

**NOMINATION OF MAJOR GENERAL (RET.)
ROBERT A. HARDING, ADMINISTRATOR,
TRANSPORTATION SECURITY ADMINISTRATION,
AND ASSISTANT SECRETARY-DESIGNATE,
U.S. DEPARTMENT OF HOMELAND SECURITY**

HEARING

BEFORE THE

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

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

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MARCH 23, 2010
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Printed for the use of the Committee on Commerce, Science, and Transportation



U.S. GOVERNMENT PRINTING OFFICE

62-407 PDF

WASHINGTON : 2010

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

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TUESDAY, MARCH 23, 2010

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

The Committee met, pursuant to notice, at 9:32 a.m. in room SR-253, Russell Senate Office Building, Hon. John D. Rockefeller IV, Chairman of the Committee, presiding.

**OPENING STATEMENT OF HON. JOHN D. ROCKEFELLER IV,
U.S. SENATOR FROM WEST VIRGINIA**

The CHAIRMAN. The hearing will come to order, as soon as I have poured my water. Even generals have to wait on water sometimes.

We are here today to consider the nomination of Major General Robert Harding to be the Administrator, the long-awaited, the extremely long-awaited, the desperately needed Transportation Security Administrator of TSA.

First, I want to welcome and congratulate Mr. Harding and also your wife, who is with you. You do recognize your wife, right?

General HARDING. I do.

The CHAIRMAN. Well, I would like to have her stand so that we can—Kay Bailey Hutchison and I can see her. That is right. See, that is good. Committee practice.

I want to congratulate you for your service to our Nation. I said that to you in private. You have got an incredibly long record of service in the intelligence field and national security in general.

We simply cannot ignore the fact that our Transportation Security Administration has had no administrator, no leader of the team. All kinds of things have happened, but for various reasons, we just haven't had a leader of the team. I think we have got one now.

The attempted Christmas Day attack illustrated the absolute need for a TSA director. It is an extraordinarily important post, and you preside over 500, 700 million passengers flying in this country and well over a billion in another 5 or 6 or 7 years.

Our enemies, as you know so well, are persistent. They are very dangerous, and we all know they plan new attacks, always plan-

ning new attacks. We need a highly qualified, strong administrator to lead the TSA and its workforce in protecting our country against future attacks. And I have no doubt that Major General Robert Harding is ready and qualified to lead the agency effectively.

Before retiring, he served 33 years and developed extensive intelligence experience in the United States Army. There are reams of material on that. During his time with the Army, Major General Harding served as Director of Operations at the Defense Intelligence Agency—that is, just below the guy who directs the whole thing, Director of Operations; Director of the Agency is not much different—Director for Intelligence for the Army's U.S. Southern Command, and in several other important positions.

And with such a broad background in intelligence and security and such strong management and leadership experience, I believe Major General Harding has the skills to make a really positive and needed impact at that agency.

I worry about that agency. I worry about morale. I worry about equipment. I worry about a lot of things, which we can talk about.

Mr. Harding, the Commerce Committee has a significant role in Homeland Security oversight. We share that with another committee. Should you be confirmed, I intend to work with you to make sure that TSA succeeds. I am particularly interested in having TSA complete its ongoing cargo and surface transportation initiatives, improving the security of general aviation, which is a subject rarely discussed but much in need of discussion, and helping to develop and implement new technologies that will advance commercial aviation security.

I also expect you to work with Congress to make sure TSA has the funds it needs to secure our transportation system. In other words, we have oversight. We share oversight with another committee, but we also are here to help you, and we want you to have the budget you need. We are all aware of the President's constraints. But we are also aware of our national needs.

I have said this before, and I will say it again—this is one of the toughest positions in Washington because the safety and security of our citizens is our most solemn responsibility. And you have that so directly.

The attempted Christmas Day attack made it absolutely clear that we continue to struggle to share intelligence effectively across agencies. It is quite remarkable, if you do reading on your experiences and on the intelligence community, which I know from service on the Committee, 9/11 got us a little bit to share information, but not really very much. And it is not where it should be. The FBI isn't where it should be. And nobody is where they should be.

So securing good intelligence, protecting our citizens with knowing what is going to happen before it happens is often the best way to protect them. If we are serious about addressing the gaps in both our homeland security and intelligence communities, there is substantial work still to be done.

So, in closing, to move forward, we need effective leaders at key agencies like the TSA. We need somebody who can hit the ground running and provide clear direction. General Harding's distinguished career in both government and the private sector, where he gained the strong management and leadership skills that the

position demands, make him a good fit for the mission. Of that, I am clear.

As you know, the nature of the job is that you listen to many complaints and you get no praise. But together, I believe we can work to make TSA successful. I look forward to your testimony, Major General Harding.

And I call now upon my distinguished colleague, Ranking Member, Senator Kay Bailey Hutchison.

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

Senator HUTCHISON. Thank you, Mr. Chairman.

I will not take long. I will say that I think your service to your country, 33 years, is very impressive and being Deputy Chief of Staff of the Army, Director of Operations for the Defense Intelligence Agency are great qualifications for this job.

And I agree with the Chairman. It is one of the toughest jobs in all of our Government because so many people depend on the safety of our air transportation system, as well as our surface transportation system.

And I think the Chairman mentioned, but I am in complete agreement that we have, I think, put so much emphasis on aviation safety, as we should, that perhaps we haven't looked enough at surface transportation safety for buses and trains. And I think that is something that you are going to have to take under your purview.

One of the issues that I want to make sure we are also addressing is Federal law, which as you know, does prohibit screeners in the TSA from striking. However, there are efforts ongoing for collective bargaining by TSA screeners, and previous TSA Administrators have said that they would be very, very concerned about collective bargaining not allowing the flexibility that they need to be able to deploy forces to a certain area of an airport, or to a certain airport, to change the working hours if a crisis, or an emergency, is at hand.

I hope that you will also be looking at the flexibility of the workforce and the need for that flexibility as one of your priorities. So, with that, I would like to just go on to questions, if the Chairman is ready? Because I have another hearing at 10 a.m. that I also am Ranking Member on.

The CHAIRMAN. You go ahead.

Senator HUTCHISON. Really? Oh, good. Thank you.

OK. Let me ask you, first, on the issue of collective bargaining for screeners, how would you handle that in your capacity as the leader of this agency?

**STATEMENT OF MAJOR GENERAL (RET.) ROBERT A. HARDING,
ADMINISTRATOR, TRANSPORTATION SECURITY
ADMINISTRATION, AND ASSISTANT SECRETARY-DESIGNATE,
U.S. DEPARTMENT OF HOMELAND SECURITY**

General HARDING. Senator Hutchison, thanks for asking the question. I am familiar with the issue and, since being asked to consider the position, have studied it.

I recognize that all parties agree on the same things, Senator, that you just indicated. All parties agree on the need for flexibility and agility. All parties agree on the necessity for the Administrator to have the ability to move screeners at a moment's notice in response or prior to a terrorist incident. Everyone seems to agree that we need to strengthen security.

If confirmed, I would love to have the opportunity to broaden the experience that I have already had in looking into this by talking to a very broad cross-section of the transportation security officers, of other members of TSA, as well as members in DHS. And as I have learned for 33 years in the military and especially in my last few years as a flag officer, provide the best advice I can to the decisionmaker, in this case, the Secretary.

And I think the Secretary and I, in arriving at a decision, will be very concerned about the implementation of such a change, if it was to be accepted. Again, we both agree, Senator, that we would never bargain away security. But we probably also both agree that I would really need to do, I think, an in-depth and thorough review before I inform the Secretary of my recommendation.

[The prepared statement of General Harding follows:]

PREPARED STATEMENT OF MAJOR GENERAL (RET.) ROBERT A. HARDING,
ADMINISTRATOR, TRANSPORTATION SECURITY ADMINISTRATION, AND ASSISTANT
SECRETARY-DESIGNATE, U.S. DEPARTMENT OF HOMELAND SECURITY

Good morning Chairman Rockefeller, Senator Hutchison, and distinguished members of the Committee. It is a privilege to appear before you today as the President's nominee for Assistant Secretary of the Transportation Security Administration (TSA). I am deeply honored by the President's call to service and by the support I have received from Secretary Napolitano.

With your kind indulgence, I would like to recognize my wife and my children. It is their love and support that has sustained me through the years. I also want to express my deep appreciation to those I met in the course of my 33-year career in the U.S. Army who shaped my ideals, character and vision. Who I am today is very much a product of my time in the U.S. Army.

Last, but not least, I want the men and women of TSA to know that I am eager to join their ranks and to lead them in safeguarding our Nation's transportation system.

The December 25, 2009, attack on Northwest Flight 253 reminded us of the ever-evolving threat our Nation confronts as terrorists seek new and inventive means to defeat the security measures the global community have put into place since September 11, 2001.

Since its creation following the tragic 9/11 terrorist attack, TSA has played a vital role in securing aviation and other modes of transportation. If confirmed, I look forward to working in close collaboration with our partners in the intelligence and international community; Federal state, and local governments; private industry; and, most importantly, the traveling public to continue to meet the challenge of keeping our Nation's complex transportation system secure.

I believe I am uniquely qualified to lead TSA in advancing its mission. I have spent over 30 years in the Intelligence Community. I served as the U.S. Army's Deputy G2 (Intelligence) at the time of my military retirement in 2001, and as the Director for Operations at the Defense Intelligence Agency (DIA). At DIA, as the Department of Defense's (DOD) senior Human Intelligence (HUMINT) Officer, I managed intelligence collection program requirements and supervised security of DOD's Defense attachés in over 200 embassies/offices around the world. I also commanded a HUMINT and Counterintelligence Battalion in Korea, and the Army's premier Counterintelligence Group, the 902nd, at Fort Meade.

Since my retirement from the U.S. Army, I have served as CEO of Harding Security Associates (HSA), a company I founded in 2003 and sold in July 2009. I built the company into a workforce of highly trained professionals providing strategic security solutions to U.S. Government agencies in the Intelligence and Defense communities. I have no current financial or ownership interests in the company and I have entered into an ethics agreement with the Department's designated agency

ethics official, which has been provided to this Committee, to ensure no conflicts of interest arise.

I know the importance and value of coordinated efforts between Federal agencies. As the Director for Intelligence for the Army's U.S. Southern Command, I coordinated efforts between the DIA, Drug Enforcement Administration (DEA), FBI, CIA and Customs on sensitive interagency counter-drug operations.

My intimate familiarity with counterterrorism matters, military assignments implementing intelligence programs throughout the world, and reliance upon ever-changing technological advances have equipped me to meet the current and future challenges of TSA.

If confirmed, I will ensure that TSA continues to work closely with and receives necessary intelligence from the Intelligence Community, and that this information is applied across transportation modes. While TSA is primarily a consumer of intelligence, I will work closely with our partners in the Intelligence Community to improve the kinds of information needed from the watchlist system; and if confirmed, I will continue the work begun from the President's review to work with our interagency partners to review and, where necessary, modify the criteria and process used to build the Terrorist Screening Data base (TSDB) and nominate names for the No-Fly and Selectee Lists.

Given the global dimensions of aviation security, I will also support Secretary Napolitano's historic effort to bolster international aviation security, by working with our partners around the world to enhance information collection and sharing, increase cooperation on technological development, and modernize global aviation security standards.

Additionally, I will encourage the use of enhanced screening technologies, both at domestic airports and by our international partners, while remaining respectful of privacy, and civil rights and liberties. Our objective in using these technologies is clear: to strengthen our abilities to find dangerous materials and to stop dangerous people.

From my military service, I know all too well how important a well trained workforce is. You have my commitment to enhance training opportunities and invest in developing TSA's employees.

If confirmed, I look forward to a close working relationship with Congress and this Committee. I welcome your oversight, your suggestions, and appreciate your dedication to ensuring our Nation's security. In closing, I again thank President Obama and Secretary Napolitano for their confidence and faith in my ability to lead TSA. Mr. Chairman, Senator Hutchison, I thank you for the opportunity to appear before you today and I look forward to answering your questions and, if confirmed, undertaking the challenges that lie ahead.

Senator HUTCHISON. Well, I understand your inability to make a clear answer. But I am going to be very interested in following this because I just think that there are some jobs that aren't 9 to 5, and when people apply for them, they should know it is not 9 to 5.

Security and law enforcement, military as well, are those kinds of jobs. And so, I hope that you will be very forthcoming on this because it will be of great concern to many of us.

Speaking of that, I want to also ask the question that I ask of every one of our nominees, who is going to be in a position to run an agency or have a major commission appointment, and that is that we rely on an open dialogue with the people whom we confirm. It is part of our oversight responsibility. I want to ask you if all members of our committee and our staffs can count on the cooperative relationship with your agency and you, as we go forward?

General HARDING. Senator, you can count on that.

Senator HUTCHISON. Thank you.

Let me ask you one other question, and that is about your previous company that you founded and have since sold, Harding Security Associates. I think that some of our staffs have talked to you about what your plans are for recusal of yourself from contracts that might be coming up just within a few months of your con-

firmation. I think maybe July of this year your recusal commitment, previous commitment, would run out.

How do you intend to handle contracts that might come up in key areas of the Transportation Security Administration with your former clients from your private sector position, following your retirement?

General HARDING. Senator, I would recuse myself, as you indicated. Four things come to mind. One, I worked for quite a few weeks with the Office of Government Ethics. I decided in working with the Office of Government Ethics to draw a very bright line and go up and above what would normally be expected of a nominee.

So I met the hurdles of the normal expectation, which is the ethics pledge, as well as President Obama—I am sorry, the ethics regulations, as well as President Obama's pledge. And that would mean that I would recuse myself from any dealings with my former company, which I walked away from and have no connection with.

I would, in addition, recuse myself in this very bright line and up and above what is normally expected in the regulation and the pledge. I would recuse myself from dealing with any companies that actually worked with my company. And that would be, according to the Office of Government Ethics recommendation, for a year from the sale of the company.

Senator HUTCHISON. All right. I may want to pursue that further when I look at what some of the relationships are with former clients, but I need to get a clearer list. So could I submit a question to you in writing later?

General HARDING. Absolutely, Senator.

Senator HUTCHISON. And would you be willing to answer it?

General HARDING. We have all of that listed, and I would be glad to provide that to you.

Senator HUTCHISON. OK. My last question then, and I appreciate the Chairman's indulgence, is on surface transportation. Sixty-eight percent of the President's budget request for TSA for 2011 is for aviation security. Two percent is for surface transportation security, and yet we have seen in other places severe attacks in trains, as well as buses and other types of public transportation, surface transportation.

What would be your commitment in looking at what can be done in the surface transportation areas to increase the priorities there?

General HARDING. Senator, I think that is a very important question. And I think the answer is informed by intelligence. And as we discussed, intelligence is the common denominator across all modes of transportation. We have actually seen, as you indicated, where a threat, if they could not attack by air, would look for other modes of transportation.

I would welcome the opportunity, if confirmed, to work with stakeholders in looking at a systematic way of applying threat and risk management and risk mitigation across all modes of transportation. I recognize that would be my responsibility, if confirmed.

I applaud the fact that TSA has already recognized that the intermodal nature of the transportation system that we are sworn to safeguard allows examples like the VIPR teams, the Visible Intermodal Protection and Reaction teams that you see providing

visible examples of how interagencies come together in things like other than aviation. I think initiatives like that are very important both because of their visibility as well as their inherent bringing together of interagencies, and I would like, if confirmed, to continue that process.

And finally, combining the threat that we would work with DHS's INA on, the Intelligence and Analysis shop. Caryn Wagner, who I have had the fortune of working with for 15 years. We would apply both the resources and the budget appropriately across all of TSA based on what we see as the threat.

Senator HUTCHISON. Thank you.

Thank you, Mr. Chairman, very much.

[The prepared statement of Senator Hutchison follows:]

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

Thank you, Mr. Chairman, for holding today's hearing. I share your sense of urgency about the need to confirm a new leader for the Transportation Security Administration (TSA), and appreciate your scheduling this hearing before the Easter recess. TSA, which is so critical to fulfilling the mission of the Department of Homeland Security (DHS), and protecting the traveling public, has been without an Administrator for more than a year.

Major General Harding, we welcome you and thank you for your willingness to serve as TSA Administrator and Assistant Secretary at DHS. I commend you for your life-long commitment to your country. Your 33 years in the U.S. Army, including serving as the Army's Deputy Chief of Staff with responsibility for the Army's intelligence functions and as the Director for Operations for the Defense Intelligence Agency, are quite impressive.

If confirmed, the job before you will be extremely difficult and the decisions you make will have tremendous impact on the safety and economic viability of our national transportation system across all modes. The challenges and threat assessments that our intelligence and security community face everyday are too numerous to mention, but I do have a number of topics I would like to briefly highlight.

First, is the issue of allowing transportation security officers (TSOs), or screeners, to collectively bargain. Federal law does prohibit screeners from striking; however, former TSA Administrators have argued that allowing screeners to collectively bargain could have dire consequences on TSA's fundamental security mission, by degrading TSA's need for a flexible workforce which can react quickly to emerging threats. How you specifically intend to address the collective bargaining issue will be of great interest to this committee.

Second, you are going to have to work very hard to establish a more cooperative and trusting relationship with industry across all modes and sizes. I repeatedly hear from constituents and stakeholder groups that TSA quickly turns a deaf ear to cooperation and partnerships with industry, and too often uses blunt force in policy areas that need a more highly coordinated and agreed upon approach.

Third, the day-to-day management challenges of running and leading an agency of over 50,000 people are immense. I will be interested to hear your thoughts on how to lead and manage the agency most effectively and efficiently.

Finally, I will have some questions about your work with the defense and intelligence contracting firm you established after retiring from the military. I have no reason to question your integrity, or the truthfulness of the information you have submitted to the Committee, but the Committee has an obligation to ensure that a nominee's past positions, and performance in those positions, will not create conflicts of interest or otherwise compromise the Federal Government and the security of the Nation.

Congress and the traveling public put an enormous amount of trust in the TSA every day. The inherent need and economic implications of maintaining a safe and secure transportation system are an integral part of our national security.

Mr. Chairman, thank you. I look forward to your testimony, Major General Harding.

The CHAIRMAN. Thank you, Senator Hutchison.

It is interesting the way we react in America. We react to events. We don't see them coming as well as we should. And you sort of

intersect those, both the responsibility, but also the intelligence aspect, looking out to find where things might be coming from.

And when you look back after the shoe bomber, we all started taking our shoes off, and that was fine. Loafers, I assume, went up in the stock market. And then after the 2006 commercial departings from London, all of a sudden we were down to 3 ounces, and anything over 3 ounces was not acceptable. And that sort of sums up in my thinking a question that perplexes me.

You have a limited amount of money. That is going to remain so. On the other hand, I really do believe in intelligence. I really do believe, putting it bluntly, that Leon Panetta has made one heck of a difference in what is going on in Afghanistan and parts of Pakistan. He does that through intelligence. He does that through other methods. But that is proactive. That is looking before something happens, taking care of a problem before something happens.

So help me understand in your mind the difference between vetting the passenger getting on the airplane and patting the person down, putting them through screening, wide body imaging when that comes, as opposed to—or not as opposed to, but in conjunction with spending money and time on the intelligence that leads you to warnings.

Now that is a very hard question because there are so many people and so many places. But you come from that background. I believe in what I say, but I am not sure what the proper balance is. Maybe you could give me your views?

General HARDING. Mr. Chairman, a very good point, what you are describing is the difference between 100 percent risk avoidance and risk management. What you are also describing is the chances that we are willing to take in a very measured way using intelligence applied to risk management. And TSA, I noticed, is going in that direction, and therefore, the product list you referred to changed over time.

I think, if confirmed, things like the product list need to continue to evolve. But more importantly, to your point, intelligence—a choice between pure risk avoidance in this Nation and being informed by intelligence, I would choose to be informed by intelligence. I would choose to make decisions based on the intelligence that we gather. I would choose to be a proactive member of the intelligence community, working with my colleague at the Department of Homeland Security, Caryn Wagner, on the intelligence analysis piece.

I would choose to use that intelligence effectively, again, as Senator Hutchison pointed out, in applying resources across the entire transportation system. And I would use intelligence in a way that would allow our stakeholders and, more importantly, the American public to understand what we are doing, why we are doing it. To the extent possible, I would share intelligence with the stakeholders that include the associations, even industry we would look to to help us on the technological side, to help us not just meet the threat, but to stay ahead of the threat.

We have to be proactive. This committee especially recognizes the evolving nature of the threat. What we have to do is stay ahead of that threat.

And the bottom-line answer, Mr. Chairman, is I think through the use of intelligence, correct application of intelligence, being a proactive member in the intelligence community, using that to inform stakeholders and apply resources is what will help us move forward, both technologically and keeping up and ahead of the threat and moving away from things that appear to be more security theater than actual security.

The CHAIRMAN. I think I got that. I am not totally sure that I did. Can you give me an example of where—and then this will be my last question, we will go on to others—where intelligence has been helpful, as you have perhaps heard about it with respect to potentially dangerous passengers?

General HARDING. In the run-up to these hearings, I have had briefings that I can't go into detail here. But I have had briefings where the intelligence that TSA is using has indicated how the threat plans to hide and conceal devices as an example, and I have seen measures then put into place in airports on how we check passengers based on that intelligence.

The CHAIRMAN. OK. I thank you.
Senator LeMieux?

**STATEMENT OF HON. GEORGE S. LEMIEUX,
U.S. SENATOR FROM FLORIDA**

Senator LEMIEUX. Thank you, Mr. Chairman.

General Harding, thank you for putting yourself up again for public service.

After 33 years in the military, serving as a general and being in charge of the Defense Intelligence Agency, I think that you have the experience for this job, and I am glad that the President has put forward somebody who has this intelligence focus. You and I spoke about this when we met previous to today's hearing.

And in your testimony, you speak of although you will be a consumer of intelligence, that you will work closely with your partners in the intelligence community to improve the kinds of information needed. And you talked about working with Ms. Wagner here a moment ago.

I think one thing that the American people expect is that someone who is going to have a position like yours is meeting on a regular basis with the other folks who are fighting this war on terror, that you are meeting with the Director of National Intelligence. You are meeting with the head of the CIA, that you are meeting with the Secretary of Defense or their surrogate.

And I hope that you will push for that type of collaborative working relationship because I think you having that information is essential to doing the job that you need to do to protect the American people. Is that something that you agree with?

General HARDING. Absolutely, Senator LeMieux.

Senator LEMIEUX. I want to talk to you, as we discussed also in my office, and that is the idea of not just using intelligence, which I appreciate and applaud, but also the idea of using technology.

We send everyone through basically the same security, whether they are a 4-year-old, an 85-year-old, or a 20-year-old male from a foreign country. And I want you to speak, if you will, about the idea of using behavioral screening, about new technologies that are

available, looking at models—for example, what is used in Israel, where they have been tremendously successful in stopping terrorists on their planes, a country that is even more targeted than we are—and how we can use technology with intelligence to put together something like a threat index that would allow those—for example, you are of no threat. You should be a zero on the threat index. But there are others that should be checked more closely.

How can we differentiate the way that we treat people through this TSA process so that we could expedite those people who are not a threat, but pay close attention to those who might be?

General HARDING. A very good question, Senator. The Transportation Security Administration has started the process of layering security. Part of the layers of security speak to your point on behavior detection, and so the TSA has deployed behavior detection officers in airports. I think the number is up to close to around 2,000.

You compare that to your example on Israel, and even though there is a difference in scale, some of the things that we see from our Israeli partners and friends is the use of engagement. We have just started to do that in TSA. It is not at the same level being done in Israel, but it started with a one-week course and program for TSOs to engage. It is followed by supervisors taking another week in those kinds of engagements.

I agree with you that we should move even closer to an Israeli model where there is more engagement with passengers. I think that increases the layers and pushes the layers out. I think that a very important aspect of providing security is engaging the public.

The last point is one of the things I was informed of in the Israeli model is training, training, more training, and drills. And if confirmed, I would look forward to working with my 48,000 TSOs in ensuring that their training goes even further than where we are presently and engage, move toward the Israeli model of training and drilling. And I think you would see a change very fast.

Senator LEMIEUX. A final question that I think is appropriate to anyone who is running a governmental agency, and that is the idea of using performance metrics and other tools not unlike what the military uses to make sure that you are getting the most out of the dollars that the American taxpayer is spending to fund your agency.

We don't do a very good job in government in making sure that we are doing things efficiently and effectively, and it is not a sexy topic for folks who run agencies to really drill down and find out whether or not the resources are being used in the best possible way. But I would ask you and I hope to get your commitment this morning that upon your confirmation, when you take up this post, that you will use performance evaluations and metrics and do everything you can not only as an agency head, but as a manager to make sure that the American taxpayer is getting their money's worth.

General HARDING. You have my commitment, Senator.

Senator LEMIEUX. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. General, let me just say before I call on Senator Warner that we have an awkward situation this morning in that we are having the signing of the health bill at the White House, and we have to leave at 10:15 a.m. from this room, Senator Warner and I do.

And so, what you will be doing—Amy Klobuchar came in and left. But she had to go, but she had a whole series of questions which she had, which she is going to send to you. And I think what we are going to be doing, I am going to be doing that on air cargo screening, general aviation, and some other things simply because this is a rather large occasion, which people have been working for for a long time.

But in any event, please understand that, that we are not giving you short shrift.

General HARDING. I totally understand, Mr. Chairman.

The CHAIRMAN. We are just actually cutting you a little more time for your morning.

Senator Warner?

**STATEMENT OF HON. MARK WARNER,
U.S. SENATOR FROM VIRGINIA**

Senator WARNER. Thank you, Mr. Chairman.

And actually, General Harding, maybe I think, it is a good idea that we are all leaving and the hearing is ending quicker. And I will be brief, recognizing our time constraints.

Let me, first of all, echo what some of my colleagues have said, and it is good to see you again, General Harding. And I think the President has chosen well. Someone with your unique background and qualifications, and I think you are going to be a great TSA Administrator and look forward to working with you.

I want to also add kind of ditto agreement with my colleague, Senator LeMieux. As a former business guy and Governor, I am pretty focused on metrics as well and actually have been asked by the Budget Committee to look on these issues. And so, I want to reinforce what my colleague had said, and I also will be looking for those kind of metrics, performance metrics and milestones within the TSA.

I want to very quickly raise two questions that are perhaps a little bit parochial in nature, but I think they actually have applications beyond the specific circumstances of each of the issues I am going to raise.

First is a circumstance, and I think this happened beyond just at an airport, beyond just the airport I am going to raise where TSA has made commitments, has not come through. The circumstance and case in point I want to raise is the Richmond airport.

The Richmond International Airport back in 2004 was doing a significant upgrade of its facilities. TSA asked it do current state-of-the-art inline explosive detection systems. Richmond said they would go ahead and start down this path. TSA committed to work with the Richmond airport.

TSA said, and I have got all the data here, in 2005, well, we don't have the money right now. But you guys keep on going, and we will be there for you. Richmond airport proceeded to go ahead

and put in this state-of-the-art detection system at TSA's request, working with TSA. They finished this system in 2007, \$3.6 million additional. Still no payment.

And in terms of—I think it is bad business. I think it is also bad faith, and I also think it is an example of not the kind of collaborative effort you want to have with your local airport authorities. So I raised this with some of your predecessors. I would really love to hear an explanation on how not only this specific circumstance of Richmond would be dealt with, but my understanding, there are other airports around the country who have made investments in current technology at the request of TSA, but have not been reimbursed for that.

Are you familiar with this circumstance in Richmond or some of these other airports?

General HARDING. Senator, I am familiar with the circumstances in Richmond and other airports. I agree with your sentiment, and if confirmed, you have my commitment that I would look into that.

Senator WARNER. Does that confirmation go to even actually Richmond getting paid?

General HARDING. Senator, you have my confirmation that I promise to look into it. To be very candid with you, when I first discussed this with the members of TSA, I asked to have it broken out. Much like you, from a business point of view, I am very understanding of how commitments get made by the Government.

And what I wanted to do was ask all of those kinds of commitments, whether the airports believed they were made or not, if they have something in writing, let me look at those and look at the broad range of them, and then let us just do what is right. I promised, even before your question, to look at that, Senator. And if confirmed, I promise to also get back to you.

Senator WARNER. Thank you. I have not seen or heard anything from Richmond or anywhere else that there was any misunderstanding. I have the documentation and will forward it to you, if it would be helpful. There did not seem to be any doubt, at least in anybody on the Richmond side, that there was any ambiguity about TSA's, one, asking for this current technology to be implemented and, two, that TSA would be responsible for reimbursement. But thank you for that.

The second is, and perhaps I get this because as a former Governor, local guy here, as I travel, particularly through Reagan National and Dulles, I hear repeatedly from TSA employees about low morale. And I know, particularly here in the national capital area, there is a very high attrition rate, particularly perhaps here higher in this region because there are other Federal security agencies—FBI, Secret Service, others—that could attract TSA personnel as they kind of get trained up and then moved on.

But I would love to hear a comment or two about what you can do about the attrition factors and morale issues across TSA, and then I will close.

General HARDING. Part of the testimony, Senator, that I submitted talked to my priorities. The work force, well-led, well-motivated workforce is very important to me, and that will go to the issue of morale.

I can tell you that comparisons that have been made of the transportation security officers of 48,000 or so to larger organizations that have been around for a long time, compared to TSA, which has been around for 9 years, I find interesting. I find informative. There are things I think we need to do in TSA because it is so young, because it is so large, and because it is across 450 airports that are a little different than what we see in other agencies.

If confirmed, Senator, the morale of the TSO workforce is a very high priority of mine.

Senator WARNER. Well, thank you, General Harding.

And thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Warner, very much.

Senator Klobuchar is on her way back, wants to ask a question. Let me just, in the interim, ask a quick one.

General HARDING. Sure.

The CHAIRMAN. Over a period of years, I have been very frustrated by sort of the special treatment of general aviation. They don't carry their weight financially in paying for the air traffic control system, and I am talking about the one that we have, which isn't any good. But also about the one which we want, NextGen, which will be very, very good.

And so, the legacy airlines are the ones that have to pay the freight, but they are not actually even the majority of planes in the sky at any given moment. General aviation usually is.

So my question to you is called the large aircraft security program. Would you put it as a top priority to consider developing a national strategy for how GA functions in an appropriate proportionate way within our national air traffic situation?

General HARDING. Mr. Chairman, if confirmed, I totally agree with you. It would be appropriate to look at general aviation from the point of view not just of the threat, but from the point of view as a stakeholder and as an industry that is just as concerned with security as the rest of us are. I would make that a very high priority to bring them into the fold and to make them part of how we view, TSA views the total transportation network.

The CHAIRMAN. I think that they are kind of the weak link in the situation that you face. You go out to Dulles, and you just walk onto a charter airplane. You are not checked. Your baggage isn't checked. It could be anybody. It is quite remarkable. It is true all over the country, as far as I know.

And I think that not just in the funding, the financing of the system, but also just as a weak link factor, it is very dangerous. And a lot of people use it. So you will take a look at it?

General HARDING. Mr. Chairman, I promise not only working with the stakeholders in general aviation, but working with your committee also. I think it is very important. You and I discussed my experience and your experience using general aviation. I think we agree that general aviation needs to be as informed of the threat and prepared for it as the rest of the transportation modes that we are responsible for, and it is something that I would make a very high priority and look into, Senator.

The CHAIRMAN. And you understand their frame of mind is very different. I mean, they don't consider themselves a part of it because they are privately owned. They pick their own routes, do

their own thing. But they use the air traffic control system just the same as anybody else.

I am not talking about crop dusters or even King Airls. I am talking about small jets on up. And I have tried to address that in several ways, and it is just amazing what a few phone calls will do from some of these people who own those jets. And so, they shut down action in Congress, and it is not good. And so, I just put that before you and now call upon my esteemed colleague Senator Klobuchar, who is going to chair this.

**STATEMENT OF HON. AMY KLOBUCHAR,
U.S. SENATOR FROM MINNESOTA**

Senator KLOBUCHAR. Thank you very much, Senator Rockefeller. I am catching my breath. I literally ran here, General Harding.

General HARDING. Good to see you, Senator.

Senator KLOBUCHAR. Well, thank you very much, and it was good meeting with you in my office the other day.

And I want to thank Chairman Rockefeller for holding this hearing on this important nomination. The position of TSA Administrator, as we know, is one of the most important positions in the Administration. That was made very clear to us on Christmas Day. And as you know, that involved a Northwest Airlines flight, which Northwest originally based in Minnesota and now Delta. And so, we really care a lot about this issue.

I first wanted to ask you about your background in intelligence and how do you feel that your military and private-sector background are going to help to inform you to work to protect America's transportation security?

General HARDING. In three areas, Senator. My 33 years in the military and rising through to the rank of Major General has helped me understand some management practices and principles that Senator Warner just implicated as far as morale and the workforce, and I think that is very important.

My years in the intelligence community and most of my 33 years in the Army I spent within the intelligence community, I think, are also very important to TSA in being able to inform TSA across the board on the threat, the threat to aviation, the threat to all modes of transportation. And I think the associations that I have had in the intelligence community to include my professional association with Caryn Wagner, who is the head of intelligence for DHS, as well as throughout the rest of the intelligence community, is very important and I think would help TSA.

And finally, I think my experience in industry, where I learned that attention to both the client as well as being very attentive to the backroom is very important, and I think all three—my experience in the Army, from management and leadership; to experience in the intelligence community, which I think would inform TSA; to my experience as a small business owner in creating 400 jobs—is very important in some skills that I would like to bring to the job, if confirmed.

Senator KLOBUCHAR. Thank you.

One of the things that I know, and I know that Secretary Napolitano has been working on this, but actually working with some of the private sector and with the airlines on these policies, especially

overseas, is very important because, as you know, as we transition in our security and the watch lists and how things are handled differently, we still have the issue that in a lot of the airports around the country, it is the airlines that are on the front line in terms of sort of having the responsibility for these lists.

Could you comment about how you see that relationship?

General HARDING. I see that relationship evolving, Senator. The watch list itself in the process, as you know, is undergoing a review being led by John Brennan at the President's direction. I am very familiar with how the terrorist screening database informs both our selectee list and no-fly list and how we are moving into Secure Flight.

If confirmed, I would like to sit with the participants in the President's review, look at some of the preliminary findings and, hopefully, be a stakeholder in the results, and participate in how we shape a watch list system that is understandable, transparent at least to the extent that it can be to the intelligence community, and most importantly, as effective as we can make it.

Senator KLOBUCHAR. Very good. Now I would like to hear your thoughts on the full body scanners. I think I explained to you in my office, I am someone with a hip replacement that gets patted down every single time. And so, this is actually kind of appealing to me that I won't have to have this happen in front of my constituents every single time I go through the lines.

But obviously, the real reason to do it is not for the convenience of travelers, but for safety. There is still uncertainty somewhat about this new technology, but also there is great potential with it. And so, could you talk about your views about these full body scanners and how you think they should be rolled out?

General HARDING. You hit the nail on the head. It is the best technology that we have right now. I did get a chance to visit the entire process at Reagan airport about a week ago. I think one of my major concerns was from the privacy point of view. I entered a booth at Reagan airport that is separated from where the machine was. The machine is one of those millimeter wave type of machines.

As I entered the booth, my phone, my iPhone was taken away from me. I tested that to see whether or not somebody was conscious enough to say this is something you can't bring into the booth, and it was taken away. And as I entered the booth, I got a chance to talk to the TSO who was sitting there with the screen, and I asked exactly what he was doing.

And apparently, a woman was entering the millimeter wave machine. She had an object on her left leg, middle. The TSO hit his whisper device that communicated to the TSO onsite and pointed out that location. The woman then went back through, and it was something in her pocket that subsequently was removed.

I then looked at the computer back in the booth and asked this screener how can he save that image, which he could not do. I am not a cyber expert, but I could tell from the way that computer was configured, it had no storage. I then tried to exit the room before the woman had left her second screening, and I couldn't. I wasn't allowed to. And therefore, when she was clear, I was able to leave the room after seeing that image.

I was convinced that day that privacy was very important as these whole body imaging machines were put into airports. I am still working to come to grips with the footprint in every airport, with the implementation across all 450 airports and other things attendant to the technology improvement of those machines.

I think in the future you will see those machines improved, but I also believe that somehow—and there is a life cycle of about 8 years, I think, on those machines. So sometime I would believe in the next 2 or 3 years is a next-generation type of technology that we need to be looking at that can get at better and more capable views of the threat.

Senator KLOBUCHAR. Because I think we saw like with those puff portals, now there are, I think, 22 operating, that those didn't exactly work the way people thought they would. So I would imagine that there would be advances in technology as we go forward.

The second thing which we touched on was the Secure Flight program and the changeover to that with the watch list. And in light of the Christmas bombing attempt and other issues that have come out about the watch list, kind of the counter is that you have people on these lists that shouldn't be on these lists.

I think I mentioned to you the baby going to Disneyland from Minnesota who had a common last name, who the family weren't able to board the plane because his name appeared on a watch list. This was years ago, and he still has—I think it may have been fixed in the last few years, but he encountered problems for years afterward.

So you have that going on, innocent people on those lists, while at the same time, you have people like the Christmas Day bomber whose name didn't appear on the list. So what do you think needs to be done to fix it?

General HARDING. I think we need to continue moving in the direction of Secure Flight. I think moving the threat list into the hands of TSA to do the screening is very important. I think the redress program is something that the American traveling public has been asking for for a long time. And from the briefings that I have received, Senator, that seems to be proceeding apace.

The bottom line is I think we need to continue to move in that direction, and if confirmed, I think I would accelerate the process, especially of Secure Flight. And I would love to be more informed and ask questions about the effectiveness of the redress program.

Senator KLOBUCHAR. Do you believe that the TSA is going to be able to meet the current goal of having Secure Flight fully implemented for all domestic flights by this time, early 2010, and for all international flights by the end of this year?

General HARDING. I would like to get back to you on all of the international flights, Senator. I believe that we will meet the—I believe TSA will meet the domestic goal. But I would like to take for the record and get back to you on the international.

Senator KLOBUCHAR. I also know Secretary Napolitano has said that she has been meeting with other partners internationally about their security and how we can work together on this. Will you be involved in that as head of TSA, if confirmed, in terms of trying to reach out to these other airports in other countries?

General HARDING. Very good question, Senator, and I expect to be a fully participating member of the Secretary's team, and I am pretty sure the international carriers would meet in Canada, I believe, in September. And if confirmed, I am pretty sure the Secretary would send me to that.

Senator KLOBUCHAR. OK. In the President's budget, he actually upped the number of Federal Air Marshal Service personnel and, I think, put in \$85 million for that and has also requested \$71 million to fund an additional 275 proprietary explosive detection canine teams. Can you elaborate on the plan to use these additional personnel and canine teams to utmost capacity and how you think that will work?

General HARDING. Only to the extent that they are part of the layering system that I described earlier. The canine teams are very important to the layers of security that we provide around the airports, that TSA currently provides around the airports, as are the air marshals. And I applaud the increase in support and resources for the air marshals and the canines.

Senator KLOBUCHAR. In his speech on January 7, the President explained that rather than a failure to collect or share intelligence, the failure on Christmas Day was a failure to connect and understand the intelligence that we already had. What steps are you going to take to make this a priority of TSA to better coordinate and streamline data gathering and watch lists and things like we have already talked about?

General HARDING. Working cooperatively, Senator, with the intelligence office within DHS, as well as the intelligence community writ large, being an active and proactive member of the intelligence community through the Department of Homeland Security's INA shop, I think will help TSA be—receive more and possibly better actionable intelligence.

The last point there is, as you know, Senator, TSA just recently cleared about or it is moving in a direction of clearing about 10,000 individuals in TSA to receive this intelligence. It is no good if we are just getting it and holding onto it at the headquarters. So we are pushing it forward also, and I think that is part of that process.

Senator KLOBUCHAR. OK. Something else that we talked about, a particular TSA policy that impacts my State. My State has I consider it one of the best airports in the country, and it is a hub and very active airport. And there is this requirement that checked luggage at appropriately cleared Canadian airport facilities have to be rescreened before the transfer to a U.S.-based connecting flight.

This requirement frequently causes delayed connections for passengers arriving from Canada since their baggage must be physically transported from the arrival aircraft to a baggage screening facility, rescreened by TSA, and then retransported to the connecting flight. And I know this is all being done for good reasons, and obviously, it is a balance with security.

But it is my understanding that TSA has been working with Canadian authorities for well over a year to reach an agreement that would put in place new technologies and processes for Canadian baggage screening that will meet U.S. security standards.

And you have given me your commitment that you will work with me to resolve this issue. Do you have any other comments about that?

General HARDING. I reaffirm my commitment, Senator.

Senator KLOBUCHAR. OK. That is a very nice short answer, very smart.

OK. Well, I just want to thank you for your work. You have a big job in front of you. I view this as of the utmost importance to our security, but I also think that there are things that we can do where we can actually be more efficient and be smarter about our resources, at the same time doing a better job for security. And I hope you view it that way as well.

General HARDING. I do.

Senator KLOBUCHAR. OK. Thank you.

I know that there will be questions that will be allowed for the record in this hearing. Some of our colleagues couldn't be here today and want to submit questions, and questions for the record are due at 5 p.m. tomorrow.

With that, thank you very much, General Harding, and the hearing is adjourned.

[Whereupon, at 10:26 a.m., the hearing was adjourned.]

A P P E N D I X

PREPARED STATEMENT OF HON. JOHN THUNE, U.S. SENATOR FROM SOUTH DAKOTA

General Harding, I appreciate your past military service and willingness in serving as Administrator of the TSA.

Like a number of my colleagues, I have been concerned with the Administration's long delay in filling the top position at TSA.

With your strong credentials when it comes to your background in the Army and the intelligence community, I think that you would bring an important perspective to TSA when it comes to strengthening security for the traveling public.

There's no question that we face many challenges going forward when it comes to addressing changing terrorist threats but I also believe that one of the biggest challenges TSA faces is complacency from the general public and a lack of understanding when it comes to screening protocols.

Certainly after 9/11, there was a heightened understanding by the public when it came to accepting the new security measures that were instituted at commercial airports. I posed a similar question to Mr. Southers when he appeared before this committee last year, but I would be curious to know what you would do as head of the TSA to address public complacency?

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