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Overhauling U.S. Airport Security Screening

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A MAJOR DESIGN FLAW IN TSA

The legislation that created the TSA—the Aviation & Transportation Security Act (ATSA) of 2001—built in a conflict of interest for the new agency. On the one hand, TSA is designated as the agency that establishes transportation security policy and regulates those that provide transportation operations and infrastructure (airlines, airports, railroads, transit systems, etc.). But on the other hand, TSA itself is the operator of the largest component of airport security: passenger and baggage screening.

Therefore, when it comes to screening, TSA has a serious conflict of interest. All other aspects of airport security—access control, perimeter control, lobby control, etc.—are the responsibility of the airport, under TSA's regulatory supervision. But for screening, TSA regulates itself. Arm's-length regulation is a basic good-government principle; *self-regulation* is inherently problematic.

In practice, no matter how dedicated TSA leaders and managers are, the natural tendency of any large organization is to defend itself against outside criticism and to bolster its image. And that raises questions about whether TSA is as rigorous about dealing with performance problems with its own workforce as it is with those that it regulates at arm's length, such as airlines and airports. This comes up again and again in news stories—such as a *USA Today* investigation in 2007 that found TSA screeners at Chicago O'Hare International Airport and Los Angeles International Airport (LAX) missed three times as many hidden bomb materials as did privately contracted screeners at San Francisco International Airport (SFO). TSA's 2007–08 studies comparing TSA and private screening costs were criticized by GAO as highly flawed and misleading.[1]

Second, having TSA operate airport screening conflicts with the principle that an airport should have a unified approach to security, with everyone responsible to the airport's security director. Numerous problems with split security have been reported at U.S. airports over the past decade, where certain responsibilities have fallen between the cracks, and neither the airport

nor the TSA was on top of the problem. Examples include video surveillance cameras at Newark Liberty International Airport and access control doors at Orlando International Airport.[2]

OUT OF STEP WITH OTHER COUNTRIES

The United States stands alone in combining aviation security regulation and screening operations in the same entity. The Organisation for Economic Co-operation and Development's (OECD's) International Transport Forum commissioned a study in 2008 that compared and contrasted aviation security in the United States, Canada and the European Union. The research showed that a conflict of interest similar to the TSA situation does not exist in Canada or the EU countries. In those countries, airport screening looks similar to what travelers experience at U.S. airports, but the way in which this service is provided and regulated is quite different. In all these cases, the policy and regulatory function is carried out by an agency of the national government, as in the United States. But actual airport screening is carried out either by the airport itself, by a government-certified private security firm or in a few cases by a government police agency.

Legally, airport security in Europe is the responsibility of the airport operator. Whether the screening is carried out by the airport or by a security company varies from country to country. Table 1 details the airport screening arrangements in 31 European countries.

Table 1: Provision of Airport Screening in Europe

Country	Airports	Screening Provider	Source
Albania	Tirana	Contract	ACI, T&I
Austria	Vienna	Self-provide	T&I
Austria	Graz, Innsbruck, Klagenfurt, Linz, Salzburg	Contract	T&I
Belgium	Antwerp, Brussels, Charleroi, Liege, Ostend	Contract	ACI, T&I
Bulgaria	Sofia, Varna	Government	T&I
Croatia	Brac, Dubrovnik	Contract	T&I
Czech Republic	Prague	Self-provide	ACI, T&I
Denmark	Copenhagen	Self-provide	ACI, T&I
Estonia	Tallinn	Contract	ACI, T&I
Finland	Helsinki, Kittila, Oulu, Rovaniemi, Tampere, Turku, Vassa	Contract	ACI, T&I
France	Paris CDG, Paris Orly, Bordeaux, Lyon, Marseille, Nantes, Nice, Toulouse	Contract	T&I
Germany	Hahn, Frankfurt, Nuremberg, Munich	Self-provide/ Contract	ACI, T&I
Germany	Berlin, Cologne, Düsseldorf, Hamburg, Hannover, Lubeck, Stuttgart	Contract	T&I
Greece	Athens, Cofu, Rhodes, Thessaloniki, regionals	Contract	ACI, T&I
Hungary	Budapest	Self-provide	T&I
Iceland	Keflavik	Self-provide	ACI
Ireland	Cork, Dublin, Knock, Shannon	Self-provide	T&I
Italy	Milan, Rome	Self-provide	T&I
Italy	Florence, small airports	Contract	T&I
Latvia	Riga	Self-provide	ACI, T&I
Lithuania	Vilnius	Self-provide	T&I
Malta	Malta	Self-provide/ Contract	ACI
Netherlands	Amsterdam, Rotterdam	Contract	ACI, T&I
Norway	Bergen, Bodo, Oslo, Trondheim, 42 others	Contract	ACI, T&I
Poland	Cracow, Poznan, Warsaw, 9 others	Government	ACI, T&I
Portugal	Azores, Faro, Lisbon, Madeira, Porto	Contract	T&I
Romania	Bucharest	Government	T&I
Russia	Moscow Domodedovo and Sheremetvevo, St. Petersburg	Self-provide	T&I
Serbia	Belgrade	Self-provide	T&I
Slovenia	Ljubljana	Contract	ACI, T&I
Spain	46 AENA airports, including Barcelona, Madrid, Malaga, Seville, Valencia	Contract	ACI, T&I
Sweden	Arlanda, Bromma, Malmo	Contract	ACI, T&I
Switzerland	Zurich	Government	T&I
Switzerland	Geneva	Self-provide/ contract	T&I
United Kingdom	London LHR, Lonon LGW, London STN, Glasgow, Edinburgh, Manchester	Self-provide	T&I
United Kingdom	Doncaster, Durham, Liverpool, London City	Contract	T&I

Sources: ACI is Airports Council International-Europe: T&I refers to endnote 8, the House Transportation & Infrastructure Committee's June 2011 report, "TSA Ignores More Cost-Effective Screening Model".

In Canada, post-9/11 legislation created an aviation security agency—the Canadian Air Transport Security Authority (CATSA). Transport Canada remains responsible for airport security policy and regulation, while CATSA is responsible for the mechanics of airport security, such as development of biometric ID cards and implementation of an airport screening system. But rather than providing the screening function itself, CATSA certifies private security companies and contracts with them to provide screening services at the 89 airports where such services are provided.

Separation of aviation security regulation from the provision of security services is called for by the International Civil Aviation Organization (ICAO), to which the United States (along with 188 other countries) is a signatory. This policy is found in ICAO Annex 17, Standard 3.4.7. Under the Chicago Convention which created ICAO, "contracting states are required to notify [ICAO] of any differences between their national regulations and practices" and ICAO's international standards. The United States has failed to notify ICAO that it does not comply.

THE UNITED STATES CAME CLOSE TO ADOPTING THE EU/ICAO MODEL

In the difficult months following the 9/11 terrorism attack, there was intense political pressure to improve U.S. aviation security. Ever since a wave of airliner hijackings in the 1960s and 1970s, the Federal Aviation Administration required *airlines* (not airports) to provide rudimentary screening, consisting of walk-through metal detectors for passengers and X-ray machines for their carry-on bags. Checked luggage was generally not screened.

While some fault the airlines for the 9/11 disaster, if anyone should be held responsible it is the FAA. The FAA provided minimal screening standards, and since the airlines regarded screening as an unfunded mandate, they carried it out as inexpensively as possible. The Government Accountability Office (GAO) documented the poor quality of screeners and the inadequacies in the screening process in reports beginning in 1987 and recommended that the FAA set and enforce performance standards.[4] Congress several times required the FAA to do this, but no such standards had been adopted by Sept. 11, 2001.[5]

On 9/11 the airlines were complying with the existing regulations. But these regulations proved to be insufficient. Additionally, the weapons used by the 9/11 terrorists—box cutters—were not prohibited on planes. Since these weapons were allowed, the takeover of the cockpit had nothing to do with the effectiveness of the screening. Finally, the biggest problem was the failure of the security agencies to understand the terrorist threat and either prevent such individuals from flying or subject them to heightened inspection. The Computer Assisted Passenger Prescreening System (CAPPS) could have been used to identify higher risk passengers but a 1999 regulation barred airlines from using CAPPS to identify passengers who should receive further screening. So despite the fact that nine of the hijackers were flagged by CAPPS, none of them were searched at airport checkpoints. These facts did not stop numerous commentators and public officials from blaming rent-a-guard screening and calling for "federalizing" the screening function.

The Senate's version of the Aviation and Transportation Security Act (ATSA) embodied this view, calling for a new federal workforce to be parachuted into some 450 U.S. airports; it passed 100-0.

The House, by contrast, took somewhat more time and learned that only two other countries had delegated airport screening to *airlines* as an unfunded mandate (Bermuda and Canada). They also heard testimony about the performance contracting model widely used in Europe well before 2001, a fact documented in a GAO report that year.[6] The resulting House bill removed screening from the airlines and shifted it to *airports*, under federal regulatory supervision, and allowed airports to engage in EU-type performance contracting. Both airport organizations, Airports Council International - North America (ACI-NA) and American Association of Airport Executives (AAAE), supported the House bill, which passed by a wide margin, 286–139. But in the Joint House-Senate conference committee, the Senate version of federalizing security prevailed. The only consolation prize given to the House was a five-airport opt-out pilot program, and the promise that eventually all airports would be

given the right to opt out of TSA-provided screening. TSA calls the resulting program the Screening Partnership Program (SPP).

TSA CONTRACTING VS. PERFORMANCE CONTRACTING

Competitive contracting has been widely used at local, state and federal levels of government. In recent decades, it has been embraced by elected officials of both parties as a way of achieving greater value for the taxpayer's dollar. One of the most influential books on the subject was *Reinventing Government* by David Osborne and Ted Gaebler, advisors to then Vice President Gore's National Performance Review.[7] Under this approach, a government wanting a service delivered more cost-effectively must define the outcomes it wishes to achieve, leaving qualified bidders free to propose their own procedures and technology for achieving those outcomes. Such contracts typically stress measurement of outcome variables, and often provide financial penalties and bonuses.

By contrast, under the Screening Partnership Program (SPP) set up by TSA's interpretation of the opt-out provisions in the ATSA legislation, the entire process is micromanaged by TSA. Instead of permitting the airport in question to issue a request for proposals (RFP) to TSA-certified firms, TSA itself selects the company and assigns it to the airport. And TSA itself manages the contract with the screening company, rather than allowing the airport to integrate screening into its security program, under overall TSA supervision and regulation. Moreover, TSA spells out procedures and technology (inputs) rather than only specifying the desired screening *outcomes*, thereby making it very difficult for screening companies to innovate. As well, the ATSA legislation mandates that compensation levels for private screeners be identical to those of TSA screeners.

Under a performance contracting approach, with screening devolved to the airport, TSA would continue to certify screening companies that met its requirements (e.g., security experience, financial strength, screener qualifications, training, etc.). It would also spell out the screening performance measures (outcomes) that companies or airports would be required to meet. Airports would be free to either provide screening themselves (with screeners meeting those same TSA requirements) or to competitively contract for a TSA-certified screening company. Companies bidding in response to the airport's RFP would propose their approach to meeting the performance requirements, in terms of staff, procedures and technology. This could include, for example, cross-training screeners to carry out other airport security duties, such as access and perimeter control. The airport would select the proposal that offered the best value, subject to TSA approval. TSA, in its role as regulator, would oversee all aspects of the airport's security operations, including adherence to federal laws and screening.

EVEN TODAY'S LIMITED SPP SHOWS PRIVATE-SECTOR BENEFITS

Observers such as the GAO have noted how little flexibility private screening contractors have over the variables involved in providing this service, given the narrow confines of ATSA and TSA's highly centralized way of implementing SPP contracts.[8] Yet the limited available information suggests that even within those constraints, the private sector is more flexible and delivers more cost-effective screening.

The most dramatic data come from a study carried out by the staff of the House Transportation and Infrastructure Committee in 2011.[9] They obtained data on screening at two major airports, LAX with TSA screening and SFO with contractor screening. Both are major hub airports, as classified by the FAA, and both are Category X airports, the highest security level in TSA's categorization of airports. The study found that the company at SFO is dramatically more productive, processing an average of 65% more passengers per screener than TSA screeners at LAX (Table 2).

Table 2: SPP Screener Productivity Comparison

	LAX (TSA Screening)	SFO (Contract Screening)
Annual Passengers Screened	21,484,690	15,098,000
Total FTE Screeners	2,200	937
Passengers per Screener	9,765	16,113

Source: House Committee on Transportation & Infrastructure, *TSA Ignores More Cost-Effective Screening Model* (Washington, D.C.: 2011), Endnote 8.

Given that the company serving SFO is required by law to pay the same wages and benefits to its screeners as TSA, and to use essentially the same procedures and equipment, what accounts for this enormous difference in productivity? One factor is a 58% higher attrition rate for LAX screeners, compared with those at SFO; apparently the private company is able to keep its screeners more motivated and give them greater job satisfaction than TSA. High attrition means significantly greater recruitment and training costs for screening at LAX. Another result of higher turnover is that the LAX screener workforce needs to be backed up by the expensive TSA National Deployment Force, to fill in temporary vacancies. No such backup is needed at SFO. Third, the private sector has been more effective than TSA at hiring and retaining part-time screeners to handle peak periods, rather than staffing up with full-timers to handle peaks and therefore paying some of them for unproductive off-peak hours. Overall, as Table 3 shows, the study estimated that screening at LAX would cost about $39 million less per year if it were carried out via an SFO-type screening contract—a 42% saving.

Table 3: Cost Savings If LAX Had Contract Screening

Cost per FTE Screener:	TSA Model	Contract Model	Savings
Salary	$38,480	$38,480	$ 0
National Deployment Force	$ 289	$ 0	$289
Recruiting & Training	$ 2,439	$ 541	$1,898
Total Cost/Screener	$41,208	$39,021	$2,187
Number of FTE Screeners	2,200	1,333	867
Total Screener Cost	$90,657,600	$52,014,993	$38,642,607

Source: House Committee on Transportation & Infrastructure, *TSA Ignores More Cost-Effective Screening Model* (Washington, D.C.: 2011), Endnote 8.

Neither the outside study that TSA commissioned from Catapult Consultants in 2007 nor TSA's own study that was sharply criticized by the GAO identified these major productivity differences.[10] Both focused mostly on accounting costs, omitting various overhead costs and extras such as the cost of using the National Deployment Force. Those essentially "inside" studies created the misleading impression that it costs more, rather than less, to contract with qualified security firms for airport screening.

RECOMMENDATIONS

Based on the foregoing assessment, the following two recommendations would improve U.S. airport screening.

The most urgent one is to further reform the current SPP. Recent legislation that puts the burden of proof on TSA in denying an airport's request to opt out of TSA-provided screening is a modest step in the right direction, given that ATSA allows all airports to opt out via SPP. But what still needs correcting is TSA's overly centralized approach. SPP should be further reformed so that:

- The airport, not TSA, selects the contractor, choosing the best-value proposal from TSA-certified contractors.
- The airport, not TSA, manages the contract, under TSA's regulatory oversight of all security activities at the airport in question.

These changes could be made by directing TSA to adopt them as policy changes, without the need to revise the actual language of the ATSA legislation.

A more comprehensive reform would be to revise the ATSA legislation by removing the conflict of interest that Congress built into that law. The revision would devolve the responsibility for passenger and baggage screening from TSA to individual airports, as part of their overall security program. Airports would have the option of either hiring a qualified screener workforce or contracting with a TSA-certified security firm. As is already standard practice when airports join SPP, current TSA screeners would have first right to screening positions at the airports shifting over, subject thereafter to the airport's or the company's rules and human resources policies. This change would produce greater accountability for screening performance and would also bring the United States into full conformity with ICAO standards.

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Ms. Ybarra served as Secretary of Transportation for the Commonwealth of Virginia from 1998 to 2002, overseeing a budget of $3.2 billion and a staff

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Ybarra also served as senior policy advisor and special assistant for policy for U.S. Secretary of Transportation Elizabeth Dole from 1983 to 1987. In that role, Ybarra managed the transfer and privatization of Dulles and National Airports to the Washington Metropolitan Airport Authority.

Ybarra authored Virginia's Public-Private Transportation Act of 1995, considered the model for public-private partnership legislation in the United States.

In 2001, Ybarra received the American Road and Transportation Builders Association's "Public-Private Ventures Entrepreneur of the Year Award" for her leadership in designing innovative infrastructure financing.

She holds a Master's degree in Economics and a Bachelor's degree in Business Administration from the University of Nebraska, Lincoln.

RELATED STUDIES

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ENDNOTES

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2. Robert W. Poole, Jr., "Divided Security at Newark—and All Other U.S. Airports," *Airport Policy News*, Issue No. 54, February 2010; Robert W. Poole, Jr., "TSA's Regulation vs. Service Provision Conflict, Continued," *Airport Policy News*, Issue No. 25, April 2007.

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