

TUBERCULOSIS INCIDENT TIMELINE AND UNRESOLVED QUESTIONS

*Prepared by the House Committee on Homeland Security
(Last update: 6/5/07)*

<u>DATE</u>	<u>FACTS</u>	<u>DISCREPANCIES IN THE RECORD</u>	<u>QUESTIONS ABOUT THE FEDERAL RESPONSE</u>
Jan. 2007	In January, Andrew Speaker, a 31-year old Atlanta lawyer, fell and hurt his ribs. He received an X-ray, revealing an abnormality in the upper lobe of his right lung. This suggested tuberculosis. Speaker began meeting regularly with Fulton County health officials for treatment. ¹		
March 2007	In early March, Speaker underwent a procedure to get a sample of sputum from his lungs. By the end of the month, lab cultures revealed he had tuberculosis (TB). ²		When should the CDC be notified about TB cases? Did health officials spend this time testing Speaker's TB diagnosis for drug resistance?
Thurs, May 10	Health officials determined Speaker had a multiple-drug resistant (MDR) form of TB. ³	According to press accounts, Fulton County health officials called the Georgia Division of Public Health on May 10, but gave the impression that the problem was "largely hypothetical." GDPH then made a call to the Centers for Disease Control. ⁴	Did the positive test for MDR-TB automatically trigger a test for Extreme Drug Resistant (XDR) TB? When was CDC notified about Speaker's case of MDR-TB? What is the formal procedure by which CDC is asked to perform this analysis? It is reported that CDC was called in to test for XDR-TB on Thursday May 17. ⁵ Was this the proper protocol to follow? If not, why wasn't CDC asked to perform the analysis earlier?

¹Young, A. (2007, May 30). Atlantan quarantined with deadly TB strain; CDC issues rare isolation order; Air passengers warned. *The Atlanta Journal-Constitution*.

²Brown, D. (2007, May 31). Man With Rare TB Easily Eluded Safeguards. *The Washington Post*, p. A03. <http://www.washingtonpost.com/wp-dyn/content/article/2007/05/30/AR2007053001962.html>

³Brown, D. (2007, May 31). Man With Rare TB Easily Eluded Safeguards. *The Washington Post*, p. A03. <http://www.washingtonpost.com/wp-dyn/content/article/2007/05/30/AR2007053001962.html>

⁴Schwartz, J. (2007, June 2). *Tangle of Conflicting Accounts in TB Patient's Odyssey*. Retrieved June 4, 2007, from <http://travel.nytimes.com/2007/06/02/health/02tick.html>

⁵(2007, May 30). *Man knew he had TB before flying to Europe*. Retrieved May 31, 2007, from <http://www.cnn.com/2007/HEALTH/conditions/05/30/tb.flight/index.html>

<p>Fri, May 11</p>	<p>Fulton County health officials gave Speaker a “verbal warning” of the danger and the “prohibition” against travel.⁶</p> <p>According to Dr. Julie Gerberding, Director of the CDC, “the patient really was told that he shouldn’t fly.”⁷</p> <p>Fulton County health officials attempted to hand-deliver a medical directive to Speaker telling him not to travel.⁸</p>	<p>In an interview with the Atlanta Journal-Constitution, Speaker said that Fulton County health officials told him they “preferred” he not travel.⁹</p> <p>According to Speaker, “Everyone knew... The CDC knew, doctors knew, Kaiser knew. They said, ‘We would prefer you not go on the trip,’ And that’s when my father said, ‘OK, are you saying because he’s a risk to anybody or are you simply saying it to cover yourself?’ And they said, ‘We have to tell you that to cover ourselves, but he’s not a risk.’”¹⁰</p> <p>According to a June 1 report, “Doctors say they told Speaker not to travel. Speaker said CDC and other health organizations advised him against travel but didn’t stop him.”¹¹</p> <p>Dr. Steven Katkowsky, Director of Public Health and Wellness for Fulton County said, “certainly the recommendation would be that if you have an active infection with tuberculosis, you <u>ought</u></p>	<p>There appears to be confusion about what prohibitions health officials can place on an individual with an infectious disease. According to Dr. Gerberding, health officials “usually rely on a covenant of trust to assume that a person with tuberculosis just isn’t going to go into a situation where they would transmit disease to someone else.”¹⁴</p> <p>State and local health officials claim that they could not have prevented Speaker from flying abroad. However, state officials may authorize isolation and quarantine within their borders. States derive this authority from the “police powers” doctrine in constitutional law, which allows state governments to enact laws and promote regulations to safeguard the health, safety, and welfare of its citizens. As a result of this authority, individual states are responsible for intrastate isolation and quarantine practices, and they conduct their activities in accordance with their respective statutes. State and local laws and regulations regarding the issues of compelled isolation and quarantine vary widely.¹⁵</p>
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⁶ (2007, May 30). *Man knew he had TB before flying to Europe*. Retrieved May 31, 2007, from http://www.cnn.com/2007/HEALTH/conditions/05/30/tb_flight/index.html

⁷ (2007, May 30). *Man knew he had TB before flying to Europe*. Retrieved May 31, 2007, from http://www.cnn.com/2007/HEALTH/conditions/05/30/tb_flight/index.html

⁸ The Committee is currently attempting to acquire this letter. Young, A. (2007, May 30). *Atlantan quarantined with deadly TB strain; CDC issues rare isolation order; Air passengers warned*. *The Atlanta Journal-Constitution*.

⁹ Brown, D. (2007, May 31). *Man With Rare TB Easily Eluded Safeguards*. *The Washington Post*, p. A03. <http://www.washingtonpost.com/wp-dyn/content/article/2007/05/30/AR2007053001962.html>

¹⁰ (2007, June 1). *Exclusive: TB Patient Asks Forgiveness but Defends Travel*. Retrieved June 1, 2007, from <http://www.abcnews.go.com/GMA/OnCall/story?id=3231184&page=1>

¹¹ (2007, June 1). *Exclusive: TB Patient Asks Forgiveness but Defends Travel*. Retrieved June 1, 2007, from <http://www.abcnews.go.com/GMA/OnCall/story?id=3231184&page=1>

		<p><u>not</u> to be getting on a commercial airliner.”¹²</p> <p>On June 4, Dr. Katkowsky, said that the law presented “kind of a Catch-22” when it comes to restricting the activities of tuberculosis patients against their will. “A patient has to be noncompliant before you can intervene,” he said. “There’s no precedent for a court stepping in before a patient has proven himself to be non-compliant.”¹³</p>	
Sat, May 12	Speaker departed Atlanta on Air France Flight 385. ¹⁶		
Sun, May 13	Speaker arrived in Paris. ¹⁷		
Mon, May 14	Speaker flew from Paris to Athens on Air France flight 1232. ¹⁸		
Wed, May 16	Speaker flew from Athens to Thira Island on Olympic Air flight 560. ¹⁹		
Thurs, May 17	CDC called in to test for XDR-		Was this the first time that CDC

¹² Young, A. (2007, May 30). Atlantan quarantined with deadly TB strain; CDC issues rare isolation order; Air passengers warned. *The Atlanta Journal-Constitution*.

¹³ Schwartz, J. (2007, June 2). *Tangle of Conflicting Accounts in TB Patient’s Odyssey*. Retrieved June 4, 2007, from <http://travel.nytimes.com/2007/06/02/health/02tick.html>

¹⁴ (2007, May 30). *Man knew he had TB before flying to Europe*. Retrieved May 31, 2007, from <http://www.cnn.com/2007/HEALTH/conditions/05/30/tb.flight/index.html>

¹⁵ Fact Sheet on Legal Authorities for Isolation/Quarantine, May 3, 2005, available at <http://www.cdc.gov/ncidod/sars/factsheetlegal.htm>

¹⁶ (2007, May 30). *Man knew he had TB before flying to Europe*. Retrieved May 31, 2007, from <http://www.cnn.com/2007/HEALTH/conditions/05/30/tb.flight/index.html>

¹⁷ (2007, May 30). *Man knew he had TB before flying to Europe*. Retrieved May 31, 2007, from <http://www.cnn.com/2007/HEALTH/conditions/05/30/tb.flight/index.html>

¹⁸ Stobbe, M. (2007, May 31). *TB Patient Leaves Atlanta Hospital*. Retrieved May 31, 2007 from http://breakingnews.nypost.com/dynamic/stories/T/TUBERCULOSIS_INFECTION?SITE=NYNYP&SECTION=HOME

¹⁹ Stobbe, M. (2007, May 31). *TB Patient Leaves Atlanta Hospital*. Retrieved May 31, 2007 from http://breakingnews.nypost.com/dynamic/stories/T/TUBERCULOSIS_INFECTION?SITE=NYNYP&SECTION=HOME

	<p>TB.²⁰</p> <p>Georgia Division of Public Health notified that Speaker had flown overseas.²¹</p>		<p>was contacted about testing Speaker's TB sample? If so, why?</p> <p>What office notified Georgia's Division of Public Health that Speaker flew overseas? Did GDPH notify CDC about Speaker's travel? (Note: this information was most likely obtained by Speaker's doctors, who were aware that he was traveling, but it remains unclear who notified the CDC about Speaker's travel.)</p>
Mon, May 21	<p>Tests came back positive for XDR-TB.²²</p> <p>Speaker flew from Mykonos to Athens on Olympic Air 655.²³</p> <p>Speaker flew from Athens to Rome on Olympic Air 239.²⁴</p>		<p>Questions persist about the ability of the <u>federal government</u> to quarantine an individual. DHS officials told Committee staff that federal officials do not have the authority to quarantine.²⁵ <u>This is inaccurate.</u> The President may issue an executive order for federal isolation and quarantine for the following communicable diseases: cholera, diphtheria, infectious tuberculosis, plague, smallpox, yellow fever, viral hemorrhagic fevers, and SARS.²⁶ What are the policies and procedures to implement a quarantine/isolation, and what is the role of DHS?</p>
Tues, May 22	<p>The CDC Division of Global Migration and Quarantine contacted the Assistant Port Director for the</p>		<p>Why did CDC wait a day to notify CBP about Speaker's condition? Didn't they know on May 21 that</p>

²⁰ (2007, May 30). *Man knew he had TB before flying to Europe*. Retrieved May 31, 2007, from <http://www.cnn.com/2007/HEALTH/conditions/05/30/tb.flight/index.html>

²¹ Schwartz, J. (2007, June 2). *Tangle of Conflicting Accounts in TB Patient's Odyssey*. Retrieved June 4, 2007, from <http://travel.nytimes.com/2007/06/02/health/02tick.html>

²² (2007, May 30). *Man knew he had TB before flying to Europe*. Retrieved May 31, 2007, from <http://www.cnn.com/2007/HEALTH/conditions/05/30/tb.flight/index.html>

²³ Stobbe, M. (2007, May 31). *TB Patient Leaves Atlanta Hospital*. Retrieved May 31, 2007 from http://breakingnews.nypost.com/dynamic/stories/T/TUBERCULOSIS_INFECTION?SITE=NYNYP&SECTION=HOME

²⁴ Stobbe, M. (2007, May 31). *TB Patient Leaves Atlanta Hospital*. Retrieved May 31, 2007 from http://breakingnews.nypost.com/dynamic/stories/T/TUBERCULOSIS_INFECTION?SITE=NYNYP&SECTION=HOME

²⁵ Department of Homeland Security Committee staff briefing with Dr. Jeffrey Runge, May 31, 2007.

²⁶ CDC Fact Sheet on Legal Authorities for Quarantine and Isolation, May 3, 2005, available at <http://www.cdc.gov/ncidod/sars/factsheetlegal.htm>

	<p>Atlanta office of the Customs and Border Protection (CBP).²⁷</p> <p>CDC notified CBP Atlanta that Speaker posed a public health risk. CDC requested that CBP Atlanta attach a message to Speaker’s passport.²⁸</p> <p><u>FOUO material describes the details of the note.</u></p> <p>The note contained instructions that CBP contact Dr. David Kim of CDC upon encountering Speaker.²⁹</p> <p>The Passenger Analysis Unit placed the text message on Speaker’s passport.³⁰</p>		<p>Speaker was no longer in the U.S.?</p> <p>It is unclear why CDC notified the local Atlanta CBP office rather than CBP HQ in Washington. Was there a policy or procedure in place requiring CDC to notify a “local” CBP office? Was there a policy or procedure in place that would have required CBP Atlanta to notify CBP HQ? Why didn’t CBP Atlanta pass to CBP HQ the information they entered into the TECS database at this time?</p> <p>Similarly, neither CDC nor CBP contacted the Transportation Security Administration (TSA) at the time to place Speaker’s name on the “no-fly” list. This shortcoming would have ramifications later, when Speaker’s name was not added to the no-fly list until after he already crossed the Canadian border (due in part to concerns raised by the CDC about exposing sensitive information about a patient to DHS). Why didn’t CBP Atlanta communicate Speaker’s personal information up the chain to TSA?</p> <p>The TECS database is designed to allow for unique notes to be entered onto a passport. In other words, this notice is a unique message, and does not contain reference to a numeric warning code. An issue for DHS to consider is whether a standard medical text message (such as “Code 42” or “Medical Incident Alert”) would be more effective</p>
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²⁷ Department of Homeland Security Committee staff briefing with Department of Homeland Security officials (TSA, CMO, and CBP), June 4, 2007.

²⁸ Department of Homeland Security Committee staff briefing with Department of Homeland Security officials (TSA, CMO, and CBP), June 4, 2007.

²⁹ Department of Homeland Security Committee staff briefing with Department of Homeland Security officials (TSA, CMO, and CBP), June 4, 2007.

³⁰ The Treasury Enforcement Communications System (TECS) is a legacy system that is at least 20 years old. Ordinarily, the system is used to track an individual who may pose a terrorist or smuggling threat to the U.S. The TECS system feeds into the Automated Targeting System (ATS), the Department’s computer system that scrutinizes a large volume of data related to a person crossing the U.S. border. Department of Homeland Security Committee staff briefing with Department of Homeland Security officials (TSA, CMO, and CBP), June 4, 2007.

			than the specific message that the CBP officer saw in this case.
Wed, May 23	<p>Speaker received call from CDC while in Rome. He was told to cancel trip and return home. He was told he would be contacted by CDC the next day with travel information.³¹</p> <p>DHS identifies CDC physician David Kim as the individual who contacted Speaker in Rome. Dr. Kim was apparently working the Speaker case for Dr. Marvin Cetron of CDC's Division of Global Migration and Quarantine.³²</p> <p>CDC told Speaker "we have tools to keep you from flying into the U.S."³³</p> <p>On May 31, Speaker told the Atlanta Journal-Constitution that he was "aware" he was placed on a no-fly list, which is why he decided not to fly into a U.S. airport.³⁴</p> <p>Dr. Kim told Speaker to turn himself into Italian health authorities the next morning and agree to go into isolation and treatment in that country for an indefinite period of time.³⁵</p> <p>Speaker was told that hiring a private jet to fly back to the U.S. would have cost \$100,000.³⁶</p> <p>According to DHS officials, CDC offered Speaker a private plane.</p>	<p>There is a controversy about why Speaker chose not to go to the Italian hospital. According to Speaker, he was afraid of the care he would receive. "Both of us [Speaker and his wife] worried if I turned myself [in] the next day that's it. It's very real that I could have died there.... People told me if I was anywhere but Denver, I'll die."³⁹</p>	<p>Speaker was not actually placed on the "no-fly" list until May 24, after he already crossed the U.S. border from Canada. According to DHS officials, CDC suggested to Speaker that he was on the no-fly list ("we have ways of keeping you from the U.S."). Was this proper use of protocol?</p> <p>DHS officials state that they did not receive a request from CDC regarding placing Speaker on the "no-fly" list until Thurs. May 24. Is this true?</p> <p>Was the CDC under the impression that DHS placed Speaker on the "no-fly" list based on their conversation with CBP Atlanta on May 22? (Note: this is probably not the case, because CDC was in contact with Speaker on May 22 and probably did not consider him a flight risk until May 23.)</p> <p>Notification of foreign governments is an important issue to resolve. What policies and procedures are in place to notify foreign health authorities (like the World Health Organization) in situations such as this? When was the Italian government notified?</p> <p>Did anyone ever recommend or even think of using an air ambulance to transport Speaker</p>

³¹ Young, A. (2007, May 30). Atlantan quarantined with deadly TB strain; CDC issues rare isolation order; Air passengers warned. *The Atlanta Journal-Constitution*.

³² Department of Homeland Security Committee staff briefing with Department of Homeland Security officials (TSA, CMO, and CBP), June 4, 2007.

³³ Department of Homeland Security Committee staff briefing with Department of Homeland Security officials (TSA, CMO, and CBP), June 4, 2007.

³⁴ (2007, May 31). *TB patient's name released; Father-in-law works at CDC*. Retrieved May 31, 2007, from <http://www.cnn.com/2007/HEALTH/conditions/05/31/tb.flight/index.html>

³⁵ Young, A. (2007, May 30). Atlantan quarantined with deadly TB strain; CDC issues rare isolation order; Air passengers warned. *The Atlanta Journal-Constitution*.

³⁶ (2007, June 1). *Exclusive: TB Patient Asks Forgiveness but Defends Travel*. Retrieved June 1, 2007, from <http://www.abcnews.go.com/GMA/OnCall/story?id=3231184&page=1>

	<p>They would have charged him \$50,000 for the flight.³⁷</p> <p>Dr. Martin Cetron, Director for the DGMQ at the CDC, dispatched a former CDC employee working with Italy's health ministry to visit Speaker at his hotel and reiterate the message. By the time the former employee arrived at the hotel, Speaker was gone.³⁸</p>		<p>back to the U.S. (as opposed to privately chartering an airplane that would have cost between \$50-100,000)? Why not?</p>
Thurs, May 24	<p>CDC contacted DHS Office of Health Affairs in "early afternoon" (around 1:00 PM) to request assistance in preventing Speaker from traveling via commercial air. According to DHS officials, CDC did not provide Speaker's name to DHS at this time.⁴⁰</p> <p>CDC contacts World Health Organization (WHO) by phone to provide information on Speaker. CDC advised to provide details to outbreak@who.int (the usual recipient of outbreak alerts). Dept. of Health and Human Services sends official notification to WHO that CDC has determined the event meets reporting criteria for a "public health emergency of international concern" as defined in the revised International Health Regulations.⁴¹</p> <p>Speaker returned to North America aboard Czech Air Flight 0104 from Prague to Montreal.⁴²</p> <p>Speaker wore a mask on the flight.⁴³</p>	<p>On May 31, Speaker told the Atlanta Journal-Constitution that he was "aware" he was placed on a no-fly list when he was in Rome, which is why he decided not to fly into a U.S. airport.⁵³ However, Speaker was not placed on the no-fly list at that time.</p> <p>Speaker's name did not appear on the no-fly list until at least 2 hours after his arrival into the U.S. Canadian officials tell Committee staff that the Canadian no-fly list is identical to the U.S. no-fly list. Therefore, any time that the U.S. list is updated, the Canadian list will reflect that update. Canadian officials state that Speaker's name appeared on their list at 8:00 PM. This, of course, was after he already</p>	<p>DHS (through the Atlanta CBP office) received information from CDC on May 22 about Speaker's identity and the fact that he posed a public health threat to the U.S. Why didn't DHS seek to place Speaker's name on the no-fly list at that time? What policies and procedures are in place to ensure that CBP officials in a field office are communicating this information to CBP HQ and to other agencies within DHS (like TSA)?</p> <p>Did the CBP agent interview Speaker prior to allowing him entry? CBP spokesman Corsaro's statement that Speaker did not "appear to be sick" implies that CBP was given latitude to detain Speaker.</p> <p>Why did the CBP agent manually enter Speaker's name into the "query line" instead of swiping his passport?</p> <p>Does the National Treasury</p>

³⁷ Department of Homeland Security Committee staff briefing with Dr. Jeffrey Runge, May 31, 2007.

³⁸ Brown, D. (2007, May 31). Man With Rare TB Easily Eluded Safeguards. *The Washington Post*, p. A03. <http://www.washingtonpost.com/wp-dyn/content/article/2007/05/30/AR2007053001962.html>

³⁹ (2007, June 1). *Exclusive: TB Patient Asks Forgiveness but Defends Travel*. Retrieved June 1, 2007, from <http://www.abcnews.go.com/GMA/OnCall/story?id=3231184&page=1>

⁴⁰ Department officials suggest that CDC was worried about releasing patient information. Department of Homeland Security Committee staff briefing with Department of Homeland Security officials (TSA, CMO, and CBP), June 4, 2007.

⁴¹ Email from World Health Organization to Committee staff, June 4, 2007, on file with Committee.

⁴² Stobbe, M. (2007, May 30). Georgia traveler with tuberculosis is United States' first quarantine in decades. *The Associated Press State & Local Wire*.

⁴³ Department of Homeland Security Committee staff briefing with Dr. Jeffrey Runge, May 31, 2007.

	<p><u>FOUO materials describe the time that CDC provided Speaker's name to DHS.</u></p> <p>DHS was in process of putting Speaker's name on the "no fly" list when it learned he was already on a plane headed to Montreal.⁴⁴</p> <p>Speaker rented a car with U.S. plates.⁴⁵</p> <p><u>FOUO materials describe the encounter with CBP on the border.</u></p> <p>Speaker crosses the border into the U.S. at the Champlain, N.Y. border crossing.⁴⁶</p> <p>According to a May 30 article on CNN.com, Customs and Border Protection spokesman Kevin Corsaro said Speaker "did not appear sick to border agents."⁴⁷</p>	<p>crossed the border.⁵⁴</p> <p>Speaker's name was entered onto the "no-fly" list. There are several lists that his name could have been entered into, including: the Terrorist Screening Database (TSDB), the TSA no-fly list, the TSA "selectee" list, or the Interagency Border Inspection System (IBIS).⁵⁵ In fact, there was an effort within DHS to enter him onto the TSDB (though this would be inappropriate because he did not pose a "terrorist threat").</p> <p>Though DHS officials claim that Speaker was deceptive, Speaker claims that he has cooperated completely with</p>	<p>Employees Union (NTEU) agree with the facts that have been alleged by DHS regarding the actions of the CBP agent?</p> <p>DHS officials state that after receiving the request from CDC to place Speaker on a "no-fly" list, there was <u>considerable confusion</u> about what list he could be placed on. DHS officials tell Committee staff that they couldn't add Speaker to the "no-fly" list or the "selectee" list because <u>he wasn't a terrorist</u>. Until 7:30 PM, officials were not sure that they had the authority to enter Speaker onto a list. Questions for DHS include 1) whether any "non-terrorist" has ever been placed on the "no-fly" list and 2) why it took so long to determine the TSA Administrator's authorities under U.S.C. 49?</p> <p>What policies and procedures are</p>
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⁴⁴ Brown, D. (2007, May 31). *Man With Rare TB Easily Eluded Safeguards*. *The Washington Post*, p. A03. <http://www.washingtonpost.com/wp-dyn/content/article/2007/05/30/AR2007053001962.html>

⁴⁵ Department of Homeland Security Committee staff briefing with Dr. Jeffrey Runge, May 31, 2007

⁴⁶ Stobbe, M. (2007, May 30). Georgia traveler with tuberculosis is United States' first quarantine in decades. *The Associated Press State & Local Wire*.

⁴⁷ (2007, May 30). *Man knew he had TB before flying to Europe*. Retrieved May 31, 2007, from <http://www.cnn.com/2007/HEALTH/conditions/05/30/tb.flight/index.html>

⁴⁸ Brown, D. (2007, May 31). *Man With Rare TB Easily Eluded Safeguards*. *The Washington Post*, p. A03. <http://www.washingtonpost.com/wp-dyn/content/article/2007/05/30/AR2007053001962.html>

⁴⁹ Department of Homeland Security Committee staff briefing with Dr. Jeffrey Runge, May 31, 2007.

⁵⁰ Department of Homeland Security Committee staff briefing with Department of Homeland Security officials (TSA, CMO, and CBP), June 4, 2007.

⁵¹ Department of Homeland Security Committee staff briefing with Minister Roy Norton and First Secretary Bernard Li, Embassy of Canada, May 31, 2007.

⁵² Department of Homeland Security Committee staff briefing with Dr. Jeffrey Runge, May 31, 2007.

⁵³ (2007, May 31). *TB patient's name released; Father-in-law works at CDC*. Retrieved Ma 31, 2007, from <http://www.cnn.com/2007/HEALTH/conditions/05/31/tb.flight/index.html>

⁵⁴ Department of Homeland Security Committee staff briefing with Minister Roy Norton and First Secretary Bernard Li, Embassy of Canada, May 31, 2007.

⁵⁵ It would be inappropriate for Speaker's name to have been placed on the Terrorist Screening Database, which is reserved for individuals who pose "terrorist threats to the United States." The TSA "no-fly list" contains the names of individuals who are on the Terrorist Screening Database who pose a threat to aviation, but also those people who should not be allowed to fly (like a person with a highly contagious disease). The TSA "selectee list" is a secondary screening that would have simply required a pat-down of a passenger prior to his departure.

⁵⁶ Brown, D. (2007, May 31). *Man With Rare TB Easily Eluded Safeguards*. *The Washington Post*, p. A03. <http://www.washingtonpost.com/wp-dyn/content/article/2007/05/30/AR2007053001962.html>

⁵⁷ Brown, D. (2007, May 31). *Man With Rare TB Easily Eluded Safeguards*. *The Washington Post*, p. A03. <http://www.washingtonpost.com/wp-dyn/content/article/2007/05/30/AR2007053001962.html>

	<p>According to DHS spokesman Russ Knocke, “there is some indication of deceitfulness on the part of the individual.”⁴⁸</p> <p>In a briefing with Committee staff, DHS officials stated that Speaker told CBP officers that “he only wanted to cross the border for the day.”⁴⁹</p> <p>At 7:30 PM, TSA General Counsel gives approval for TSA Administrator Kip Hawley to place Speaker on the “no-fly” list. This was a point of contention for DHS for several hours until the TSA General Counsel persuasively argued that Hawley could use U.S. Code 49 authority to place a “non-terrorist” on the “no-fly” list.⁵⁰</p> <p>Canadian officials inform Committee staff that at approximately 8:00 PM, Speaker’s name appeared on the Canadian “no-fly” list.⁵¹</p> <p>Speaker checked into a hotel in Albany, N.Y.⁵²</p>	<p>authorities.</p>	<p>in place to ensure that CBP agents have received adequate medical training? Do CBP agents have medical protective equipment?</p> <p>Does CBP have a medical detainment procedure? Are there isolated and secure areas that CBP agents could have taken Speaker?</p> <p>DHS spokesman Russ Knocke suggested that the failure by the CBP to detain the man was a result of not obtaining “real-time” passenger data for flights ending in Canada. This makes it “very difficult for us to know who might be traveling there.”⁵⁶ Given the fact that Speaker’s name wasn’t entered into the no-fly list until 8:00 PM, the fact that DHS could not obtain real-time passenger data would not have made a difference in detaining Speaker.</p> <p>CBP said it has not changed its screening or security precautions as a result of the case.⁵⁷</p>
<p>Fri, May 25</p>	<p>National Targeting Center sends notification at 12:30 AM that Speaker was encountered at the Champlain, N.Y. port of entry but that he was not detained.⁵⁸</p> <p>DHS notifies Dr. David Kim at 2:00 AM that Speaker entered the U.S. through the Canadian border, but he was not detained.⁵⁹</p> <p>Dr. Gerberding asserts that the CDC “made contact” with Speaker as he was traveling between Albany and New York City.⁶⁰</p>	<p>Speaker most likely called the CDC as he was traveling from Albany to New York City.</p>	<p>Why did the CDC send Speaker to New York City when he was a potential health risk? What safety procedures did they advise him to follow as he traveled from Albany to New York City? Why didn’t CDC go to get him before he could possibly infect other people?</p>

⁵⁸ Department of Homeland Security Committee staff briefing with Department of Homeland Security officials (TSA, CMO, and CBP), June 4, 2007.

⁵⁹ Department of Homeland Security Committee staff briefing with Department of Homeland Security officials (TSA, CMO, and CBP), June 4, 2007.

⁶⁰ Center for Disease Control and Prevention. (May 30, 2007). *Update on CDC Investigation Into People Potentially Exposed to Patient With Extensively Drug-Resistant TB.*

	<p>Speaker drove himself voluntarily to an isolation hospital (Bellevue) in New York City for evaluation.⁶¹</p> <p>Speaker enters “different door” at Bellevue so as to limit interaction with other patients.⁶²</p> <p>Speaker was admitted and served a provisional quarantine order that lasted 72 hours while he was being assessed.⁶³</p> <p>Event is discussed at the morning WHO outbreak coordination meeting. Because of implication for European countries, WHO/HQ informs WHO/EURO.⁶⁴</p>		
Mon, May 28	<p>CDC uses one of its planes to fly Speaker to Atlanta.⁶⁵</p> <p>WHO/Stop TB receives further information about the status from CDC. WHO/ Stop TB contacts TB focal points in Italy and Stockholm, and provides advice to Canada TB health authorities on WHO’s “Guidelines for Air Travel and TB Control.”⁶⁶</p>		<p>If CDC used one of its planes to fly Speaker from NYC to Atlanta, why couldn’t they have flown him from Europe? When can and does the CDC fly persons using its own travel assets or those of the Department of Health and Human Services?</p>
Tues, May 29	<p>Dr. Julie Gerberding holds a press conference announcing that the CDC had taken the rare action of issuing a federal public health isolation order for Speaker.⁶⁷</p>		<p>How does an “isolation order” differ from a “provisional quarantine order”?</p> <p>The CDC had a difficult time identifying passengers who sat</p>

<http://www.cdc.gov/od/oc/media/transcripts/t070530.htm>

⁶¹ (2007, May 30). *Man knew he had TB before flying to Europe*. Retrieved May 31, 2007, from

<http://www.cnn.com/2007/HEALTH/conditions/05/30/tb.flight/index.html>

⁶² Department of Homeland Security Committee staff briefing with Department of Homeland Security officials (TSA, CMO, and CBP), June 4, 2007.

⁶³ (2007, May 30). *Man knew he had TB before flying to Europe*. Retrieved May 31, 2007, from

<http://www.cnn.com/2007/HEALTH/conditions/05/30/tb.flight/index.html>

⁶⁴ Email from World Health Organization to Committee staff, June 4, 2007, on file with Committee.

⁶⁵ (2007, May 30). *Man knew he had TB before flying to Europe*. Retrieved May 31, 2007, from

<http://www.cnn.com/2007/HEALTH/conditions/05/30/tb.flight/index.html>

⁶⁶ Email from World Health Organization to Committee staff, June 4, 2007, on file with Committee.

⁶⁷ Center for Disease Control and Prevention. (May 29, 2007). *Public health investigation seeks people who may have been exposed to extensively drug resistant tuberculosis (XDR TB) infected person*.

<http://www.cdc.gov/od/oc/media/transcripts/t070529.htm>

	<p>CDC recommends that those passengers who were seated close to Speaker on the two trans-Atlantic flights notify their health officials in their respective states or countries, and that such persons should then be tested for TB.⁶⁸</p> <p>CDC also recommended that other passengers be notified and offered the opportunity to be evaluated and tested, if desired.⁶⁹</p> <p>Conference call between U.S., Canada, WHO/HQ, WHO/EURO, France, and Italy discussion of public health rationale for contact tracing.⁷⁰</p>		<p>next to the infected man, and relied on the media to spread the word about the flight. “We are still trying to get not just the manifest and the name and the country of citizenry but actual locating information for those individuals. This takes time, longer than we like and longer than is necessary in an era where we have to track emerging pathogens across air flights, and we hope that system will be fixed and streamlined and improved in the future, but that takes time, which is why we're hoping that you will help us bring these folks forward so they could be evaluated.”⁷¹</p> <p>What procedures exist for federal agencies to contact passengers?</p> <p>What international procedures are in place to notify CDC of the results of the testing?</p>
Wed, May 30	<p>DHS spokesman Russ Knocke said investigators were looking into how Speaker and his wife entered the U.S. when all border crossings had been given his name and told to hold him if he appeared.⁷²</p> <p>CDC asks DHS to provide passenger manifests.⁷³</p> <p>The CDC elects to share publicly the names of the flights, and information about specific seats in order to have those persons self-</p>		

⁶⁸ Center for Disease Control and Prevention. (May 29, 2007). *Public health investigation seeks people who may have been exposed to extensively drug resistant tuberculosis (XDR TB) infected person.* <http://www.cdc.gov/od/oc/media/transcripts/t070529.htm>

⁶⁹ Center for Disease Control and Prevention. (May 29, 2007). *Public health investigation seeks people who may have been exposed to extensively drug resistant tuberculosis (XDR TB) infected person.* <http://www.cdc.gov/od/oc/media/transcripts/t070529.htm>

⁷⁰ Email from World Health Organization to Committee staff, June 4, 2007, on file with Committee.

⁷¹ Center for Disease Control and Prevention. (May 30, 2007). *Update on CDC Investigation Into People Potentially Exposed to Patient With Extensively Drug-Resistant TB.* <http://www.cdc.gov/od/oc/media/transcripts/t070530.htm>

⁷² Brown, D. (2007, May 31). Man With Rare TB Easily Eluded Safeguards. *The Washington Post*, p. A03. <http://www.washingtonpost.com/wp-dyn/content/article/2007/05/30/AR2007053001962.html>

⁷³ Department of Homeland Security Committee staff briefing with Department of Homeland Security officials (TSA, CMO, and CBP), June 4, 2007.

	<p>identify in order to receive very specific advice in terms of managing the risk.⁷⁴</p> <p>The CDC begins contact tracing.⁷⁵ Contract tracing is the method used to control endemic contagious disease. A disease investigation begins when an individual is identified as having a communicable disease. An investigator interviews the patient, family members, physicians, nurses, and anyone else who may have knowledge of the primary patient's contacts, anyone who might have been exposed, and anyone who might have been the source of the disease. Then the contacts are screened to see if they have or have ever had the disease. The type of contact screened depends on the nature of the disease.⁷⁶</p> <p>Conference call between U.S., Canada, WHO/HQ, WHO/EURO, PAHO, EC, ECDC, France, Italy, Greece, Czech Republic. Further discussions on details of the investigations.⁷⁷</p>		
Thurs, May 31	<p>Speaker discharged from Atlanta Grady Memorial Hospital at 4:30 AM and transported to Denver by private plane.⁷⁸</p> <p>Speaker instructed to wear a mask along with all who come into contact with him.⁷⁹</p>		

⁷⁴ Center for Disease Control and Prevention. (May 30, 2007). *Update on CDC Investigation Into People Potentially Exposed to Patient With Extensively Drug-Resistant TB*. <http://www.cdc.gov/od/oc/media/transcripts/t070530.htm>

⁷⁵ Center for Disease Control and Prevention. (May 30, 2007). *Update on CDC Investigation Into People Potentially Exposed to Patient With Extensively Drug-Resistant TB*. <http://www.cdc.gov/od/oc/media/transcripts/t070530.htm>

⁷⁶ Louisiana State University, Medical and Public Health Law Site, available at <http://biotech.law.lsu.edu/Books/lbb/x578.htm>.

⁷⁷ Email from World Health Organization to Committee staff, June 4, 2007, on file with Committee.

⁷⁸ (2007, May 31) Grady Memorial Hospital News Briefing [Television broadcast]. Atlanta, Georgia: CNN news.

⁷⁹ (2007, May 31) Grady Memorial Hospital News Briefing [Television broadcast]. Atlanta, Georgia: CNN news.

	<p>Speaker arrives at National Jewish Medical and Research Center in Denver at 7:45 AM (MST).⁸⁰</p> <p>Authorities in the U.S. and several European countries are tracking down about 50 people who sat near Speaker on his Atlanta-to-Paris flight on May 12, and 30 people on his Prague-to-Montreal return May 24. They will be offered testing to see if they are infected.⁸¹</p> <p>Speaker will go through a series of tests and be given two antibiotics, one oral and one intravenous.⁸²</p> <p>CDC initiates a careful evaluation of Speaker's activities prior to his development of XDR TB in hopes of learning the source of exposure.⁸³</p> <p>CDC establishes a webpage providing further information to airline travelers and other members of the public who are interested in this issue: http://www.cdc.gov/tb/xdr/tb/.⁸⁴</p> <p>Speaker is identified as a 31 year old lawyer from Atlanta.⁸⁵</p> <p>News reports reveal that Speaker's father-in-law works for the Centers for Disease Control and Prevention in Atlanta. The father-in-law, Robert C. Cooksey, is a microbiologist who has conducted</p>		
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⁸⁰ Allstetter, W. (Speaker). (2007, May 31). CNN News Briefing from National Jewish Medical and Research Center [Television broadcast]. Denver, CO: CNN news

⁸¹ Brown, D. (2007, May 31). Man With Rare TB Easily Eluded Safeguards. *The Washington Post*, p. A03.
<http://www.washingtonpost.com/wp-dyn/content/article/2007/05/30/AR2007053001962.html>

⁸² Allstetter, W. (Speaker). (2007, May 31). CNN News Briefing from National Jewish Medical and Research Center [Television broadcast]. Denver, CO: CNN news

⁸³ CDC Capitol Hill Announcement, Update: Investigation of US Traveler with Extensively Drug Resistant Tuberculosis. May 31, 2007

⁸⁴ CDC Capitol Hill Announcement, Update: Investigation of US Traveler with Extensively Drug Resistant Tuberculosis. May 31, 2007

⁸⁵ CNN new development [Television broadcast], 2:00 pm May 31, 2007

⁸⁶ (2007, May 31). *TB patient's name released; Father-in-law works at CDC*. Retrieved Ma 31, 2007, from <http://www.cnn.com/2007/HEALTH/conditions/05/31/tb.flight/index.html>

⁸⁷ (2007, May 31). *TB patient's name released; Father-in-law works at CDC*. Retrieved Ma 31, 2007, from <http://www.cnn.com/2007/HEALTH/conditions/05/31/tb.flight/index.html>

⁸⁸ Department of Homeland Security Committee staff briefing with Dr. Jeffrey Runge, May 31, 2007.

	<p>research on tuberculosis for the National Center for Infectious Diseases.⁸⁶</p> <p>The CBP agent who processed his entry on May 24 was placed on administrative duties while the investigation continuing.⁸⁷</p> <p>CBP Internal Affairs begins interviewing the agent who processed Speaker's entry.⁸⁸</p>		
Fri, June 1	<p>Homeland Security officials promise to examine systems for detaining sickened travelers, but they acknowledged "there would always be holes in the system."⁸⁹</p> <p>Dr. Julie Gerberding states that Speaker "still does not appear to be highly infectious," and there is "no indication that his infectiousness has changed in the past few months."⁹⁰</p> <p>WHO/EURO informs WHO/HQ about non-EU passengers to be traced. WHO/HQ contacts WHO/AFRO, WHO/EMRO, and PAHO to communicate names of passengers to be traced.⁹¹</p>		
Sat, June 2	<p>CDC said it has withdrawn the federal isolation order for Speaker because the order to detain him at the Denver hospital is enough to protect the public's health.⁹²</p> <p>According to the CDC, officials have contacted 160 of the 292 US citizens who were on the same</p>		

⁸⁹ Schwartz. J. (2007, June 2). *Tangle of Conflicting Accounts in TB Patient's Odyssey*. Retrieved June 4, 2007, from <http://travel.nytimes.com/2007/06/02/health/02tick.html>

⁹⁰ (2007, June 2). Report: TB patient maintains he is married. Retrieved June 4, 2007, from <http://www.cnn.com/2007/HEALTH/conditions/06/01/tb.flight/index.html>

⁹¹ Email from World Health Organization to Committee staff, June 4, 2007, on file with Committee.

⁹² (2007, June 4). *TB patient's kin to be investigated*. Retrieved June 4, 2007, from <http://www.presstv.ir/detail.aspx?id=11974§ionid=3510203>

⁹³ (2007, June 4). *TB patient's kin to be investigated*. Retrieved June 4, 2007, from <http://www.presstv.ir/detail.aspx?id=11974§ionid=3510203>

⁹⁴ (2007, June 4). *TB patient's kin to be investigated*. Retrieved June 4, 2007, from <http://www.presstv.ir/detail.aspx?id=11974§ionid=3510203>

	<p>Atlanta-to-Paris flight as Speaker.⁹³</p> <p>CDC says that the father-in-law of Speaker will be investigated to see how he was involved with the case.⁹⁴</p>		
Mon, June 4	<p>Ted Speaker (Speaker's father) said he taped a meeting in which a doctor says three times that his son was not contagious though the doctors preferred that he not fly. The elder Speaker said he will release the tape at some point.⁹⁵</p> <p>CBP announces policy updates to Committee staff: 1) supervisors will receive the same warnings that CBP agents receive on their screens; 2) agents will no longer be able to clear an "exact match" on identification (where a person's name, DOB, and passport number identically match a TECS warning). This will always be referred to secondary screening.</p>		

⁹⁵ McGhee, B. (2007, June 4). Parents of TB patient are "in hell." Retrieved June 4, 2007 from <http://www.chron.com/disp/story.mpl/ap/health/4859300.html>