

ARAB AMERICAN INSTITUTE

TSA SPOT PROGRAM

Background

The Transportation Security Administration (TSA) of the Department of Homeland Security (DHS) is responsible, as its name suggests, for ensuring security in mass transport in the United States. While TSA's mandate extends to all forms of mass transit, including local and national train systems, its primary presence - and most Americans' familiarity with it - is the security of air travel. TSA officers are the men and women who check passengers' identification and search their persons and luggage to determine whether they are safe to fly.

In 2007, TSA introduced a program called Screening Passengers by Observation Techniques (SPOT), which singles out passengers for additional security measures. The program uses behavior detection officers (BDOs) to identify passengers who behave "suspiciously" in some manner, then ask them more questions or subject them to increased physical security checks. As of 2012, more than 3,000 BDOs were deployed to 176 U.S. airports to look for preselected facial expressions, body language, and appearances that the program lists as suspicious.

The Problem

Any program that increases the scrutiny of American citizens runs the risk of selecting individuals discriminatorily, especially in a program like SPOT, (where the officer who makes the initial inspection also decides who will be inspected). This problem is exacerbated when the class singled out is not designated by any real objective criteria. No matter how exact one tries to be, there's no closed list of sensitive behavior that officers can look for without using their personal prejudices. Furthermore, there have been a number of reports of profiling or discrimination by BDOs and other TSA officers. Regardless of exactly how often this happens, it's easy to understand how a problem like SPOT could encourage arbitrary enforcement and ethnic and/or religious profiling against Arab or Muslim travelers, or other groups deemed suspicious.

Whether or not these problems would be tolerable in a program that actually made Americans safer is a difficult question, but that difficulty disappears if the program isn't actually effective. And here, the facts leave no room for doubt: SPOT, which has cost American taxpayers about \$1 billion dollars over the last few years, has not been shown to be an effective tool in fighting terrorism. Over and over again, independent reports from DHS' Inspector General and the Government Accountability Office (GAO) have come to this conclusion. In a strongly critical November 2013 report, the GAO said bluntly that "Available evidence does not support whether behavioral indicators [like those used in SPOT] can be used to identify persons who may pose a risk to aviation security." The report indicated that the techniques officers used to identify suspicious passengers weren't scientifically sound in any real way.

At a Congressional hearing in the aftermath of the report, TSA Administrator John Pistole defended SPOT, but even its supporters on the Transportation Subcommittee of the House Committee on Homeland Security seemed to acknowledge that there were no real results TSA could point to. Perhaps most obviously, there has not been a single instance of a traveler flagged by a BDO who actually turned out to be a threat to aviation security.

Rep. Mark Sanford (R-SC) made the point that however helpful behavioral detection might be in other law enforcement fields, it simply hasn't translated into success in aviation security. Rep. Sanford also agreed with Reps. Sheila Jackson-Lee (D-TX), Steven Horsford (D-NV), and Donald Payne (D-NJ) that SPOT's guidelines defining "suspicious" behavior were too vague to prevent discriminatory enforcement.

The position of Administrator Pistole and some of TSA's supporters is that while SPOT isn't perfect, it is improving, and that it should be given a real chance to succeed. However, the program has been in effect for six years, and the latest GAO report is perfectly consistent with all previous oversight of SPOT. There is no reason to doubt the accuracy of the GAO and the Inspector General's results, since if SPOT had thwarted serious threats (or any threats at all) to aviation security, it would be very much in the interest of DHS and the TSA to frequently point to those successes. They haven't. Pistole conceded that a BDO has yet to stop someone who turned out to actually pose a threat.

Moving Forward

- End the SPOT program and support efforts similar to Rep. Bennie Thompson's (D-MS) June 2013 proposed amendment to the annual DHS Appropriations bill that eliminate SPOT. The GAO report, as Rep. Thompson said, "pulls no punches" and policy should follow what its title suggests: "TSA Should Limit Future Funding for Behavior Detection Activities."
- Press for the TSA and Administrator Pistole to provide a rationale for SPOT, given the program's serious and ongoing problems.