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**DEPARTMENT OF HOMELAND SECURITY
OFFICE OF INSPECTOR GENERAL**

REPORT OF INVESTIGATION

I12-TSA-PHL-00968



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Homeland Security

REPORT OF INVESTIGATION

<i>Case Number:</i>	I12-TSA-PHL-00968
<i>Case Title:</i>	Behavior Detection Officers, et al Transportation Security Administration Boston, MA
<i>Report Status:</i>	Final
<i>Alleged Violation(s):</i>	Deprivation of Rights Under Color of Law, 18 U.S.C. 242

SYNOPSIS

The Department of Homeland Security (DHS), Office of Inspector General (OIG), initiated this investigation after receiving information that Behavior Detection Officers (BDO), Transportation Security Administration (TSA), Logan International Airport (LIA), Boston, MA, racially profiled passengers in order to meet secondary inspection referral production quotas. The allegation of racial profiling was initially received during a routine office inspection of TSA, LIA.

During the course of the investigation DHS OIG interviewed 84 BDOs and BDO managers from LIA. One BDO provided a specific instance when [redacted] believed racial profiling was used to screen a passenger. No other specific instances were provided by the BDOs. Randomly selected minority passengers who were previously processed for secondary inspection by the BDOs were also interviewed. None reported allegations of racial profiling.

DHS OIG reviewed hundreds of records related to the LIA BDO program. Those records included secondary referrals, complaints received by TSA, and BDO statistics.

There was no indication that the BDOs at LIA racially profiled passengers in order to meet production quotas.

All investigative reports were provided to the U.S. Attorney's Office, District of Massachusetts, Criminal and Civil Divisions.

Reporting Agent		Distribution:	
Name: [redacted]	Signature: [redacted]	Philadelphia Field Office	Original
Title: Special Agent	Date: 7/5/2013	Headquarters	1 cc
Approving Official		Component(s)	1 cc
Name: Gregory Null	Signature: [Handwritten Signature]	Other	cc
Title: Special Agent in Charge	Date: 7/5/13		

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REPORT OF INVESTIGATION

DETAILS

The Department of Homeland Security (DHS), Office of Inspector General (OIG), initiated an investigation on August 10, 2012, upon receiving information from the Transportation Security Administration (TSA), Office of Inspection. According to the information, [REDACTED], Behavior Detection Officer (BDO), TSA, Logan International Airport (LIA), Boston, MA, alleged BDOs assigned to the Screening of Passengers by Observation Techniques (SPOT) program racially profiled passengers to meet secondary inspection referral production quotas. TSA received the allegation during a routine office inspection at LIA in July 2012. (Exhibit 1)

Allegation: BDOs racially profiled minority passengers in order to meet production quotas.

On August 16, 2012, DHS OIG interviewed [REDACTED] who stated that approximately [REDACTED] ago [REDACTED] became aware that racial profiling was used by some BDOs to identify passengers to refer for secondary inspections. [REDACTED] noticed a trend when [REDACTED] and noticed those referred for secondary inspections were predominantly of Black, Hispanic, and of Middle Eastern decent. At about the same time, [REDACTED] conversations among [REDACTED] colleagues regarding the amount of secondary inspection referrals they made.

[REDACTED] was unable to provide specific instances in which [REDACTED] felt racial profiling occurred. [REDACTED] further stated [REDACTED] never personally heard or observed any TSA supervisor instruct any BDO to use racial profiling as a method to raise the number of passenger referrals. [REDACTED] stated [REDACTED] never personally heard or observed any TSA supervisor condone such conduct or acknowledge such practices were in use at LIA. [REDACTED] stated [REDACTED] had never been directed by any TSA supervisor to generate a specific number of passenger referrals for secondary inspection [REDACTED]. However, [REDACTED] heard TSA supervisors state the program needed to "get its numbers up." [REDACTED] could not say positively that TSA supervisors knew racial profiling was being used at LIA. Although no TSA supervisor had specifically raised the issue of racial profiling or quotas, [REDACTED] felt they "had to know" that racial profiling was occurring because the issue was common knowledge at LIA. [REDACTED] identified the following BDOs as those who were generally perceived to be involved in the racial profiling of passengers at LIA: [REDACTED]

[REDACTED]. (Exhibit 2)

On October 10, 2012, DHS OIG conducted an analysis of 135 SPOT incident reports that occurred from September 1, 2011, to August 31, 2012. The data recorded on the incident reports relates to the BDOs accused of racial profiling. The incident reports captured the total number of referrals and were categorized by race.

BDO	Total	White	African American	Hispanic	Asian
[REDACTED]	18	6	6	5	0
[REDACTED]	16	5	2	7	0
[REDACTED]	7	5	1	1	0

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REPORT OF INVESTIGATION

	5	0	3	2	0
	4	2	0	2	0
	3	3	0	0	0
	2	1	0	1	0

The racial percentages for the entire time frame for all BDOs were: Hispanic: 42%, White 36%, African American: 15%, Asian: 3%, and Not Listed: 4%. (Exhibit 3)

[Agent's note: Personal identifiers were only captured for individuals referred for secondary inspection.]

From August 17, 2012, to October 15, 2012, DHS OIG interviewed 73 BDOs who were currently or previously assigned to LIA. 56 out of the 73 BDOs believed the reports that racial profiling had occurred at LIA were false. The general opinion among most of the BDOs was they had not been instructed by TSA management to racially profile and TSA management did not condone the practice. Several BDOs believed TSA management had intimated to BDOs that secondary inspection numbers had to be increased. The perception among some BDOs was high numbers of passenger referrals for secondary inspections were required to get promoted or to receive cash awards. Several BDOs believed racial profiling was used by some co-workers to increase their referral numbers. A number of BDOs stated racial profiling was not used; however some BDOs practiced "appearance profiling."

"Appearance profiling was described as targeting individuals who appeared to be [REDACTED] of the general population. According to the BDOs, appearances that [REDACTED] consisted of [REDACTED], etc. Several BDOs believed individuals who [REDACTED] tended to be minorities.

7E

[REDACTED], BDO, LIA, Boston, MA, provided DHS OIG with a specific incident in which [REDACTED] felt the BDO used racial profiling in a referral. [REDACTED] provided incident number [REDACTED] in relation to the alleged stop. No other BDO was able to provide a specific instance of racial profiling. (Exhibits 4-77)

DHS OIG obtained incident report [REDACTED], which involved [REDACTED], a citizen and national of [REDACTED]. On [REDACTED], 2011, [REDACTED] was arrested by the Massachusetts State Police (MSP) on outstanding warrants after [REDACTED] admitted to a BDO [REDACTED] was illegally present in the United States. (Exhibit 78)

From November 30, 2012, to December 13, 2012, DHS OIG interviewed the following members of the BDO supervisory staff at LIA: [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED]. In general, the BDO supervisory staff stated none of their supervisors had ever asked them to vary from the official SPOT Standard Operating Procedures. All stated the goals and procedures of the SPOT program were communicated to subordinate BDOs during

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REPORT OF INVESTIGATION

routine briefings and performance evaluations. Additionally, it was reported the BDOs were required to take a job knowledge examination every year. Work was assigned to subordinate BDOs via a team sheet and two or three BDOs were assigned to teams. The BDOs were usually rotated, but sometimes the same individuals worked together due to personnel needs. The purpose of rotating partners was to promote learning by exposing BDOs to other BDOs with different experiences and skills.

BDO supervisors use the Performance Accountability Standard System (PASS) and technical knowledge and competencies to rate their subordinate employees. The supervisors stated the number of secondary inspection referrals was not taken into account when rating the employees. Several of the supervisors stated there should be additional training for the BDOs throughout their careers, and a process to allow BDOs to exit the SPOT program without any negative repercussions. The supervisors stated they never encouraged BDOs, nor have they been encouraged by their supervisors, to produce a high number of secondary inspection referrals.

The BDO supervisors stated they believed none of their subordinates BDOs had profiled based on characteristics such as race, ethnicity, or national origin in the past. No supervisor was aware of any BDO making a racially, ethnically, or national origin biased comment. They stated that none of their subordinate BDOs was overly aggressive in trying to identify referrals and that promotions were based on merit, not on the number of passenger secondary inspection referrals. (Exhibits 79-89)

On November 30, 2012, DHS OIG interviewed [REDACTED], Transportation Security Specialist, TSA, Boston, MA, who stated [REDACTED] began his career with TSA in [REDACTED] as a Transportation Security Officer (TSO). [REDACTED] was promoted to [REDACTED] and subsequently promoted to [REDACTED] in [REDACTED]. Prior to his employment with TSA, [REDACTED] was employed by [REDACTED], and he was trained in behavioral analysis. After joining TSA, [REDACTED] [REDACTED] the TSA SPOT program for airports across the United States.

[REDACTED] stated BDOs need a longer initial training period and additional continuing and refresher training. [REDACTED] stated BDOs complain about wanting more training. [REDACTED] told the BDOs they will receive more training in the future. [REDACTED] stated it was difficult to get more training out to the field because the training division only has 15 individuals to conduct training nationwide. [REDACTED] stated there was one gray area in the SPOT program that relies on the individual BDO's judgment and ability to subjectively interpret behaviors. To remedy the situation, "The Behavior Reference Guide" was developed. [REDACTED] believes the manual helps to take the guess work out of the behavioral assessment of passengers. (Exhibit 90)

DHS OIG contacted the Massachusetts Office of the Attorney General, MSP, and the Massachusetts Port Authority to identify any complaints or reports of racial profiling against any BDO at LIA. The agencies reported no filings against any TSA employee at LIA. (Exhibits 91-93)

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REPORT OF INVESTIGATION

During December 2012, DHS OIG reviewed 178 notebooks used by BDOs at LIA. BDOs are required to save the notebooks as per Section 3.13 E of the SPOT, Standard Operating Procedures. The review determined the BDOs at LIA documented the following observations when assessing passengers' behaviors: [REDACTED]

7E

[REDACTED] and the encounter resolution. The majority of the BDOs documented behavioral cues, which led them to approach a passenger.

Out of the 178 notebooks, 8 referenced the race, ethnicity, or religion of a passenger; however, the references did not indicate a pattern or practice of the BDO's encounters. The BDOs who referenced race, ethnicity or religion were: [REDACTED], who wrote African and Muslim; [REDACTED], who wrote white male and turban; [REDACTED], who wrote white male and white female; [REDACTED], who wrote black male; [REDACTED], who wrote African and black Southeast Asian; [REDACTED], who wrote black male and Asian female; [REDACTED], who wrote black male; and [REDACTED] who wrote white male and white female. The above identified BDOs made the aforementioned notations in their notebooks on one occasion. (Exhibit 94)

DHS OIG conducted a review of all complaints of racial profiling submitted by passengers to the TSA over the past ten years against LIA BDOs. There were a total of 26 complaints of which four were filed against BDOs. Two of the four complaints were submitted against the BDOs following a *New York Times* article on August 11, 2012, which alleged LIA BDOs racially profiled minority passengers. The complaints were handled administratively by TSA. (Exhibit 95)

DHS OIG attempted to locate 11 individuals who had been referred for SPOT secondary inspections by LIA BDOs from September 1, 2011, to August 31, 2012. DHS OIG located 7 of the 11 individuals. The racial make-up of the individuals was as follows: 1 African American female, 2 African American males, 2 Asian males, and 2 Hispanic males. None of the aforementioned individuals felt that they had been racially profiled when they were referred for secondary inspection at LIA. (Exhibits 96-103)

The Civil and Criminal Divisions of the United States Attorney's Office, District of Massachusetts, were provided all investigative documents pertaining to this investigation. (Exhibit 104)

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REPORT OF INVESTIGATION

EXHIBITS

NUMBER	DESCRIPTION
1	Memorandum of Activity, Initial Referral, dated August 10, 2012.
2	Memorandum of Activity, Interview of [REDACTED], TSA, dated August 16, 2012.
3	Memorandum of Activity, Records Review of TSA Records-Analysis, dated October 10, 2012.
4	Memorandum of Activity, Interview of [REDACTED], TSA, dated August 17, 2012.
5	Memorandum of Activity, Interview of [REDACTED], TSA, dated August 17, 2012.
6	Memorandum of Activity, Interview of [REDACTED], TSA, dated August 26, 2012.
7	Memorandum of Activity, Interview of [REDACTED], TSA, dated August 27, 2012.
8	Memorandum of Activity, Interview of [REDACTED], TSA, dated August 27, 2012.
9	Memorandum of Activity, Interview of [REDACTED], TSA, dated August 27, 2012.
10	Memorandum of Activity, Interview of [REDACTED], TSA, dated August 27, 2012.
11	Memorandum of Activity, Interview of [REDACTED], TSA, dated August 27, 2012.
12	Memorandum of Activity, Interview of [REDACTED], TSA, dated August 27, 2012.
13	Memorandum of Activity, Interview of [REDACTED], TSA, dated August 27, 2012.

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REPORT OF INVESTIGATION

- 14 Memorandum of Activity, Interview of [REDACTED], TSA, dated August 27, 2012.
- 15 Memorandum of Activity, Interview of [REDACTED], TSA, dated August 27, 2012.
- 16 Memorandum of Activity, Interview of [REDACTED], TSA, dated August 27, 2012.
- 17 Memorandum of Activity, Interview of [REDACTED], TSA, dated August 27, 2012.
- 18 Memorandum of Activity, Interview of [REDACTED], TSA, dated August 27, 2012.
- 19 Memorandum of Activity, Interview of [REDACTED], TSA, dated August 27, 2012.
- 20 Memorandum of Activity, Interview of [REDACTED], TSA, dated August 27, 2012.
- 21 Memorandum of Activity, Interview of [REDACTED], TSA, dated August 27, 2012.
- 22 Memorandum of Activity, Interview of [REDACTED], TSA, dated August 27, 2012.
- 23 Memorandum of Activity, Interview of [REDACTED], TSA, dated August 27, 2012.
- 24 Memorandum of Activity, Interview of [REDACTED], TSA, dated August 27, 2012.
- 25 Memorandum of Activity, Interview of [REDACTED], TSA, dated August 27, 2012.
- 26 Memorandum of Activity, Interview of [REDACTED], TSA, dated August 27, 2012.
- 27 Memorandum of Activity, Interview of [REDACTED], TSA, dated August 27, 2012.
- 28 Memorandum of Activity, Interview of [REDACTED], TSA, dated August 27, 2012.

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REPORT OF INVESTIGATION

- 29 Memorandum of Activity, Interview of [REDACTED], TSA, dated August 27, 2012.
- 30 Memorandum of Activity, Interview of [REDACTED], TSA, dated August 28, 2012.
- 31 Memorandum of Activity, Interview of [REDACTED], TSA, dated August 28, 2012.
- 32 Memorandum of Activity, Interview of [REDACTED], TSA, dated August 28, 2012.
- 33 Memorandum of Activity, Interview of [REDACTED], TSA, dated August 28, 2012.
- 34 Memorandum of Activity, Interview of [REDACTED], TSA, dated August 28, 2012.
- 35 Memorandum of Activity, Interview of [REDACTED], TSA, dated August 28, 2012.
- 36 Memorandum of Activity, Interview of [REDACTED], TSA, dated August 28, 2012.
- 37 Memorandum of Activity, Interview of [REDACTED], TSA, dated August 28, 2012.
- 38 Memorandum of Activity, Interview of [REDACTED], TSA, dated August 28, 2012.
- 39 Memorandum of Activity, Interview of [REDACTED], TSA, dated August 28, 2012.
- 40 Memorandum of Activity, Interview of [REDACTED], TSA, dated August 28, 2012.
- 41 Memorandum of Activity, Interview of [REDACTED], TSA, dated August 28, 2012.
- 42 Memorandum of Activity, Interview of [REDACTED], TSA, dated August 29, 2012.
- 43 Memorandum of Activity, Interview of [REDACTED], TSA, dated August 29, 2012.

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REPORT OF INVESTIGATION

- 44 Memorandum of Activity, Interview of [REDACTED], TSA, dated August 29, 2012.
- 45 Memorandum of Activity, Interview of [REDACTED], TSA, dated August 29, 2012.
- 46 Memorandum of Activity, Interview of [REDACTED], TSA, dated August 29, 2012.
- 47 Memorandum of Activity, Interview of [REDACTED], TSA, dated August 29, 2012.
- 48 Memorandum of Activity, Interview of [REDACTED] TSA, dated August 29, 2012.
- 49 Memorandum of Activity, Interview of [REDACTED], TSA, dated August 29, 2012.
- 50 Memorandum of Activity, Interview of [REDACTED], TSA, dated August 30, 2012.
- 51 Memorandum of Activity, Interview of [REDACTED], TSA, dated August 30, 2012.
- 52 Memorandum of Activity, Interview of [REDACTED], TSA, dated August 30, 2012.
- 53 Memorandum of Activity, Interview of [REDACTED], TSA, dated August 30, 2012.
- 54 Memorandum of Activity, Interview of [REDACTED], TSA, dated August 30, 2012.
- 55 Memorandum of Activity, Interview of [REDACTED], TSA, dated August 31, 2012.
- 56 Memorandum of Activity, Interview of [REDACTED], TSA, dated August 31, 2012.
- 57 Memorandum of Activity, Interview of [REDACTED], TSA, dated September 9, 2012.
- 58 Memorandum of Activity, Interview of [REDACTED], TSA, dated September 10, 2012.

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REPORT OF INVESTIGATION

- 59 Memorandum of Activity, Interview of [REDACTED], TSA, dated September 10, 2012.
- 60 Memorandum of Activity, Interview of [REDACTED], TSA, dated September 10, 2012.
- 61 Memorandum of Activity, Interview of [REDACTED], TSA, dated September 10, 2012.
- 62 Memorandum of Activity, Interview of [REDACTED], TSA, dated September 10, 2012.
- 63 Memorandum of Activity, Interview of [REDACTED], TSA, dated September 11, 2012.
- 64 Memorandum of Activity, Interview of [REDACTED], TSA, dated September 11, 2012.
- 65 Memorandum of Activity, Interview of [REDACTED], TSA, dated September 11, 2012.
- 66 Memorandum of Activity, Interview of [REDACTED], TSA, dated September 14, 2012.
- 67 Memorandum of Activity, Interview of [REDACTED], TSA, dated September 19, 2012.
- 68 Memorandum of Activity, Interview of [REDACTED], TSA, dated September 19, 2012.
- 69 Memorandum of Activity, Interview of [REDACTED], TSA, dated September 28, 2012.
- 70 Memorandum of Activity, Interview of [REDACTED], TSA, dated September 24, 2012.
- 71 Memorandum of Activity, Interview of [REDACTED], TSA, dated September 28, 2012.
- 72 Memorandum of Activity, Interview of [REDACTED], TSA, dated September 28, 2012.

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REPORT OF INVESTIGATION

- 73 Memorandum of Activity, Interview of [REDACTED], TSA, dated September 27, 2012.
- 74 Memorandum of Activity, Interview of [REDACTED], TSA, dated September 27, 2012.
- 75 Memorandum of Activity, Interview of [REDACTED], TSA, dated October 4, 2012.
- 76 Memorandum of Activity, Interview of [REDACTED], TSA, dated October 15, 2012.
- 77 Memorandum of Activity, Interview of [REDACTED], TSA, dated August 27, 2012.
- 78 Memorandum of Activity, Records Review of Incident Report, dated [REDACTED] 2013.
- 79 Memorandum of Activity, Interview of [REDACTED], TSA, dated November 30, 2012.
- 80 Memorandum of Activity, Interview of [REDACTED], TSA, dated November 30, 2012.
- 81 Memorandum of Activity, Interview of [REDACTED], TSA, dated November 30, 2012.
- 82 Memorandum of Activity, Interview of [REDACTED], TSA, dated December 12, 2012.
- 83 Memorandum of Activity, Interview of [REDACTED], TSA, dated December 12, 2012.
- 84 Memorandum of Activity, Interview of [REDACTED], TSA, dated December 12, 2012.
- 85 Memorandum of Activity, Interview of [REDACTED], TSA, dated December 12, 2012.
- 86 Memorandum of Activity, Interview of [REDACTED], TSA, dated December 12, 2012.

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REPORT OF INVESTIGATION

- 87 Memorandum of Activity, Interview of [REDACTED], TSA, dated December 13, 2012.
- 88 Memorandum of Activity, Interview of [REDACTED], TSA, dated December 13, 2012.
- 89 Memorandum of Activity, Interview of [REDACTED], TSA, dated December 13, 2012.
- 90 Memorandum of Activity, Interview of [REDACTED], TSA, dated November 30, 2012.
- 91 Memorandum of Activity, Telephone Contact [REDACTED], dated November 27, 2012.
- 92 Memorandum of Activity, Telephone Contact with [REDACTED], dated November 28, 2012.
- 93 Memorandum of Activity, Interview of [REDACTED], dated December 13, 2012.
- 94 Memorandum of Activity, Records Review of BDO Notebooks, dated December 3, 2012.
- 95 Memorandum of Activity, Attempt to locate witnesses, dated January 31, 2013.
- 96 Memorandum of Activity, Interview of [REDACTED], dated January 29, 2013.
- 97 Memorandum of Activity, Telephone Contact with [REDACTED], dated January 29, 2013.
- 98 Memorandum of Activity, Interview of [REDACTED], dated January 30, 2013.
- 99 Memorandum of Activity, Contact with [REDACTED], dated January 31, 2013.
- 100 Memorandum of Activity, Interview of [REDACTED], dated January 31, 2013.
- 101 Memorandum of Activity, Interview of [REDACTED], dated January 31, 2013.

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REPORT OF INVESTIGATION

- 102 Memorandum of Activity, Contact with [REDACTED], dated February 4, 2013.
- 103 Memorandum of Activity, Records Review of TSA Records-Passenger Complaints, dated April 25, 2013.
- 104 Memorandum of Activity, Contact with U.S. Attorney's Office, dated June 26, 2013.

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