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BEFORE THE

**COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION**

UNITED STATES SENATE

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Good afternoon Chairman Rockefeller, Ranking Member Hutchison, and distinguished members of the Committee. Thank you for the opportunity to testify on challenges within the surface transportation mode confronting the Transportation Security Administration. When discussing transportation security, people usually think of aviation security first. However, terrorist incidents abroad have underscored the need to focus more on surface transportation modes--mass transit, highway, maritime, pipelines, and freight rail.

The *Aviation and Transportation Security Act of 2001* gave the Transportation Security Administration authority and responsibility for securing all modes of transportation. Congress further clarified TSA's oversight role with the *9/11 Commission Act*. Beginning in 2004, TSA increased its efforts to mitigate the vulnerability of mass transit rail systems across the United States. This was accomplished by introducing mass transit stakeholder security forums; developing guidance, memorandums and directives; using its Surface Transportation Security Inspection Program (STSI) to provide voluntary vulnerability assessments; and providing support through grants and direct operational assistance.

Within the last two years, we have issued several reports related to surface transportation issues, including the STSI Program. I would like to highlight the results of those reviews. Most of my statement focuses on our findings and recommendations. However, it is important to point out that we also reported that TSA's surface inspector assessment and domain initiatives have been effective, and have helped the program achieve many of its goals.

In June 2008, we issued an inspection report, *TSA's Administration and Coordination of Mass Transit Security Programs*. This report addressed the strengths and weaknesses of TSA's oversight and assistance programs for mass transit rail, including the Surface Transportation Security Inspection Program, the Transit Security Grant Program, the Visible Intermodal Prevention and Response (VIPR) Program, and the National Explosives Detection Canine Team Program. Later that year, we conducted a follow up inspection and in February 2009 issued another report, *Effectiveness of TSA's Surface Transportation Security Inspectors*. This report addressed the strengths and weaknesses of TSA's Surface Transportation Security Inspectors. Most recently, in March 2010, the OIG issued a report, *TSA's Preparedness for Mass Transit and Passenger Rail Emergencies*. It addressed TSA's effectiveness in supporting mass transit and passenger rail stakeholders with preparing for and responding to emergencies. In total, we made 14 recommendations to TSA to promote more efficient, effective, and economical operations.

In our mass transit report, we identified important challenges to improve transit rail security, meet the needs of mass transit authorities, and comply with legislation, which expanded TSA's statutory authority and responsibility. In our review of the Surface Transportation Security Inspector program, we concluded that TSA needed to look critically at how it is deploying resources. The central issue in both reports was the

mission, organization, and command structure of its surface inspectors. In particular, its command structure appeared to be aviation-focused.

This year, we evaluated TSA's effectiveness in supporting mass transit and passenger rail agencies in preparing for and responding to emergency incidents. That evaluation overlapped our previous reports in one respect. In our earlier reports, we discussed TSA's use of the Baseline Assessment for Security Enhancement Program and pointed out that they have led to security improvements in the mass transit systems reviewed, but did not analyze the BASE program or processes. In our most recent report, we identified weaknesses in the BASE program's ability to assess passenger rail stakeholders' emergency preparedness and response capabilities.

Following is a more detailed summary of each report.

TSA's Administration and Coordination of Mass Transit Security Programs (OIG-08-66)

The purpose of our review was to evaluate TSA's four largest oversight and assistance programs for mass transit rail: the Surface Transportation Security Inspection Program, the Transit Security Grant Program, the Visible Intermodal Prevention and Response program, and the National Explosives Detection Canine Team Program. Our goal was to evaluate how well TSA managed these programs and how well the programs met the security needs of the major mass transit rail systems.

The *9/11 Commission Act*, which was enacted shortly after we began this review, introduced new mass transit rail standards and responsibilities for TSA. Where we obtained information on the status of TSA compliance with standards introduced by the *9/11 Commission Act*, we included it in our report. The review did not encompass TSA's responsibilities for freight rail and for intercity passenger rail, or for other forms of mass transit, such as buses. We conducted our fieldwork from June 2007 to October 2007.

We reported that TSA could improve certain aspects of each of these mass transit security programs. We observed unclear or unduly complex chains of command; an unclear mission, insufficient guidance; and insufficient communication. TSA needed more consistency in its interactions with mass transit rail stakeholders—who were at odds over the best approach for allocating funds and prioritizing projects for the Transit Security Grant Program—although it acknowledged and attempted to address some early missteps that strained stakeholder relationships. Nonetheless, we noted TSA should further integrate stakeholder expertise to implement more effectively its oversight and assistance programs and fulfill its responsibility for mass transit security. We reported considerable satisfaction among mass transit agencies using the National Explosives Detection Canine Team Program.

The report contained seven recommendations aimed at improving the TSA's oversight and assistance programs for mass transit rail. TSA concurred, or concurred in part, with recommendations to direct its Transportation Security Network Management office to provide Transportation Security Inspectors information and updates on the rail-related programs. TSA also agreed to develop procedures for incorporating asset-specific risk

and vulnerability assessments, including information provided by Transportation Security Inspectors, into the grant decision-making process and grant guidance; include in its annual report to Congress how it used grants to implement its transportation security goals; and each grant recipient's assessment of the grant application and award process. In addition, TSA acknowledged the need to seek Memorandums of Agreement with all relevant transit authorities regarding VIPR deployments; and revise grant program eligibility criteria to allow start-up funds for mass transit systems that do not already have a canine explosive detection unit.

TSA did not concur with our recommendations to place the Transportation Security Inspectors – Surface under the direct authority of a TSA headquarters official responsible for surface transportation, and to develop specific, feasible security standards for mass transit systems.

A few of the report's recommendations are not yet resolved, pending additional information from TSA and the resolution of recommendations in the follow up STSI report.

Effectiveness of TSA's Surface Transportation Security Inspectors (OIG-09-24)

The *9/11 Commission Act* directed that we evaluate the performance and effectiveness of TSA's Transportation Security Inspectors–Surface and whether there is a need for additional inspectors. The act stated, “Not later than September 30, 2008, the Department of Homeland Security Inspector General shall transmit a report to the appropriate congressional committees on the performance and effectiveness of surface transportation security inspectors, whether there is a need for additional inspectors, and other recommendations.” We conducted our fieldwork from February to July 2008.

We determined that TSA needed to look critically at how it is deploying resources, and assess how planned exercises could better use the inspectors and their activities. The program appeared understaffed for the long term and an aviation-focused command structure had reduced the quality and morale of the workforce.

TSA agreed that Transportation Security Inspectors and their unique expertise in mass transit and rail should be integrated into VIPR planning and deployment. TSA stated that it has addressed the potential role of Transportation Security Inspectors in its *VIPR Team Capabilities and Operational Deployment* guide. TSA did not agree that Transportation Security Inspectors' comprehensive inspection activities, such as BASE and Security Action Item reviews, should be integrated into VIPR operations.

TSA concurred with our recommendation to examine how many inspectors it needed to perform necessary functions by assessing current and anticipated future duties, and then expand the Transportation Security Inspector workforce to ensure that each field office has sufficient staffing. However, at the time of our report we did not agree with the approach TSA proposed to carry out this recommendation.

TSA did not concur with our earlier recommendation, which we repeated in this report, to place the Transportation Security Inspectors–Surface under the direct authority of a TSA headquarters official who responsible for surface transportation. TSA did not agree that the Transportation Security Inspector command structure inhibited the inspectors’ effectiveness and we were unsuccessful in persuading TSA to implement this recommendation. Ultimately, in the absence of a commitment from TSA management to modify its command structure, we retracted our original recommendation and instead recommended that TSA eliminate practices that undermined efforts to establish a more transparent chain of command. In its last update, TSA indicated that it was taking steps to strengthen communication between the STSI program and Federal Security Directors and their staffs in the field.

TSA’s Preparedness for Mass Transit and Passenger Rail Emergencies (OIG-10-68)

The purpose of this audit was to evaluate TSA’s effectiveness in assisting passenger rail and mass transit stakeholders with preparing for and responding to emergencies. We conducted this performance audit between April and August 2009, and the OIG issued its final report in March 2010.

We determined that TSA could better support passenger rail agencies by improving its assessments of emergency preparedness and response capabilities. TSA can also improve its efforts to train passenger rail agencies and first responders, and ensure that drills and exercises are live and more realistic to help strengthen response capabilities. TSA has focused primarily on security and terrorism prevention efforts, while providing limited staff and resources to emergency preparedness and response. As a result, passenger rail agencies and the first responders that rely upon may not be adequately prepared to handle all emergencies or mitigate their consequences.

The report made four recommendations. TSA concurred with, and took corrective actions for, all four recommendations.

Evolution of the Surface Transportation Security Inspector Program

The STSI program’s organization and chain of command continues to evolve, but in a manner which is not consistent with our recommendations. As discussed above, we reported our concerns twice about the organization and authority for the program and in both reports recommended that TSA place the responsibility for the STSI program with an official at TSA headquarters. After considering TSA’s comments on the STSI report, we revised our recommendation to TSA to eliminate practices that undermined efforts to establish a more transparent chain of command.

In December 2006, TSA shifted from a system where Transportation Security Inspectors reported to surface-focused supervisors to a system where they reported to aviation-focused supervisors. TSA reorganized the program to match the field command model for aviation and cargo inspectors. Supervisory Transportation Security Inspectors became Assistant Federal Security Directors–Surface (AFSDs- Surface) who reported to

the local FSD. The FSD was the administrative manager, but the STSIP headquarters office still set the priorities and provided the budget resources for the inspectors in the field. AFSDs–Surface, therefore, effectively had two chains of command.

In May 2008, TSA made further changes. In primary field offices that have an AFSD–Surface, Transportation Security Inspectors were reporting to that individual. In satellite field offices without an AFSD–Surface, inspectors were reporting to the local Assistant Federal Security Director – Inspections (AFSD–Inspections). However, the AFSD–Surface at the nearby primary field office still mentored and advised all surface inspectors within that area, even when they were not under his or her direct command. Under this structure (at the time of our report), 55 (37%) of Transportation Security Inspectors were reporting to an AFSD–Surface, and the remaining 95 (63%) were reporting to an aviation focused AFSD–Inspections.

At the time, we also observed several problems regarding FSDs’ involvement with the STSIP that were leading to tension and confusion over the program’s chain of command. In response to our STSI report, TSA stated that it chose this command structure because FSDs are better able to use the security network in the area. TSA noted that FSDs frequently interact with state and local law enforcement and mass transit operators. TSA believes that FSDs understand the vulnerabilities and challenges of the mass transit modes “in their backyard.” In our final report, we maintained that the program continued to operate differently than that outlined in a management directive that TSA cited.

In August 2009, TSA informed us that it was in the process of conducting a formal independent comprehensive staffing study of the entire inspection workforce, to include surface, with the results due in the fourth quarter of fiscal year 2009. TSA has not communicated the results of its study.

In September 2009, we learned that TSA began to implement a multi-phased restructuring of its Office of Security Operations, Office of Compliance, Surface Inspection and Oversight to meet mission demands and to utilize resources better. TSA planned to abolish positions, establish new positions, realign some functions among positions, and reallocate resources among field offices throughout the country. The restructuring plan appeared to affect numerous senior staff within the surface inspector program. To our knowledge, TSA has not formally communicated how the reorganization will strengthen the STSI program and resolve the primary issue raised in our reports. On a broader level, we remain concerned whether this plan will better enable surface resources to operate adequately and independently of TSA’s aviation security mission.

Thank you for the opportunity to discuss these matters. We look forward to continuing our work with the department to identify ways to strengthen surface transportation security. I would be pleased to answer any questions you might have.