



Transportation  
Security  
Administration

MAR 22 2012

The Honorable Darrell E. Issa  
Chairman  
Committee on Oversight  
and Government Reform  
U.S. House of Representatives  
Washington, DC 20515-6143

Dear Chairman Issa:

This is in response to your March 16, 2012, letter to Secretary Napolitano, regarding the Oversight and Government Reform Committee's investigation of how the U.S. Department of Homeland Security (DHS) identifies and protects sensitive security information (SSI). Congress created the SSI designation as a tool to allow the Federal Aviation Administration, and later the Transportation Security Administration (TSA), to balance the need to protect information obtained or developed in the conduct of security activities with the need to disseminate threat and other information to stakeholders such as airlines in the transportation sector. In so doing, Congress empowered the Administrator of TSA to serve as the final authority on all SSI determinations. *See* 49 U.S.C. § 114(r). TSA takes this responsibility very seriously and makes all SSI decisions based on an assessment of how it can best protect the traveling public without unnecessarily limiting the public's access to information. Allegations that TSA has misused this authority are unsupported by the facts.

Initially, let me clarify the structure of TSA's senior leadership team. Throughout your correspondence, you refer to allegations that TSA "political staff" interfered in SSI decision making. However, TSA is authorized only four political appointees, including the Senate confirmed TSA Administrator. As noted above, the TSA Administrator is the final authority on all SSI determinations, and various Administrators have exercised that authority over the past decade. During the specific time period in 2009 referenced in your correspondence, only two political appointees were in place at TSA, and neither had authority to make any SSI determination. Indeed, the acting head of the Agency and acting Deputy Administrator during this time period - the individuals empowered to make final decisions regarding release of SSI materials - were both career TSA employees.

Equally inaccurate are the suggestions that TSA hid information from Freedom of Information Act (FOIA) requesters by designating documents as SSI. As it does with every FOIA request, TSA provides the public with maximum transparency in a manner that does not compromise safety and security. Any and all SSI redactions made in response to a FOIA request are based on the judgment of security professionals, including program officials outside of TSA's SSI Office, that disclosure of the information would compromise transportation security. In the context of FOIA requests for documents related to Advanced Imaging Technology (AIT), TSA has disclosed thousands of pages of records related to this critical screening technology,

including material addressing storage of images and a Privacy Impact Assessment. The vast majority of the materials withheld or redacted from disclosure are AIT images and training records, the release of which would have given individuals looking to defeat airport security and bring dangerous materials onto an airplane a roadmap to fulfill their mission. This position is supported by the fact that in FOIA litigation involving requests for AIT material, the U.S. Department of Justice attorneys reviewed all of these records, including the SSI redactions, for legal sufficiency.

Your letter cites allegations that TSA released SSI material to the public “for public relations purposes” and “when it was politically convenient.” As discussed above, TSA is required to balance the need to protect public safety and transportation security with the public’s right to transparency by segregating and releasing non-SSI information. In instances where the disclosure of information no longer would be detrimental to transportation security, TSA will remove the SSI designation and make the information available to the public. *See* 49 CFR § 1520.5(c). Additionally, in rare instances where the risk to public safety is minimal and the public’s right to information is great, TSA will make it available to the public in furtherance of transportation security. *See* 49 CFR § 1520.5(b).

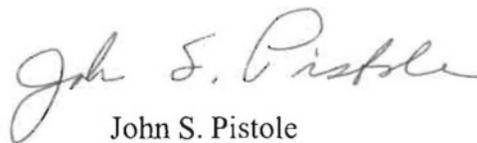
One example of the use of this authority was TSA’s decision to de-designate as SSI a limited number of images generated by AIT along with a limited number of images generated by Automated Target Recognition (ATR) technology. The images that were released were carefully reviewed to ensure that they protected privacy rights and created no significant risk to public safety or transportation security. The decision to de-designate this information was carefully made in recognition of the public’s right to understand the manner in which this technology operates and to review actual examples of the images it produces. Indeed, during the prior administration, TSA also used the TSA Administrator’s SSI authority to share information with the public in the furtherance of transportation security where risk was determined minimal and the public education value outweighed the risk. These facts belie the allegation that TSA’s decisions to release a few AIT images were somehow new, for an inappropriate public relations purpose, or motivated by politics.

Additionally, while technically the assignment of a Federal Air Marshal (FAM) team to a specific flight remains SSI, TSA in a limited number of instances has confirmed the presence of FAM personnel aboard specific flights. These instances generally have followed an on-board security incident where the FAM team broke cover and were widely known by the passengers to have been assigned to that flight.

TSA is currently collecting documents consistent with your requests 1 through 7. We will do our best to produce these documents as quickly as feasible and will produce them in a manner consistent with previous productions to the Committee. When all of the documents are assembled, and the interviews of all of the TSA employees who appeared before the Committee are considered, we are confident you will conclude that policies related to SSI have always been conducted vigilantly in the best interest of transportation security.

Thank you for taking the time to share your concerns with us. If I may be of further assistance, please do not hesitate to contact me personally or the Office of Legislative Affairs at (571) 227-2717.

Sincerely yours,

A handwritten signature in cursive script that reads "John S. Pistole". The signature is written in black ink and is positioned above the printed name and title.

John S. Pistole  
Administrator