

CLOSING THE GAPS IN AIR CARGO SECURITY

HEARING

BEFORE THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS UNITED STATES SENATE

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CONTENTS

Opening statements:	Page
Senator Lieberman	1
Senator Collins	3
Senator Levin	13
Senator Brown	16
Senator Burris	18
Senator Carper	21
Senator Ensign	23
Prepared statements:	
Senator Lieberman	31
Senator Collins	33

WITNESSES

TUESDAY, NOVEMBER 16, 2010

Hon. John S. Pistole, Administrator, Transportation Security Administration, U.S. Department of Homeland Security	5
Hon. Alan D. Bersin, Commissioner, U.S. Customs and Border Protection, U.S. Department of Homeland Security	7

ALPHABETICAL ORDER OF WITNESSES

Bersin, Hon. Alan D.:	
Testimony	7
Joint prepared statement with Mr. Pistole	36
Pistole, Hon. John S.:	
Testimony	5
Joint prepared statement with Mr. Bersin	36

APPENDIX

Responses to post-hearing questions submitted for the Record from Mr. Pistole and Mr. Bersin	48
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CLOSING THE GAPS IN AIR CARGO SECURITY

TUESDAY, NOVEMBER 16, 2010

U.S. SENATE,
COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 3:20 p.m., in room SD-342, Dirksen Senate Office Building, Hon. Joseph I. Lieberman, presiding.

Present: Senators Lieberman, Levin, Carper, Burris, Collins, Brown, and Ensign.

OPENING STATEMENT OF CHAIRMAN LIEBERMAN

Chairman LIEBERMAN. Good afternoon. The hearing will come to order. Our subject today is air cargo security.

Beginning with the attacks against America on September 11, 2001, our terrorist enemies have consistently sought to use airplanes as weapons of mass destruction, and more generally, they have seen in our aviation system a strategic choke point of international transit and commerce that could be brought to a halt, or at least stopped, through terrorist attacks. We have seen shoe bombers, liquid bombers, and underwear bombers. Again and again, terrorists have sought different ways to blow up an airplane.

In the most recent attempt, of course, terrorists hid bombs inside the toner cartridges of printers and sent them to the United States as air cargo. This plot, as the others before it, was thwarted, in this case largely because of extraordinary intelligence, and here we give thanks and credit to our friends and allies in Saudi Arabia. But there was in this an element of good fortune or luck, and luck, of course, is not a strategy to defend our Nation from a threat of terrorists.

As this most recent plot demonstrates, good intelligence and strong foreign partnerships are critically important. But I think the point that remains with us, and it is that phrase that echoes from the 9/11 Commission Report, the Kean-Hamilton Report, in which they said September 11, 2001, occurred because of a failure of imagination, our failure to imagine that people could possibly try to do what the terrorists did to us on September 11, 2001. Every time one of these events happens, it compels us to figure out how we can better anticipate terrorists' next move, not just react to the last one.

Former Transportation Security Administration (TSA) Administrator and Deputy Secretary of the Department of Homeland Security (DHS) Admiral James Loy recently said in an op-ed in the

Washington Post that after the September 11, 2001 hijackings, we hardened cockpit doors. Then the terrorists tried a shoe bomb, and now we remove our shoes for inspection at airports. Then the terrorists tried liquid explosives hidden in sports drinks, targeting seven planes flying over the Atlantic Ocean, and we cracked down on liquids that could be brought on board. Then the underwear bomber came close to bringing down a plane over Detroit, and now we have gone to full body imaging. And, of course, I support every one of those steps we have taken. Now terrorists are going after a weak spot in cargo inspections, and we will respond to that, as well we should, but they, our enemies, will keep looking for new vulnerabilities, and we have to continue to try to think as they would and raise our defenses before they strike.

We were lucky, as I have said, that none of these attempts succeeded, but they will continue to probe our weaknesses, attempting to detect our flaws and then defending against them, and we have to make sure that not only does our luck not run out, but that we are prepared to stop whatever they try.

Here are some of the questions that I would like to ask our witnesses today. Clearly, both the gathering of intelligence and acting on it is crucial, and I want to ask how we can improve our intelligence beyond even where it is now. Intelligence is always important in a war, never more important than in the particular war with Islamist extremist terrorists that we are fighting today for all the reasons that I have just talked about.

Threats of terrorism come from within the United States or from abroad. Our ability to deter, detect, or intercept that foreign threat here is limited by our own sovereignty. We have to depend on our foreign partners to implement strong security programs, and I want to ask both of you what we are doing to strengthen those relationships and implement international security programs. Obviously, we have limited direct control over incoming passenger flights and cargo flights.

While our government has achieved 100 percent screening of air cargo on domestic passenger flights, which is a significant accomplishment consistent with the 9/11 legislation we adopted, only about 60 percent of cargo on passenger flights coming into the United States from abroad is screened, and there is a kind of patchwork system of cargo shipments on all-cargo aircraft. So naturally, I want to ask how we can improve that and convince our foreign countries to expand and accelerate their screening of cargo coming either on passenger flights or all-cargo flights to the United States.

Right now, we require air carriers coming from Europe, Asia, Africa, and South America to provide cargo manifest information after the plane has taken off, 4 hours before it is due to arrive. Can we move that time line up? Is there additional or different information that may be helpful in identifying high-risk cargo?

And finally, how are we preparing to identify the next gap terrorists will likely try to exploit? Do we have an institutional way, as difficult and unprecedented as this enemy is in threatening our homeland security, to try to think ahead of them?

Our witnesses today are, of course, ideally positioned by the offices they hold now and by their experience to help us answer these

questions—TSA Administrator John Pistole and Customs and Border Protection (CBP) Commissioner Alan Bersin. I thank both of you for being here and look forward to your testimony.
 Senator Collins.

OPENING STATEMENT OF SENATOR COLLINS

Senator COLLINS. Thank you, Mr. Chairman. Mr. Chairman, your testimony, particularly when you were quoting Admiral Loy, shows us that the terrorists remain unflagging in their determination to exploit vulnerabilities in the security systems developed since September 11, 2001.

In the past 12 months, the United States has narrowly avoided two terrorist plots directed against aviation. The first was averted by sheer luck and the quick action of the passengers and crew in the skies above Detroit on Christmas Day. The second, which we just discussed, was disrupted due to intelligence shared by our allies and the hard work of Federal law enforcement, intelligence, and homeland security officials and several international partners, and I want to commend the two leaders who are before us today, who I know worked around the clock once they were informed of this threat.

In these two failed attacks, we see the fanaticism and patience of our enemies. Though thwarted, these plots should prompt us to reexamine whether our priorities are correct and our resources properly deployed.

Today, the Committee examines the most recent attempted attack. We all are aware that last month, terrorists exploited weaknesses in the air cargo security system and succeeded in putting explosives inside printer cartridges bound for this country. The bombs ultimately found their way into the cargo bays of airplanes, including at least one passenger plane. If detonated, the results could have been catastrophic.

This is the nature of the terrorist threat that we face. It is dynamic. It is ever changing. The Chairman reminds us of the caution of the 9/11 Commission that we cannot suffer again from a failure of imagination. As we strengthen our security systems, the terrorists counter with a different kind of threat aimed at a different target using different means.

The potential to plant an explosive somewhere in the millions of pieces of air cargo shipped around the world daily is clearly a vulnerability. The Department of Homeland Security must use this near miss to redouble its work with other countries, airline carriers, and shippers to tighten the security network. We must move quickly to shore up our defenses without interfering with the legitimate flow of commerce, and, of course, that is always the challenge that we face. Al-Qaeda is, after all, seeking to destroy our economy and way of life, as well as to kill our people. We must not allow either goal to be accomplished. DHS should analyze how government can best focus its limited screening resources on the highest risk cargo.

The successes in the risk-based screening of maritime cargo could provide a road map for risk-based screening of air cargo. Currently, maritime cargo manifest information must be submitted to DHS at least 24 hours before a cargo container headed to the United States

is even loaded on a ship overseas. Using this information and other intelligence, the DHS targets high-risk cargo for inspection prior to the ship's departure to this country.

In sharp contrast, air cargo manifest information is required to be submitted only 4 hours before the cargo arrives in the United States. That is a major difference, and it means that the information is often transmitted to DHS while the aircraft is in the air, providing no opportunity to conduct further inspections of flagged cargo before departure. In some ways, that reminds me of the problem with Umar Farouk Abdulmutallab, where he was flagged and was going to be stopped, but only after he arrived in the United States. It seems to me we have a similar problem in the case of our air cargo.

Indeed, Customs and Border Protection has acknowledged that based on the shipping information about the two packages from Yemen, the agency would have flagged them as high risk upon arrival in the United States. But our whole concept is to push out our borders so that screening, that flagging of dangerous cargo occurs not when the cargo arrives in our country, but before it is even put on board a vessel or an aircraft bound for this country.

Now, I recognize that the tempo of the air cargo supply chain is different from maritime cargo, but regardless of the mode, we have an obligation to examine vulnerabilities in our supply chains and to manage risk to those systems.

There are also opportunities to make better use of the private sector in securing air cargo overseas where screening efforts are now more limited. Instead of attempting to screen almost all cargo at the airport, it could be screened at a warehouse where the package is sealed, long before it arrives at an airport, and kept secure until it is delivered to the air carrier. That is just one idea that would avoid the potential delays of trying to do everything immediately prior to loading packages on aircraft.

I mentioned that DHS must constantly reevaluate the allocation of its security resources and priorities. In that vein, I still remain concerned about the intrusiveness and effectiveness of the Advanced Imaging Technology and the potential negative health effects. As Mr. Pistole knows, this is an issue that I have mentioned to him many times as well as to Secretary Napolitano in multiple letters to the Administration.

I believe the Department should independently evaluate the health effects of that technology and should consider software that is in use at Schiphol Airport in Amsterdam that respects travelers' privacy by automatically identifying objects that may be threats, but by using featureless images of travelers. And to date, the Department's responses to my inquiries have been inadequate. Now, I know that Mr. Pistole was on his way to view this technology when the plot from Yemen was uncovered, and I want to acknowledge that.

Obviously, our government's first priority is to protect our people against terrorism, and the public will accept a certain level of intrusion and inconvenience. But DHS should be using technology and techniques that are as safe and as effective as possible that minimize privacy concerns whenever possible.

Thank you, Mr. Chairman.

Chairman LIEBERMAN. Thank you very much, Senator Collins. Administrator Pistole, it is an honor to have you back with us, and we welcome your statement now.

**TESTIMONY OF HON. JOHN S. PISTOLE,¹ ADMINISTRATOR,
TRANSPORTATION SECURITY ADMINISTRATION, U.S. DE-
PARTMENT OF HOMELAND SECURITY**

Mr. PISTOLE. Thank you, Chairman Lieberman, Ranking Member Collins, Senator Levin, and Senator Brown. It is good to be here today along with Commissioner Alan Bersin of Customs and Border Protection to address the Committee on the role of TSA and CBP in the area of air cargo security. I appreciate the Committee's leadership and ongoing efforts to ensure the security of air cargo and passenger aviation for the American people.

Three weeks ago, as we have noted, we, and I use the collective "we" in the broadest sense—Senator Collins mentioned the intelligence, law enforcement, aviation security, and private sector communities along with homeland security communities—disrupted this attack when the individuals we believe to be al-Qaeda in the Arabian Peninsula (AQAP) concealed and shipped explosive devices hidden in toner cartridges.

The two packages were shipped from Yemen destined for the United States, and the episode for us began on the night of October 28, Thursday night, around 10:30 when I received a call from John Brennan, the White House Coordinator for Homeland Security and Counterterrorism, regarding specific credible intelligence that we know is so rare in this business as to exact packages that should be identified and assessed. So, of course, we worked through the night and over the next few days, staying in close contact with our colleagues throughout the U.S. intelligence and law enforcement communities and our international counterparts and, of course, the private sector, including cargo shippers such as FedEx and UPS.

As a first step, I immediately grounded all air cargo packages coming from Yemen. After the initial response, we took additional steps in conjunction with CBP. For example, we—CBP, TSA, and our private sector partners—quickly identified and located all other U.S.-bound packages from Yemen that were in transit, and CBP, working with the Joint Terrorism Task Forces (JTTFs) located and identified those packages and ensured they were not a risk, such as the other two toner packages. And then with the community, we refined the targeting tools we used to provide additional focus on current threats.

I sent out a team of TSA security inspectors to Sana'a to work with the Yemeni authorities to provide cargo screening guidance, expertise, and actual explosive trace detection equipment to the Yemeni government. I leveraged a previously planned speech that I had to the Aviation Security World Conference in Frankfurt, Germany, from where I was supposed to go from Amsterdam, but I took that part out, and I gave that speech and met with counterparts from Europe and elsewhere around the world. While there, I met with the International Air Transport Association (IATA) Di-

¹The joint prepared statement of Mr. Pistole and Mr. Bersin appears in the Appendix on page 36.

rector General, Giovanni Bisignani, a world recognized expert in the area, along with the head of aviation security for the International Civil Aviation Organization (ICAO).

From there, I went to Yemen 5 days after we became aware of the plot to meet with the TSA team, the U.S. country team, including Ambassador Gerald Feierstein, and Yemeni authorities, including the Deputy Prime Minister, the Minister of Transport, and other Yemeni government officials.

Several days later, on November 2, Secretary Napolitano spoke with leaders of the international shipping industry, including UPS, DHL, FedEx, and TNT, as well as IATA and Director General Bisignani about enhancing air cargo security without unduly disrupting the critical air cargo supply chain.

And then on November 8, we announced that air cargo from Yemen and Somalia would be banned from flights to the United States for the immediate future. We also indicated that no high-risk cargo would be allowed on passenger aircraft inbound to the United States, and, of course, toner and ink cartridges weighing 16 ounces or more, around 500 milligrams, would be prohibited on domestic passenger flights and international passenger flights inbound to the United States. Also, all high-risk cargo would receive additional and enhanced screening, including inbound international mail packages—we worked with the Postmaster General on some of the issues to implement that—which must be screened individually and certified to have come from an established postal shipper. So these are just some of the steps we have taken, and those steps will continue.

I would note that since August 2010, we have required, as was noted, 100 percent screening of all air cargo transported on domestic air carriers departing from U.S. airports. We have worked, as Senator Collins outlined, in large part through the Certified Cargo Screening Program, where we have over 1,100 private companies here in the United States to do screening away from the airport. Actually, just over 51 percent now of all air cargo flying out of the United States or leaving domestically is done through these private screening facilities that we certify, we inspect, and ensure that they are—

Chairman LIEBERMAN. Excuse me for interrupting. Is that for passenger planes and cargo planes?

Mr. PISTOLE. It is right now for passenger planes, and we are looking at the possibilities with cargo, recognizing that FedEx and UPS, of course, the two large ones here, have their own screening regimen and do a very good job independent of what we would do, which is obviously in their best interest, also.

This very practical security program keeps commerce moving without creating screening bottlenecks at the airports, and we are looking at that as a worldwide model for implementation. It is just an issue of capacity development.

There are a number of different issues that we are addressing, which I can get into in more detail in response to questions, perhaps. I would just note that since June 2009, CBP and TSA have met extensively on leveraging CBP's Automated Targeting System (ATS) to better target high-risk cargo on international inbound passenger flights, and these efforts complement our continued diplo-

matic work with our international counterparts to improve screening on these flights.

Thank you again for the opportunity to be here today. I look forward to working with the Committee as we pursue these collective efforts. I would be glad to take your questions afterward.

Chairman LIEBERMAN. Thanks, Administrator Pistole.

Commissioner Bersin, thanks for being here, and we welcome your testimony now.

TESTIMONY OF HON. ALAN D. BERSIN,¹ COMMISSIONER, U.S. CUSTOMS AND BORDER PROTECTION, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. BERSIN. Thank you, Mr. Chairman, Ranking Member Collins, Senators Levin, and Brown. I join Administrator Pistole in acknowledging and appreciating this Committee's leadership and support in exploring the gaps and the deficits that we have so that we can more effectively confront terrorism.

I would like to address in this statement three dimensions of CBP's work. First is the air cargo processing that we currently engage in. The second is, building on Administrator Pistole's testimony, CBP's response to the October 29, 2010, event. And then last, the partnership with TSA and the way ahead and the steps that we are contemplating taking together.

First, with regard to air cargo, it arrives in this country in two ways, on commercial passenger flights in the hold, in the belly of our cargo jets, or within specifically designated cargo-only aircraft. In fiscal year 2010, CBP processed nearly 334,000 such flights and inspected and screened over 57 million regular and express air waybill records. This is a massive part of our international trade policy and economy.

Currently, as pointed out by Senator Collins, our systems and processes are designed to identify high-risk cargo for inspection after their arrival in the United States. They are not designed to identify dangerous cargo prior to takeoff, as is our regime in the maritime context.

Under the Trade Act of 2002, carriers currently must provide cargo manifest data 4 hours prior to arrival of the aircraft or at wheels up for flights arriving from embarkation points less than 4 hours from the continental United States. Upon receipt of the advance manifest data, CBP processes the information through its Automated Targeting System. The system, as you know, identifies potential threats related to terrorism, narcotics, hazardous materials, and other areas of concern to the agency and to the Nation.

ATS is the primary platform used by the Department of Homeland Security to match travelers and goods against screening information and specific intelligence that may be received. It is used by our air cargo advance targeting units at local airports to conduct risk assessments. It is also used by our National Targeting Center-Cargo located in Virginia, which conducts high-level sweeps for shipments of concern based on intelligence and specific targeting rules that are written to reflect present and prospective threats

¹The joint prepared statement of Mr. Pistole and Mr. Bersin appears in the Appendix on page 36.

that we perceive through intelligence or otherwise. These rules identify risk factors that are present in the manifest data that we receive from the carriers. Each of these risk factors receives a quantitative value, or a score, and if the shipment exceeds a predetermined score or threshold for national security concern, we place the shipment on hold. We conduct an examination upon arrival.

Once the cargo arrives in the United States, CBP conducts examinations of all such identified high-risk air cargo or other cargo identified as high-risk by the local advance targeting units. These examinations must include a non-intrusive inspection if equipment is available, or a physical inspection of the shipment, as well as a mandatory radiation scan.

We also partner at CBP with the trade community to enhance supply chain security through the Customs-Trade Partnership Against Terrorism (C-TPAT) program. Under C-TPAT, importers and shippers adopt minimum security standards, which they must adhere to throughout their security chain. In exchange, CBP treats these shipments as lower risk and provides fewer inspections.

As Administrator Pistole indicated, when we became aware of the threat on October 29, we responded immediately by identifying all air cargo shipments from Yemen destined for the United States, aside from the two that were the subject of the inquiries in the United Arab Emirates and in the United Kingdom. In effect, what we asked right away was, what more could be coming toward us? Who could have been sending it to us? And how quickly can we mitigate or neutralize that risk? We ascertained the location of each shipment, and we held them for inspection. We then completed inspections using X-ray systems, explosive detection canines, and explosive trace detection equipment.

As we can go into further in questions and answers, there were 38 shipments in total, and we discovered and identified those shipments within hours of receiving the threat information. Within days, we had located all of those 38 shipments among the millions of packages that arrived in the country, and within a week, we had actually satisfied ourselves and cleared those cargoes as a result of techniques of scanning that were applied to them.

So where do we go in the days and the months ahead with the help and guidance of experts, including those on this Committee? We have, ever since the December 25, 2009, incident involving Abdulmutallab, seen a partnership between CBP and TSA that has produced valuable results for our Nation and for the homeland security. We need to do the same now with regard to air cargo. What we believe is that this cooperation is the best source of the progress we can make quickly.

Currently, CBP is providing assistance to TSA to fulfill the mandates set forth in the recommendations of the 9/11 Commission to screen 100 percent of cargo transported on passenger aircraft. We are also collaborating to explore the potential of utilizing CBP's Automated Targeting System as a risk targeting tool in the air cargo context that can be shared between CBP and TSA. This will allow us to leverage data and information already collected to meet TSA's mission to secure international inbound air cargo.

We also acknowledge the importance of partnering with the private sector so that they can lend us considerable assistance in securing the supply chain. We also recognize that we must receive information in advance of what we are currently receiving, and we are working with TSA in determining the parameters and, importantly, consulting with our private sector partners to get their views as to how they can most expeditiously provide that information. It is clear that our receipt of manifest data 4 hours prior to arrival does little to help prevent dangerous cargo from being loaded aboard.

Let me abbreviate the statement so we can get on to the dialogue of questions and answers. We believe that we have the foundation in place to implement a more effective system, and we believe that working with TSA and with other agencies in the U.S. Government, we can strengthen this system and do it relatively quickly. But we should do it cautiously and deliberately, and I look forward to working, as I am sure Secretary Napolitano and Administrator Pistole do, with this Committee and its staff in reaching a satisfactory outcome and building the next level of security into our air cargo system.

Thank you, Mr. Chairman.

Chairman LIEBERMAN. Thank you very much, Commissioner.

We will go to the questioning now. We will have 7-minute rounds for each of the Senators.

Administrator Pistole, we are focused here on air cargo security, but obviously more broadly on the question of aviation security, and I want to ask you a question related to TSA that is very much in the news, which is the so-called pat-down procedures that follow and are associated with the use of the whole body imaging scanners, which I recall because we held hearings on this subject after the Christmas Day bombing attempt and most of us were calling for you to go to the whole body scanners, either the Amsterdam variety or what you have done.

I wanted to give you an opportunity before the Committee to explain the pat-down procedures that have troubled people and why you think that they are justified.

Mr. PISTOLE. Thank you, Mr. Chairman. There is an ever-evolving nature of the terrorist plot that has been well described here this afternoon. The challenge for TSA and the whole U.S. Government and our allies around the world is to develop the best techniques and tactics enabled by the best technology to detect those plots. As we have heard the various plots outlined here this afternoon, it is clear that we have to be one step ahead of the terrorists, and obviously, we are not always in that situation, as evidenced by the last three plots that could have been successful.

So it really comes down to a balance of partnership on the one hand, working with the traveling public, and the security and safety issues on the other hand, and what is a proper mix. So what we try to do is be sensitive to people's concerns about privacy, while ensuring that everybody on every flight has been properly screened. We recognize—I particularly recognize—that reasonable people can disagree as to what that proper balance or blend is between privacy and security and safety.

That being the case, I think everybody who gets on a flight wants to ensure and be assured that everybody else around them has been properly screened, and by the way, everybody else on that flight wants to make sure that I have been properly screened or you have been properly screened. So how do we reach that balance? That is the challenge that we go through.

I believe the advanced imaging technology is the best technology we have today to detect the non-metallic device that is well designed, well concealed, such as we saw on Christmas Day. What I am concerned about, and I know many share this concern, is an individual who opts out of the advanced imaging technology. Let us say Abdulmutallab had done that, if that had been the case in Schiphol, if he had opted out thinking, well, I am not going to receive a thorough pat-down so I can get on that flight. If that had been successful on Christmas Day, I think we might be having a different dialogue here this afternoon and in the public.

What I want to assure and reassure the public is that we are concerned about your safety, your security, and your privacy. Let us work together in partnership to ensure that we can have the best way forward.

Chairman LIEBERMAN. Let me just take this a moment or two more. Just make clear, if you will, to the Committee and public who may be listening or watching, how does someone get subjected to a pat-down procedure?

Mr. PISTOLE. There is a very small number or percentage that would actually have the pat-down, and it would really occur almost exclusively in situations where somebody has opted out of the advanced imaging technology or they have alerted on that because there is something still in their pockets, or they may be trying to carry some contraband on the plane.

Chairman LIEBERMAN. In other words, either they have chosen not to go through the scanner or they have gone through and there is some alert?

Mr. PISTOLE. There is an alert, or through the walk-through metal detector there is an alert, and so there is some basis for doing it. And even with that, it is a very small percentage of all the passengers. So very few people, even though the public out there may not know because it is a new technique.

The other thing is I have been in Europe several times in the last few months and have observed the pat-downs being done in many airports, and it is very similar. Our pat-down approach is very similar to what is being utilized in Europe, and as we know, it is even much more thorough in other parts of the world.

Chairman LIEBERMAN. Yes. And, of course, you have a same-gender TSA employee doing the pat-down. This is a difficult balance because obviously this has to be a more intimate and intrusive investigation because of the choice that has been made earlier or what the machine has shown, but I presume they are instructed in a way that will determine whether somebody is potentially dangerous, but also in doing so try to do minimal harm to their privacy.

Mr. PISTOLE. Correct. They go through training, and the clearest outcome of that training is to be professional and to give clear guidance and a lot of clarity as to what they are going to do in terms

of the actual pat-down and to make sure that the passenger understands that and responds to that. There has been a lot of publicity out there about a certain individual who recently tried to travel but did not want to have that pat-down. I think if people get away from just the passenger, they would hear that what the security officer was saying was very cool, calm, professional, and that is what we expect out of our security officers, to do this in a way that is professional.

Again, the bottom line is if you have two planes that are getting ready to depart and on one, you say everybody has been thoroughly screened on this plane, and you can either go on that plane or we have another plane where we have not done a thorough screening because people did not feel comfortable with that, I think most of, if not all of, the traveling public would say, I want to go on that plane that has been thoroughly screened.

Chairman LIEBERMAN. Yes, I agree with you. I think you are doing the right thing. I think perhaps the reaction to the pat-down procedures got ahead of TSA's or the Department's description of what you were doing and why you were doing it. But if, God forbid, that bomb on Abdulmutallab's body had gone off on the plane over Detroit, Congress and, I dare say, the public would have been demanding not just the body imaging equipment, but pat-downs, and I understand the privacy sensitivities, of course.

It is awkward. It is unusual. On the other hand, we get on those planes, and we want to have the confidence that nobody on the plane has evaded security in a way that will allow them to blow up the plane and kill everybody else on it.

So this is, unfortunately, the world in which we live. It was not our choice, but we have to do everything we can to protect the traveling public. I think that what you are doing here with the pat-down procedures is difficult, it is sensitive, but it is necessary for the homeland security of the American people.

My time is up. Senator Collins.

Senator COLLINS. Thank you, Mr. Chairman.

Mr. Pistole, let me start with a fundamental question. But for the intelligence tip that was provided by our ally, would our current security systems have detected these package bombs?

Mr. PISTOLE. My professional opinion, no.

Senator COLLINS. And so that raises the issue of what can we do to make sure that in the future, if there is another attempt to exploit the gaps in air cargo security, we have closed those gaps because in many ways, we were lucky that we had an ally with extremely specific intelligence information that allowed us to target these packages before harm was done. What is the single biggest change that you think we should be making?

Mr. PISTOLE. We have high confidence in the known shippers and that supply chain, those who do business in the shipping industry. There are over 8 billion, almost 9 billion pounds of cargo that come into the United States every year, about two-thirds on cargo planes, such as UPS and FedEx, and the other third, over 2.6 billion, on passenger planes. We have high confidence, again, in those international shippers with established records.

The challenge becomes those locations, such as these individual packages out of Yemen or other hot spots around the world where

there is not a known relationship with the carrier or the shipper, and screening those packages in the same way that we would require here in the United States. There are several challenges there. One is just the capacity of some countries. For example, Yemen, when I visited there a couple weeks ago, had an X-ray machine that they use for cargo. But they were not using explosive trace detection or a 100 percent physical inspection of packages, which we are requiring now. So there are a number of issues and challenges there.

Senator COLLINS. And with Yemen, I would be worried about the people doing the screening and whether they share our goals.

Mr. PISTOLE. You raise a very good point. So what I was describing was the physical screening, but the insider threat——

Senator COLLINS. Exactly.

Mr. PISTOLE [continuing]. What type of vetting and validating of those individuals is being done, and that is obviously uneven around the globe.

Senator COLLINS. Mr. Bersin, I mentioned in my statement, and you talked about it, as well, that we have a pretty well defined system for the screening of cargo that comes by the maritime system. And in that case, 24 hours before the cargo is even loaded on the ship overseas, we have a manifest that is combined with other information to allow us to identify the cargo and target that which may be of high risk.

Why can we not do that with the air cargo? What are the obstacles? I mean, frankly, a system that says we want to know 4 hours before it arrives at our shores provides very little protection. The flight may be already en route.

Mr. BERSIN. Senator Collins, as Mr. Pistole said, one method of dealing with this is to segment the traffic between cargo and shippers we know from shippers and cargo about which we do not know enough or we have adverse information.

The other method of doing this is the risk management that we have applied, and I think effectively so, in the maritime context, and the three elements are, as you suggest, first, receiving information sufficiently in advance so that we can apply our targeting rules and actually attempt to identify the high-risk cargo. And then, of course, the third issue is then scan or screen using appropriate technology.

But, in effect, we should be looking at those same techniques in the aviation cargo context, and in fact, we have begun that process. We will want to customize it, given the nature of the trade, the differences between the maritime and aviation context. But the broad categories, Senator, are ones that give us good guidance.

Senator COLLINS. Are you looking at increasing the amount of time before cargo is shipped to our country where you receive a listing of the cargo? The 4 hours strikes me as something that you could change immediately. For example, in response to the Times Square bomber attempt, TSA acted immediately to change the update rule on the targeted individuals. Are you looking at the 4-hour rule?

Mr. BERSIN. Yes, Senator, we are, and we are working not only with TSA and other government partners, but with the private sector shippers, the airlines and the cargo carriers, to reach a deter-

mination about how we can advance that deadline for providing information to CBP, and we expect that we will be coming up with a revised recommendation in the near future.

Senator COLLINS. Mr. Pistole.

Mr. PISTOLE. I would just add that it is a pragmatic issue. I could issue a security directive today and say 8 hours or 24 hours or whatever it would be. The question is, are the carriers capable of implementing that directive today? That is what Commissioner Bersin is referring to in terms of working with them. What can they do electronically? A number of the smaller carriers around the world are not fully electronic in terms of their communications, so how do we actually implement that? So clearly, the intent is there. It is how do we make it happen.

Senator COLLINS. Thank you.

Chairman LIEBERMAN. Thanks, Senator Collins.

We will call on, in order of appearance, Senator Levin, Senator Brown, and Senator Burris. Senator Levin.

OPENING STATEMENT OF SENATOR LEVIN

Senator LEVIN. Thank you, Mr. Chairman.

I want to just pursue Senator Collins' question again. Right now, the rule is you have to have your manifest 4 hours before the arrival of an airplane, is that correct?

Mr. BERSIN. Yes, for those destinations that are less than 4 hours from our shores, it is upon wheels up.

Senator LEVIN. Now, what are the practical problems with increasing that?

Mr. BERSIN. The first is the electronic systems in place to get the information to us, but we can work on that over time as we have in the passenger context.

Senator LEVIN. Well, that is the same whether it is 4 hours, 6 hours, or 8 hours, is it not? It has to be an electronic system to get you the information—

Mr. BERSIN. That is correct, Senator.

Senator LEVIN. So you could do 8 hours with the same problem, same challenge.

Mr. BERSIN. We could, and we are trying to work out with the carriers the best system that would actually provide us with the information in an effective advance period. But also—

Senator LEVIN. Well, that is not a practical problem. What is the next problem which is not practical, allegedly?

Mr. BERSIN. Well, the problem of making sure that we are getting it as quickly as we can and then getting information back to the carrier, putting a hold on certain high-risk cargo that would be identified by our targeting rules.

Senator LEVIN. Why would 8 hours or 12 hours not help you do that?

Mr. BERSIN. It would help us.

Senator LEVIN. So that is not a practical reason not to increase—

Mr. BERSIN. No.

Senator LEVIN [continuing]. Four hours to 8 hours or 12 hours. I mean, we were told a minute ago there are practical problems. I have not heard one yet.

Mr. BERSIN. The practical problems, I think, that Mr. Pistole alluded to, and they are, indeed, obstacles, not ones that we will not be able to work with the private sector to overcome, but there are airlines, as we have seen in the passenger data area, that simply do not have the capacity to electronically transmit that data to us.

Senator LEVIN. Well, that is true whether it is 6 hours, 8 hours, or 12 hours.

Mr. PISTOLE. So, if I could jump in, part of it, Senator, is that the carriers themselves do not have that manifest data. Sometimes it is only 2 to 3 hours before wheels up.

Senator LEVIN. I am saying, if it is required that it be 8 hours or 12 hours, then they will have the manifest data——

Mr. PISTOLE. So that is true——

Senator LEVIN. That is not a practical problem. That is just saying you have to have the manifest data 8 hours, 12 hours, or whatever it is prior to wheels up.

Mr. PISTOLE. So if there is a last-minute shipment or something, that means——

Senator LEVIN. Tough luck.

Mr. PISTOLE. Yes. Basically, they are out of luck then, so——

Senator LEVIN. That is true now, too, is it not?

Mr. PISTOLE. No, not necessarily.

Senator LEVIN. One hour before arrival?

Mr. PISTOLE. Well, but if it is 4 hours——

Senator LEVIN. Well, last minute shipments, that is tough.

Mr. PISTOLE. Yes.

Senator LEVIN. What are the other problems, practical problems with 8 hours or 12 hours?

Mr. PISTOLE. The small carriers around the world. We are not talking about UPS, FedEx—in fact, we are working with them to provide immediate notification when they receive the manifest, whatever the time line. It may be a couple of days.

Senator LEVIN. That is not a practical problem, either.

Mr. PISTOLE. No, I am saying that is a solution.

Senator LEVIN. I have not heard a practical problem yet. I am struggling to hear a practical problem for not just saying, directive, it is 8 hours, it is 12 hours, whatever. Why can you not do that right now?

Mr. PISTOLE. For much of the world, we could do that. For small carriers that would be dealing with a number of the high-risk packages, let us say, from Central Asia someplace, their system, as I understand, and we could get subsequent experts in here to talk about that in a little more detail, would not have the capacity to provide that information to CBP more than 4 hours in advance at this time.

Senator LEVIN. Why?

Mr. PISTOLE. I would have to defer to experts.

Senator LEVIN. The greater the number of hours prior to arrival, it seems to me, the easier it is to get the information if you are not electronically hooked up, not the harder. You have more time. I do not get it, folks. I mean, I do not see the urgency in your testimony here. It is such an obvious question that I am a little bit dumfounded that we do not have a direct answer.

You say there are practical problems, but we have not heard one yet.

Mr. BERSIN. I think the practical problem is going from the status quo to where we want to be. I do not think anyone is saying that we should not move there.

Senator LEVIN. That is not a practical problem. That is a matter of issuing a directive saying it is now 8 hours or it is now 12 hours.

Mr. BERSIN. Well, the practical problem is that the trade will tell you that it has not been done because it has been perceived that it would unduly interfere with the commerce in the world. When we come to a situation like this, there is an urgency, and in fact, we overcome a lot of the practical problems that were keeping the situation from being handled that way in the past.

Senator LEVIN. Well, I have to tell you, I read your comment, Mr. Pistole, about the length of time—you say that security cannot bring business to a standstill. I do not think anyone is suggesting that business be brought to a standstill. The question is, is it reasonable to tell people, you have to have your package and your documents in 12 hours before a plane lands. That does not bring it to a standstill. That just slows it down by 8 hours.

The question is, will the public or the world accept a delay of 8 hours in getting something to where it has to go in order to have greater security? My answer is, I think, kind of like Senator Lieberman's points on the pat-down. Yes. This is easier than pat-downs. This is just slowing it down. It does not bring it to a standstill.

I was a little worried about your comment, Mr. Pistole, about a delicate balance. The flow of global commerce is key to economic recovery. I agree with that. But security cannot bring business to a standstill. I do not think anyone is suggesting that. It is a straw man, it seems to me, that you are raising, and rather than telling us, yes, you do not see any practical reason, either, and we are going to get it done, it is sort of that, well, we are trying to overcome practical problems, which you have not been able to identify, at least to me.

Mr. PISTOLE. Well, I agree, Senator, at least in terms of your risk management and assessment construct. The issue comes down to, if we would impose, for example, on all cargo worldwide the same mandates we have here, the estimates I have seen are that the cost of doing that would actually exceed the revenue from that cargo.

Senator LEVIN. Are you saying that increasing 4 hours to 8 hours—

Mr. PISTOLE. No, different issue.

Senator LEVIN. Well, I think you ought to get your experts to provide for the record what those practical problems are. My time is up, but if you do not mind, Mr. Chairman, my suggestion is that he provide the Committee for the record what those problems are. Thank you.

Chairman LIEBERMAN. I accept your suggestion and I make that formal request of our two witnesses, as soon as you can. Thank you. Senator Brown.

OPENING STATEMENT OF SENATOR BROWN

Senator BROWN. Thank you, Mr. Chairman. It is good to be back. Thank you for putting this together, and thank you to the witnesses for appearing.

My concerns are pretty simple. I want to know what tools and resources you need to better do your job so we can ensure, God forbid, that this does not happen again in terms of the extreme possibility of what could have happened. Also, as someone who flies and has family members who fly, I want to make sure that when I or my family or friends or anyone in this country gets on a plane, that the cargo underneath is screened. So how common is it to have a full flight of passengers and have some extra room on a passenger plane and have that cargo then fill that free available space? How common is that?

Mr. PISTOLE. Well, if the issue is whether it is screened or not, 100 percent of that cargo on passenger flights originating in the United States is screened regardless of when it is put on.

Senator BROWN. Originating in the United States.

Mr. PISTOLE. Right.

Senator BROWN. But what if it is a tail-to-tail transfer and it is coming in from Yemen or another country? Where are we with that?

Mr. PISTOLE. The 9/11 Commission Act required 100 percent screening of international inbound cargo on passenger flights. The bottom line is we are not there yet because either the host countries or civil aviation authorities have not put in the same procedures that we have, and there are estimates anywhere from two-thirds or perhaps 80 percent of all of that cargo is presently being screened. The one take-away, though, is we say 100 percent of the high-risk cargo is screened, and we do not define that publicly because we do not want to provide a blueprint, obviously, to how to get out of that. But we look at the known shipper issue; how does that work? So it is a good point.

Senator BROWN. So for toner cartridges from Yemen, does an alarm go off? I mean, we have plenty of toner cartridges here and why would we be importing them? Did that not raise a red flag?

Mr. PISTOLE. It absolutely did, both by the shipper, who had identified it as a suspect package—part of the challenge—

Senator BROWN. How did it even get on the plane, then?

Mr. PISTOLE. Because of different protocols, for example, in Sana'a, Yemen, even though the shipper had been identified—that is why it was segregated in Dubai. So in addition to the specific credible intelligence, they had identified it as a suspect package. You are absolutely right.

Senator BROWN. And when you asked for the cooperation of the various cargo carriers, did you get the cooperation of all of them?

Mr. PISTOLE. Absolutely.

Senator BROWN. There were no questions asked?

Mr. PISTOLE. No. They have been very capable partners and looking for solutions that make sense as opposed to us just issuing an edict or rule, security directive, that says you will do this now. We work very closely with them to do this.

Senator BROWN. So is there going to be an updated or improved screening and inspection plan when it comes to those tail-to-tail

transfers? Is there something you are proposing or working on to deal with that gap?

Mr. PISTOLE. Yes. So the key is how do we work with our international partners, and we do that in several ways. One is through the International Civil Aviation Organization, which is part of the United Nations. A hundred and ninety countries signed off on an aviation security declaration last month in Montreal. And then working through the International Air Transit Association, and what they are doing is trying to leverage their resources in a way that, frankly, builds capacity in some of these areas of the world that need additional screening protocols or actual explosive trace detection equipment, canines, or whatever it may be.

Senator BROWN. I have been to other countries, and you see the cargo, and it is just there. It is laying around and anyone can get access to it. I think it is going to take a real commitment to ensure that our aviation partners—when I say partners, I mean people who fly to the United States and deliver goods to the United States—take their jobs seriously.

And I recognize the comments of the two previous questioners regarding the timing. Is there a way to ensure speed and accuracy when it comes to X-raying and inspecting? Do we have the technology to make sure that we do not slow things down to a crawl and we can continue on with our superior delivery of product throughout the world?

Mr. PISTOLE. I say, generally, yes, and that is when it comes down to the known shippers, the trusted partners throughout the global supply chain. The problematic ones are those individual shippers that we do not have any history on—we do not have any intelligence about who this person is or what they are shipping. But as you indicated, when somebody ships toner or a computer printer from Yemen to Chicago, that is a red flag. So that is exactly the type of information CBP is getting through that 4-hour window and what we are seeking to get additional time on.

Senator BROWN. And how much air cargo is actually being screened today?

Mr. PISTOLE. Yes, so 100 percent in the United States on U.S. passenger flights—

Senator BROWN. How is it done? Is it through X-rays or through dogs, the whole gamut?

Mr. PISTOLE. We do it through a series of over 1,100 certified cargo security screeners, facilities around the country away from airports. They use a variety of those, but clearly X-ray, perhaps advanced technology X-ray, explosive trace detection or physical inspection if necessary. They screen it and then transport it, usually just a few miles, in a secure fashion to the airport to put on the cargo flights and passenger flights.

Senator BROWN. So in conclusion, I just want to try to solve the problem. I want to try to figure out what you need to get that job done, and whether you come over to the office again, either one of you, and deliver that or we have a private meeting or however it works, I would like to, Mr. Chairman, just know what they need. I mean, we have identified, by the grace of God, that we have been very lucky. But at some point, we are not going to be that lucky, and I want to be able to say to my friends, family, and anyone I

meet in Massachusetts that I gave you the tools so they are not looking at any one of us because this is not about party politics. This is about the safety of our citizenry and also the ability to keep commerce moving. So if you could maybe post testimony at some point or reach out, that would be a big help.

Thank you, Mr. Chairman.

Chairman LIEBERMAN. Good idea, Senator Brown, and we will arrange for that.

Senator BURRIS, from the beginning of your service in the Senate to this, apparently your last week with us, you have been a most faithful Member of this Committee, probably attending more hearings than anybody else, except Senator Collins and me, so thank you.

OPENING STATEMENT OF SENATOR BURRIS

Senator BURRIS. Thank you, Mr. Chairman. That is because of the interest in this Committee, and even this topic here has really caught my interest because I might not be on point on all my quick questions, but I have several concerns about TSA as I travel across this country.

Maybe, Administrator Pistole, you can answer this. How do you tell what a high-risk package is? What is the criteria for a high-risk package?

Mr. PISTOLE. We do not define it publicly because we do not want to provide the blueprint for—

Senator BURRIS. Thank you. We tell everything else. I mean, we let it be known that the Saudis gave us the secret to this. We have to stop putting everything out in the—I am sorry. Go ahead.

Mr. PISTOLE. Thank you, Senator. Yes. So it is generally outside the known shipper, trusted shipper arena, and just generally, individuals who are shipping packages with no history, perhaps from some hot area such as Yemen, the Horn of Africa, and places like that. But it is all intelligence driven. What intelligence do we know about the shipper? Did the person positively identify himself when he came in to drop off the package? Was the package physically inspected? What do we know about the cargo carrier where the package was dropped off? How thorough are they? How thorough is the airport at the cargo facility? So a lot of criteria and indicia go into figuring out what is a high-risk package.

Senator BURRIS. Because those packages were headed to synagogues allegedly in Chicago.

Mr. PISTOLE. Correct.

Senator BURRIS. That is another major concern.

Let me shift gears just a little bit. On the pat-downs, we have some airports that are staffed by contract screeners, is that correct? They are not all TSA employees?

Mr. PISTOLE. That is correct. There are 17 airports out of the 453 that are staffed by contractors, not TSA employees.

Senator BURRIS. Now, how do you deal with those pat-downs in these airports? Do we have jurisdiction over those individuals?

Mr. PISTOLE. Absolutely, Senator. They have to follow the same protocols and standard operating procedures that we put out for all TSA employees.

Senator BURRIS. Have they gone through the same training?

Mr. PISTOLE. They go through the same training. They are identical to the Transportation Security Administration officers and behavior detection officers and all the TSA employees other than they are working for contractors.

Senator BURRIS. Why are there contract employees in Kansas City? You all could not find enough TSA people to hire?

Mr. PISTOLE. Congress decided that there should be the option either to have federalized airports or to have private security done, and so there are some Members of Congress who feel very strongly about that and want to have additional airports that have private security as opposed to TSA.

Senator BURRIS. So you said that is written into TSA law——

Mr. PISTOLE. Yes.

Senator BURRIS [continuing]. That they can be private contractors?

Mr. PISTOLE. It is called the Screening Partnership Program (SPP).

Senator BURRIS. Mr. Chairman, I do not have much longer in the Senate, but we ought to look at these private contractors. I am concerned about the number of private contractors, not only at TSA, but at the other government agencies, and then I am wondering if one of the passengers feels that they have been over-screened, just what the liability there would be.

Would patting down have caught the underwear bomber, in your estimation?

Mr. PISTOLE. Yes.

Senator BURRIS. Not the machine, but the patting down?

Mr. PISTOLE. Yes.

Senator BURRIS. Because allegedly, it was in a diaper type of arrangement.

Mr. PISTOLE. Yes.

Senator BURRIS. So they are going that deep in terms of patting down individuals?

Mr. PISTOLE. The pat-downs are based on the latest intelligence and the information that we have, and——

Senator BURRIS. But there was no intelligence on that gentleman that was on the flight to Detroit. He was on the plane.

Mr. PISTOLE. That is right. That is why we changed the policy.

Senator BURRIS. Have our personnel received adequate training? Mr. Chairman, do we know what will happen with the litigation coming out of this? The Pilots Association and the Flight Attendants Association are getting ready to bring some type of action, as I understand, because of the excessive patting down of flight attendants and of pilots. Is that the case?

Mr. PISTOLE. That has been the case. Pilots have, of course, not generally gone through the advanced imaging technology because they are allowed to keep their shoes on, and that is a different issue. But I have had a number of conversations with representatives of pilots' associations, and we are actively exploring options as it involves pilots because we are using a risk-based approach. It just begs the question, if you have somebody who is in charge of the aircraft that can put the aircraft down, as could be the case, then why do we have the screening for them? So actually, in the near future, I will be announcing some new policies on that.

Senator BURRIS. That would help. There is also a question, Mr. Pistole, about the degree of X-rays that these individuals have to go through in the course of their day-to-day work and what that will do to their physical health, if they go through the X-ray machine rather than the excessive pat-down.

Mr. PISTOLE. That is one of the concerns that I think has been raised. What I rely on is the scientific literature and the studies that have been done using these specific machines, including the Food and Drug Administration, National Institute of Science and Technology, and Johns Hopkins University. They have all done independent assessments of the advanced imaging technology machines, the amount of radiation, and I have seen several analogies, but one that sticks in my mind is going through one of these machines is similar to receiving about 2 minutes of radiation that you would receive at 35,000 feet on a normal flight. So it is very minimal, well within the established scientific standards for safety, and we are always trying to update that through independent validators and others who have opinions about that.

Senator BURRIS. And how about the protection of the TSA personnel? I mean, if the male officer is accused of grabbing a lady's breast or the female officer is getting too close to a male's genitals, how are they protected now?

Mr. PISTOLE. It's always same gender security officers who would do that pat-down, and then people can request a private area.

Senator BURRIS. Will there be a witness there with that pat-down?

Mr. PISTOLE. They are welcome to have a witness there present.

Senator BURRIS. So can the TSA employee request a witness employee to be there with her or him when he is patting him down or she is patting her down? Can they have personnel with them there to protect them?

Mr. PISTOLE. It is not our current policy, but unless it goes into a private screening area, the closed circuit television (CCTV) would capture virtually all of that because every checkpoint has CCTV enabled.

Senator BURRIS. I see my time is up, but I am also concerned about our TSA personnel, and I listen to these people. Please take care of the TSA personnel. Some of them do not have health insurance. Some of them are working part-time. I am listening to these complaints, and as a new Administrator, I am counting on you to take care of those people who are going to take care of us getting on these airplanes because we cannot have disgruntled—

Mr. PISTOLE. Absolutely.

Senator BURRIS [continuing]. TSA personnel trying to protect us on these flights.

Mr. PISTOLE. I could not agree with you more, Senator. I appreciate your support. Thank you, sir.

Senator BURRIS. God bless you.

Chairman LIEBERMAN. Thank you. Thanks very much, Senator Burris.

Senator Carper has been the senior Senator from Delaware since Senator Biden became Vice President. With the seating of Senator Coons yesterday, he becomes not only senior in service, but the oldest member of the Delaware delegation— [Laughter.]

And we are going to treat you with a lot more respect. [Laughter.]

Senator Carper.

OPENING STATEMENT OF SENATOR CARPER

Senator CARPER. Thank you, Mr. Chairman, I think.

While Senator Burris is still here, I just want to second the emotion that was expressed by our Chairman about his service here in the U.S. Senate. He is not only a faithful attendant and participant in full Committee hearings, but he is a terrific Subcommittee Member, and I have been privileged to welcome him to our Subcommittee hearings for the last 2 years. He is almost always present, at least for part of the hearings, asks thoughtful questions, and he is just a joy to serve with, so we are going to miss you, my friend. I just want to put that on the record.

Mr. Pistole, how are you doing in your new job? How long have you been in your new job?

Mr. PISTOLE. Since July 1, Senator, and I am doing very well, thank you.

Senator CARPER. Any surprises?

Mr. PISTOLE. A lot of challenges, a lot of moving parts, but I have been impressed with the quality of the workforce. The Senior Leadership Team is outstanding. The interagency work is outstanding. And it is a vital mission that people are very focused on. Thank you.

Senator CARPER. So is there anything that we in the Legislative Branch ought to be doing more of or less of to help you and the folks who are serving under you?

Mr. PISTOLE. Thank you, Senator. I know there have been several issues that have been teed up. I would defer to the legislative affairs folks in terms of getting that to staff and working on that, but thank you.

Senator CARPER. All right. Uncovering this most recent air cargo plot and the failure of other attempted attacks over the years tells me that it has become increasingly difficult since September 11, 2001, for terrorists to exploit the vulnerabilities to our aviation system. At the same time, however, some aspects of our response to the foiled attacks are at least a little bit worrisome.

The ban on cargo from Yemen and Somalia and the limits on, for example, printer cartridges may be necessary, but they are a specific response to a specific failed attack, as you know. They follow similar rules put in place over the years related to liquids, electronics, and other matters.

Recognizing that terrorists are still targeting aviation and are constantly adapting and changing their methods, what are we doing to make sure that we are just as nimble as they are and are not spending too much time responding to the last disaster? In my old days as a Naval flight officer, we always talked about fighting the last war, and we have tried to learn to fight the current war or the next war as time goes by. What are we doing about making sure we are not spending too much time responding to the last disaster?

Mr. PISTOLE. Thank you, Senator. My whole approach since I took over as TSA Administrator in July is to use a risk-based, in-

telligence-driven approach to make sure that we are informed by prior actions and attempted attacks but not dwelling on those. We want to make sure there are no other printer cartridges out there because if they made two, maybe they made more, and maybe they are already in the United States getting ready to be sent someplace. So we have to be informed by that just as we have to be informed about box cutters on flights or liquids that could be explosives or shoe bombs or underwear bombs.

So we have to be informed by all those, but we do not want to be limited, and we have to be forward-looking to make sure we are not acquiring, for example, the technology today that deals with yesterday's threats, but we are trying to anticipate, informed by the intelligence from not only the U.S. community, but around the world, where we should be going, and I think we are doing that.

Senator CARPER. Good. Mr. Bersin, do you want to share a thought or two with us?

Mr. BERSIN. Just to add to the Administrator's comments, it seems to me that we need to develop a deeper partnership with the private sector, that, in fact, given the number of parcels that we deal with—last year, as I indicated in the opening statement, we dealt with 334,000 flights and 57 million packages—we have to recognize that we cannot do this without the help of the commercial airlines that carry the cargo, as we have enlisted their support in the passenger context, and with the express carriers, that we need to make the grand bargain with them that would give them earlier release on cargo that is assured and help us deal with that smaller percentage that we do not have sufficient information on to make a good judgment.

Senator CARPER. Thanks. Administrator Pistole, TSA has been receiving a fair amount of negative attention in recent days due to the discomfort, as we have heard, of some airline passengers with the screening methods that are used at airports, specifically the full body scanners and the pat-downs. You had some considerable discussion on this already, and I missed part of that. I do not want to get into a specific discussion on how the two procedures are right now, but I do want to talk about a program with TSA that could possibly limit the number of passengers submitted to more intensive screening.

My staff and I have learned a lot in recent months about TSA's Screening of Passengers by Observation Techniques (SPOT) program, which uses, as you know, agency personnel trained in behavior detection methods to identify passengers who might pose a high risk. I think before your confirmation hearing, we actually talked about this a little bit, several months ago. But legislation that Senator Brown and I have introduced aims to build on and expand this program.

Can you just take a couple of minutes and discuss with us behavior detection training and perhaps the increased use of intelligence about transportation security threats, how they might be better used to target our efforts at airports.

Mr. PISTOLE. Thank you, Senator. I think the use of behavior detection officers is a key component in our overall layers of security, not a fail-safe or single point of failure in any respect, but it is one of those multiple layers that we use to help to identify somebody

who may be acting suspiciously or something that is not quite right. I am a big proponent, given my almost 27 years in the FBI, especially having seen behavior detection work in terms of interviews and somebody who is lying and things like that. I think it is a valuable resource.

The question is, how do we show outcomes if we have not identified a putative terrorist, an Abdulmutallab-type? We identified him because he was sweating or he was acting nervously in response to questions or he saw a canine over here and so he decided to go this way, or when he saw somebody standing in line being swabbed for explosives, using trace detection on his hands, then he backed out of the line. So there are any number of indicators that can be helpful.

As we know, the Israelis do quite a bit in terms of how they screen passengers, and behavior detection is one of those keys. I am a strong proponent of it, and I am looking to expand the program. Thank you for your support.

Senator CARPER. Thanks so much. Thanks, Mr. Chairman.

Chairman LIEBERMAN. Thank you very much, Senator Carper.

Senator Ensign, welcome. We invite your questions now.

OPENING STATEMENT OF SENATOR ENSIGN

Senator ENSIGN. Thank you very much, Mr. Chairman.

First of all, I know this hearing is basically on air cargo but folks have been getting into a few other areas, so let me ask about the enhanced imaging. There have been reports in the media that have said certain religious groups want to be exempted because of religious, obviously, reasons. Can you address that? Are you going to allow certain groups to be exempted from that because of religious beliefs?

Mr. PISTOLE. Well, Senator, we try to be sensitive to each individual and groups that have particular sensitivities, as to whether it is headwear or certain garb or sensitivities about being viewed or touched and everything. So we try to be sensitive to those issues. At the same time, the bottom line is we have to ensure that each person getting on each flight has been properly screened, and so we have options, such as if somebody does not want to go through the advanced imaging technology, it is optional. They would just do the walk-through metal detector and have a pat-down that would identify any possible items. They can request private screening, so if they do not want to be screened in public, they can go to a private area, have a witness with them.

And so we try to address those concerns in every way possible, recognizing, again, in the final analysis, everybody on that flight wants to be assured with the highest level of confidence that everybody else on that flight has been properly screened, including me, you, and everybody.

Senator ENSIGN. I realize this is a difficult question for you, but are you going to make no exceptions? I know you are trying to reasonably accommodate, but—

Mr. PISTOLE. Yes.

Senator ENSIGN [continuing]. Within those reasonable accommodations, let us just say that my religion does not allow me to be

touched by somebody else, does not allow me to go through that screening. So what happens in those cases?

Mr. PISTOLE. A very small percentage of people will continue to receive pat-downs. So if somebody comes to the airport——

Senator ENSIGN. They have to at least go through the pat-down, if not the screening?

Mr. PISTOLE. No. Unless there is an alarm in the walk-through metal detector or they opt out of the advanced imaging technology, they in all likelihood would never receive a pat-down. The pat-down is only for a very small percentage of people.

Senator ENSIGN. No. Maybe I am not particularly clear in my question.

Mr. PISTOLE. OK.

Senator ENSIGN. What if somebody is getting a random screening. I just got randomly screened at the airport. For whatever reason, my number seems to come up quite often. But if that happens and the option is either the imaging or the pat-down, and I do not want either of them because of religious reasons, what happens to me?

Mr. PISTOLE. While we respect that person's beliefs, that person is not going to get on an airplane.

Senator ENSIGN. And there will be no exceptions——

Mr. PISTOLE. No.

Senator ENSIGN [continuing]. Just because of religion. That was the answer that I was looking for.

I want to go back a little bit to cargo, and I know this was addressed just a little earlier. When it comes to when you have cargo planes then going to passenger planes, that seems to me the biggest potential concern because it is not as big of a target to take down a FedEx plane or a UPS plane as it would be a passenger plane. I think, in all reality, we all recognize that, and from what I understand, you are working on all cargo being eventually screened. Since we screen going out but we are not screening all cargo coming in, when will we get to that point?

What is the schedule?

Mr. PISTOLE. There are two aspects, Senator. One is all cargo going on passenger planes, and there are various estimates between two-thirds and 80 percent that is coming internationally into the United States that is screened. I do not have a way of validating that or verifying that, so that is really self-reporting from airlines and cargo companies.

The all-cargo is largely unregulated. Now, what we have done since the most recent events in Yemen with the printer cartridges is issue rules that limit cargo with a final destination in the United States as to what that may be, so we differentiate between known shippers and high-risk shippers, those individuals and things coming from certain areas and things like that. So those are the two areas.

In terms of the time frame, we are——

Senator ENSIGN. I know you are going as fast as you can.

Mr. PISTOLE. That is the bottom line, and it really comes down to building capacity in certain parts of the world that currently do not have that 100 percent capacity like we have here.

Senator ENSIGN. I see. And I understand that you are dealing with some of the most difficult issues on security that you could possibly have because the terrorists are always looking for ways to—as soon as we come up with one security system, they come up with another. Could you address the use of dogs and the bomb-sniffing capabilities? Dogs have very sensitive noses, but at the same time, there are ways to get around those, depending on how you wrap the packages and various things like that. Just kind of explain a little bit, without letting terrorists know exactly what we are doing——

Mr. PISTOLE. Right.

Senator ENSIGN [continuing]. About the role that canines versus other types of detection techniques are being used.

Mr. PISTOLE. The bomb-sniffing dogs, the canines, do play an important role in the overall screening here in the United States. It is uneven around the world, of course. We are the leaders here. There are really two types. One can detect the actual explosives in this box. Then there is vapor wake. If somebody has been carrying a bomb like the July 7 bombers in 2005 in London, in their backpacks before they got on the London Tube, dogs trained in vapor wake would actually be able to pick up that scent after they have walked by, as long as the air has not been too disturbed and things like that. Those are the two main approaches.

The challenge is to have enough dogs in enough locations worldwide to make a meaningful difference, especially in those high-risk areas. We need not only a trained dog, but a trained handler. It is a terrific technology enhancer for us. It is really the question of scalability.

Senator ENSIGN. Thank you, Mr. Chairman.

Chairman LIEBERMAN. Thanks, Senator Ensign.

Last week, I was in Afghanistan to visit our troops, and I saw a remarkable demonstration of a bomb-sniffing dog there. These dogs are really extraordinary and saving lives every day.

Senator ENSIGN. Well, it is only because of the outstanding veterinary care that they get from my profession.

Chairman LIEBERMAN. Without question. [Laughter.]

I had no idea I was being set up to set you up. [Laughter.]

Gentlemen, I have a few more questions, if I might. Going on the basis of public reports at this public hearing, it appears that the two bombs shipped from Yemen last month were screened and cleared perhaps more than once. And I wanted to ask you, as a result, is TSA or CBP, but I will focus on TSA, reviewing and re-evaluating what types of screening it uses or certifies in light of that tough reality?

Mr. PISTOLE. Mr. Chairman, you have hit on a key point in terms of the specific screening that was done in those two instances in Dubai and the United Kingdom and then how that informs our actions and our judgments. We have reviewed the forensics and the screening that has been described to us, so we are doing that. And as you note, because of the sensitivities of that, I would defer to a closed hearing in terms of discussing those details. But yes, we are informed by and taking actions that are consistent with what we found.

Chairman LIEBERMAN. Understood. This is consistent with what Senator Brown asked before. In this coming budgetary round, if you feel you need more funding support for research and development or grant programs to develop better technology for screening, please do not hesitate to ask us.

Mr. PISTOLE. Thank you, Mr. Chairman. And in response to what Senator Collins mentioned earlier in terms of the automated target recognition, if I could just use that——

Chairman LIEBERMAN. Yes, please do.

Mr. PISTOLE. We are aggressively testing that currently here at our Transportation Security Integration Facility at Reagan National Airport, just south of the airport. We are cautiously optimistic as far as that being the next generation of advanced imaging technology, and the nice thing is that it is basically a software modification to our existing hardware. The issue is the high rate of false-positives that we have seen. So we are trying to work through that, and I am not ready to request funding for that until we ensure that those false-positives are lowered and it is an effective tool because if there are high false-positives, the result is pat-downs.

Chairman LIEBERMAN. Yes.

Mr. PISTOLE. So we are trying to get away from that construct to say, yes, this is the best technology. It clearly addresses the privacy issue. It actually creates efficiencies for us. We do not need a separate screener in a separate room for privacy issues.

Chairman LIEBERMAN. Right.

Mr. PISTOLE. So, yes, thank you. We are exploring that.

I would say the biggest issue is on security inspectors worldwide, and that is where we are working with, obviously, the Department of Homeland Security, the Office of Management and Budget, and the Administration, to move forward in that area.

Chairman LIEBERMAN. Which means to try to convince and influence other countries to do a better job at screening cargo coming into the United States.

Mr. PISTOLE. Exactly.

Chairman LIEBERMAN. So I just want to get on record, and I think it probably is clear, that this next generation of imaging systems, in the original imaging portion of its process, is more protective of privacy.

Mr. PISTOLE. It is basically a stick figure.

Chairman LIEBERMAN. Yes.

Mr. PISTOLE. It is either a stick figure or a blob, so yes.

Chairman LIEBERMAN. But if an alarm goes off there——

Mr. PISTOLE. Right.

Chairman LIEBERMAN [continuing]. It still requires a pat-down.

Mr. PISTOLE. Yes, although specific. So with the Automated Target Recognition, it will show a box, for example, in the area of the body where there is an anomaly.

Chairman LIEBERMAN. Right.

Mr. PISTOLE. And so it can be targeted for that area. So it may be someplace else.

Chairman LIEBERMAN. So it may limit the area of the pat-down.

Mr. PISTOLE. It might.

Chairman LIEBERMAN. But, as you said, your concern now is that there may be a higher rate of false-positives so that in the end, there would actually be more pat-downs.

Mr. PISTOLE. Right.

Chairman LIEBERMAN. I hope you will keep us posted on that.

I know that on November 8, the TSA issued the Security Directives and Emergency Amendments, and they were designed to reduce the risk to the aviation network by limiting the ability to transport ink or toner and also preventing all shipments from Yemen and Somalia for at least the next month. And I know that one way—trying to balance what we talked about before about the time by which you get the manifests to balance the interest in security against the interruption of commerce is, of course, to have higher standards, as we do in the movement of cargo coming from certain countries.

But the question obviously arises, and we have watched this with people, too, what do we do if the terrorists understand that and then start to move their cargo through interim points in Europe or Asia? Mr. Bersin, that is for you.

Mr. BERSIN. Yes. I think in terms of the risk management there, you pointed out that, unlike the passenger context, packages do not carry those characteristics except insofar as we get advance information. What we need to do is actually get more specific information earlier so that our targeting rules can adapt. But you are exactly right. The high-risk packages could as easily come from Europe as they could from the Persian Gulf, as they did in this particular case. We need to adjust the targeting rules to be able to pick up high-risk cargo from wherever it comes toward the homeland.

Chairman LIEBERMAN. And are we intending to do that?

Mr. BERSIN. Yes, sir.

Chairman LIEBERMAN. Yes. And, of course, that, too, puts an emphasis on good intelligence. There is obviously nothing better than having the kind of information that we had in this case to target and move those packages out.

Is there anything being done on that? I will go back to a question I asked at the beginning of the hearing. I know we have worked very hard in the post-September 11, 2001, reform of our intelligence apparatus, and we are doing much better than we have before, both in gathering information and in sharing it. Is there anything from the perspective of your two agencies that you have asked of the intelligence community—obviously, be more general than specific here—that relates to cargo, for instance, information related to cargo? Is there something different about intelligence gathering that you are looking for?

Mr. BERSIN. Without being specific, Senator, the answer is yes with regard to informing the targeting rules that we use out of the National Targeting Center.

Chairman LIEBERMAN. Let me ask this. If I understand this intricate world, CBP actually gets more information generally about inbound air cargo than TSA does.

Mr. BERSIN. Under the 2002 Act and the regulations CBP has imposed on the 4-hour requirement—

Chairman LIEBERMAN. Right.

Mr. BERSIN [continuing]. The information comes to the Targeting Center. But I think it is fair to say, and it is one of the great developments, that, in fact, we have been fairly seamless and will become even more seamless in terms of that information being able to inform TSA activities.

Chairman LIEBERMAN. Yes, that was my question. Are you co-operating and sharing information between CBP and TSA.

Mr. BERSIN. Absolutely, Senator.

Chairman LIEBERMAN. You are getting what you need?

Mr. PISTOLE. Absolutely right. Great relationship.

Chairman LIEBERMAN. Good. A final question, just broader. It goes back to something else I asked at the beginning, which is how do we—this is the imagination, the evil imagination. Institutionally, is there somewhere now within your two agencies, within DHS or the intelligence community, and if not, should there be, where we are trying to think like the terrorists?

Obviously, this is very difficult in an open society like ours, in a globally connected world both in terms of ease of movement of people and cargo, but still, the record is as I stated. We do seem to respond to the last attack, understandably. Of course, I am grateful that we do. But is there some way we can gear the system so that we get ahead of what they are going to try to do to us next?

Mr. BERSIN. Just the nature of the targeting enterprise requires that you attempt to do that. It typically is better informed when there is intelligence. But, in thinking about the risks and the gaps that exist now, something we have not talked about at great length here but that we need to explore downstream, would be international mail, for example.

Chairman LIEBERMAN. Right.

Mr. BERSIN. It is not subject to much of the kinds of safeguards and risk management techniques that we have. So to that extent, yes, we try to keep ahead, recognizing the difficulty of that challenge.

Chairman LIEBERMAN. Are there people in CBP or TSA who are charged specifically with doing that?

Mr. BERSIN. As I say, in the targeting exercise—

Chairman LIEBERMAN. In the targeting area, OK.

Mr. BERSIN [continuing]. We have people doing that all the time.

Chairman LIEBERMAN. Mr. Pistole.

Mr. PISTOLE. And I would simply add, Mr. Chairman, that there are people within the TSA Office of Intelligence and our explosives group, and I would share a paper with you in a closed setting, who are basically red celling the whole issue of what is the next target, and this is done by our explosive experts informed by intelligence and working within the entire community. So the National Counterterrorism Center, the Office, the Bureau, the Agency, and the National Security Agency, everybody is saying, what is the next possibility and then what do we do with that to inform the judgments and actions of our folks. I think you would find that paper interesting. It is just several pages. It says, what if and how can they do that, given what we know, how they are using pentaerythritol tetranitrate (PETN), how they used acetone peroxide (TATP) on December 25, lead azide most recently, so all those things, taking that, what is the next type of device we are looking for?

Chairman LIEBERMAN. That is very reassuring to me, and I hope it is reassuring to anybody who is hearing it. That is exactly the kind of thing I was hoping to hear, that we are doing the kind of, the military says red teaming, appropriately, you are saying red celling, but it is the same basic idea.

I thank both of you for your testimony. I thank you for what you are doing. Well, first, I would ask you to respond as soon as you can to the few questions that we asked for more information. Perhaps when we come back after Thanksgiving—we do not know exactly how long we will be here—it would be helpful to do a closed meeting with the two of you.

Do either of you want to say anything before we adjourn the hearing?

Mr. PISTOLE. I would just like to take the opportunity, Mr. Chairman, to appeal to the American people traveling next week for Thanksgiving, with all the people going home to see family and friends, to really look at this as a partnership——

Chairman LIEBERMAN. Right.

Mr. PISTOLE [continuing]. Between you and the U.S. Government, particularly TSA. Those security officers are there to work with you to ensure that everybody on that flight has been properly screened. Everybody wants that assurance. So just try to be patient and work with our folks. They are there to protect you and your loved ones, and let us make it a partnership. Thank you.

Chairman LIEBERMAN. Well said. Thank you for saying that.

We will keep the record of the hearing open for 15 days for additional questions and answers and statements.

Without anything else to say, the hearing is adjourned.

[Whereupon, at 4:55 p.m., the Committee was adjourned.]

A P P E N D I X

Opening Statement for Chairman Joseph Lieberman
Hearing, "Closing the Gaps in Air Cargo Security"
Homeland Security and Governmental Affairs Committee
November 16, 2010

Good afternoon, the hearing will come to order. Our subject today is air cargo security.

Beginning with the attack against America on 9-11, our terrorist enemies have consistently sought to use airplanes as weapons of mass destruction. And they have seen in our aviation system a strategic choke point of international transit and commerce that could be brought to a halt through terror attacks.

We've seen shoe bombers. Liquid bombers. Underwear bombers. Again and again and again, terrorists have sought different ways to blow up an airplane. In the most recent attempt, terrorists hid bombs inside the toner cartridges of printers and sent them to the U.S. as air cargo.

This plot, as the others before it, was thwarted -- in this case, largely because of extraordinary intelligence--and here we give thanks and credit to our friends and allies in Saudi Arabia. But, there was in this an element of good fortune and luck. And luck, of course, is not a strategy to defend our nation from the threat of terrorists.

As this most recent plot demonstrates, good intelligence and strong foreign partnerships are critically important. But I think the point that remains with us is that phrase that echoes from the 9-11 Report, the Kean-Hamilton Report, in which they said 9-11 occurred because of a "failure of imagination" - our failure to imagine that people could possibly try to do what the terrorists did to us on 9-11. Every time one of these events happens it compels us to figure out how we can better anticipate terrorists' next move, not just react to the last one.

Former TSA Administrator and Deputy Secretary of DHS, Admiral James Loy, recently said in an op-ed in *The Washington Post* that after the 9-11 hijackings, we hardened cockpit doors.

Then the terrorists tried a shoe bomb and now we remove our shoes for inspection at airports.

Then the terrorists tried liquid explosives hidden in sports drinks, targeting seven planes flying over the Atlantic Ocean, and we cracked down on liquids that could be brought on board.

Then the underwear bomber came close to bringing down a plane over Detroit, and now we've gone to full body imaging. And of course I support every one of those steps.

Now terrorists are going after a weak spot in cargo inspections, and we will respond to that, as well we should. But they--our enemies--will keep looking for new vulnerabilities. And we have got to continue to try to go out and raise our defenses before they strike.

We were lucky – as I’ve said – that none of these attempts succeeded. But, we will continue to probe our weaknesses, attempting to detect our flaws, and then defending against them. And we have to make sure that not only does our luck not run out, but we’re prepared to stop whatever they try.

Here are some of the questions I’d like to ask our witnesses today:

Clearly both the gathering of intelligence and acting on it is crucial. And I want to ask, how we can improve our intelligence beyond where it is now? Intelligence is always important in war, never more important than in the particular war with Islamist extremist terrorists we are fighting today, for all the reasons that I’ve just talked about.

Threats of terrorism come from within the United States, or from abroad. Our ability to deter, detect or intercept that foreign threat here is limited, by our own sovereignty.

We must depend upon our foreign partners to implement strong security programs.

And I want to ask both of you what we’re doing to strengthen those relationships, and implement international security programs. We have limited direct control over incoming passenger flights and cargo flights.

While our government has achieved 100 percent screening of air cargo on domestic passenger flights—which is a significant accomplishment, consistent with the 9-11 legislation we adopted—only about 60 percent of cargo on passenger flights coming into the United States from abroad is screened. And there’s a kind of patchwork system for all cargo aircrafts. So we want to ask how we can improve that, and convince our foreign countries to expand and accelerate their screening of cargo coming either on passenger flights or cargo flights to the United States.

Right now we require air carriers coming from Europe, Asia, Africa and South America to provide cargo manifest information after the plane has taken off, four hours before it’s due to arrive.

Can’t we move that timeline up? Is there additional or different information that may be helpful in identifying high risk cargo?

And finally, how are we preparing to identify the next gap terrorists will likely try to exploit? Do we have an institutional way? As difficult, unprecedented, and threatening to our homeland security this is, we need to try to think ahead of them.

Our witnesses today are, of course, ideally positioned by the offices they hold now and their experience to help answer these questions: TSA Administrator John Pistole and Customs and Border Protection Commissioner Alan Bersin. I thank both of them for being here and I look forward to your testimony.

**Statement of Ranking Member
Senator Susan M. Collins**

"Closing the Gaps in Air Cargo Security"

November 16, 2010

★ ★ ★

Terrorism knows no borders or boundaries, and the threat continues to adapt and morph before our eyes. Al Qaeda and its affiliates remain unflagging in their determination to exploit vulnerabilities in the security systems developed since September 11, 2001.

In the past 12 months, the United States has narrowly avoided two terrorist plots directed against aviation. The first was averted by sheer luck and the quick action of the passengers and crew in the skies above Detroit on Christmas Day. The second was disrupted due to intelligence shared by our allies and the hard work of federal law enforcement, intelligence, and homeland security officials and several international partners.

In these two failed attacks, we see the fanaticism and patience of our enemies. Though thwarted, these plots should prompt us to reexamine whether our priorities and resources are properly deployed.

Today, the Committee examines the most recent attempted attack. Last month, terrorists exploited weaknesses in air cargo security and succeeded in putting explosives inside printer cartridges bound for the United States. These bombs ultimately found their way into the cargo bays of airplanes, including a passenger plane. If detonated, the results could have been catastrophic.

This is the nature of the terrorist threat that we face: it is dynamic and ever-changing. As we strengthen our security systems, the terrorists counter with a different kind of threat, aimed at a different target.

The potential to plant an explosive somewhere in the millions of pieces of air cargo shipped around the world daily is a vulnerability.

The Department of Homeland Security must use this near miss to redouble its work with other countries, airline carriers, and shippers to tighten the security network.

We must move quickly to shore up our defenses in this area, without interfering with the legitimate flow of commerce. Al Qaeda is, after all, seeking to destroy our economy and way of life, as well as to kill our people. We must not allow either goal to be accomplished.

DHS should analyze how the government can best focus its limited screening resources on the highest risk cargo. The successes in the risk-based screening of maritime cargo could provide a road map for risk-based screening of air cargo.

Currently, maritime cargo manifest information must be submitted to DHS at least 24 hours before a cargo container headed to the United States is loaded on a ship overseas. Using this information and other intelligence, DHS targets high-risk cargo for inspection prior to the ship's departure to our country.

In sharp contrast, air cargo manifest information is required to be submitted only four hours before that cargo *arrives* in the United States. That means the information is often transmitted to DHS while the aircraft is in the air - providing no opportunity to conduct further inspections of flagged cargo before departure.

Indeed, Customs and Border Protection has acknowledged that based on the shipping information about the two packages from Yemen, the agency would have flagged them as high risk upon arrival in the United States. We need a system that would have ensured that additional inspection abroad.

Certainly, the tempo of the air cargo supply chain is different from maritime cargo. But regardless of the mode, we have an obligation to examine vulnerabilities in our supply chains and manage risks to those systems. DHS should make it a priority to ensure that the highest risk cargo gets the attention that it deserves, while keeping in mind the adage in the security field that if you attempt to secure everything, you secure nothing.

There are also opportunities to make better use of the private sector in securing air cargo overseas, where screening efforts are now more limited. Instead of attempting to screen almost all cargo at the airport, it could be screened at a warehouse where the package is sealed, long before it reaches an airport, and kept securely until it is delivered to the air carrier.

This would help avoid potential delays that could be created if a substantial amount of screening takes place immediately prior to loading packages on an aircraft. Indeed, this is already being done to secure domestic air cargo shipments.

Leveraging private sector resources and information to screen international air cargo is worth the Department's consideration and could help target its security resources more effectively.

I mentioned that DHS must constantly re-evaluate the allocation of its security resources and priorities. In that vein, I remain concerned about the

intrusiveness of Advanced Imaging Technology and its potential negative health effects.

As I have said in multiple letters to the Administration, the Department should independently evaluate the health effects of that technology and should consider software that respects travelers' privacy by automatically identifying objects that may be threats using featureless images of travelers, rather than having a TSA officer review detailed images of passengers. To date, the Department's responses to my inquiries have been inadequate.

Obviously, our government's first priority is to protect against terrorism, and the public will accept a certain level of intrusion and inconvenience. But DHS should use technology and techniques that are safe and effective and that minimize privacy concerns whenever possible.

STATEMENT OF
ALAN D. BERSIN
COMMISSIONER
U.S. CUSTOMS AND BORDER PROTECTION
AND
JOHN S. PISTOLE
ADMINISTRATOR
TRANSPORTATION SECURITY ADMINISTRATION
U.S. DEPARTMENT OF HOMELAND SECURITY
BEFORE
SENATE HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS COMMITTEE
NOVEMBER 16, 2010

Chairman Lieberman, Ranking Member Collins, and distinguished Members of the Committee, thank you for the opportunity to appear today to discuss the role of U.S. Customs and Border Protection (CBP) and the Transportation Security Administration (TSA), both components of the U.S. Department of Homeland Security (DHS), in the processing of air cargo. We appreciate the Committee's leadership, and your steadfast efforts to ensure the security of the American people.

CBP is responsible for securing our nation's borders while facilitating the movement of legitimate travel and trade vital to our economy. TSA protects the nation's transportation systems to ensure freedom of movement for people and commerce. CBP and TSA work together with the rest of DHS and our colleagues throughout the federal government to effectively address the evolving terrorist threat facing our country.

Before we describe our individual roles and some of the many ways our agencies work together to secure the homeland, we want to update the Committee on the recent air cargo plot and steps we have taken to address it.

Air Cargo Packages from Yemen

Almost three weeks ago, the global counterterrorism community disrupted a potential attack when individuals with ties to al Qaida in the Arabian Peninsula in Yemen attempted to conceal and ship explosive devices in cargo on board aircraft that travelled through several foreign nations, and ultimately were bound for the United States.

This episode began on the evening of Oct. 28 with a call from John Brennan, the President's top counterterrorism advisor, informing us of a credible terrorist threat. Later that

evening, President Obama directed U.S. intelligence and law enforcement agencies, including the Department of Homeland Security, to take steps to ensure the safety and security of the American people, and to determine whether these threats were part of any broader terrorist plots.

We worked through the night and the following weekend, staying in close contact both with our colleagues within the U.S. government and with our international partners. TSA and CBP immediately took additional measures to enhance existing protocols for screening inbound cargo, including temporarily grounding all packages originating from Yemen destined for the United States. CBP, with the assistance of our private sector trade partners, was able to quickly identify and locate all U.S.-bound air cargo shipments from Yemen, and each shipment was placed on hold for examination. Using all the inspection technology at our disposal – including x-ray systems, explosive detection canines and explosive trace detection equipment – in addition to manual physical inspection, a thorough examination of each Yemen-originated shipment was conducted. Additional analysis of each shipment was performed with our law enforcement partners, and no shipment was released until fully examined and analyzed. With constant communication and sharing of information, we were able to disrupt this plot before it did any harm.

After the initial response, the Administration took a number of additional steps. In the days immediately following the attempted plot, at the direction of President Obama and Secretary Janet Napolitano, TSA deployed a team of security inspectors to Yemen to provide assistance and guidance to the Government of Yemen with their cargo screening procedures. TSA Administrator Pistole leveraged a previously planned trip to speak to the Aviation Security (AVSEC) World Conference in Germany to interact directly with our counterparts in Europe and elsewhere, as well as leaders of the International Air Transport Association (IATA) and the

International Civil Aviation Organization (ICAO) about the common transportation security threats we all face.

From Germany, Administrator Pistole flew to Yemen, where he received briefings from the TSA inspectors just deployed there. He also met with Yemeni Deputy Prime Minister Rashad al-Alimi and government officials from Yemen's Directorate General of Civil Aviation and Ministry of Interior. Administrator Pistole also spoke with U.S. Ambassador to Yemen, Gerald M. Feierstein, a seasoned specialist in Near East and South Asian Affairs who has served overseas in eight postings and as a senior official in the State Department's Office of the Coordinator for Counterterrorism. These on-the-ground meetings provide crucial context as we work to understand how to best address possible vulnerabilities within the global transportation system.

CBP refined and strengthened its automated risk assessment systems in light of the air cargo threat. Working closely with the intelligence community and with TSA, CBP adjusted the targeting rules in the Automated Targeting System (ATS, discussed in greater detail below) to be more responsive to current threats. All shipments of concern now automatically are placed on hold and are examined upon arrival.

Our collective actions to address cargo security continued as Secretary Napolitano spoke on November 2 with leaders of the international shipping industry, including UPS, DHL, FedEx, and TNT, about enhancing air cargo security. During the call, Secretary Napolitano underscored her commitment to partnering with the shipping industry to strengthen cargo security through enhanced screening and preventative measures, including terrorism awareness training for shipping industry personnel.

Following her call with shipping industry leaders, Secretary Napolitano spoke with IATA Director General Giovanni Bisignani about the Department's continued collaboration with our private sector partners and international allies to secure the global supply chain through a layered security approach that is designed to identify, deter, and disrupt threats. The Secretary also reiterated her commitment to ongoing coordination with the airline and shipping industries to uphold air cargo security standards.

Security of the air cargo supply chain is critical, and we are developing security enhancements in close coordination with industry because we understand the value of air cargo to our country's economy. Together, FedEx, UPS, DHL, and TNT employ more than 1 million employees around the world, and own or operate more than 1,700 aircraft. Each of these companies has operations in more than 200 countries. In 2008, air merchandise trade comprised almost 30 percent of U.S. exports by value, totaling almost \$390 billion, and almost 20 percent of U.S. imports by value, totaling over \$417 billion. Combined, that represents over \$800 billion of U.S.-international merchandise trade.

As we continue to address the threat to air cargo, we are analyzing information and gathering intelligence on the packages intercepted from Yemen, and we have issued additional directives to the airline industry on the non-acceptance, or extra screening, of high-risk packages on passenger and cargo flights. Specifically, on November 8, Secretary Napolitano announced that:

- the ban on air cargo from Yemen will continue and has been extended to all air cargo from Somalia;
- no high risk cargo will be allowed on passenger aircraft;
- toner and ink cartridges weighing 16 ounces or more will be prohibited on passenger aircraft in both carry-on bags and checked bags on domestic and international

passenger flights in-bound to the United States, as well as certain inbound international air cargo shipments; and

- all cargo identified as high risk will go through additional and enhanced screening, including inbound international mail packages, which must be screened individually and certified to have come from an established postal shipper.

We are working collaboratively with industry and our international partners to expedite the receipt of cargo manifests for international flights to the United States prior to departure in order to more effectively identify and screen items based on risk and current intelligence. We also are working with our international and private sector partners on the expansion of layered detection systems, including technology and other measures, to find ways to strengthen security that also maintain the critical flows of global commerce that are so important to our economic recovery. We will keep you closely informed of our progress.

CBP's Air Cargo Mission

CBP is the largest uniformed federal law enforcement agency in the country, with more than 20,000 CBP officers stationed at air, land, and sea ports nationwide. These forces are supplemented by approximately 1,200 Air and Marine agents and 2,300 agricultural specialists and other professionals. Every day, CBP processes over 1 million travelers seeking to enter the United States by land, air or sea.

To counter the threat of terrorism and secure our borders, CBP relies on a balanced mix of professional law enforcement personnel, advanced technologies and fully modernized facilities and infrastructure both at and between the ports of entry. CBP Officers utilize advanced targeting, screening and inspection technologies to quickly identify persons or cargo that warrant additional scrutiny without unduly impeding the traveling public or commerce.

Air cargo arrives in the United States on cargo-only aircraft or within the cargo hold of passenger aircraft. In fiscal year 2010, CBP processed nearly 334,000 flights with cargo and screened over 57 million regular and express air waybill records. Under CBP regulations issued pursuant to the Trade Act of 2002, Public Law 107-210, manifest data is submitted four hours prior to arrival of the aircraft at the first U.S. airport, or at “wheels up” for flights arriving from Canada, Mexico, Central America, points in South America north of the equator, Bermuda, and the Caribbean. Manifest data include both the master and house air waybill numbers for consolidated shipments, the trip/flight number, carrier code, airport of arrival, airport of origin, scheduled date of arrival, total quantity (based on the smallest external packing unit), total weight (pounds or kilograms), a precise cargo description, shipper name and address, and consignee name and address.

Upon receipt of the advance manifest data, CBP processes the data through its Automated Targeting System (ATS) to identify potential threats related to terrorism, narcotics, hazardous materials, and other CBP focus areas. ATS is the primary platform used by DHS to match travelers and goods against screening information, intelligence, and known patterns of illicit activity. The air cargo advance targeting units at the local airports of arrival use ATS to conduct risk assessments, while the National Targeting Center – Cargo (NTC-C) conducts high-level sweeps for shipments of concern based on intelligence and targeting rules.

Immediately following the Oct. 28 attempt to ship explosive devices through express consignment air cargo, CBP updated its ATS cargo targeting rules to identify similar high-risk air cargo shipments. These rules were developed based on tactical intelligence received related to the current threat.

CBP conducts examinations of all high-risk air cargo upon its arrival in the United States. These examinations must include a non-intrusive inspection (NII), if equipment is available, or a physical inspection of the shipment, along with a mandatory radiation scan using a Radiation Isotope Identification Device and/or a Personal Radiation Detector.

CBP also partners with the trade community to enhance supply chain security. CBP has agreements with two express consignment carriers under which these carriers perform screening for radioactive materials before the shipment leaves the foreign airport of departure. In addition, under the Customs-Trade Partnership Against Terrorism (C-TPAT) program, importers and shippers voluntarily adopt security standards that must be adhered to throughout their supply chains. There are currently over 10,000 C-TPAT members, including many top air carriers and freight forwarders.

TSA's Air Cargo Mission

Pursuant to the Implementing the Recommendations of the 9/11 Commission Act (Public Law 110-53, known as the 9/11 Act), DHS is responsible for implementing a system for screening 100 percent of cargo carried aboard passenger air carriers, and TSA has taken significant steps to increase the security of air cargo on passenger air carriers.

Effective August 2010, TSA required 100 percent screening of cargo transported on domestic or foreign passenger air carriers departing from U.S. airports. To ensure a viable cargo screening program, TSA relies upon the Certified Cargo Screening Program (CCSP), under which responsibility for the screening of cargo is distributed throughout the supply chain to improve security while minimizing the potential negative impact on the integrity and movement of commerce by creating a screening bottleneck at the nation's airports. Air carriers and

Certified Cargo Screening Facilities are required to adhere to stringent TSA security standards, including specific requirements covering facility security, the vetting of personnel with access to cargo, and cargo screening and handling requirements, including provisions for chain of custody. After piloting the concept, the CCSP was permanently established in 2009 through an interim final rule. TSA has certified over 1,140 entities as Certified Cargo Screening Facilities – these facilities currently contribute more than 51 percent of the screened cargo volume (by weight) transported on passenger aircraft departing U.S. airports – thus representing a significant security enhancement for our nation’s cargo supply chain.

In FY 2010, TSA focused air cargo resources on continued implementation of the CCSP by:

- increasing cargo inspection resources to educate industry and enforce the domestic 100 percent screening requirement;
- increasing the number of canine screening teams at airports that handle a high volume of cargo;
- testing, evaluating, and qualifying existing technologies for use in complying with the screening requirement for specific commodities;
- deploying approved skid-level x-ray screening technologies; and
- increasing industry outreach to promote adequate levels of shipper and indirect air carrier participation to help industry achieve the mandate with minimal impact on the air cargo supply chain.

The CBP-TSA Partnership to Mitigate the Aviation Security Threat

CBP and TSA have a strong working partnership designed to mitigate threats to aviation security by preventing terrorists, dangerous cargo, and other threats from boarding aircraft destined to or departing from the United States. This Committee has been briefed extensively on the outstanding, ongoing CBP-TSA teamwork following the Dec. 25, 2009 plot involving Umar Farouk Abdulmutallab on Northwest Flight number 253.

We continue to take steps to achieve the vision you sought in creating DHS and that Secretary Napolitano reaffirms with her "One DHS" initiative. For example, CBP and TSA recently signed a memorandum of understanding (MOU) regarding enhanced collaboration on border and aviation security. CBP and TSA have established a Senior Guidance Team (SGT), responsible for developing a comprehensive and integrated strategy to guide enhanced cooperation between the two agencies on aviation and border security issues. As TSA develops programs for domestic aviation security, CBP will assist TSA by providing information based on its long experience with international aviation and our technological capabilities.

Currently, CBP is providing assistance to TSA to fulfill the 9/11 Act mandate to screen 100 percent of international inbound cargo transported on passenger aircraft. CBP and TSA began exploring the potential effectiveness of utilizing CBP's ATS as a risk targeting tool to leverage data and information already collected in order to meet TSA's mission to secure international inbound air cargo. Since June 2009, CBP and TSA have met extensively on leveraging data that CBP currently receives from ATS. During the CBP-TSA Targeting Work Group meetings, three pilot programs were recommended and have been successfully completed at Washington-Dulles International Airport, Miami International Airport and the National Targeting Center-Cargo (NTC-C). The pilots allowed TSA to gather information and data that will help in creating a baseline of information to understand the characteristics and profile of cargo shipments targeted by ATS.

Our agencies' individual work and collaboration continues. Despite having a robust targeting system and the ability to quickly locate and inspect shipments of concern, the recent air cargo incidents have highlighted the challenges that remain in the air cargo environment. While CBP has built a robust and comprehensive cargo security strategy to address the potential threat

via maritime shipping containers before they are loaded onto vessels destined to the U.S., and TSA and CBP will work together to place additional focus on addressing risk prior to departure in the air cargo environment. Specifically, receiving air cargo manifest data once a plane has already departed for the United States does not prevent dangerous materials from being loaded onto aircraft. DHS is working to change its approach, and move to receive advanced air cargo data prior to departure.

Similarly, TSA continues its efforts toward ensuring screening of 100 percent of cargo on inbound international passenger flights, and is working with DHS, our international partners, and the private sector to improve cargo screening on all-cargo aircraft.

In recent days, we have met with key leaders in the air cargo industry and sought their assistance in identifying what data is available pre-departure, which parties have the data, and how early in the process the data can be provided to CBP for security screening. CBP has received overwhelming support from the trade community in this regard, and we are increasingly confident that the Department can move to pilot different advanced air cargo strategies before the end of the year.

The receipt of pre-departure advanced air cargo data will enable the NTC-C to identify shipments of concern earlier in the transportation supply chain and prior to departure, enabling examination or prohibition of shipments of concern until all potential risk concerns are resolved. A robust, intelligence-based targeting system, administered by the NTC-C and built upon pre-departure advanced air cargo data, will result in a much enhanced air cargo strategy and greater security for our nation.

Conclusion

Chairman Lieberman, Ranking Member Collins, and Members of the Committee, thank you again for the opportunity to appear today. We are continuing to work together, with our colleagues throughout the federal government, and with our private sector partners, to improve our ability to detect high-risk cargo prior to loading on aircraft. We look forward to your continued assistance and leadership as we pursue these efforts. We look forward to answering any questions that you may have.

Post-Hearing Questions for the Record
Submitted to Hon. John S. Pistole and Hon. Alan D. Bersin
From Senator Carl Levin

“Closing the Gaps in Air Cargo Security”
November 16, 2010

Question#:	1
Topic:	JIEDDO
Hearing:	Closing the Gaps in Air Cargo Security
Primary:	The Honorable Carl Levin
Committee:	HOMELAND SECURITY (SENATE)

Question: To what extent does DHS or CBP coordinate with research and development that is being done by the Department of Defense Joint IED (improvised explosive device) Defeat Organization (JIEDDO)? JIEDDO leads DoD actions to rapidly provide Counter Improvised Explosive Device capabilities in support of the Combatant Commanders and to enable the defeat of the IED as a weapon of strategic influence. DoD is devoting several billions of dollars per year trying to identify explosives detection devices. Would any of their explosives detection research potentially be applicable to the technology needs of CBP or TSA?

Response: DHS has built a strong working relationship with the Joint Improvised Explosive Device Defeat Organization (JIEDDO) that allows both sides to leverage the knowledge base and investments made related to the Improvised Explosive Device (IED) threat. The DHS Science and Technology Directorate (S&T) develops technologies to detect, mitigate and defeat IED threats for operational components such as CBP and TSA, including CBP’s Office of Information Technology’s Laboratories and Scientific Services. Additionally, CBP’s operations include the technical and scientific detection and interdiction of explosive devices. JIEDDO regularly provides updates and developmental information on IED and other explosive devices, as well as the technologies to detect and defeat them, to CBP, S&T and other DHS components.

S&T and JIEDDO have begun joint funding of several programs related to the counter-IED effort and explosives detection technology development that supports both DOD and DHS operational mission needs. DHS components also work together on a number of different domestic and international working groups with JIEDDO. Below are some examples of our coordinated efforts:

- In FY 2010, S&T established and staffed the DHS-JIEDDO liaison (LNO) position to facilitate inter-agency cooperation. The LNO leverages JIEDDO’s technical and tactical experience and helps both organizations minimize duplication of effort on counter-explosives programs.
- JIEDDO has co-funded S&T’s standoff technology integration and demonstration for technologies that could detect IEDs from a standoff distance to assess the technologies for application in crowded public areas.
- In FY 2011, S&T will provide support to JIEDDO’s Project Trivaldi. Project Trivaldi develops a handheld explosives detection system that leverages

Question#:	1
Topic:	JIEDDO
Hearing:	Closing the Gaps in Air Cargo Security
Primary:	The Honorable Carl Levin
Committee:	HOMELAND SECURITY (SENATE)

previous DHS and DOD investments in the development of compact sensor systems. Successful development would support TSA mission requirements.

- In a 30-60 day timeframe, CBP operations will “pulse and surge” to targeted and high-risk locations based on the newest intelligence and information. These surge operations will include the increased use of trace detection and colormetric kits as well as increased scrutiny by non-intrusive inspection (such as x-ray imaging) of shipments. This process will include updated training and musters on current threats, as appropriate. Further, agencies will analyze threats and equipment usage for potential redeployment to high-traffic or high-risk locations.
- CBP will update its screening and targeting models with current intelligence and information to review higher threat packages based on high-risk origins, shipping anomalies, and other considerations.
- Agencies will continue to work with S&T and industry to further improve current detection technologies as well as develop new technologies for the detection of explosives. Specifically, CBP continues to work with S&T on the development of new explosive trace detectors (ETD) and bulk-detection technology that will work in CBP’s operational environments. These efforts include mass-spectrometry based ETDs, reflection-based imaging systems, and computed tomography bulk detection systems.

Question#:	2
Topic:	PETN
Hearing:	Closing the Gaps in Air Cargo Security
Primary:	The Honorable Carl Levin
Committee:	HOMELAND SECURITY (SENATE)

Question: Please provide a detailed budget breakout for spending on programs that are devoted to developing new technology that could identify PETN.

Response: PETN is a known threat. Detection requirements are longstanding and cut across all explosive detection technology development and enhancement programs at the Science and Technology (S&T) Directorate. These programs and their budget breakout are:

Cargo Program – FY 2010: \$11.5 million; FY 2011 estimate: \$15.7 million. This program will develop the next generation of air cargo screening systems to mitigate the threat of explosives placed in air cargo containers based on Department of Homeland Security (DHS) customer-identified capability gaps. The program will continue research, development, testing, and evaluation (RDT&E) of the next generation of air cargo screening systems that will enable the screening of 100 percent of air cargo, while reducing operating costs and achieving a low false-alarm rate.

Check Point Program – FY 2010: \$8.2 million; FY 2011 estimate: \$17.0 million. This program will develop advanced capabilities to detect explosives and concealed weapons (including Home Made Explosives (HME)) that individuals could detonate in passenger aircraft cabins or use in the hostile takeover of mass transit systems. The program is designing a next-generation checkpoint that will enable passengers to travel seamlessly from public areas to secure areas via a high-tech corridor that will automatically identify threats. The check-point corridor will contain an integrated system of detectors (sensors, biometrics, radio-frequency identification technologies) networked with command control operations to effectively meet TSA's requirements for automation, efficiency, and cost reduction. Concepts will be developed for integrating multiple complementary and overlapping checkpoint detection technologies to obtain improved performance along with operational efficiency. Automatic Threat Recognition and Trace Detection technologies will be incorporated into an Integrated Checkpoint system, providing the framework to further advance capabilities and guide future system development. These projects will demonstrate key technology items, paving a way forward for further technology demonstrations and subsequent full-scale development, acquisition and deployment in our airports.

Checked Baggage Program – FY 2010: \$12.6 million; FY 2011 estimate: \$4.4 million. Drives commercial development of next-generation systems that will substantially improve performance and affordability of checked baggage screening. Test and

Question#:	2
Topic:	PETN
Hearing:	Closing the Gaps in Air Cargo Security
Primary:	The Honorable Carl Levin
Committee:	HOMELAND SECURITY (SENATE)

evaluation of these systems will focus on probability of detection, number of false alarms, and throughput. The project also measures affordability of these systems by evaluating initial purchasing cost, operating costs, maintainability, and other elements of the full life-cycle costs. In FY 2009, the project completed detection technology demonstrations and produced a final report for TSA. In FY 2010, the project will transition next-generation Explosive Detection System (EDS) performance requirements that leverage enhanced detection technology. In FY 2011, the project plans to deliver a Carbon Nanotube X-Ray source to enable higher performance in x-ray based screening systems.

Question#:	3
Topic:	problems
Hearing:	Closing the Gaps in Air Cargo Security
Primary:	The Honorable Carl Levin
Committee:	HOMELAND SECURITY (SENATE)

Question: What are the practical problems, if any, relating to receiving a cargo manifest more than four hours before the plane arrives in the U.S.?

Response: Currently, carriers are required to transmit advance electronic cargo information utilizing the Air Automated Manifest System either 4 hours prior to arrival from most foreign locations or wheels up from points north of the equator in the western hemisphere.

Requiring air carriers to provide existing data earlier in the supply chain would involve significant modifications to current electronic systems and business practices. While the U.S. Government regulates airlines overseas, air carriers are often a conduit for cargo manifest data rather than the originators this information. Freight forwarders are responsible for more than 75% of air cargo shipments arriving on passenger airlines and are the source for the data on the cargo manifest. DHS currently has no mechanism to compel the forwarders to transmit cargo data earlier.

Additionally, critical medical pharmaceuticals, human organs, live animals, and time-sensitive perishables such as cut flowers are the backbone of the air cargo industry. In these cases shipping delays caused by an increase in the time lag between manifest submission and wheels up may mean the difference between spoilage and delivery. Such a change would likely impose an economic burden to both the air cargo industry and its clients.

Mindful of these challenges, CBP and TSA are collaborating with the air industry and international partners to expedite the receipt of key information for international shipments. DHS is working with its partners to expedite the receipt of at least five cargo data elements (subsets of the current air cargo manifest) in the air environment for international shipments destined for (or transiting through) the United States prior to departure from the port of lading. These data elements are the shipper name and address, consignee name and address, precise cargo description, total weight, and total quantity/pieces. Obtaining this data earlier in the shipping process would enhance DHS's ability to assess security risks.

Several express consignment operators have volunteered to engage in a pilot program with CBP and TSA to tender air cargo data for security screening in order for the Department to evaluate the potential impact to electronic systems and changes to the regulatory requirements for data collection and transmission.

The impact and practical problems associated with collecting data in advance of the current Trade Act rules cannot be fully determined until an assessment of the pilot can be completed. The pilot is scheduled to commence mid-December 2010.

**Post-Hearing Questions for the Record
Submitted to Hon. John S. Pistole and Hon. Alan D. Bersin
From Senator Susan M. Collins**

**“Closing the Gaps in Air Cargo Security”
November 16, 2010**

Question#:	4
Topic:	GAO
Hearing:	Closing the Gaps in Air Cargo Security
Primary:	The Honorable Susan M. Collins
Committee:	HOMELAND SECURITY (SENATE)

Question: In April 2007, GAO issued a report (GAO-07-660) reviewing TSA’s efforts to secure inbound air cargo.

What is the status of TSA’s efforts to develop an inspection plan that includes performance measures to evaluate foreign and domestic air carrier compliance with inbound air cargo security requirements?

Response: The Transportation Security Administration’s (TSA) Office of Global Strategies (OGS) has developed internal performance measures that reflect the extent to which inbound cargo screening has been evaluated. OGS Transportation Security Specialists conduct inspections in which cargo screening operations performed by host governments, foreign airports, air carriers, or Authorized Representatives are observed. In FY 2011, OGS anticipates that 2.92 billion tons of cargo will be imported via passenger aircraft, based on historical information on tonnage shipped. During FY11, OGS has scheduled inspections at airports responsible for 1.43 billion tons, or 49% of the cargo imported via passenger aircraft. Progress on achieving these milestones will be tracked and the extent to which the carriers are complying with the prescribed levels of screening will be documented and reported. Airports from which the other 51% of cargo tonnage depart were either assessed during FY10 or will be scheduled in FY12.

Question#:	5
Topic:	cargo
Hearing:	Closing the Gaps in Air Cargo Security
Primary:	The Honorable Susan M. Collins
Committee:	HOMELAND SECURITY (SENATE)

Question: Due to last month's events, the focus on the threats facing international air transportation of cargo has centered upon IEDs using more conventional explosives. However, it is critical that we not lose sight of the continued threat posed by terrorists' quest to obtain and use nuclear and radiological weapons against the United States.

Earlier this year, GAO testified before this Committee that one of the gaps in our nation's efforts to prevent the smuggling of nuclear materials into the United States is the difficulty of scanning air cargo planes for radioactive materials, noting that DHS's goal of scanning 99 percent of air cargo at 33 international airports by 2014 had been put on hold.

The devastation resulting from a nuclear bomb being smuggled into the U.S. via international air cargo transportation and detonated over an American city is truly a nightmare scenario, and it does not appear that sufficient measures to counter this threat are currently in place.

What steps is DHS taking to address this gap in our nation's defenses?

Response: CBP has long regarded air cargo and associated expedited courier facilities to be a high priority threat for importation of nuclear materials or devices. Radiation scanning of mail and expedited courier facilities was an early goal of the Radiation Portal Monitoring Program which has achieved the 100% scanning level. Currently, all expedited courier commerce shipped by FedEx and UPS is scanned prior to departure by the shippers under a Memorandum of Understanding with CBP. CBP has recently reached out to both FedEx and UPS to review and strengthen that program. The recent events involving an attempt to ship and detonate Improvised Explosive Devices (IED) by that route have added further urgency to that effort. CBP has begun scanning of air cargo upon arrival at several airports including Washington Dulles, Charlotte, and Minneapolis. CBP also initiated a major effort to reassess priorities for closing all remaining scanning gaps/threats. This study will provide a basis for both sustaining the existing program as well as expanding it to cover known vulnerability gaps such as air cargo and maritime break-bulk.

Question#:	6
Topic:	red team
Hearing:	Closing the Gaps in Air Cargo Security
Primary:	The Honorable Susan M. Collins
Committee:	HOMELAND SECURITY (SENATE)

Question: The DHS Inspector General recently reported that TSA lacks the authority to conduct "red team" exercises to assess the effectiveness of the screening program. According to the report: "TSA's Office of Inspection has been planning to conduct red team covert testing of air cargo since 2006. The agency has not performed these tests because it does not have the necessary undercover authority. TSA's Office of Chief Counsel created a legislative proposal in 2007 ... but DHS rejected the plans as not viable. In March 2008, TSA's Chief Counsel sent an informal action memo to DHS' Office of General Counsel requesting the authority; however this request was also denied."

Can you tell me how you are addressing that issue and whether legislation is required?

Response: TSA's Office of Inspection is moving forward with establishing a permanent red team covert testing operation within its existing authorities with the assistance and advice of the Department of Homeland Security (DHS) Office of General Counsel and DHS experts in covert activities. This office will begin operations in February, 2011 and expects to perform several hundred covert tests of air carriers and Certified Cargo Screening Facilities (CCSF) this year. This permanent program follows initial covert testing of CCSF performed during calendar year 2010.

**Post-Hearing Questions for the Record
Submitted to Hon. John S. Pistole
From Senator Thomas R. Carper**

**“Closing the Gaps in Air Cargo Security”
November 16, 2010**

Question#:	7
Topic:	training
Hearing:	Closing the Gaps in Air Cargo Security
Primary:	The Honorable Thomas R. Carper
Committee:	HOMELAND SECURITY (SENATE)

Question: Senator Brown and I recently introduced legislation to strengthen the training requirements for TSA’s screening workforce. We felt - and still do of course - that our airport screeners are on the front line when it comes to making flying safer. While technology is an important layer of security, last month’s air cargo incident underscores the point that it is only one layer. From what I’ve been told, the machines used to screen cargo initially missed the hard-to-detect explosive that was shipped from Yemen. It was only following a closer inspection by a human being that the devices were found.

What steps are you taking to bolster the training of TSA’s screening and analytical workforce to spot the latest smuggling techniques at airports?

Response: The Transportation Security Administration (TSA) is developing of a new training course for domestic Transportation Security Inspectors for Air Cargo (TSI-C). The *Cargo Screening and Profiling* course will be a TSA-offered course at the Security Enforcement Training Academy (SETA) in Oklahoma City. This course will give TSI-Cs thorough training in the proper inspection of air cargo screening locations – to include foreign and domestic airlines as well as TSA Certified Cargo Screening Facilities. This involves use of a Cargo Lab at SETA, with extensive hands-on training scenarios and screening equipment reviews. The second portion of the course will arm TSI-Cs with the ability to identify suspicious cargo for further screening or additional scrutiny. The protocols will be based on appearance, behavior, context, documentation, and exchange of the shipment. Additionally, TSA has developed specific training for regulated parties that screen air cargo such as Certified Cargo Screen Program participants and international and domestic air carriers.

Question#:	8
Topic:	SPOT
Hearing:	Closing the Gaps in Air Cargo Security
Primary:	The Honorable Thomas R. Carper
Committee:	HOMELAND SECURITY (SENATE)

Question: During the hearing, you and I discussed the SPOT program and my efforts with Senator Brown to expand it. I appreciate your continued support for using behavior detection techniques to enhance our security methods at airports and in other transportation modes. I do want to follow up, however, and ask about how programs like SPOT or even the increased use of intelligence on aviation threats might help TSA rely less on the controversial and intrusive airport screening methods that have been receiving significant attention lately.

Is it possible to better target high risk passengers at airport checkpoints so that fewer people are subjected to tactics like pat downs?

Response: The Transportation Security Administration (TSA) uses a multi-layered approach to security. Each layer is important on its own, but it is the cumulative effect of the multiple layers that maximizes the security force. TSA strongly believes in the efficacy of our behavior detection program as an integral part of our expanding efforts to screen for intent. In this context, "screening" should be understood to include all activities, both near and far away from airport checkpoints, to identify persons with potential hostile intent prior to air travel.

TSA currently uses several methods that leverage intelligence and non-intrusive tools to ensure a risk-based approach to aviation security. Much of the success in preventing attacks on air transportation has been a result of intelligence and law enforcement efforts that occur before travelers even arrive at the airport. Secure Flight, which compares passengers against the U.S. Government's consolidated terrorist watchlist, uses intelligence and law enforcement data to guard against known and suspected threats. The Screening of Persons through Observational Techniques (SPOT) allows our officers to push security out in front and behind the checkpoint and is deployed at 161 airports

Airport checkpoint screening will remain an essential layer in our security paradigm. Advanced Imaging Technology (AIT) is a non-physically intrusive technology to identify threats. As part of the checkpoint screening system, pat-downs are necessary to resolve anomalies, alarms, and threats identified as a result of primary screening or for those who prefer an alternative to screening. TSA believes that the number of pat-downs will decrease as the traveling public gains more experience and confidence with AIT screening. The physical screening, combined with programs such as SPOT, gives us our best chances of deterring, identifying, and defeating someone who wishes to do us harm.

**Post-Hearing Questions for the Record
Submitted to Hon. John S. Pistle and Hon. Alan D. Bersin
From Senator John Ensign**

**“Closing the Gaps in Air Cargo Security”
November 16, 2010**

Question#:	9
Topic:	screening
Hearing:	Closing the Gaps in Air Cargo Security
Primary:	The Honorable John Ensign
Committee:	HOMELAND SECURITY (SENATE)

Question: The GAO reported in June of this year that the TSA would not be able to achieve 100% screening of all inbound air cargo by August 2010 as mandated by the 9/11 Commission Act of 2007. The TSA has acknowledged this, and among the reasons given is that the TSA cannot require other countries to adopt U.S. screening standards. The GAO also noted that for domestic cargo, the screening data is self-reported by the industry representatives – air carriers, freight forwarders, shippers – and that the TSA has no mechanism by which to verify the accuracy of the data, and further, that the TSA believes that the air carriers are meeting the screening standards based on estimates and not on actual data that the law requires. I also understand that the TSA does not receive shipment information from either the air carriers or from CBP, which does receive this information, and that the TSA is responsible for screening at small-sized airports, while the air carriers screen at the large-sized airports.

Which countries have been resistant to adopting the U.S. screening standards and what reasons were given?

Response: The Transportation Security Administration (TSA) is working with its international partners to strengthen global air cargo security standards and promote supply chain security practices. TSA’s harmonization efforts include (1) bilateral and multilateral agreements with foreign governments and regional associations; and (2) participation in efforts led by international organizations, including the International Civil Aviation Organization (ICAO).

ICAO Annex 17 to the Convention on International Civil Aviation requires Contracting States to ensure the safety of passengers, crew, ground personnel, and the general public from acts of unlawful interference with civil aviation. ICAO has recently updated air cargo security standards that specifically address the screening of cargo, mail, and the establishment of a supply chain security process, as well as ensuring that security controls are applied to cargo being transported on all-cargo aircraft. After the October incident, ICAO and its Member States realized that more attention to air cargo security standards and practices was necessary. To that end, ICAO, Member States and industry partners participated in a multilateral study group on cargo and supply chain security in December 2010 with the ultimate goal of amending Annex 17 Standards and Recommended Practices to further strengthen air cargo security with emphasis given to the most recent and evolving threats.

Question#:	9
Topic:	screening
Hearing:	Closing the Gaps in Air Cargo Security
Primary:	The Honorable John Ensign
Committee:	HOMELAND SECURITY (SENATE)

TSA is taking a two-fold approach to achieve 100 percent screening of international inbound cargo by (1) increasing passenger air carrier screening percentage requirements through TSA-approved air carrier security programs; and (2) recognizing the National Cargo Security Programs (NCSP) that provide a level of cargo security commensurate with U.S. standards. There is considerable interest from many countries in the NCSP recognition program. TSA has not found opposition by our foreign partners in adopting the U.S. screening standards. TSA continues to work closely with its international partners to ensure that the highest standards are being met as pertains to the securing of inbound air cargo.

Question: If it is correct that your agency does not receive the manifest information, explain why that is.

Response: The Transportation Security Administration (TSA) and Customs and Border Protection (CBP) have partnered to develop a pre-departure model to receive advance information. These joint pilot activities have already been initiated with industry and will explore the feasibility of advance information in the air cargo environment.

Question: What defines "large" and "small" airports, and do you have a verification system in place for the screening done by the air carriers?

Response: "Large" (Category X or Category I) and "small" (Category II, Category III, or Category IV) airports are categorized based on the number of annual enplanements. Screening standards are set pursuant to Title 49 C.F.R. Part 1544 and Part 1546.

Also, the Administrator for the Transportation Security Administration (TSA) has the discretion to, or an airport operator may petition to adjust an airport's categorization based upon other security considerations.

Question: Does TSA have a verification system in place for the screening done by the air carriers?

Response: The Transportation Security Administration (TSA) receives monthly cargo screening reporting data from air carriers on domestic originating flights and international inbound flights as required by the security programs. Also, TSA's Transportation Security Inspectors, in the course of their normal inspections and tests, assess compliance with cargo screening at the local stations of regulated entities by reviewing the screening logs maintained by the air carriers. As acknowledged in TSA's official response to the Government Accountability Office recommendations, there is currently no means to cross reference local screening logs with carrier monthly screening reports.

Question#:	10
Topic:	proactive efforts
Hearing:	Closing the Gaps in Air Cargo Security
Primary:	The Honorable John Ensign
Committee:	HOMELAND SECURITY (SENATE)

Question: Administrator Pistole's post-incident statement dated November 1, 2010, closed with, "As always, TSA will continue to evolve our security procedures based on the latest intelligence to further strengthen air cargo security." As with any security effort, a lot of it is reactive: the 9/11 hijackers used box cutters, so we banned knives from flights; subsequent attempts used liquids, so we restricted liquids; now we have copy machine ink cartridges in cargo flights being used to conceal explosives, so restrictions are now in place for those items. But what are we doing on a proactive basis?

Describe your agencies' proactive efforts at threat assessment. Is there a section or group charged with "out-of-the-box" proactive thinking of what might be coming next, so that we do not have to react to something unanticipated?

Are there any improvements with regards to the sharing of intelligence and information with other agencies and industry stakeholders that your agencies believe can be made?

Response: The Transportation Security Administration (TSA) engages in a range of activities to assess threats to transportation through intelligence analysis, participation in threat analysis working groups, information sharing, and covert testing. First, TSA's Office of Intelligence (TSA-OI) acquires and assesses intelligence information regarding threats to transportation and disseminates it, as appropriate, to officials in the government and industry with transportation security responsibilities. In order to facilitate this assessment, TSA-OI has embedded intelligence analysts at the Central Intelligence Agency, National Security Agency, the Federal Bureau of Investigation's (FBI) National Joint Terrorism Task Force (JTTF), the National Counterterrorism Center, the National Targeting Center, and the Human Smuggling and Trafficking Center.

TSA-OI also provides analysts to support TSA ad hoc red cells and Intelligence Community (IC) sponsored alternative analysis working groups. TSA-OI in conjunction with the Secure Flight Program proactively identifies individuals on the No-Fly and Selectee List for additional security measures. This begins as early as 72 hours prior to flight departure with a comparison of reservations and the lists. If a match or possible match is identified TSA-OI, working with TSA's Office of Security Operations (OSO), Federal Air Marshall Service (FAMS), and the FBI, prepares a security encounter and threat mitigation plan. This includes additional screening measures, FAMS coverage on specific flights, interviews of identified individuals, and possible denial of boarding.

Question#:	10
Topic:	proactive efforts
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Primary:	The Honorable John Ensign
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In order to enhance and improve information sharing with the law enforcement and stakeholder communities, TSA-OI created the Transportation Security Information Sharing & Analysis Center (ISAC) site in DHS's Homeland Security Information Network. This unclassified Internet portal is available to all Transportation Sector members and associations. Additionally, the unclassified site is also accessible for Federal, State, local, and tribal officials with "a need to know."

TSA-OI provides real time and near real time information sharing with-in TSA and the IC, through the 24x7 Intelligence Watch, which is connected to four geographically separated TSA operations centers and all of the Intelligence and Law Enforcement Watches in the national Capital Region. This information is also shared with our 26 Field Intelligence Officers (FIO) who support the Federal Security Directors and FAMS Special Agents in Charge (FAMS SACs) in their areas. The FIOs also interact with the FBI JTTFs and local fusion centers in near their home airports.

In addition, TSA's Office of Inspection is moving forward with establishing permanent red team covert testing operations within its existing authorities with the assistance and advice of the Department of Homeland Security Office of General Counsel and DHS experts in covert activities. This office will begin operations in February, 2011 and expects to perform several hundred covert tests of air carriers and Certified Cargo Screening Facilities (CCSF) this year. This permanent program follows initial covert testing of CCSF performed during calendar year 2010.

Question#:	11
Topic:	travelers
Hearing:	Closing the Gaps in Air Cargo Security
Primary:	The Honorable John Ensign
Committee:	HOMELAND SECURITY (SENATE)

Question: The Washington Times, in its November 18, 2010 edition, reported that DHS has supposedly exempted female Muslim travelers who wear the burqa or hijab from the full pat-down process.

Have the screeners been directed, whether in writing or verbally, to exempt travelers wearing burqas, hijabs or other types of religious clothing?

Response: The report that you referred to is incorrect. All passengers are required to undergo security screening in accordance with the Standard Operating Procedures established by the Transportation Security Administration.

Question#:	12
Topic:	practical problems
Hearing:	Closing the Gaps in Air Cargo Security
Primary:	The Honorable John Ensign
Committee:	HOMELAND SECURITY (SENATE)

Question: You both explained during the hearing that there were “practical problems” why air cargo manifests could not be submitted earlier than what is currently required.

Other than the air carriers supposedly not having the technological system in place to submit the manifests earlier (as claimed by Administrator Pistole), what are the other issues that the air carriers have identified as preventing them from submitting this information earlier?

Response: The process of reviewing and entering manifest data for pre-departure submission will result in operational challenges and system communication challenges. This may result in increased cut-off times, cargo delays, and backlogs. The Transportation Security Administration (TSA) and Customs and Border Protection (CBP) are working jointly through pilot activities with industry to minimize those issues.

Question#:	13
Topic:	program
Hearing:	Closing the Gaps in Air Cargo Security
Primary:	The Honorable John Ensign
Committee:	HOMELAND SECURITY (SENATE)

Question: The GAO report issued in June of this year, suggested that the TSA should adopt a program similar to CBP's compliance measurement program, as part of a cargo screening effort.

Explain the compliance measurement program and whether it is something that can be adapted for TSA's use in screening cargo.

Response: CBP implements a risk-based, layered enforcement strategy towards securing cargo in all modes of transportation to and transiting through the United States. This enforcement strategy includes advanced information and automated analysis through use of CBP's Automated Targeting System (ATS), Customs-Trade Partnership Against Terrorism (C-TPAT), the use of non-intrusive inspection (NII) technology to scan high-risk shipments, and the National Targeting Center for Cargo (NTC-C) to centralize targeting activities and support cargo enforcement at the port of entries.

In addition to implementing this risk-based security strategy, CBP implements compliance measurement programs as a primary method to measure risk in the areas of general aviation and passenger compliance, and trade compliance. These compliance programs are based on random sampling and statistical weighting of all cargo and passenger movements and import transactions to measure compliance with CBP regulations, the effectiveness of CBP control mechanisms currently in place, as well as the overall effectiveness of those security programs CBP has implemented to secure the global supply chain. CBP and TSA are working closely together to strengthen air cargo security, including studying the applicability of these measures to the air cargo environment.

