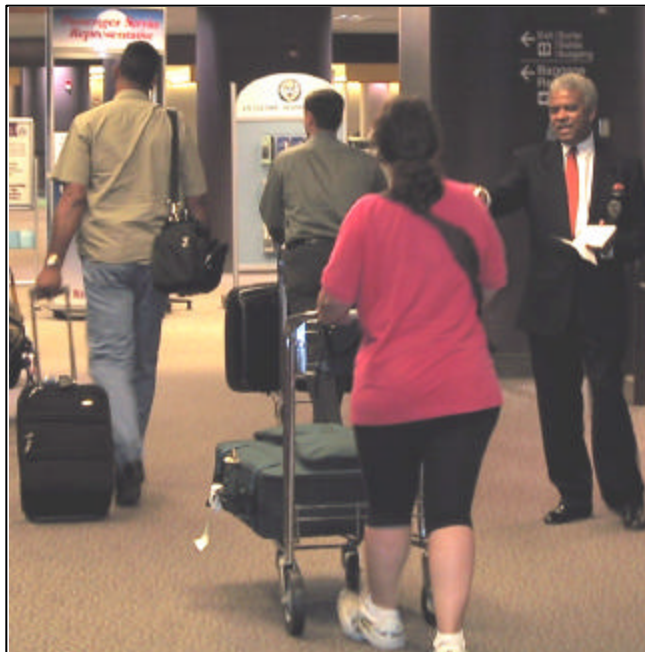


TRADE AND PASSENGER PROCESSING:
Customs Personal Search Policies,
Procedures, and Training Appear Reasonable

OIG-CA-02-003

April 12, 2002



Office of Inspector General

The Department of the Treasury

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Abbreviations

Customs	U.S. Customs Service
FLETC	Federal Law Enforcement Training Center
GAO	U.S. General Accounting Office
Handbook	<i>Personal Search Handbook</i>
INS	Immigration and Naturalization Service
ITC System	Inventory, Tracking and Closure System
SER	Search Efficiency Rate
SOP	Standard Operating Procedure

Cover photo depicts Passenger Service Representative distributing customer satisfaction surveys to arriving passengers at Atlanta Hartsfield International Airport. All photos in this report were taken and are used with the permission of Customs officials and the individuals that appear in the photos.

*The Department of the Treasury
Office of Inspector General*

April 12, 2002

Robert C. Bonner
Commissioner
U.S. Customs Service

This final report summarizes the results of our review of U.S. Customs Service's (Customs) Personal Search Policies, Procedures, and Training. We are making one recommendation that would help Customs to measure policy effectiveness and consistency. This report is based on our fieldwork performed from May 2001 through July 2001. We provide a more detailed description of our review approach in Appendix 1.

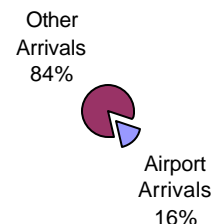
Our review revealed that Customs personal search policies, procedures, and training appear reasonable. However, additional data collection and analysis is necessary for Customs management to be able to evaluate the personal search process.

Your staff concurred with the results and recommendation, and provided a satisfactory action to address the issue. We have summarized the initiative underway to implement the recommendation in the Recommendation section of the attached report and included a complete text of Customs response to our report as Appendix 2.

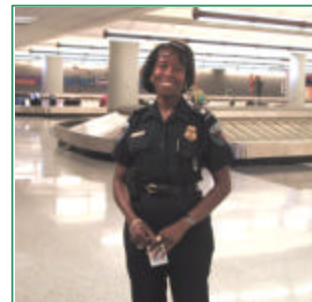
Results in Brief: Policies, Procedures, and Training Appear Reasonable

Customs inspectors process approximately 493 million arriving international travelers at more than 300 ports of entry each year. Of this 493 million, 80 million arrive by air, 11 million by sea, and 402 million arrive on land.

Arrivals FY 2000 and 1st Quarter FY 2001



According to Customs, the vast majority of arriving travelers conform to U.S. laws. However, some travelers do not follow U.S. laws and arrive at our airports with illegal contraband, including illegal drugs. Customs inspectors therefore attempt to catch those breaking the laws, while expediting the travel of law-abiding travelers. To do this, inspectors try to identify the few likely smugglers among millions of arriving travelers. They have a set of human, canine, and electronic tools to aid in this task. One of these tools is the personal search.



Supervisory Inspector

During fiscal year 2000, about 1 in every 9,000 travelers was selected for a personal search, and 9,012 travelers in total were selected in the commercial air environment for a personal search. Some critics have questioned whether Customs' legal authority to search arriving airline travelers was excessive and its policies and procedures in this area unreasonable. Some have also questioned the results of Customs methods. In response to these views, Customs has been subjected to several external reviews of its operations (covered in the Background section, page 3), including this review.

For this review, we focused on the reasonableness of Customs policies, procedures, and training for:

- Selecting airline travelers for personal search, and
- Conducting non-intrusive and intrusive personal searches.¹

As a result of our review, we conclude that Customs policies, procedures, and training for selecting airline travelers for personal search and conducting non-intrusive and intrusive personal searches appear reasonable. We based our conclusion on: (1) discussions with Customs officials and staff on airport inspection policies and procedures; (2) our review of the *Personal Search Handbook* and policies and procedures on

¹ According to Customs, a Customs examination may include baggage inspections and conversations with an inspector. It may also include, in limited instances, a non-intrusive personal search (immediate hands-on pat-down followed by a check of any unusual objects identified) or an intrusive personal search (body-scan, partial body-search, x-ray, cavity, monitored bowel movement).

training; (3) search effectiveness data for selected airports provided by Customs;² and (4) observations of operations at three international airports. Customs current policies and procedures, if properly implemented throughout the agency, should help to ensure that travelers are not selected for additional scrutiny based on race or ethnicity. Training has influenced changes in attitude, interpersonal relations, and cultural diversity.

Customs does not currently record the race and ethnic background of all arriving travelers, but it does track this information for those asked to undergo a personal search. The tracked information shows race, gender, and citizenship for commercial air passengers subjected to personal searches. However, until Customs is able to track the race and ethnic background for all arriving travelers, it will not be able to verify statistically that its inspectors do, in fact, select people for personal searches without regard to race or ethnic background. Customs officials were aware of the need for universe statistics and are working with the U.S. Immigration and Naturalization Service (INS) to collect data on race and ethnic background voluntarily from arriving passengers.

Additional data collection and analysis will provide management with useful information to measure policy effectiveness and consistency. Therefore, we recommend that Customs continue to work with INS to identify what universe data will be needed and collected and determine how this data will be analyzed.

Background

In the past, international travelers, Members of Congress, executive branch officials, and news correspondents have expressed concerns about Customs selecting travelers inappropriately for additional scrutiny. Some airline travelers have filed lawsuits against Customs, believing inspectors singled them out for examination on the basis of race and

CUSTOMS MISSION

We are the guardians of our Nation's borders – America's frontline. We serve and protect the American public with integrity, innovation, and pride. We enforce the laws of the United States, safeguard the revenue, and foster lawful international trade and travel.

An act of Congress created Customs and nominated its first officers and collectors in July 1789. On August 5 of that year, the first vessel to arrive at the Port of New York under the new Customs law paid the first duty collected by Customs.

The Tariff Act of 1930 gave Customs responsibility for assessing and collecting customs duties on imported merchandise; preventing fraud and smuggling; and controlling carriers, persons, and articles entering and departing the U.S.

Currently, Customs patrols 96,000 miles of U.S. land, air and sea borders through more than 300 ports of entry.

² We did not verify the reliability of this data.

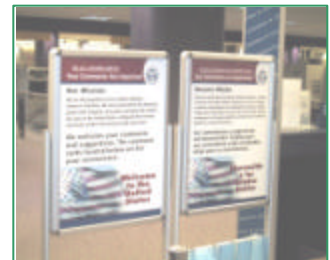
subjected them inappropriately to personal searches, particularly partial body searches.

Congress asked the U.S. General Accounting Office (GAO) to review Customs policies and procedures for conducting personal searches and to determine whether there are controls in place to ensure that airline travelers are not inappropriately selected or subjected to personal searches. As discussed in a March 2000 report, GAO did not find that Customs inspectors selected individuals for personal searches in an unfair, discriminatory, or disproportionate way.³ However, GAO found a pronounced difference occurred with African-American women who were U.S. citizens. They were 9 times more likely than White women who were U.S. citizens to be x-rayed after being frisked or patted down in fiscal year 1998. GAO recommended that Customs analyze the characteristics of travelers selected for intrusive personal searches and use this data to develop criteria for determining which travelers to search.

In June 2000, Customs released two separate reports examining personal search policies and procedures from third party perspectives. An external commission produced the first report and an independent advisor completed the second. The reports offered 20 recommendations for improving personal search policies and procedures. In response to the different reports, Customs formed an internal committee to implement all of the recommendations, some of which related to the training of Customs inspectors, inspection methods, staffing levels, technology, information and outreach, and monitoring and oversight.

Since the GAO report, Customs believes it has made a significant effort to improve its policies and procedures and influence changes in Customs inspectors' attitudes. Customs reports that changing its personal search policies has ensured that neither racial nor gender bias play a role in the selection of travelers for personal searches.

Customs has made personal searches less intrusive by offering the optional use of body scan, low energy x-ray machines instead of a hands-on, pat-down search. It has also deployed mobile x-ray systems at some busier airports to save travelers' time.



Mission Statement Display

³ *Better Targeting of Airline Travelers for Personal Searches Could Produce Better Results* (GAO/GGD-00-38)

To improve its approach, Customs policy is to have all Customs inspectors attend initial and refresher classes, and complete computer-based training on personal search policies and procedures.

To improve communication with the public, Customs published new informational brochures and comment cards. New signage, information kiosks, traveler service representatives, a customer satisfaction unit, and a new detained traveler assistance program all seem to highlight additional sensitivity by Customs for the international traveler.

To verify the implementation of this personal search approach, it is Customs policy to collect and analyze data on race, gender, citizenship, and the reason for search for passengers selected for personal searches. Customs is currently working with the INS to collect racial and ethnic information voluntarily for all passengers so it can gauge its success in ensuring that individuals are not selected for personal search based on race and ethnicity.

Findings and Recommendation

Policies and Procedures for Personal Searches

All arriving travelers into the United States are required to make a declaration to an inspector. In the land environment, it is an oral declaration, whereas in the air environment, it is done on a Customs Declaration Form (6059B). On the Declaration Form, travelers need to declare currency or monetary instruments over \$10,000 U.S. or foreign equivalent in their possession.

The top of the rear of the Declaration Form states, "NOTICE/ALL PERSONS ARE SUBJECT

The image shows a sample of a U.S. Customs Declaration Form (Form 6059B). The form is titled "WELCOME TO THE UNITED STATES" and "DEPARTMENT OF THE TREASURY CUSTOMS DECLARATION". It includes fields for traveler information such as name, address, and citizenship. There are sections for declaring currency and monetary instruments, and a table for listing items being carried. A "NOTICE" section is present, stating that all persons are subject to further questions and that certain agricultural and monetary instruments are subject to search. The form also includes a "SIGN BELOW" section and a table for describing articles.

TO FURTHER QUESTIONING AND THEIR PERSONS, BELONGINGS, AND CONVEYANCE ARE SUBJECT TO SEARCH, (19 CFR 162.3 – 162.8)/The unlawful importation of controlled substances (narcotics, chemicals, prescription medicines if not accompanied by a prescription, etc.) regardless of amount is a violation of U.S. law."

Customs' *Personal Search Handbook*, CIS-HB-3300-04A, published in November 1999, (Handbook), instructs inspectors to protect individuals' constitutional right against unreasonable searches and seizures while accomplishing their law enforcement mission. The Handbook describes Customs' policy that requires some suspicion and at least one articulable fact before selecting someone for a pat-down search. It further describes Customs' policy that requires reasonable suspicion (multiple articulable facts and reasonable inferences from these facts) that a person might be in possession of items contrary to law for any search beyond a pat-down search. The Handbook specifically prohibits an inspector from using a person's gender, race, color, religion, or ethnic background as a factor in determining any level of suspicion.

The following six factors listed in the Handbook are to guide inspectors' selections of travelers for a personal search:

- Behavioral Analysis – the recognition of physiological signs of nervousness, including shaking or trembling hands, rapid breathing for no apparent reason, coldsweats, pulsating carotid arteries, flushed face, and avoiding eye contact. An inspector stated this recognized that some travelers who are not carrying contraband also exhibit these behaviors because the travelers may be apprehensive about people in positions of authority, the uniform, or the combination of encountering Customs inspectors, INS, Agriculture, and law enforcement staffs.
- Observational Techniques – the observation of traveler behavior and includes the application of formal training in behavioral analysis. At one airport, we observed a detained traveler who was found to be smuggling drugs in boots he was wearing and in slippers packed in his luggage. We asked the Customs inspector what brought this traveler to his attention, and we were told it was the way the traveler was walking and his nervousness. Drugs stored in the traveler's boots made the boots exceptionally heavy. The drugs were field-tested and positively identified as heroin.

-
- Inconsistencies – contradictions identified in either interview or documentation including catching the person making false statements, unreasonable explanations for travel, and unexplained irregularities in ticketing or reservations. For example, one inspector explained that when questioning a traveler who may be carrying contraband, information is often elicited that indicates the traveler made the reservation that morning, paid with cash, and had no idea where lodging would be obtained. The inspector pointed out that the majority of travelers not involved in illegal activity make airline and hotel reservations and plans far in advance of their travel and usually pay by credit card.
 - Intelligence information – developed by inspectors performing formal analysis before arrival using the Treasury Enforcement Communication System; other Federal, state, and local government agencies' alerts; and a listing of Federal and state warrants for arrest. Ultimately, traveler analysis covers flights from all countries and may focus on those countries known as "sources" of illegal drugs. We reviewed some of the computer intelligence information, and observed how inspectors access the information. We saw no indication on the system where race could be either obtained or entered into the system.
 - K-9s and X-ray machines – guided by inspectors, trained dogs smell travelers' baggage at luggage carousel as well as behind the scenes. Inspectors also use mobile x-ray machines to inspect baggage separately.
 - Incident to a seizure or arrest – the continuation of a seizure of previously discovered illegal or hidden merchandise. For example, finding drugs in a false-sided/bottomed suitcase would provide a basis for conducting a personal search to determine if additional merchandise is hidden on the person and to identify any weapons the person might have (for traveler and inspector safety). At one airport, we observed a traveler detained after an inspector detected a false-bottom suitcase with three pounds of drugs taped to the bottom. The traveler eventually underwent a pat-down search.

Customs has developed criteria and procedures for continuously reviewing the efficiency and cost effectiveness of traveler targeting. According to Customs' Handbook, supervisory approval is required for pat-downs (except when there is suspicion that a passenger has a

weapon) and partial body-searches. Port director approval is required for X-rays, body cavity searches, and monitored bowel movement detentions. Supervisors and port directors are to make an independent assessment of the facts and decide whether the inspector's reasons for the search warrant the level of search requested.

At the three major U.S. international airports visited, our evaluators observed that inspectors appeared to follow the objective steps outlined in the *Personal Search Handbook* during our limited observation periods. The Handbook outlines what we consider a reasonable approach, and incorporates thorough and rigid management controls for proper oversight for the conduct of non-intrusive and intrusive personal searches.

We found that Customs data and reports indicate that inspectors are better able to identify those travelers violating U.S. laws at some airports using the new policies and procedures. We were told that all of the less successful airports send senior inspectors to successful airports regularly to learn about the more successful operations.

Training for These Policies and Procedures

Customs has implemented centralized training for these policies and procedures. Mandatory personal search training includes initial and refresher classes, and computer-based training. Refresher training is conducted annually.

While we did not observe or verify inspectors' attendance at the training, inspectors told us that they are impressed with the importance and priority of training. The training covers passenger processing in five subject units: (1) professionalism, (2) observing behavior and analyzing documents, (3) interviewing, (4) examining luggage/personal belongings, and (5) conducting a personal search. The training also covers interpersonal relationships and cultural diversity. The training is designed to reinforce existing passenger inspection and interaction skills, and includes a review of current passenger processing policy related to personal search. Participants exchange techniques and expertise to learn from each other.

Training developed for Customs inspectors and supervisors for the selection of airline travelers for personal search and conduct of non-intrusive and intrusive personal searches appears reasonable, based on our review of the training policies and course materials.

Non-intrusive and Intrusive Searches

Customs records searches by type, reason(s) for conducting, and results on a Form 25 (Airport Secondary Inspection) for each selected traveler. Positive searches are summarized on a Search, Arrest and Seizure Report. Negative searches are summarized in an Inspections Operations Incident Log.

However, as shown in the following table, there were wide variances among the top 10 international airports in the percentages of (1) passengers selected for personal searches, (2) passengers selected for more intrusive searches, and (3) searches that identified violations. We did not, in the scope of this review, attempt to determine the reasons for these variances.

Percent of Commercial Air Passengers During Fiscal Year 2000 Subjected to Personal Search, by Type, and Percent in Violation of U.S. Laws

	<u>% Searched</u>	<u>% Non-intrusive</u>	<u>% Intrusive</u>	<u>% Searches w/ violations</u>
New York	0.018	87	13	13.5
Newark	0.017	90	10	11.3
Atlanta	0.018	87	13	51.3
Miami	0.012	72	28	51.7
Chicago	0.003	89	11	5.3
Houston	0.014	87	13	16.6
Honolulu	0.023	97	3	3.6
Los Angeles	0.015	97	3	3.7
San Francisco	0.014	98	2	2.7
Toronto Preclearance	0.003	13	87	45.5

(Data Source: U.S. Customs Service)

Search Efficiency Rates

Customs measures search efficiency by comparing the number of travelers searched to the number of searched travelers found to be in violation of U.S. laws. Since Customs has implemented new procedures, it has searched fewer travelers but found more travelers breaking U.S. laws nationwide, according to Customs data. Customs internal reports list search efficiency ratings ranging from 2.3 percent to 62.7 percent at major U.S. international and preclearance airports for the first half of fiscal year 2001. During this same period, the mean average for all U.S.

international and preclearance airports combined is reported as 17.3 percent. This is an improvement over the fiscal year 2000 mean average of 14.0 percent.

Customs' overall Search Efficiency Rate (SER) for all personal searches conducted improved from 5.7 percent in fiscal year 1999 to 14.0 percent in fiscal year 2000. For the first 6 months of fiscal year 2001, Customs overall search efficiency shows continued improvement at 17.3 percent. Customs inspectors have decreased the number of commercial air passengers subjected to body searches upon arrival while increasing drug seizures. Fewer commercial air passengers were searched by Customs in fiscal year 2000 than in fiscal year 1999.

Customs recognizes the need to be able to track race and ethnic background for all arriving travelers to help analyze the race, gender, and ethnicity of those searched. Currently, Customs is unable to do this but is working on doing this with the help of the INS. Until Customs is able to track the race and ethnic background for all arriving travelers, it will not be able to verify statistically that it, in fact, selects people for personal searches without regard to race or ethnic background. However, Customs does track this information for individuals that undergo a personal search, which also allows the calculation of SERs.

Commercial Air Passengers Subjected to Personal Search and Drug Seizures

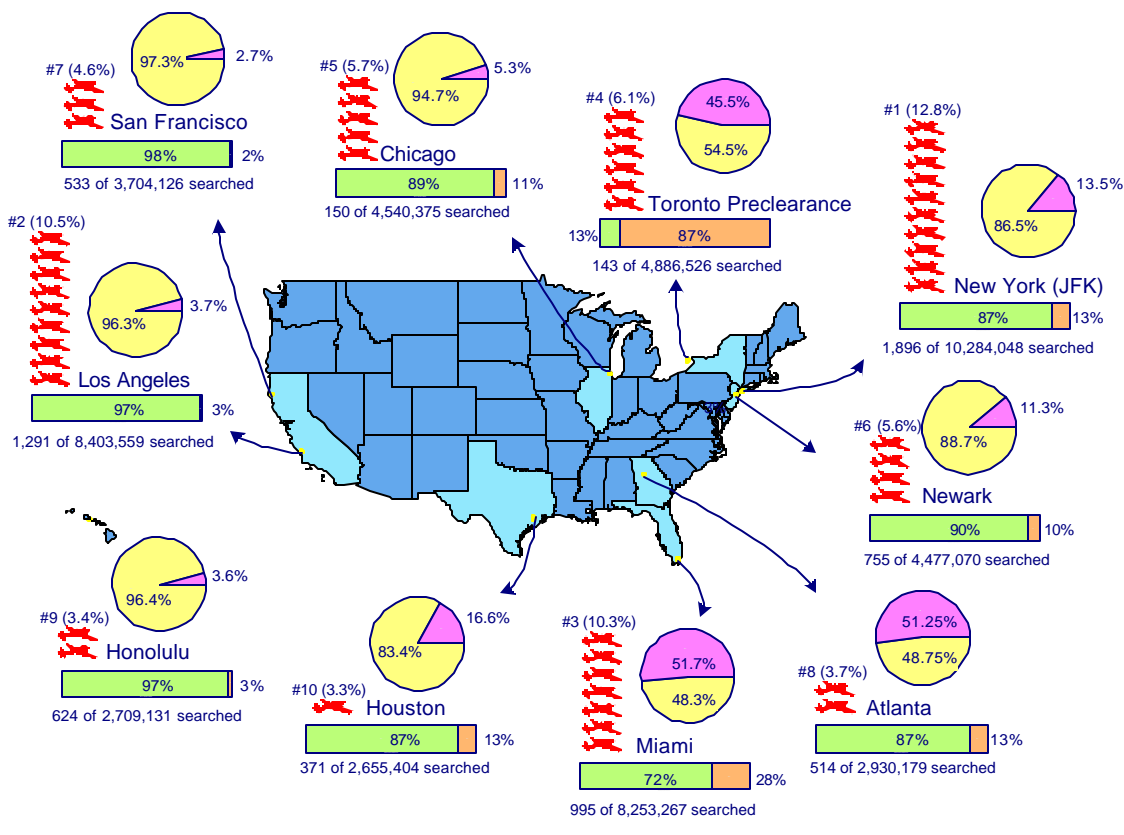
Race	1999	2000	2001⁴
Asian	2,152	816	487
Black	4,256	2,441	1,931
Indian	22	7	4
Latin	6,768	2,730	1,883
White	7,244	2,835	1,654
Other	0	184	144
Not Reported	<u>2,666</u>	<u>0</u>	<u>0</u>
Total	23,108	9,013	6,103
Drug Seizures⁵	514 (2.2%)	645 (7.2%)	736 (12.1%)

(Data Source and Terminology: U.S. Customs Service. "Race" is based on passengers' voluntary disclosure.)

⁴ First 8 months of the fiscal year.

⁵ The drug seizures were the result of a personal search and only include cocaine, heroin, and ecstasy.

The following chart displays search intrusiveness and SERs, outlined in the previous 2 sections, for the top 10 busiest airports, which processed 66% or all airport arrivals, for fiscal year 2000:



Legend

Rank and percent of total number of international travelers arriving to the United States

Percent of travelers undergoing personal search
 Non-intrusive Searches
 Intrusive Searches
 Actual number of travelers searched contrasted with the actual number of arriving travelers (annually)

Violation
 Percent of travelers searched found to be violating U.S. law
 No Violation

Recommendation

Proper data collection and analysis will provide management with useful information to measure policy effectiveness and consistency. Therefore, we recommend that the Commissioner of Customs should continue to work with INS to identify what universe data will be needed and collected, and determine how this data will be analyzed.

Management Response:

Customs management concurred with this recommendation. Customs is currently working with the INS on a method for collection of demographics information that will assist with the evaluation of its personal search process. The data collection is scheduled for testing by Customs' Office of Information and Technology within the near future. Once testing is complete an evaluation will be made by Customs in conjunction with INS to determine future expansion of this data collection effort.

OIG Comment:

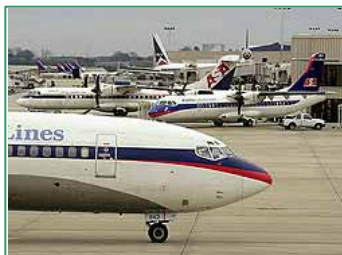
The OIG believes that the initiative underway addresses the intent of the recommendation.

* * * * *

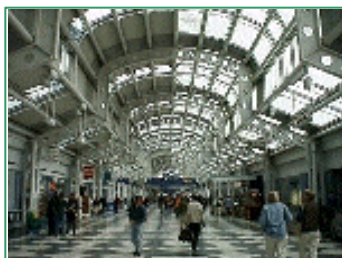
We will record our recommendation in the Department of the Treasury's Inventory, Tracking and Closure system (ITC). Customs should identify a target date for implementing the recommendation and provide us with this within 30 days.

We appreciate the cooperation and courtesies extended to our staff, and especially their providing updated personal search data reports. If you have any questions, please contact me at (202) 927-5766.

Adam D. Silverman
Director, Office of Evaluations



Atlanta Hartsfield International



Chicago O'Hare International



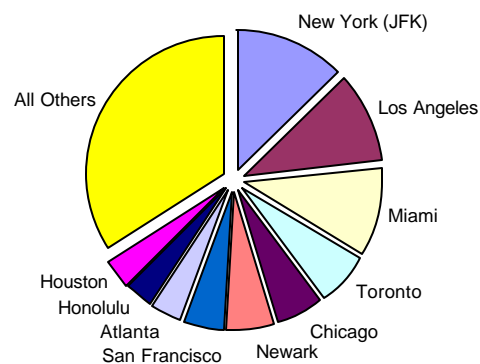
Miami International

We based our conclusion in this evaluation review on four areas of work. First, we discussed airport inspection policies and procedures with Customs officials at the Washington, D.C. Headquarters. Second, we examined the *Personal Search Handbook* and policies and procedures on training. Third, we obtained search effectiveness data for all U.S. International Airports with a primary focus on the ten busiest ones.⁶ And lastly, we observed operations at three different major international Airports (Atlanta Hartsfield, Chicago O'Hare, Miami) to see firsthand the implementation of new Customs policies and procedures for selecting travelers for additional scrutiny and for conducting personal searches.

We met with each Port Director, designated officials, and inspectors at: Miami International Airport during June 25-27, 2001; Chicago International Airport during July 9-11, 2001; and Atlanta International Airport during July 23-25, 2001.

We performed our work in accordance with the *Quality Standards for Inspections* issued by the President's Council on Integrity and Efficiency.

10 Busiest U.S. Airports*
(Based on Number of Inbound Passengers)



⁶ We did not verify the reliability of this data.



U.S. Customs Service

Memorandum

DATE: January 9, 2002

FILE: AUD-1-OP CN

MEMORANDUM FOR MARLA A. FREEDMAN
ASSISTANT INSPECTOR GENERAL
FOR AUDIT

FROM: Director, Office of Planning

SUBJECT: Draft Audit Report on Evaluation Report: U.S.
Customs Personal Search Policies, Procedures,
and Training Appear Reasonable

Thank you for providing us with a copy of your draft report entitled "Evaluation Report: U.S. Customs Personal Search Policies, Procedures, and Training Appear Reasonable" and the opportunity to discuss the issues in this report.

We have completed our review and concur with the recommendation that proper data collection and analysis will provide management with useful information. Customs is currently working with the INS on a method for collection of demographics information that will assist with the evaluation of our personal search process. The data collection is scheduled for testing by the Office of Information and Technology within the near future. Once this testing is complete an evaluation will be made in conjunction with INS to determine future expansion of this data collection effort.

We have determined that the information in the audit does not warrant protection under the Freedom of Information Act.

If you have any questions regarding the attached comments, please have a member of your staff contact Ms. Cecelia Neglia at (202) 927-9369.

TRADITION

★

SERVICE

★

HONOR

A handwritten signature in black ink, appearing to read "William F. Riley".

William F. Riley

Office of Evaluations

Adam Silverman, Director, Office of Evaluations
Chris Heppe, Supervisory Evaluator
Inez Jordan, Supervisory Evaluator
John Lemen, Supervisory Evaluator
Vivian Dupuy, Evaluator
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The Department of the Treasury

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