, and you do away with long lines, and things are smooth, that I would hope you would look at allowing nontraveling people who are accompanying passengers to go into the terminal, both for passenger convenience and for the retail people who have made an investment in the airport retail shops, who have certainly lost business as a result of the smaller number of people going through. Is that on your radar screen?

Mr. MAGAW. Yes, it is on our radar screen, and just as you have stated it, once the new procedure Federal force gets in there and is functioning, moving lines, not having some of the problems we are having today, then we would look at each airport. Some airports do not survive because of that, and others do not have the problems, so we are certainly going to look at that.

Senator HUTCHISON. Mr. Chairman, or Mr. Secretary, the last question I have once again regards the experience of some airports, who have been wanting to invest in the equipment to screen checked baggage, but they have not gotten clearance from you. I think a good part of it is also that you are looking at new and better technology, perhaps, to replace or supplement these bigger, more unwieldy machines.

What do you think the timetable would be for getting the next generation of technology, which presumably would be more accurate and hopefully less cumbersome for these airports. Many airports are not configured for this type of machine, so maybe they would not have to make a major investment in something that is only going to last a few years?

Mr. MAGAW. In terms of looking throughout the country, and virtually throughout the world, and talking to people who are technology experts from MIT and other organizations, we do not see anything that is sitting out there now. Their belief is, my belief because of talking through the issue is that when we put research money out there, and there is now a demand for that equipment—you see, there has not been a demand up until now—that the entrepreneurialship will take place, and we will see some technology, but most of the experts that I have talked to figure that it is at least 3 or 4 years down the road. It could be available in 2-1/2 or 3 years, and probably 4 years before it is put in airports.

Senator HUTCHISON. Do you foresee, then, a system with the variety of trace detection and manual screening backing up these bigger pieces of equipment to really be a fix that would go through, rather than making a huge investment in a machine that is going to last 3 or 4 years, maybe doing the backup piecemeal system until the better equipment is going to be a more sound investment?

Mr. MAGAW. We are thinking exactly the way you are in each airport, what makes sense in terms of the things you are talking about, and in terms of the long run for each airport. This equipment is going to be much better if it ends up in line. That is, after you check it, and they turn and put it on that baggage compartment, that it goes down into the basement, or another level of the airport, and that is where, in the long run, the in-line screening will take place and will work much, much better.

I was meeting yesterday with the minister of Britain. It took them 11 years after Pan Am 103 to get that done, and it is working very well for them, but now they are facing the huge change of the update in equipment, and so we are trying to look at all those things as we move forward.

Senator WYDEN. Let me announce to the Senator that the Secretary has got to go in just a minute or two. I have one additional question.

Senator HUTCHISON. I am finished, thank you, Mr. Chairman. Let me just say that I really appreciate your coming here. I hope you will continue to communicate with Congress as we go down the road on your problems on the deadlines and on the appropriations issues. Let us try to be helpful so that we can meet these deadlines and assure the traveling public that they are safe.

Thank you, Mr. Chairman.

Senator WYDEN. I thank my colleague. One question for you, Mr. Secretary, and then we will let you go, then I have one additional question for you, Mr. Magaw.

Mr. Secretary, were there any concerns specific to aviation, concerns that you can discuss in a public forum like this, that led to the Vice President's comments on Sunday?

Secretary MINETA. Not really, no. I am not aware of anything that would have prompted that.

Senator WYDEN. So no new developments with respect to aviation security that you are aware of?

Secretary MINETA. That is correct.

Senator WYDEN. Mr. Secretary, you have been very patient. We will excuse you at this time.

Secretary MINETA. Thank you, Senator.

Senator WYDEN. One question for you, Mr. Magaw, if I could. When a warning goes out, what is done to monitor whether the airlines respond appropriately?

Mr. MAGAW. In each of the airports throughout the country there used to be FAA regulatory inspectors. Now they are TSA regulatory inspectors. There is well over 900 or 1,000 of those throughout the field. They then are responsible not only to make sure that they got the advisory, but also talking with them about what it is that they are going to do about it, and each of the airline security personnel in their main headquarters discusses it with their personnel in the field. There clearly needs to be more coordination with that, and you will see it once our Federal Security Directors get there, because that will be one of their key daily responsibilities.

Senator WYDEN. What are the shortcomings in the system now, if you feel there needs to be more coordination? Again, I am looking for those kinds of areas where you can really ensure accountability, and what I want to know is, when a warning goes out, that some-

thing is really done to make sure that the airlines carry it out appropriately, and I appreciate your answer. You have said it is going to be better coordinated. What seems to be the problem now?

Mr. MAGAW. Well, I think right now what you have is the notice going out to the airlines, and then leaving it to the airlines as to what they do within their own system. What will change is that when they go out, that Federal Security Director will be responsible in each of the airports to talk to those who service that airport and discuss the issues with them as to what they are doing, and also look at what we are doing there in terms of security. What do we have to change with that alert?

Senator WYDEN. Let me just wrap up by way of saying, Mr. Magaw, I started off 3 hours ago talking about that picture of Mohammed Atta, the one that is just sort of etched in the minds of the American people permanently now, as he breezed through that security checkpoint in Maine. After the Vice President's warning on Sunday I got calls, and people asked yesterday, is it safe to fly now, should I be flying, should I just stay home?

What I have said is that we have got a lot of work to do. I think that people like you are putting in a lot of hours, and making a very sincere and very dedicated effort to get this job done, but I think there are structural and organizational problems here that are very deep. They are very, very deep, and as highlighted to me on why we would need a data fusion system now, I mean, why was that not in place October 15? Why wasn't the legislation that I added to the Intelligence Committee bill to set up a terrorist tracking system, why wasn't that in place on October 15?

So what we need are the officials like you and Secretary Mineta and Mr. Ridge to basically cut through some of this bureaucratic paralysis—I do not know any other way to describe it—that keeps these changes from being put in place, and that is what the American people want, that is what they deserve. We know you are sincere in the views you express today, but you have got to step up the pressure. You have got to step up the pressure because people want results, and they want changes, and they want them quickly.

So unless you have anything to add further, we will excuse you at this time. Is there anything you would like to add?

Mr. MAGAW. No, sir. Thank you.

Senator WYDEN. The Committee is adjourned.

[Whereupon, at 12:00 noon, the Committee adjourned.]

APPENDIX

PREPARED STATEMENT OF JOHN D. ROCKEFELLER IV,
U.S. SENATOR FROM WEST VIRGINIA

Secretary Mineta and Undersecretary Magaw, welcome.

Two months ago, Mr. Magaw and Ken Mead came before this Committee to update us on implementation of the Aviation and Transportation Security Act (ATSA). By and large, I think most Members of this Committee walked away from that hearing impressed with the progress that the Transportation Security Administration (TSA) has made under difficult circumstances.

And the difficulty of your jobs should not be underestimated. When we passed ATSA, we demanded no less than fundamental changes in every aspect of aviation security. We have given you extraordinarily tight deadlines to (among others): check every bag, federalize screeners, and install explosive detection equipment at every airport. I know that all of you have been working around the clock to accomplish these goals prior to the deadlines we set. All of us on the Committee appreciate the efforts you've made.

That having been said, I want to point out that many of us on the Committee have real concerns with the TSA and its implementation of the Aviation and Transportation Security Act. Indeed, you've likely already heard some of these concerns before other congressional committees. My goal for today's hearing is for us to have a good discussion about these concerns so that we can, if necessary, make any necessary mid-course adjustments.

Specifically, I would like to discuss four issues: ensuring a single level of security for *all* airports; developing technology to detect and track terrorists; information sharing between agencies; and, finally, communication with Congress.

One Level of Security for All Airports

You recently announced that you intend to meet the December 31 deadline for installing Explosive Detection Systems (EDS) at all airports by using a two-pronged approach. For larger airports, you plan to use a combination of the larger EDS machines and trace detection—technology that collects tiny samples of air or material, through the swiping of clothing or baggage, from which the presence of explosives can be detected. But, for smaller airports, you plan to use trace detection alone—at least until smaller, less expensive EDS machines can be developed. I understand that you hope to have developed *and deployed* such smaller machines in two years.

I am, needless to say, concerned with any plan that appears to create a two-tiered system of security. Smaller airports deserve the same level of security as larger airports. Moreover, considerations of national security demand a single, high level of security for all airports. At the same time, I understand there simply may not be enough larger machines available by December 31. And I also understand that larger machines may be impractical to deploy at some smaller airports. Finally, I am told that, at least under some scenarios, trace detection can provide a comparable level of security as the larger machines.

Given the above, a *temporary* deployment of trace detection with other procedures at smaller airports might be acceptable. But only if there is an actual commitment to deploy next-generation EDS to smaller airports, not just a vague promise to do so. I have been told that you 'hope and expect' these machines to be available in two years. That is not good enough. We need to know more about how you plan to get EDS machines to all airports.

Technology for Detecting and Tracking Terrorists

Among ATSA's many mandates and deadlines are a series of requirements to deploy next-generation technologies to detect potential terrorists. Although many of these do not have specific deadlines, they are among the most important of ATSA's requirements, and must be treated as such.

I understand that efforts are underway to modernize the Computer Assisted Passenger Prescreening System (CAPPS), so that every passenger's name will be auto-

matically checked against a series of law enforcement and intelligence databases. I also understand that efforts are underway to use biometric technologies to verify that pilots, flight crews, and law enforcement personnel are who they say they are.

These are important and worthwhile endeavors. But they leave a potential hole in the system—we have no way of knowing that airline passengers are who *they* say *they* are. Checking names against databases is good, but not if passengers are using false identification, as did a number of the September 11 terrorists. We need to develop and deploy authentication technologies, including biometrics, so that we know who is getting on board aircraft operating in the United States.

This will, of course, make air travel more secure. But, just as importantly, it will enable law enforcement authorities to apprehend those who would use our aviation system to travel to locations where they plan to commit *non-aviation-related* acts of terrorism. The fact is, foreign terrorists come to the United States from somewhere else, and most do so through air travel. We must use the technological tools available to us to find these people before they do us harm.

Information Sharing

There have been a number of disclosures this week about the Administration's collection and distribution of security information. A number of important questions will be asked about what you knew, and when, and how you and your staff made the decisions not to distribute information you received. I think it appropriate that these questions be asked, *not* to assign blame or find a scapegoat, but to help ensure that the events of September 11 are not repeated.

But the disclosures that have come to light this week raise larger—and, to me, more fundamental—questions about how sensitive information is shared among the various intelligence, law enforcement, and other entities in the government. As a member of the Senate Intelligence Committee, this issue has been a priority of mine, because it is clear to me after September 11 that we all must do better. I'm eager to hear your perspective on, and experience with, these issues.

Communication with Congress

My final concern is perhaps the most basic—I'd like to see some improvement in communication between the Department of Transportation, the Transportation Security Agency, and the Congress. We want to help you do your job. But, at times, we have not been fully informed about your activities. We have also given you, and are willing to give you, vast resources to ensure aviation security. And we have a responsibility to our constituents and the American people to make sure that you are doing the job. Just as we are here to help you, we need your help to enable us to fulfill *our* responsibilities.

Again, Secretary Mineta and Undersecretary Magaw, I want to emphasize that we on the Committee really do appreciate the difficulty of the jobs we have assigned you. You are working around the clock to do them, and we appreciate it. I and my colleagues on the Committee have raised a number of concerns on our minds. But we share with you a desire, and indeed, a determination, to see you succeed. I look forward to helping you do so.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. ERNEST F. HOLLINGS TO
NORMAN Y. MINETA

EDS/Trace Detection

Under the law, TSA is required to install Explosive Detection Systems (EDS) at all 429 commercial airports. You can use alternative screening methods, such as Explosive Trace Detection, until EDSs are deployed.

Secretary Mineta has announced that TSA will deploy 1100 EDS machines and about 5,000 trace machines nationwide. Larger airports will get both systems, and smaller ones will get only trace for now. The DOT JO originally estimated, in testimony before the Committee, that it would take more than 2,000 EDSs nationwide to fully deploy them at all 429 airports. At the time, the production rates for the two companies—InVision and L-3—were not capable of manufacturing all of the equipment by the end of the year.

One major airport did a cost analysis comparing EDS with trace and determined that trace, in the long run, would cost substantially more (operating costs primarily). The airport is in the middle of a major construction project and can put in the EDSs, if DOT/TSA made a decision. They were preparing to spend \$193 million in airport money to put in the EDSs.

DOT/TSA is undertaking a research and development effort, working with several large companies, to develop better, cheaper, and lighter EDS machines. The ma-

chines in many cases may require substantial redesign of airports prior to installation. The machines cost about \$700,000 per machine, and installation, according to the DOT 10, runs about \$350,000 per machine. The EDS has a bag throughput of 125 per hour. Multiple machines are needed for large airports.

According to most experts, when an EDS machine alarms—a picture is presented and the potential item is highlighted—Trace can analyze the item. Both types of machines have advantages and disadvantages (e.g., for trace the outside needs to be swabbed, and the inside opened for a more thorough check).

Question. What is the next step and when does TSA expect to meet the 100 percent EDS target?

Answer. The next step is full deployment and installation of equipment and the hiring and training of screeners. TSA will soon award a contract to a major firm for assessment of airport facilities, submission of design plans, and needed construction. At this time, TSA expects to meet the December 31, 2002, target date.

Question. Trace has traditionally been used at passenger checkpoints, or in combination with EDS (the Europeans use this configuration). Why did you decide to use it as a stand alone system now?

Answer. Foremost, with appropriate protocols BID provides explosives detection capability that is comparable to EDS. Given EDS availability and airport space constraints, ETD became the natural option.

Question. How much are you prepared to spend on research, and what companies will be involved?

Answer. TSA has allocated \$50 million to research and development of next-generation explosives detection equipment. Our approach will be to establish a consortium of companies and international partners in coordination with academia and national laboratories to bring the best minds to bear on this effort.

Question. Why has it taken so long for the TSA to get the ball rolling on EDS installation?

Answer. TSA took swift action to plan and implement the EDS requirements of ATSA. Contracts were awarded to original equipment manufacturers InVision in February and L-3 Communications in April, and another major contract will soon be awarded.

Question. Do you have any idea when those Federal officers will arrive to relieve the local LEOs?

Answer. The TSA Police Officers will begin arriving in October. Our first training class is scheduled to begin at the Federal Law Enforcement Training Center on August 12 and graduate in early October. We have a recruit, select, hire, train, deployment schedule for each airport which runs through Fiscal Year 2003.

Question. If you can give them an idea of timing, it may present different options—for example, adding more part-time officers—if they know that the responsibility will last 6 months or 2 years. Have you reimbursed the local airports for their security costs?

Answer. Federal Security Directors, who will be located at airports across the country, will coordinate with local law enforcement agencies to implement TSA's deployment schedule. TSA is not reimbursing airports directly for their security costs but has been reimbursing local law enforcement agencies for state and local law enforcement services and will continue this practice.

TSA Budget Issues/Funding

Current estimates are that the new passenger security fee will only generate revenues of \$1 billion, which is \$5.8 billion short of the agency's current budgetary requirements.

Question. What are the personnel costs associated with deploying the EDS and trace equipment? How does that breakdown for each type of equipment?

Answer. In order to effectively staff an explosives detection machine combined with the trace equipment, approximately seven staff will be required. For stand alone explosive trace equipment, TSA estimates that approximately five will be required. Personnel costs associated with deploying the equipment include salaries and benefits as well as recruitment, training, and uniform costs.

Question. Have the carriers been reimbursed in full for their costs to date? If not, when is reimbursement expected? Will reimbursement to carriers include leasing costs for space at the airports? Which costs will the carriers be required to include in their 2000 cost data that will be used to determine the amount of the Security Infrastructure Fee that the carriers must pay?

Answer. TSA has entered into reimbursable agreements with carriers where their employees are providing passenger screener functions in advance of a Federal screener workforce. In addition, TSA has assumed maintenance costs for screening

equipment owned by the airlines but provided to TSA under no-cost leases. FAA is still working on distributing funding made available for the hardening of cockpit doors. TSA continues to work with the carriers regarding any issues with reimbursement. Costs that are to be included in the Security Infrastructure Fee are itemized below, from Appendix A for 49 CFR Part 1511.*

A) Screening Personnel and Supervisors. —These are costs that the air carrier incurred directly. Includes costs incurred for air carrier personnel salaries and benefits, equipment owned, leased or rented directly by that air carrier and any other costs directly incurred:

1. Checkpoint Screening Personnel (Salary, benefits, overtime, retirement and other costs of checkpoint screening personnel.)
2. Exit Lane Monitors (Salary, benefits, overtime, retirement and other costs of exit lane monitors.)
3. Cargo Screeners (Salary, benefits, overtime, retirement and other costs of cargo screeners.)
4. Checked Baggage Screeners (Salary, benefits, overtime, retirement and other costs of checked baggage screeners.)
5. Baggage Runners (Salary, benefits, overtime, retirement and other costs of all baggage runners who move property such as baggage to and from screening areas.)
6. Supervisory Personnel (Salary, benefits, overtime, retirement and other costs of all supervisory personnel, including Checkpoint Screening Supervisors.)
7. Non-Labor Costs (All associated expensed non-labor costs including computers, communications equipment, time management systems, supplies, parking, identification badging, furniture, fixtures, and travel.)
8. Background Checks (All costs of performing required background investigations on all screening personnel and supervisors. Screening personnel and supervisors includes checkpoint screening personnel, exit lane monitors, cargo screeners, checked baggage screeners, baggage runners, and their supervisors.)
9. Training and Testing (All costs incurred for the training and testing of all screening personnel and supervisors, including initial, recurrent and remedial training. Includes any computer-based training and the development of training programs for the screening of persons and property as well as any travel, room and board, and all other such expenses related to training.)
10. Training Records (The costs of implementing and maintaining training records for all screening personnel and supervisors.)
11. Evaluations (The costs of completing evaluations for all screening personnel and supervisors.)
12. Drug and Alcohol Testing and Treatment (All costs for drug and alcohol testing as well as any associated counseling and/or treatment for all screening personnel and supervisors.)
13. Uniforms (All costs of renting, purchasing, maintaining, and/or cleaning of uniforms and any related equipment such as flashlights and batons for all screening personnel and supervisors.)
14. Canines (All costs incurred by air carriers for the use of canines and their handlers used for the screening of persons and property.)
15. Cost of Obtaining Security Clearances (All costs associated with obtaining security clearances for personnel relating to the screening of persons and property.)

B) Equipment and Procedures. —These are costs that the air carrier incurred through contracts with security firms. Includes personnel, equipment and other costs incurred through contracts with third party security companies:

16. Screening Equipment Installation (All costs associated with the purchase, installation, and testing of all screening equipment. In instances where the equipment is capitalized, provide the depreciation expense in lieu of costs associated with purchase, installation, and final acceptance testing. This includes such equipment as Metal Detection Devices, Hand Wands, X-ray screening machines, Explosives Trace Detection Devices, Explosives Detection Systems, or any other such similar technologies. Includes any costs incurred or depreciation costs recognized in calendar year 2000 for the modification and/or construction of any facility needed to

*This form will be available electronically from the Department of Transportation's website at www.dot.gov.

accommodate screening, including architecture and engineering. Also includes the costs of any refurbishment and/or modernization of the equipment.)

17. Operating, Operational Maintenance and Testing of Installed Screening Equipment (Costs of operating, maintaining, and calibrating installed screening equipment. This includes such equipment as Metal Detection Devices, Hand Wands, X-ray screening machines, Explosives Trace Detection Devices, Explosives Detection Systems, or any other such similar technologies. Includes such costs as test objects and X-ray radiation surveys, electricity costs and maintenance contract costs incurred for the operations of such equipment.)

18. Maintenance of Sterile Areas (Costs of maintaining integrity of sterile areas. Includes costs of opening sterile areas, emergency evacuations of sterile areas, and re-screenings not included elsewhere.)

19. Checkpoint Signs and Related Equipment (The cost of purchase or rent, installation, testing, and maintenance of checkpoint signs, barriers, lane markers, and exit lane doors.)

20. Exceptional Screening for Persons and Property (Any additional costs for special screening such as for disabled passengers, VIP passengers, classified and/or high value items.)

21. Security Company Contracts (All security company contract costs for the screening of persons and property that cannot be detailed into any other cost category.)

C) Property and Plant. —These are costs that the air carrier incurred through other means. Includes costs incurred through air carrier security consortiums:

22. Real Estate (All direct costs for the real estate utilized for the screening of persons and property. Includes space at airports for the performance of these functions, as well as such space used for break rooms, private screening rooms, storages space, training rooms, and office space. Also includes appropriate space for the oversight of the screening functions outside of airports such as in headquarters or regional offices.)

23. Utilities (All costs for utilities used for screening. Includes electricity, heating/ventilation/cooling, and telecommunications costs not elsewhere specified.)

D) Program Management and Contract Oversight:

24. Ground Security Coordinators (All costs incurred for the Ground Security Coordinator's oversight of the screening functions. Includes personnel salaries, benefits, retirement, training, and non-labor costs.)

25. Security Program Management (All air carrier head office, regional, or airport specific costs associated with the administration and oversight of screening not elsewhere specified. Includes personnel salaries, benefits, retirement, training, and non-labor costs.)

26. Security Contract Administration and Oversight (All costs associated with the administration and oversight of screening contracts. Includes personnel, benefits, retirement, training, and non-labor costs.)

27. Screener/Supervisor Background Check Audits (All costs not elsewhere specified for background audit checks for all screeners and supervisors.)

28. Legal Support (All legal support costs incurred during calendar year 2000 relating to aviation security screening. Includes legal assistance for the implementation and execution of security screening contracts.)

29. Accounting Support (All costs for accounting and financial services incurred for the support of the screening functions.)

30. Other Administrative Support (Includes all labor and non-labor costs for such items as human resource administration, clerical assistance, information technology, and other support functions related to screening.)

31. Insurance (All insurance costs relating to screening. Includes worker's compensation and general liability insurance.)

32. Law Enforcement Costs (All costs incurred by the air carriers for law enforcement personnel costs that were reimbursed by the air carriers for services performed in connection with the screening of persons and property.)

33. Recruitment Expenses (All costs associated with the recruitment of screening personnel and supervisors. Includes signing bonuses, travel, and other recruitment expenses.)

E) Security Consortium Costs:

34. Management Fees for Oversight of Consortium Contracts (Any costs incurred for fees charged by other organizations for the management of contracts for the screening of persons and property.)

F) Other:

35. Other (Any costs incurred not elsewhere specified during calendar year 2000 for the screening of passengers and property. These costs should be itemized on a separate sheet. Includes any fines or monetary penalties incurred for screening as well as any profit/bonuses paid to contractors for screening services not included elsewhere on the form.)

Currently, the carriers are also performing catering screening. Congress intended for the TSA to assume this responsibility but they have not.

Question. Does TSA intend to provide federal employees to perform this function? If so, when will they be put in place? If not, will they continue to use the carriers to screen catering? Will the carriers be reimbursed for these costs? If so, when?

Answer. The Aviation and Transportation Security Act (ATSA) does not require TSA to directly perform or pay for the screening of catering supplies prior to their placement aboard aircraft. ATSA does require that security measures be in place for persons and property entering secured areas of airports and requires that TSA establish procedures to ensure the safety and integrity of catering and passenger amenities. TSA is authorized and responsible to determine, through issuance of orders, regulations, or security directives or through approval of security programs, the entities that are required to carry out these requirements at non-Federal expense.

At this time, air carriers are responsible to ensure required security procedures are implemented for catering services. Currently, we are working on establishing uniform requirements for catering security in order to assure consistency across the commercial aviation system. Costs to carry out these measures rest with the parties made responsible for these measures, not with the TSA.

TSA also issued a security directive to airport authorities requiring the use of Local Law Enforcement Officers to replace National Guard troops at airport security screening checkpoints by May 10, 2002, and on May 31, 2002, all National Guard troops will leave their stations at the airports.

Question. What is the deployment plan/timeline for federal TSA officers to replace the LEOs? how many TSA armed law enforcement officers will be hired? Will the \$73 million requested in supplemental funding for FY 2002 fully cover the agreements negotiated with airports for reimbursement of LEOs? Under the negotiated agreements, how much funding will the TSA need for LEO reimbursement in FY 2003?

Answer. The deployment plan for TSA Officers includes a schedule to select, hire, train, and deploy 3000 personnel through Fiscal Year 2003. The deployment at each airport will be coordinated by the Federal Security Director with local authorities in order to fully utilize all available law enforcement resources to enhance overall security. We believe that the requested level of supplemental appropriations would fully cover the negotiated agreements for FY 2002. For FY 2003, TSA will need and has requested \$264 million to support negotiated agreements for LEO reimbursement.

Many local governments have expressed their concern about the liability implications of placing local law enforcement at airport security checkpoints.

Question. Will the Administration offer local governments liability protection for officers acting in a federal capacity?

Answer. We are coordinating Special Deputation requests through the U.S. Marshals Service when a local law enforcement agency requests such coverage. Only 4 police departments out of 429 have requested the coverage. Most agencies do not consider the coverage necessary as they were already responding to incidents at airports prior to posting at the checkpoints. In the event a Federal violation occurred, and no local or state laws covered the act, they detained the suspect until a Federal law enforcement officer arrived or guidance was received from a Federal prosecutor.

Question. Has TSA negotiated liability coverage for any of the 429 commercial airports for LEOs?

Answer. No. However, some airports have increased their liability insurance coverage and added the costs as overhead to their agreements.

Question. Does TSA have the authority to negotiate liability protections for LEOs?

Answer. No, we coordinate Special Deputation through the U.S. Marshals Service.

Question. Can local officers be designated as federal officers in the same manner that the FBI or DEA operates when they use LEOs for conducting law enforcement activities?

Answer. Yes, as noted, TSA coordinates Special Deputation requests through the U.S. Marshals Service.

Question. Would that designation provide the officers liability protection?

Answer. It provides the same protection as that provided to Federal employees under the Federal Tort Claims Act when they are properly exercising Federal authority or acting under the direct supervision or control of a Federal official within the scope of employment as defined by the memorandum of agreement between TSA and the local authority.

Question. Is the TSA considering alternative deployment plans for LEOs at Category I and II airports?

Answer. Alternative deployment plans will depend on the total number of LEOs authorized for TSA and costs associated with local law enforcement officers at individual airports.

Question. Will the option of response time be extended to all airports?

Answer. At the present time, current security directives must be complied with. This requires law enforcement officers at the checkpoints.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MAX CLELAND TO
NORMAN Y. MINETA

Question. The TSA's process for replacing airport screeners has met with some criticism for being inflated, costly, and confusing. For example, originally the agency expected to hire about 30,000 new screeners for the nation's 429 airports. Now I understand that number is closer to 70,000. Can you please tell the Committee why the number of screeners has more than doubled? Do you believe doubling the number of screeners will impede the TSA from meeting the November 19 deadline for federalizing the security workforce?

Answer. The requirements to perform passenger screening have not changed. TSA requires screening personnel at both passenger checkpoints and checked baggage screening locations. TSA requires 33,000 screeners and supervisors to staff the checkpoints for screening passengers to meet the November 19th deadline. Additionally, in order to meet the December 31st deadline to screen 100 percent of checked baggage, a workforce of 22,000 baggage screeners and supervisors is required. The total staff requested in 2003 for TSA is 67,200. In addition to the passenger and baggage screening workforce, this includes federal law enforcement officers, support staff, and staff for TSA's maritime and land intelligence, and research and development programs.

Question. Can you justify why the Senate shouldn't follow the lead of the House Appropriations Committee and cap the number of security employees that can be hired at the TSA?

Answer. TSA needs as much flexibility as possible with its workforce in order to meet the ambitious deadlines set forth in ATSA and will continue to work with Congress to ensure that resources, such as personnel, are used efficiently.

TSA has thoroughly examined and assessed the personnel requirements to successfully meet the mandates contained in ATSA for the federalization of all passenger and baggage screening. At this time, TSA expects to hire roughly 50,000 employees to perform the screening function. TSA also intends to hire several thousand law enforcement officers and federal air marshals (FAM) to effectively enforce the numerous aviation security laws and regulations. Any reduction in the anticipated number of employees TSA can hire could inhibit our ability to meet the statutory requirements in ATSA.

Question. On a related issue, there has been confusion over the amount of money the TSA plans to spend on salaries for screeners and checkpoint guards and the fact that these salaries, at least at one point in time, appeared to change on a daily basis. Could you please clarify for us the TSA's salary scale for both screeners and guards? For managers and supervisors?

Answer. Please find attached TSA's salary levels.

Transportation Security Administration—Salary Levels for TSA Employees

Position	Pay Band ¹	Salary Range ²		
		Minimum	Midpoint	Maximum
Passenger and Baggage Screeners ³				
Screeners	D	\$23,600	\$29,500	\$35,400
	E	\$27,100	\$33,900	\$40,700
Lead Screeners	F	\$31,100	\$38,900	\$46,700
Screener Supervisors	E	\$27,100	\$33,900	\$40,700
	F	\$31,000	\$38,900	\$46,700
	G	\$36,400	\$46,400	\$56,400
TSA Law Enforcement ⁴				
Uniformed Officers	F	\$31,100	\$38,900	\$46,700
	G	\$36,400	\$46,400	\$56,400
Federal Air Marshals and Criminal Investigators	F	\$31,100	\$38,900	\$46,700
	G	\$36,400	\$46,400	\$56,400
	H	\$44,400	\$56,600	\$68,800
Law Enforcement Supervisors	I	\$54,100	\$69,000	\$83,900
	G	\$36,400	\$46,400	\$56,400
	H	\$44,400	\$56,600	\$68,800
Law Enforcement Management	I	\$54,100	\$69,000	\$83,900
	J	\$66,000	\$84,200	\$102,300
	K	\$78,900	\$100,600	\$122,300
Federal Security Directors ⁵				
Small Airports	H	\$44,400	\$56,600	\$68,800
	I	\$54,100	\$69,000	\$83,900
Medium Airports	J	\$66,000	\$84,200	\$102,300
Largest Airports ⁶	K	\$78,900	\$100,600	\$122,300
	TSES-3	\$99,000	\$122,400	\$145,800

¹TSA is using FAA's pay bands as directed in section 101 of the Aviation and Transportation Security Act: The personnel management system established by the Administrator of the Federal Aviation Administration under section 40122 shall apply to employees of the Transportation Security Administration . . . As TSA gains experience with this system, it expects to make changes to it to reflect the needs of its mission. The salary levels shown do not include locality pay.

²In pay banding systems employees, other than new hires, tend to cluster around the midpoint of the band. As TSA stands up the airport security organization in 2002, virtually all of the screening employees will be paid at the low end of the D Band.

³It is the intention of TSA to hire a mix of full, part-time, and seasonal screeners to accommodate seasonal and daily variations in airport passenger flows.

⁴Law enforcement availability pay (LEAP) will be provided to criminal investigators and Federal Air Marshals, but not to uniformed officers. Uniformed officers and law enforcement supervisors of uniformed officers will be paid overtime rather than LEAP until a review of actual practices allows TSA to determine whether LEAP or overtime is more cost effective. Law enforcement management will not be eligible for LEAP pay unless their primary function is criminal investigations or they are air marshals.

⁵Federal Security Directors do not get LEAP pay.

⁶Approximately 50 airports.

⁷These charts do not include pay levels for TSA headquarters staff or for TSA support staff at airports.

Question. Shortly after September 11th, El Al gave a briefing to Members of the Commerce Committee, At that briefing El Al recommended a security model to the U.S. that puts the government in control of a multi-layered security net that relies on the sharing of information all the way up the ladder—from the screener who checks passengers and baggage to the airport operator, all the way up to the top government officials in the Israeli chain of command.

As you know, the new aviation security law establishes a Transportation Security Oversight Board which will work with the intelligence community in coordinating intelligence information. In addition, will the DOT and the TSA take a page from the El Al book and ensure the coordination of intelligence information throughout the layers of our aviation system, including our screeners, law enforcement personnel, federal airport directors, the TSA and DOT?

Answer. Through the use of CAPPS-II, the security processing required of each passenger on a by-name basis will be available to airline check-in agents, screeners at the checkpoint, the Federal Security Director, and where appropriate, law enforcement personnel.

The Federal, State and local law enforcement officers and the screening checkpoints they monitor are our first and last line of defense at our airports. Our intelligence organization publishes a Roll Call daily update for airport security and screeners providing information on concealed weapons and security bypass tech-

niques based on actual incidents and intelligence sources. The Federal Security Directors (FSDs) lead and manage the personnel and operations at the airport. Our intelligence organization also publishes a classified Daily Intelligence Summary and frequent Intelligence Circulars to update airport security, thereby providing them timely information on threats, concealed weapons and security bypass techniques based on actual incidents and intelligence sources. We are evaluating a Remote Access Security Program to improve their access to classified information. Additionally, they will have personal digital assistants that will be used to provide them the same capability as their law enforcement personnel.

Question. As you know, last November 16th an individual breached security at Hartsfield and the airport was shut down. I later found out that federal criminal penalties are on the books for anyone willfully violating security aboard an airplane—but not for someone intentionally violating an airport checkpoint. For example, in Georgia an individual who willfully violates the secure area of an airport is only subject to a misdemeanor which means a maximum penalty involving a civil fine up to \$1,100 and a year in jail. Accordingly, to close the loophole and to help deter similar acts in the future, I have introduced legislation, S. 1794, to make the willful violation of an airport security checkpoint a federal crime. My legislation will mean that violators could face up to 10 years in prison. What are your views on my legislation and its purpose?

Answer. There is no Federal penalty for violation of an airport security checkpoint. A standardized Federal penalty could give LEOs at the airport the authority and means to enforce security procedures at airports with greater consistency.

Question. What standards have been created for the closure of a terminal or emptying of a plane or delay in departure? Who has the authority to make such a decision? Are these decisions discussed with airline and airport officials?

Answer. In late October, 2001, Transportation Secretary Mineta launched a “Zero-tolerance” policy concerning security breaches at U.S. airports. At the time, passenger screening responsibilities were still under the direct control of U.S. airlines but the move to Federalize the process was already underway. The announcement of the strict policy was aimed at strengthening safeguards to stop weapons and prohibited items from passing security checkpoints. We defined a security breach so that all TSA employees were using the same definition.

A security breach occurs when a person, who is unauthorized or an object that has not been screened, bypasses screening procedures or is improperly admitted to the sterile area.

On March 25, 2002, TSA published Standard Operating Procedures (SOP) for Interim Federal Security Representatives (IFSRs) overseeing the security at each of the airports in the U.S. That SOP provides guidance and direction for TSA security personnel in managing emergency evacuations of airport sterile areas, recall of flights, and the rescreening of passengers for cause. This practice continues today.

The Federal Security Director or Interim Federal Security Representative has authority to determine when a security breach occurs.

When a breach in security occurs, the IFSRs have been advised that coordination with the airports, air carrier, law enforcement, and TSA management must be accomplished to limit the impact of the situation.

Question. As you well know, pilots’ licenses are paper certificates with no identifying photo, and they are therefore easier to counterfeit than are drivers’ licenses. In order to make it harder to forge these licenses, I offered an amendment which was included in the new aviation security law that requires safeguards to be put in place, including a requirement for a tamper-proof color license photograph.

I’d like your comments on the need to produce pilots’ licenses in a highly secure format, given the fact that pilots use these licenses to help identify an individual who desires to ride the jump seat.

Answer. TSA has been studying the idea of a universally recognized biometric card for any transportation worker who has unescorted access to secure locations within a transportation facility, including commercial pilots.

An FAA rulemaking team with TSA membership considered a petition from the Aircraft Owners and Pilots Association to require pilots to carry a valid photo identification card with their pilot certificates.

The FAA is considering whether it should incorporate a photo requirement for the licenses it issues to general aviation pilots. In the general aviation pilot community, considerable anecdotal evidence suggests that for many pilot transactions, such as leasing an aircraft, there is a commonplace practice of requiring a pilot to show a government-issued identification together with a pilot license.

Until an improved airman certificate can be developed and issued, we can fully justify a requirement that pilots carry valid photo identification with their pilot certificates.

Question. The TSA will require administrative office space at each commercial airport. For example, its estimated that at Mansfield the TSA will require several thousand square feet. Not surprisingly, most airports feel that the TSA should pay rent for this space. Secretary Mineta, it is my understanding that as part of your supplemental budget request, you asked for \$36 million to pay for the TSA's use of space both at airport facilities and off-airport locations for FY 2002.

Given your experiences at BWI Airport in terms of the TSA's use of space, do you believe you have budgeted enough for this purpose? How much do you plan to budget for the agency's use of space in fiscal year 2003?

Answer. Yes, we believe that we have adequate funding to cover office and support space to house the Federal Security Directors and their staff the 429 airports. The FY 2003 rent projection is roughly \$50 million. Unless major increases are made to the number of staff and type of staff at each airport, the rent projection for FY 2003 is adequate.

Question. How are you ensuring that each airport has consistent security standards? Are standards described to carriers?

Answer. Part 1542 of Title 49 C.F.R. (Airport Security) requires airport operators to adopt and carry out a security program that provides for the safety and security of persons and property on an aircraft operating in air transportation or intrastate air transportation against an act of criminal violence, aircraft piracy, and the introduction of an unauthorized weapon, explosive, or incendiary onto an aircraft. Airports are required to submit for approval Airport Security Programs describing the procedures to be used to implement security at each specific airport. Required contents of the programs are specified under 49 C.F.R. 1542.113. Airports share with air carriers those elements of their security programs that are necessary for air carriers to fulfill their security responsibilities. In addition, airports meet with consortia made up of a wide range of airport stakeholders, including air carriers, to discuss security programs and issues.

Question. Mr. Secretary, you were quoted as calling for a 10 minute check-in standard. Where are you on that goal?

Answer. We are committed to measuring wait time as airport rollout continues by collecting baseline information from airports that are beginning the Federalization process as well as measurement information from Federalized airports.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MAX CLELAND TO
JOHN W. MAGAW

Question. Congress presented you with a very formidable challenge in implementing the new aviation security law, and to your credit the TSA has come up with a very aggressive security plan. By necessity, our new aviation security system will not be cheap. However, the TSA's budget has almost tripled over the past few months—from \$2.4 billion to \$6.8 billion. Specifically, I have heard concerns over what, for lack of a better term, might be called "bureaucratic bloating."

Is it true that the federal security director at each of the top 81 airports will have his own personnel department, his own legal staff, and his own public relations staff? If true, do you have any estimates for what this will cost? How do you answer criticism that some of these 81 airports will have to rent space in order to accommodate all these additional staff?

Answer. The FSDs at each of the top 81 airports will initially have a small staff from human resources, training, customer service, engineering, administration and screener scheduling operations. This staff is the minimum we believe we need to initiate the security coordination and workforce security requirements of the FSDs at each of our largest airports. As FSDs assume their full range of security responsibilities, they will need to add legal, budget, and community/stakeholder positions. While the three largest airports will have one assistant FSD for screening in each airport with a salary range beginning at \$78,900, the balance of the staff representatives will normally begin at lower pay ranges.

The 2003 budget assumes a total of 2,500 support positions at the airports. The number of staff and type of staff at each airport will vary based on size and need. Among other things, we anticipate that the largest airports will likely have legal, budget, human resources support as well as community/stakeholder positions. The budget also includes funding to support space for these personnel.

Question. Under the new law what security functions at Hartsfield will still be performed by local law enforcement? What functions will be performed by federal law enforcement? How will the Department of Transportation ensure there is coordination and information-sharing between local and Federal law enforcement?

Answer. The deployment of the TSA officers will not replace local officers at Hartsfield but supplement the existing law enforcement presence. The deployment will be coordinated by the FSD with local authorities in order to fully utilize all available law enforcement resources to enhance overall security.

Question. On a related note, many airport operators feel that protection of airport perimeters should remain in the hands of local airports and local law enforcement. What is TSA's view?

Answer. TSA is preparing plans for conducting security vulnerability assessments at every airport covering the entire airport. This activity will be conducted jointly with local law enforcement officers working at the airports. The results of the vulnerability assessments will be used to develop a security plan specific to each airport, including which functions will be performed by Federal law enforcement officers and which will be performed by local law enforcement officers.

Question. Now that the National Guard is about to conclude its duties at the nation's airport security checkpoints, I understand that the TSA has mandated that these Guardsmen be replaced by local law enforcement personnel. I also understand that the TSA has offered to enter into reimbursable agreements with airport operators to cover these increased costs and that agreements with the largest Category I airports will get first consideration.

As you know, our smallest airports often have very little, if any, cash reserves available to "weather the storm" while waiting for reimbursements from federal agencies. When do you anticipate our Category III and IV airports—like the Augusta airport, for example—will get financial assistance from the TSA on this issue?

Answer. TSA will reimburse airports/police departments on a monthly basis for law enforcement services at the screening checkpoints only. The amounts paid vary at each airport depending on the number of hours the checkpoints are staffed and the hourly amount agreed to in the Memorandum of Agreement with each individual agency or airport.

Question. On Monday at BWI, large numbers of flights were delayed. I have heard that the cause of the delay was because the TSA, which has taken over security at the airport, did not have the staffing to handle the passenger loads. As peak summer traffic builds, these types of problems could have devastating results.

Can you tell us what happened at BWI yesterday? What steps have been taken to address the problem?

Answer. On Monday, May 20, 2002, delays were experienced at BWI, chiefly on Pier D. TSA Federalized BWI on May 14, when flight loads were average to minimal. However, this week loads greatly increased to over-capacity. TSA was adequately staffed the entire day with 30 screeners and supervisors per shift. However, additional flights were added by airlines due to the May schedule change. As a result, there was a significant increase in passenger loads on Pier D. The increase in passengers, coupled with the fact that there were only 3 security lanes, increased line wait times.

TSA is working with all airlines to identify the critical nature of communications on a daily basis when flight schedule changes occur. In addition, airlines have collectively developed a customer metering system to ensure all airline passengers are moved through checkpoints in time sequence. TSA has discussed the efficient use of this system for appropriate checkpoints with all airlines. Also, construction is ongoing at the Pier D checkpoint. The completion date is scheduled for August 1, 2002. The number of security lanes will then be expanded from 3 to 7 lanes.

Question. As you know, the new aviation security law mandates that by December 31st baggage at all commercial airports must be screened by explosive detection equipment. However, I have heard that the majority of the nation's airports have not been consulted or told what mix of equipment—explosive detection versus trace detection, or a mix of both—they can expect in order to meet the year-end requirement.

What is your plan for consulting with airports on the mix of equipment that best serves individual airports? Can all airports—even smaller facilities—expect some sort of decision in the near future?

Answer. Our deployment process calls for appropriate coordination with all airports, large and small, and air carriers at both preliminary design and final design decision points. This will cover both equipment mix and layout.

Question. When do you hope to finalize your plans for EDS installation? Can we realistically expect all airports to have EDS or ETD equipment by the end of the

year, given the fact that we need 1,100 new EDS and 4,800 more new ETD machines and we are only seven months away from the deadline?

Answer. Larger airports should achieve preliminary design decisions by September. Smaller airports will be staggered between July and November. We have a commitment from our supply lines for availability and from our contractors for deployment, installation, hiring, and training. TSA is taking all appropriate actions to meet the year-end mandate.

Question. I understand that earlier this year, the TSA proposed a "National Transportation Worker ID Card" for workers who have unescorted access to a transportation facility or who have access to control of a transportation conveyance. Could you provide us with a status update of this effort and indicate whether any decisions have been made regarding who will have access to the confidential information that might be included in such a card?

Answer. The Transportation Security Administration has been working on a variety of means to enhance the security of our nation's transportation system. One of the initiatives TSA has studied is the idea of a universally identifiable biometric card for any transportation worker who has unescorted access to secure locations within a transportation facility, such as an airport. Regarding who would have access to confidential information, final decisions have not been made, but the system would be designed to protect the privacy of confidential personal information and limit the number of people with access to the information.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN D. ROCKEFELLER IV
TO NORMAN Y. MINETA

Budget/Personnel/Supplemental Appropriations

The House Appropriations Committee last week reported a Fiscal Year 2002 Supplemental bill which includes \$3.85 billion for TSA, \$550 million below the overall request. Moreover, that bill prohibited funds for more than 45,000 staff at the agency, as opposed to reported TSA estimates of up to 70,000.

Question. If the limit of 45,000 personnel holds, how will that affect your plans?

Answer. Should a 45,000 cap be placed on the agency, TSA will be forced to maintain security with fewer personnel. This could lead to significant wait times and airline delays to accommodate a longer security process.

TSA must deploy 33,000 passenger screeners and supervisors to the passenger checkpoints at the 429 commercial airports across the country to meet the November 19th deadline. Additionally, 22,000 baggage screeners and supervisors are needed throughout the commercial airports to meet the Aviation and Transportation Security Act requirements of screening 100 percent of checked baggage.

These staffing levels were developed to ensure that the security requirements are met by the mandated deadlines and will not adversely affect the amount of time a traveler must spend to pass through the federal security process. TSA intends to continuously monitor the workload requirements to take advantage of all efficiencies within the processes in order to respond quickly to changes in staffing requirements. Initial checkpoint redesign efforts have improved efficiency by over 40 percent.

Question. Press reports suggest that you are having difficulties finding screeners. Can you comment on these reports?

Answer. Some areas, particular large, high cost cities, have presented recruitment challenges. However, outreach and additional marketing efforts are resulting in sufficient applicant pools.

Question. Can you break your employee estimates down further? Why have these estimates increased from those you submitted last Fall?

Answer. The requirements to perform passenger screening have not changed. TSA requires screening personnel at both passenger checkpoints and checked baggage screening locations.

TSA requires 33,000 screeners and supervisors to staff the checkpoints for screening passengers to meet the November 19th deadline. Additionally, in order to screen 100 percent of checked baggage, a workforce of 22,000 baggage screeners and supervisors is required.

The total staff requested in 2003 for TSA is 67,200 which in addition to passenger and baggage screening workforce includes federal law enforcement officers, support staff as well as staff to support TSA's maritime and land intelligence, and research and development programs.

Question. Can you specifically describe the impact on your personnel needs of your decision to employ trace detection exclusively at many small airports? How would this compare to combining trace detection and EDS machines at all airports?

Answer. As a general rule, the operation of trace detection machines requires more personnel than the operation of EDS machines. For instance, at a category III airport where the baggage volumes are high and either an EDS or ETD machine can be used, it takes approximately 5 more individuals to screen baggage using ETD machines because it takes 3 ETD's to obtain the equivalent throughput of 1 EDS. However, for smaller airports (category IV), the throughput requirements are lower so that the difference between EDS and ETD is negligible. Also, due to lower throughput numbers at these airports, EDS machines would likely be underutilized, resulting in a negative cost to benefit ratio.

TSA will meet the statutory requirements through a mix of EDS and ETD machines with protocols to assure the requirements are met. To date, TSA has not calculated the difference in personnel between deployment of ETD at exclusively small airports as opposed to combining trace detection and EDS machines at all airports.

Question. Airports and airlines have raised a number of issues about delays in getting paid. Can you provide further information on how you are providing reimbursement of airports for activities such as law enforcement?

Answer. TSA is currently reimbursing airports and/or police departments on a monthly basis for law enforcement services at the screening checkpoints only. The amounts paid vary at each airport depending on the number of hours the checkpoints are staffed and the hourly amount agreed to in the Memorandum of Agreement with each individual agency or airport.

EDS and Trace Detection

A few weeks ago, Secretary Mineta announced that, while large airports will receive both EDS and trace detection, smaller airports will, at least for now, receive only trace detection. Consistent with this announcement, DOT has ordered only 1100 EDSs and more than 5,000 trace detection systems.

Question. If you go through with your deployment decision, will you commit to deploying lighter, cheaper, and faster "next generation" EDSs at all airports? Do you have a specific time frame for deployment?

Answer. Deployment of next-generation EDS will be driven by the economic and operational impacts at individual airports. Deployment decisions will be made on a case-by-case basis. Our expectation is that deployment may begin two to three years from initiation of research and development efforts.

Question. What research and development resources will you commit in order to accomplish this?

Answer. A significant portion of TSA's research and development resources will be committed to this effort, and we expect this to be supplemented by resources and funding from our partners.

Passenger-matching and authentication technologies

TSA is working on technologies that would (1) match passengers' names with law enforcement, intelligence and other databases; and (2) authenticate the identities of pilots, flight crews, and law enforcement personnel with access to secure areas.

Question. How far away are we from being able to use technologies such as biometrics to authenticate passengers' identities are we?

Answer. TSA is exploring the use of technology for the authentication of identities of pilots, flight crews, and law enforcement personnel with access to secure areas.

Biometric systems are being tested in conjunction with airport pilot programs. Some appear to work well, and others are just now evolving to the point of maturity with acceptable rates for false positives and false negatives.

We need to conduct more research on this issue and explore the legal, operational, and procedural issues surrounding the use of biometrics prior to reaching a conclusion regarding the use of this technology for either transportation personnel or passenger authentication. We will continue to examine many technologies and technical solutions in our ongoing effort to improve security. The data from the pilot programs will determine next steps and the timeline.

Question. What policy issues are you working through as you consider the deployment of such technologies?

Answer. TSA is investigating both policy and legal issues surrounding the deployment and use of biometrics technology. Before reaching a conclusion regarding the use of this technology, the following areas are being examined: (1) access control and security of privacy data; (2) background checks; and (3) claimed identity documentation requirements.

Question. Will you consider a pilot program to test such technologies?

Answer. Yes, pilot programs will be an important part of TSA's incremental approach to resolving issues of scale and complexity in current and projected programs. TSA will ask airport managers to submit pilot proposals by August 1, 2002.

Question. What safeguards are you considering to ensure protection of confidential information collected using passenger-matching and authentication technologies?

Answer. Every effort is being made to secure confidential information. Subject matter experts and need-to-know personnel are keenly aware of the sensitive nature of this information and are applying the appropriate technologies and policies. Both the information and physical architecture upon which it resides are locked down.

Question. More generally, when background checks are conducted on airport personnel, what safeguards have you put in place, or are you considering, to ensure that the information contained in these checks is not distributed or used for non-authorized purposes?

Answer. This information is protected under the Privacy Act. Under the current process for performing background checks on airport personnel, fingerprints are submitted to the Office of Personnel Management (OPM) and then transmitted to the Federal Bureau of Investigation (FBI). Returns from the FBI are routed through OPM, where a record of the inquiry is created before the information is forwarded to the FAA.

Question. The new Federal security employees—who will be the front line of defense against terrorism—cannot be threatened with disciplinary action or reprisal for reporting legitimate safety and/or security threats. At the same time, you must have the flexibility to discipline those who do not perform up to the highest standards. Can you elaborate on your plans to implement whistleblower protections for security screeners?

Answer. Although the Federal Security Screeners are not covered by the Whistleblower Protection Act (WPA), TSA will soon finalize a memorandum of understanding (MOU) with the Office of Special Counsel (OSC) which will ensure that Federal Security Screeners have a mechanism for raising claims of retaliation for whistleblowing similar to that afforded employees covered by the WPA. Pursuant to the MOU, OSC, the independent Federal investigative and prosecutorial agency charged with responsibility for enforcing the WPA, will receive and investigate any allegations of retaliation for whistleblowing filed by Federal security screeners. OSC will utilize procedures similar to those applicable to employees covered by the WPA. Security screeners may file a complaint with OSC alleging that a personnel action was threatened or taken against them because they made a protected disclosure of information which they reasonably believed evidenced a violation of law, rule or regulation, gross mismanagement, gross waste of funds, an abuse of authority or a specific and substantial danger to public health and safety. OSC will conduct an investigation of the complaint to determine whether there exist reasonable grounds to believe that retaliation has occurred. In appropriate cases, OSC may recommend that TSA stay a personnel action pending completion of its investigation. If upon completion of its investigation OSC concludes that retaliation has occurred and if the matter cannot be settled informally, OSC will send a formal report of its findings to the Under Secretary recommending corrective action.

Question. As you have gone through the process of federalizing the airport security workforce, how are you dealing with labor and employment issues such as pay, benefits, and collective bargaining? Do you believe security personnel should be treated similarly to other federal employees with respect to these issues, or are you considering different treatment?

Answer. Federal security screeners will receive most of the same rights and benefits afforded other Federal employees, including retirement, health insurance, life insurance, paid vacation and sick leave. Their pay system is the same core compensation system applicable to all FAA and TSA employees. Screeners will also have protection from unlawful employment discrimination, whistleblower protection (pursuant to a memorandum of understanding with the Office of Special Counsel), and due process procedures for disciplinary actions. A decision has not yet been reached on collective bargaining rights to be afforded Federal security screeners.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN F. KERRY TO
NORMAN Y. MINETA AND JOHN W. MAGAW

Question. Mr. Secretary and Undersecretary Magaw, especially in the post-September 11 world, it is essential that workers—who are the front line of defense against terrorism—not feel threatened in any way with disciplinary action or reprisal for reporting safety and/or security threats.

Why is this Administration so reluctant to grant whistleblower protections for federal airport security screeners? They already exist for workers elsewhere in the aviation industry, and for government employees in comparably sensitive jobs.

Answer. I agree that our Federal security screeners must feel free to report safety or security concerns without fear of retaliation. This is why TSA will soon finalize a memorandum of understanding with the Office of Special Counsel (OSC) pursuant to which allegations of retaliation for whistleblowing may be filed with the OSC by Federal security screeners. Although these employees are not covered by the Whistleblower Protection Act (WPA), we will enter into this agreement so that OSC may investigate claims of retaliation under procedures similar to those applicable to employees covered by the WPA. This memorandum of understanding, and the informational efforts about whistleblower protection we will undertake, will ensure substantial protection to our Federal security screening personnel.

Question. Trace detection systems can and should play a meaningful role in aviation security. But I am concerned that trace is now being considered as stand-alone explosive detectors for checked baggage at smaller airports. Now, I am very sensitive to the enormous logistic and cost challenges that you face in trying to meet the December 31 deadline. But it is also clear to me that deployment of trace alone is insufficient. Frankly, I think that we ought to strive for, ultimately, a system similar to the Israeli model, where trace and EDS are complementary.

If trace deployment is to be an interim step, that maybe acceptable, as long as we have a clear and reasonable timetable for the full deployment of EDS equipment. Can you provide us with such a plan?

Answer. Full deployment of EDS equipment is predicated on our ability to achieve next generation equipment and capabilities. Deployment of next-generation EDS would be achieved by gradually replacing and redeploying current EDS equipment to maintain the base of EDS coverage.

Question. It is with great concern that I have heard rumors: that the Administration plans to draw-up rules that would, essentially, allow trace detection systems to be treated as providing equivalent capability as EDS.

At the same time, I understand that the first system—developed through the ARGUS program—designed for explosive detection screening at smaller airports will soon be certified. It is my strong hope that trace and EDS equipment will be part of a complementary, layered system of explosive detection. But in light of the role that trace is expected to play at smaller airports, how will the new ARGUS systems be used?

And, furthermore, is the ARGUS program even worth continuing? It seems to me that if trace is considered equivalent, and used as a stand-alone security technology, we will destroy incentive to industry and the scientific community to develop new and better technologies. Personally, I believe we need to keep encouraging exactly this kind of research and development. But based on the rumors I have heard about plans to treat trace and EDS as equivalent, I am not sure that is the Administration's belief. Can you please clarify?

Answer. The first ARGUS system has been certified. The ARGUS system is designed for low throughput applications but at this time has not met cost objectives and has not been proven in operational utility testing. ARGUS may indeed be appropriate for smaller airports or smaller throughput applications but validation of this has not been completed. Our major focus remains development of next-generation EDS capability.

Question. Part of the Aviation and Transportation Security Act called for the increased sharing of information among intelligence agencies through the Transportation Security Oversight Board. I favor the development of a database that compiles FBI, CIA and INS watch lists. The airlines would then check their manifests against this database. It is clear that such a system could have prevented at least two of the September 11 hijackers from boarding aircraft.

Again, Mr. Secretary, I am aware that this matter is not entirely within your purview, but you are the Chairman of the ISOB, and as we cannot hear from Mr. Ridge, would you explain how the TSOB is proceeding, and whether you are getting the kind of adequate cooperation you need from other members of that Board?

Answer. As you are aware the TSOB was developed to increase intelligence sharing among agencies and to oversee implementation of transportation security issues. Members of the TSOB include officials of the Dept of Treasury, Office of Homeland Security, Dept of Justice, Central Intelligence Agency, as well as the National Security Council. The TSOB has principally focused on the stand-up of the Transportation Security Administration and completion of congressionally mandated deadlines, though in the future I expect to utilize the Board to address any identified shortcomings in intelligence information sharing.

In regards to watch lists, one planned component of the CAPPS-II functionality will involve checking the full names of all passengers against a government-maintained terrorist watch list. The principle is that such passengers would not be permitted to board the flight unless cleared to do so by law enforcement. (This reverses the process now in use, whereby the airlines are responsible for checking names provided by government against the passenger name record of their passengers.)

It has not yet been determined which watch list(s) will be used (or which agencies will be responsible for generating and maintaining it).

In the meantime, we continue to improve and strengthen our intelligence information sharing with the agencies represented on the Board, as well as the rest of the intelligence and law enforcement community. We do feel we are receiving the cooperation from members of the Board that is so critical to securing our transportation system.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN MCCAIN TO
NORMAN Y. MINETA

Question. Personnel estimates for TSA have ranged as high as 70,000, and it has been reported that 50 percent of that total would be needed for baggage screening.

What are your estimates for the number of personnel needed for the operation of trace-devices compared to the number needed for EDS equipment?

Answer. In order to effectively staff an explosives detection machine combined with trace equipment, approximately seven people will be required. For stand-alone explosive trace equipment, TSA estimates that it will take approximately five staff.

Question. A recent news article reported that Dallas-Fort Worth Airport estimated that trace devices would require about 2.5 times the number of workers needed to screen the same number of bags using EDS. Do you consider that a reasonable estimate? If so, what are the longer term cost implications of deploying such a large number of trace devices?

Answer. TSA is unable to judge the reasonableness of this news article estimate or its longer-term cost implications without having the benefit of knowing the detailed assumptions on which it is based.

Question. I have further concerns that such a large screening workforce will lead to a sizeable bureaucracy to oversee it. How many of the total number of TSA personnel will be located in headquarters and what, in general, will their functions be?

Answer. TSA plans to have a flat organization, with most of the personnel in the field but reporting to headquarters. Efforts have been made to hold headquarters staffing at minimum levels. We anticipate a headquarters staff of approximately 1,355; 1,175 in Washington and 180 trainers and attorneys located in the field, but reporting to headquarters. The headquarters staff will support a wide range of functions including legal counsel, strategic management, information technology, and budget and financial management, as well as program specific policies and guidelines.

Question. How will TSA oversee the screening workforce and ensure that a top-heavy bureaucracy does not develop.

Answer. In order to streamline the administrative operations at the airports, key airports have been designated as hubs. These hubs will provide security direction, administrative support, and staff as needed to smaller, less staffed airports. TSA plans to hire in the range of 160 Federal Security Directors nationwide to oversee security at the 429 commercial airports. All federal security directors will report directly to headquarters. TSA believes that this is consistent with a flat organization.

Question. What are TSA's total workforce needs and how does that break down in terms of baggage screening, passenger screening, and other categories?

Answer. TSA must deploy 33,000 passenger screeners and supervisors to the passenger checkpoints at the 429 commercial airports across the country to meet the November 19th deadline. Additionally, 22,000 baggage screeners and supervisors are needed throughout the commercial airports to meet the Aviation and Transportation Security Act requirements of screening 100 percent of checked baggage by December 31, 2002.

These staffing levels were developed to ensure that the security requirements are met by the mandated deadlines and will not adversely affect the amount of time a traveler must spend to pass through the federal security process. TSA intends to continuously monitor the workload requirements to take advantage of all efficiencies within the processes in order to respond quickly to changes in staffing requirements. Initial checkpoint redesign efforts have improved efficiency by over 40 percent

Question. About what percentage of your staff is in place at this point within TSA?

Answer. Not including FAMs, approximately 2 percent of TSA's workforce is in place based on the staffing level requested for 2003.

Question. In the TSA's recent screening deployment report, there is a comment that the agency may rely on local airport personnel to assist in carrying out checked bag screening functions at the Hagerstown test bed. I believe the law is clear that screening is to be performed by Federal employees, except for the pilot programs that cannot yet be undertaken. How would local airport personnel be used in this situation?

Answer. Screening must be performed by Federal employees after the statutory deadline. Because we are still operating before the deadline, there is no requirement that the test be performed by Federal employees at the Hagerstown test bed.

Question. The Aviation and Transportation Security Act authorized DOT to allow pilots to use either firearms or less-than-lethal weapons under certain circumstances. This issue has generated considerable controversy. Do you intend to allow pilots to carry weapons aboard aircraft under any of the conditions described in the law?

Answer. As noted, the use of weapons on aircraft has been controversial. TSA continues to examine the ramifications of proposals to allow pilots to carry firearms and may conduct a technical review of this matter. A similar technical review on "less than lethal" weapons has already begun. We expect it to be completed in September.

Question. I understand that TSA has been developing models and plans for how the agency will take over control of security operations at individual airports. I am informed that one of the midterm capabilities that TSA hopes to have at airports is government issued cars with emergency lights for any staffer designated by the Federal Security Director. In addition, an item on the agency's long term wish list is a gym area at each airport. While I support giving the agency adequate resources to handle its core mission, these are the types of things that have the look of bloated bureaucracy. What steps are you taking to ensure that the cost and size of the TSA does not begin to spin out of control?

Answer. TSA is committed to responsible stewardship of the public funds appropriated for airport security operations. TSA is vigorously reviewing all budget and funding requests to assure that only basic operational needs are met. The budget request does not include any provision for cars with emergency lights or gym facilities. Allocations and spending guidelines are being developed to ensure that TSA's core mission can be met within the funding appropriated.

Question. I recognize that explosive trace detection (ETD) devices are relatively inexpensive and can be deployed quickly. However, there may be significant long-term cost issues associated with the use of ETDs. If it is true that it requires more screeners to use several ETD devices instead of one explosive detection system (EDS) machine, any short term cost savings will lead to larger personnel expenses in later years. Will these cost issues influence decisions regarding the use of ETD equipment as a permanent solution?

Answer. ETD's are not anticipated to remain as the permanent solution, except in the smallest of airports where passenger and baggage throughput requirements are minimal. Although detection capability is the primary consideration in developing a permanent solution, minimizing total life cycle costs, including staffing resources required to perform checked baggage screening, is a major consideration in the decision process.

Question. Concerns have been raised about potential reliability problems with EDS and trace equipment. For example, it has been reported that trace devices are frequently not operational, mostly because of maintenance related problems. Complaints have also been made about the availability and reliability of trace equipment, the intense maintenance effort required to keep units operating, the lack of vendor support, inadequate training, and the high cost of replacing consumable items.

What are the maintenance needs of both trace and EDS? Have regular maintenance schedules been developed?

Answer. New EDS machines are deployed with a one-year warranty; new ETDs are deployed with a two-year warranty. Maintenance schedules have been developed for both ETD and EDS equipment. The TSA will be transitioning the management of its responsibilities for ETD and EDS maintenance from reimbursable agreements with the air carriers to a contractor. The contractor will be responsible for setting up a 24-hour call center for unscheduled maintenance events as well as managing a preventative maintenance program. Further, much of the routine ETD daily and

preventative maintenance can be performed by properly trained TSA baggage screeners.

Question. Who will be in charge of equipment upkeep and maintenance and who will pay for it? If airports are responsible, will the associated costs be reimbursable by Federal funds?

Answer. A contractor to TSA will manage and/or perform routine and major maintenance on TSA security equipment.

Question. How much of the time does TSA anticipate EDS and trace equipment will be offline due to the maintenance related or reliability problems?

Answer. The average operational availability for currently deployed EDS equipment is approximately 95 percent. Current EDS equipment purchase contracts call for operational availability to be improved to 96 percent or greater. Indeed, some models of EDS equipment already average greater than 98 percent operational availability. EDS equipment vendors are cooperating on a continuous improvement program to significantly improve EDS reliability. Regarding ETD availability, when properly maintained the average operational availability is greater than 98 percent.

Question. Has TSA developed backup systems that may be used in the event that a sufficient number of explosive detection units are not available at a particular airport due to maintenance needs or other reliability problems?

Answer. The current operational availability and downtime of the equipment will be factored into the design plans and equipment requirements for deployments at each airport. Equipment redundancy, alternative screening equipment backups and contingency measures will be established for each airport installation commensurate with the average amount of downtime anticipated for the model(s) of equipment used as the primary baggage screening device(s). TSA has also developed ETD equipment supply options as a contingency in the event that the EDS equipment manufacturers cannot provide all of the equipment needed on schedule.

Question. Under Secretary Magaw, we are more than six months beyond enactment of the Aviation and Transportation Security Act, and there are seven months until the year-end deadline that baggage at all commercial service airports be screened by explosive detection equipment. And yet, today, the majority of the nation's airports have not been consulted with or told what mix of equipment will be deployed at their facilities.

What is your plan for consulting with airports on the mix of equipment that best serves the individual facilities?

Answer. A contractor team will be deployed to 429 airports to consult with the airport operators, federal security directors, and air carrier stakeholders to develop a plan to meet the December 31 deadline for 100 percent checked baggage screening. When an airport has already developed a plan, the team will analyze this plan and consider all available alternatives. Once the initial assessment is performed, TSA will be consulted and options evaluated. The contractor and TSA will go back to the airports to present the results of their evaluation and the preferred options to secure stakeholder concurrence prior to full-scale design, permitting and site preparation activities.

Question. When do you hope to finalize your plans for EDS installation?

Answer. All airport plans will be completed by the end of October. Plans for some complex, larger airports have already been formulated as a result of initiatives by local airport authorities and their consultants.

Question. Can all airports—even smaller facilities—expect some sort of decision in the near future?

Answer. Smaller airports will be assessed in parallel with the assessments at larger airports.

Question. Since DOT announced its plans to use trace devices, several security experts have been quoted in the press stating that trace is not as effective as EDS in detecting explosives, especially when only the outside of the baggage is swabbed. They indicated that opening baggage to swab the interior provides more effective screening, but is obviously intrusive and time-consuming.

What protocol—open or closed—do you plan to have screeners use when trace devices are used alone?

Answer. Based on the projected availability of equipment and operators, TSA intends to implement a multiple procedure screening solution. During peak times, a portion of all bags will receive an outside trace; another portion of bags will receive an open-bag trace with sampling of selected objects within the bag; and, the remaining bags will receive an aggressive open-bag search where all objects within the bag will be independently swabbed. The bags to be subjected to each type of search procedure will be chosen randomly, and no more than 40 percent of the total bags will

receive an outside trace search. In addition, all CAPPS selectee bags will all receive an aggressive open-bag search.

Question. Will the protocol be different at locations where trace is used with EDS vs. stand alone?

Answer. When EDS is present, the portion of bags subject to open-bag aggressive search, plus all selectee bags, may also be screened through the EDS. Any EDS alarm bags will be subject to the aggressive open-bag search.

Question. What are TSA's plans beyond December 31 for screening baggage? Will trace devices that are used as the primary baggage screening method eventually be replaced by EDS? If so, when does TSA plan to begin phasing out the use of trace only and what is the cost associated with that activity? Is there a long term plan to deploy EDS machines at all airports?

Answer. TSA intends to begin pursuing a long-term explosive detection system strategy that emphasizes in-line installations integrated into the baggage handling systems. ETD equipment used as a primary screening device at larger airports will eventually need to be replaced by partially or fully integrated equipment. Airports undergoing terminal construction or renovation would be among the first to receive in-line EDS equipment. For smaller airports, TSA may begin operational testing of the ARGUS EDS equipment, developed for lower cost, lower throughput applications. TSA is pursuing the development of a faster, cheaper, more nimble explosive detection system to replace the current EDS equipment. It is anticipated that a next generation of EDS will be available in 5 years.

Question. At present, the financial situation of the airline industry is dismal. Furthermore, rural airports in some parts of the country have been struggling to retain air service at affordable prices. Because passengers may prefer to drive a few hundred miles to their destinations or to larger airports that have less intrusive security, what does TSA intend to do to make sure that the use of trace devices at smaller airports does not drive away business?

Answer. TSA believes 100 percent ETD checked baggage screening solutions will result in minimal or no adverse impact on passenger processing times. The intrusiveness of the ETD search has not been seen as a major issue of concern to most passengers. The time it takes to process passengers, including situations where bags are screened in airport lobbies, appears to be more closely correlated to the number of airline ticket agents staffing available positions. The equipment deployment models are designed to accommodate peak passenger processing times.

Question. Under Secretary Magaw, it is my understanding that, on April 26, you said that within two to four weeks Raytheon teams would visit all 429 commercial airports to determine the appropriate mix of equipment to meet the year-end requirement for screening check bags.

Could you please provide us with a status report of those Raytheon visits.

Answer. Raytheon was tasked to perform security equipment design and installation activities under the old FAA integration contract. Work performed under the Raytheon task will be transmitted to TSA's contractor, both in writing and in a series of technical interchange meetings.

Question. When do you expect them to be completed?

Answer. TSA's contractor assessment task is more comprehensive than Raytheon's original task, TSA's contractor will gather sufficient data to model passenger and baggage flow to assess various equipment configuration options at the larger airports. Site survey and planning activities will be completed by the end of October.

Question. Will the Raytheon teams visit all 429 airports?

Answer. TSA's contractor will visit all 429 airports,

Question. What steps are you taking to ensure that any new types of explosive detection equipment, systems, or procedures will provide a level of security that is at least as good as currently accepted measures? Will there be any type of independent verification of the performance standards if such new means of detecting explosives are employed?

Answer. TSA employs an independent operational test and evaluation contractor tasked with continuous assessment of security equipment, systems, and procedures. The DOT Inspector General also provides oversight and independent verification of performance.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. KAY BAILEY HUTCHISON TO
NORMAN Y. MINETA

Question. The Air Transportation Safety and System Stabilization Act enacted on September 22, 2001, acknowledged the devastating economic effects of the events of September 11 on both the airline industry and related businesses, including airport security companies. The legislation capped liability for claims relating to the terrorist attacks of September 11 at the limits of available insurance coverage at that time. This liability protection was afforded to air carriers and their employees and agents.

However, the Aviation and Transportation Security Act amended the Stabilization Act to exclude the airport security industry from liability protection previously afforded under the Stabilization Act. As a result, the airport security companies that TSA relies upon for the transition to a federalized system are in jeopardy from potential exposure to liability claims arising from terrorist attacks of September 11. Does the Department of Transportation support extending the coverage of the liability cap to airport security companies in order to ensure a smooth uninterrupted transition?

Answer. Yes. Presently the airport security companies performing under contract with the Transportation Security Administration are operating under either the extended war risk insurance coverage or under indemnification provided for under Public Law 85-804. Extending the coverage of the liability cap should ensure a smooth uninterrupted transition since it will enable many of the TSA's largest airport screening companies to continue as viable businesses.

Question. Failure to restore the liability cap could possibly incapacitate the security companies at some point in the near future and could cause severe interruption during the transition to the federalized system. Do you think exposure to unlimited liability from the events of September 11 threatens the viability of these aviation security companies? If this situation occurs, how does the DOT plan to deal with a situation where one or more current contractors providing security services succumb to the expected onslaught of these lawsuits?

Answer. The unlimited liability exposure may have a detrimental impact of several of the more viable aviation security companies who perform services other than passenger screening. In other cases, security companies will be going out of business solely because the TSA is taking over the only services which they perform. In these cases there will be no impact on aviation security.

Question. Does the Administration support reinstating the liability cap for aviation screening companies currently under contract with the Transportation Security Administration as a part of the FY02 Supplemental Appropriations Bill, which is currently in conference?

Answer. Yes

Question. Three of the largest 10 cities in the United States are in Texas, and three major airlines are headquartered in my state. Many of my constituents work in the aviation industry and must pass through security checkpoints as part of their daily routines. The increased security measures employed since September 11 have had the unintended effect of lowering the efficiency and productivity of airline employees because they must spend a great deal of time waiting to pass through these checkpoints. Pilots have been particularly vocal about these delays and their consequent loss of productivity. When TSA begins testing a Trusted Traveler Program, I would hope that airline employees could be part of the test group. Can you comment on the idea of including airline employees as part of your pilot program?

Answer. TSA is open to the idea of a "smart" card, the so-called "trusted traveler" card, and is currently working on a potential concept for such a program. TSA will take into consideration all proposals, including those concerning the participation of airline employees as part of the pilot program, prior to making a decision. Our concern is that the level of security and confidence it brings be high enough to rule out anyone who might be a threat. The card would have to be a reliable method of positively identifying an individual through biometric or other technologies; and would have to be difficult or impossible to forge or tamper with.