

**STATEMENT OF CLARK KENT ERVIN BEFORE THE HOUSE HOMELAND SECURITY COMMITTEE'S NOVEMBER 14, 2007, HEARING TITLED, "DID TSA TIP OFF AIRPORT SCREENERS ABOUT COVERT TESTING?"**

Thank you Mr. Chairman, Mr. King, and members for inviting me to testify today at this important hearing. Given my background as the Department of Homeland Security's first Inspector General and my present work as the Director of the Homeland Security Program at the Aspen Institute, I am often asked whether in my judgment America is safer today than we were on 9/11. The answer to that question is yes, especially in the area of aviation. Given the enormity of that tragedy and our tendency "to fight the last war" rather than to anticipate the next one, the bulk of our attention and resources have been focused on that sector. The good news is that we have something to show for it – cockpit doors are hardened; some pilots are armed; and the number of air marshals is significantly higher.

The bad news is that in several significant respects we remain far more vulnerable to another catastrophic terror attack from the air than we should be all these many years after 9/11, the creation of TSA, and the creation of the Department of Homeland Security. None of these respects is more critical than that of airport screener performance in terms of their ability to spot concealed guns, knives, and explosives.

The sad fact is that for all the dollars and attention that has been focused on screener performance since 9/11 study after study – by the DHS Inspector General, the Government Accountability Office; news organizations, and, even, the TSA itself - shows that it is just as easy today to sneak these deadly weapons past screeners than it was on 9/11.

The first major briefing I had as Inspector General of DHS when I arrived in 2003 was with my counterpart at the Department of Transportation, Ken Mead, in whose jurisdiction aviation security lay prior to the creation of DHS. At the request of the President himself immediately after the 9/11 attacks, Mead sent teams of undercover auditors to airports around the country – large and small – to test the ability of the then privatized screener workforce to spot concealed weapons. Those results are still classified nearly seven years later, but suffice it to say that it was far easier than it should have been to sneak these weapons through in the immediate aftermath of 9/11 when screeners' alert level should have been at its highest. The first major project I then asked my own audit team to undertake in 2003 was to go to the very same airports as Mead's teams had done two years earlier to see whether the federalization of the screener workforce; the creation of TSA; and the transfer of TSA from the DOT to DHS had made any difference in screeners' ability to spot deadly weapons. When the results came in in late 2003/early 2004, they were exactly the same, to the decimal point, as those Mead's teams obtained in 2001. Before departing DHS in 2004, I sent my teams out again to the same airports to see whether the recommendations we had made in terms of training, supervision, and technology (about which more later) had made any difference. The results came in in the spring of 2005, and they, too, were exactly the same as those obtained four years earlier. The pattern has continued all across the country to the present day. There is the GAO report last spring to the effect that investigators were able to sneak potential bomb components through checkpoints at 21 different airports. There was a news report last fall that screeners at Newark International Airport, not incidentally one of the airports transited by the 9/11 hijackers, failed 20 out of 22 undercover tests. And, then,

of course, there was the USA story a couple of weeks ago reporting that screeners failed TSA's own undercover tests 75% of the time at LAX, and 60% of the time at Chicago O'Hare.

Interestingly that same study found only a 20% failure rate at San Francisco airport. San Francisco happens to be one of the handful of airports around the country where screeners continue to be private contract employees. One might think that such a dramatically better result at a privately run airport suggests that such airports are better at training screeners than federalized ones. I caution against that conclusion, at least not a priori. Our work during my time at DHS showed no appreciable difference in screener performance between federalized airports and privatized ones.

Another possible explanation for the discrepancy relates to the subject of today's hearing – the possibility that TSA may have tipped off screeners to the presence of undercover investigators. About two years ago, a former employee for the San Francisco contractor, Covenant, alleged that undercover tests were compromised in this fashion. Those claims were substantiated by a DHS Office of Inspector General investigation last fall.

At a federalized airport, the one in Jackson, Mississippi, DHS OIG has substantiated allegations that TSA employees, and even TSA management, compromised undercover tests by alerting screeners beforehand.

So, the April 28, 2006, email from TSA to Federal Security Directors and other security personnel around the country alerting screeners to covert testing may well be part of a pattern at both federalized airports and privately-run ones. (I should mention that I have been told by those who have seen the results of this testing that the results were dismal. If screeners still fail tests that they know are being conducted, Heaven help us when Al Qaeda next probes for weaknesses.)

It is urgent that Congress and the independent DHS Office of Inspector General investigate this matter thoroughly. The person who sent this email, any people who authorized it and those who knew about it in advance and did nothing to stop it from being sent; and anyone who received it and acted on it should all be summarily fired and criminally prosecuted for potentially endangering the security of the United States. I understand that poor test results are embarrassing to TSA and its senior managers, and I understand that people don't like to be embarrassed. But, the security of the nation must come before protecting one's reputation. If these tests are compromised, and people are led to believe that screeners are better than they are at detecting concealed weapons, terrorists can exploit this gaping hole in our security to kill thousands more people someday.

There should be no mystery as to what it takes to improve screener performance significantly. The recommendations that my former office made four years ago remain as valid today as they were then. Screeners need to be trained regularly and stringently, under conditions that approximate real world ones as closely as possible. Screeners whose performance is consistently sub-par must ultimately be fired. Supervisors must be evaluated on the basis of their success or failure in training their teams. Supervisors whose teams consistently perform in a sub-par fashion must ultimately be fired. And, technologies like "backscatter" that can see through clothing and

spot concealed guns and knives, and “multi-view x-ray” technology that automatically rotates bags in a three- dimensional fashion, ultimately revealing concealed weapons, must be moved beyond the testing and pilot phase to wide deployment. It may be impossible to spot concealed weapons 100% of the time, but through better training, closer supervision, and more widely deployed sophisticated technology, we can come as close to 100% detection rate as is humanly and technically possible.

All these many years after 9/11, we have still failed to grasp that airport screeners are our very last line of defense before another group of hijackers attempt to board planes and carry out another devastating terror attack on our homeland. TSA’s compromise of screener testing endangers the security of the nation, and everyone responsible for this particular compromise, and any others that may have occurred over the years, should be subjected to the maximum penalty the law allows.

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