

# DEPARTMENT OF HOMELAND SECURITY

## Office of Inspector General

### A Review of Background Checks for Federal Passenger and Baggage Screeners at Airports



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## Preface

The Department of Homeland Security (DHS) Office of Inspector General (OIG) was established by the Homeland Security Act of 2002 (Public Law 107-296) by amendment to the Inspector General Act of 1978. This is one of a series of audit, inspection, investigative, and special reports prepared by the OIG periodically as part of its oversight responsibility with respect to DHS to identify and prevent fraud, waste, abuse, and mismanagement.

This report is the result of an assessment of the strengths and weaknesses of the program, operation, or function under review. It is based on interviews with employees and officials of relevant agencies and institutions, direct observations, and a review of applicable documents.

The recommendations herein, if any, have been developed on the basis of the best knowledge available to the OIG, and have been discussed in draft with those responsible for implementation. It is my hope that this report will result in more effective, efficient, and/or economical operations. I express my appreciation to all of those who contributed to the preparation of this report.

A handwritten signature in black ink, appearing to read 'Clark Kent Ervin', with a large, stylized loop at the top.

Clark Kent Ervin  
Inspector General

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## Abbreviations

ANACI	Access National Agency Check and Inquiries
ATSA	Aviation and Transportation Security Act
BI	Background Investigation
BITS	Background Investigation Tracking System
CITS	Clearance Investigations Tracking System
COR	Contracting Officer Representative
CPO	TSA Credentialing Program Office
DHS	Department of Homeland Security
DOT	Department of Transportation
FAIR Act	Federal Activities Inventory Reform Act
FBI	Federal Bureau of Investigation
FSD	TSA Federal Security Director
I-9	Employment Eligibility Verification Form

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MBI	Minimum Background Investigation
NACI	National Agency Check and Inquiries
OF 306	Declaration for Federal Employment
OIG	Office of Inspector General
OPF	Official Personnel Folder
OPM	Office of Personnel Management
SF 85P	Questionnaire for Public Trust Positions
SF 86	Questionnaire for National Security Positions
SSBI	Single Scope Background Investigation
TSA	Transportation Security Administration
USIS	U.S. Investigations Services

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*Department of Homeland Security  
Office of Inspector General*

## **Introduction**

In response to the September 11, 2001, terrorist attacks in the United States and in recognition of the potential for future attacks, Congress enacted the Aviation and Transportation Security Act, Public Law No. 107-71 (ATSA), which established the Transportation Security Administration (TSA). In February 2002, TSA officially assumed responsibility for civil aviation security functions and, in accordance with ATSA, began the task of hiring federal employees to perform passenger and baggage screening functions previously conducted by private sector employees hired by the aircraft and airport operators.

Between February 2002 and December 2002, TSA reviewed an estimated 1.7 million applications to hire 55,600 new federal appointees, successfully meeting congressionally mandated deadlines of November 19 and December 31, 2002, for replacing commercial passenger and baggage screeners, respectively.<sup>1</sup> However, reports surfaced soon afterward that the background checks for screeners, which ATSA requires, were incomplete and possibly flawed. In response to these reports, the Office of Inspector General (OIG) initiated this review of screener background checks.

## **Results in Brief**

TSA completed up to four background checks on each of 55,600 screener appointees and thousands of unsuccessful applicants—totaling over 360,000 checks.<sup>2</sup> Although contractors performed the checks and helped TSA review most results, TSA was responsible for managing the contractors' work, tracking background check progress and completion, making final suitability decisions, and terminating employees who failed the checks. The deadlines were short, and the scale of hiring was large. Despite contractor support, TSA was not able to manage the background checks in an orderly and consistent manner. We identified many issues that undermined the creation of a reliable federal screener staff that can ensure the security of commercial air transportation.

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<sup>1</sup> House Appropriations Subcommittee for Homeland Security, Hearing on TSA Screener Background Investigations, June 3, 2003.

<sup>2</sup> In May 2003, TSA calculated the following totals for background checks completed: 122,508 fingerprints and 57,173 Access National Agency Check and Inquiries (ANACIs) as of May 16, 2003; and 100,567 ChoicePoint Phase 1 checks and 84,613 ChoicePoint Phase 2 checks as of March 21, 2003.

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Managing the volume of checks overtaxed TSA's personnel security office. Screeners were hired, trained, and, in some cases, put to work contrary to sound personnel security practices and the provisions of ATSA. We found that:

- TSA did not assign an official position risk designation for screeners. Consequently, TSA either chose an appropriate, inadequate, or excessive level of investigation.
- TSA did not maintain control over the quantity, quality, and timeliness of background check documentation and processing. TSA did not initiate timely final background checks and initiated unnecessary background checks on thousands of screeners. TSA's inadequate oversight of its contractors contributed to more than 500 boxes of background check documentation remaining unprocessed for months.
- TSA allowed some screeners to work without first completing a criminal history records check, and retained others with adverse background checks for weeks or months while processing the results of the background checks and terminations.
- TSA's personnel security office did not: (1) develop a comprehensive plan to administer the background checks effectively; (2) have sufficient staff to meet workload demands; (3) provide sufficient oversight of the contractors' performance; and (4) develop an adequate information tracking system to manage the process.

On June 3, 2003, the House Appropriations Subcommittee for Homeland Security directed TSA to eliminate the backlog of screener background checks by October 1, 2003. To meet the deadline and remove unsuitable screeners, TSA reorganized its personnel security office, added staff and contractor support, began developing policies, and modified several of its procedures. As of October 1, 2003, TSA substantially eliminated the backlog of cases.

To improve its management of the background check process, we recommend that the TSA Administrator:

1. Assign official position risk designations for all screeners;
2. Complete the planned comparison of Office of Personnel Management and private sector background checks;

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3. Ensure that all screeners pass a fingerprint-based criminal history records check before beginning training and work;
  4. Resolve what role contract adjudicators perform and how TSA will oversee them;
  5. Improve controls to protect against terminations that are based on inaccurate information;
  6. Establish mechanisms to avoid further background checks on disqualified screeners;
  7. Strengthen procedures for processing the Employment Eligibility Verification Form (Form I-9).
  8. Adopt personnel security management policies and document departures from them;
  9. Improve workforce planning and staffing in the Credentialing Program Office;
  10. Improve oversight of contract performance and costs;
  11. Develop accurate, timely, and integrated data on the status of security investigations; and
  12. Improve records management policies, procedures, and practices for the maintenance of personnel security case files.

## Background

On November 19, 2001, Congress enacted the Aviation and Transportation Security Act, which established the Transportation Security Administration within the Department of Transportation (DOT).<sup>3</sup> The ATSA directed TSA to hire federal employees to serve as passenger screeners by November 19, 2002, and baggage screeners by December 31, 2002. TSA met the formidable deadlines, hiring approximately 55,600 screeners.<sup>4</sup> During the height of its

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<sup>3</sup> TSA became part of the Department of Homeland Security on March 1, 2003.

<sup>4</sup> Counting employees has been an ongoing challenge for TSA due to discrepancies between the figures maintained by TSA's hiring contractors, TSA offices, and the Office of Personnel Management.

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activity in autumn 2002, TSA and its supporting contractors hired approximately 5,000 screeners per week.

ATSA requires that screeners undergo a background investigation, including a criminal history records check and a review of available law enforcement databases and records of other governmental and international agencies to the extent determined practicable by the Under Secretary of Transportation for Transportation Security. TSA must ensure that screeners are U.S. citizens and have no convictions within the past ten years for any of 28 specific disqualifying felonies (see Appendix D). In addition, TSA must ensure that screeners are otherwise suitable for employment.

TSA did not have an office equipped to meet the responsibilities imposed by ATSA. In 2001, DOT established a “Go-Team” committee for personnel security management to plan and initiate this background check process. With DOT support, TSA began to establish its own Office of Security in March and April 2002, although the checks had already begun. Four months later, in July 2002, TSA hired the chairman of the Go-Team to direct the office. The Office of Security assumed full responsibility for personnel security functions in November 2002. Then, in May 2003, TSA moved the personnel security function out of the agency’s administrative branch and established it as part of a new Credentialing Program Office (CPO) under the TSA Chief of Staff.

Partly because of its small personnel security infrastructure, TSA relied upon several public and private entities to help administer background checks. TSA obtained their services through a variety of contracts. These entities included the Office of Personnel Management (OPM); ChoicePoint<sup>5</sup>; Systems Research and Development, a ChoicePoint subcontractor; DynCorp Systems & Solutions LLC; U.S. Investigations Services, Inc. (USIS); and NCS Pearson and its subcontractor PEC Solutions, Inc.<sup>6</sup> The pieced-together network lacked an organizational coherence that would have eased TSA’s management responsibilities.

NCS Pearson assessed applicants and offered conditional employment; collected and submitted the documentation for the background checks; and maintained the screener staffing rosters used to initiate checks. PEC Solutions, Inc., collected and submitted electronic fingerprints, which OPM checked against national criminal history databases, including that of the Federal Bureau of Investigation (FBI). Using suitability criteria provided by TSA,

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<sup>5</sup> In October 2003, Kroll Government Services, Inc., replaced ChoicePoint.

<sup>6</sup> In January 2003, CPS Human Resource Services and Accenture L.L.P. replaced NCS Pearson.



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DynCorp evaluated the results of background checks conducted by ChoicePoint and OPM checks to make recommendations whether screeners posed an acceptable risk to the government. This evaluation process is known as an “adjudication.” USIS investigated employees as an OPM contractor, but it also supported TSA directly by helping employees complete suitability forms, building electronic and paper personnel security files, and adjudicating cases. Systems Research and Development assisted ChoicePoint by checking applicants against a network of threat indices.

OPM timelines for the conduct of background checks would predict that the check for a screener hired in December would be complete by late June. As of May 31, 2003, more than half of the screener pool had at least one check outstanding. In total, 38,065 of 160,515 checks required additional processing or adjudication.<sup>7</sup> TSA’s Administrator and supporting contractors agreed before the subcommittee to meet the following deadlines:

- ChoicePoint would complete all of its Phase 1 checks by June 15; and DynCorp and TSA would adjudicate them by July 1.
- OPM would complete all in-process Access National Agency Check & Inquiries (ANACIs) by August 15. OPM would complete ANACIs not yet scheduled within 70 days of receiving the request from TSA.
- TSA, with support from DynCorp and other contractors, would adjudicate all remaining ANACIs and terminate screeners found unsuitable by October 1, 2003.

ChoicePoint, DynCorp, and OPM projected that they could complete their respective workloads and enable TSA to meet the October 1 deadline if they received cases within agreed upon timeframes. TSA reported that it substantially met the deadlines.<sup>8</sup>

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<sup>7</sup> With 53,505 screeners employed as of May 31, 2003, TSA had a total of 160,515 fingerprint, ChoicePoint Phase 1, and ANACI checks to complete and adjudicate. Of the 160,515 checks, TSA reported that it had not yet completed 29,700 (1,015 fingerprint checks, 573 ChoicePoint Phase 1 checks, and 28,112 ANACI checks). In addition to these 29,700 incomplete checks, TSA and DynCorp needed to adjudicate thousands of completed checks. The ChoicePoint Phase 2 checks are not included in these numbers because TSA did not plan to complete the 41,076 outstanding ChoicePoint Phase 2 checks by the October 1, 2003, deadline. TSA shifted its priorities away from the ChoicePoint Phase 2 checks in March 2003.

<sup>8</sup> On September 26, 2003, TSA reported to the OIG that it met the October 1, 2003, deadline and had adjudicated all ANACIs for the 53,505 screeners employed as of May 1, 2003, with two exceptions. The results included 246 incomplete cases for screeners on military leave and extended sick leave and 205 “interim eligible” cases based on partial ANACIs that OPM must first complete.

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## Purpose, Scope, and Methodology

The purpose of our review was to determine whether TSA processed background checks of its passenger and baggage screeners in an efficient and effective manner and according to applicable laws, federal regulations, guidelines, and standards. The scope of our review focused on background checks of passenger and baggage screeners and included administrative and programmatic activities from November 2001 to August 2003.

We conducted interviews with staff from TSA, OPM, the Department of Justice, and four TSA contractors. At TSA, the combination of newly-arrived staff, job reassignments, and recent departures within the personnel security office complicated our attempt to gather insight on the full span of TSA's personnel security management efforts.

We had planned a review of TSA's personnel security files in order to assess the timeliness and effectiveness of different phases of the background checks and how well TSA's hiring process met ATSA requirements. Specifically, we had planned to review:

- TSA's control and approval of forms used for background checks;
- Efficiency of fingerprinting process;
- Length of time to complete background checks;
- Evidence that background checks were satisfactorily completed; and
- TSA's adherence to adjudication standards.

However, TSA was in the process of organizing its first personnel security filing system, and headquarters files were inconsistent and incomplete. While we could not obtain a statistical sample of files, we reviewed a judgmental sample of background check documentation. This consisted of background check files or loose packets for 255 screeners and the corresponding fingerprint checks. Because TSA had not established uniform requirements for file content, some of our tests were limited to smaller samples based on the information available. We have reported sample size where appropriate.

We also reviewed 25 Official Personnel Folders (OPFs) to determine whether TSA obtained adequate evidence of identity and citizenship. In addition, we

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compared the results of one airport operator's checks of screener fingerprints against TSA's fingerprint adjudications for the same employees, as contained in its Clearance Investigations Tracking System (CITS).

Our inspection was conducted under the authority of the Inspector General Act of 1978, as amended, and according to the *Quality Standards for Inspections* issued by the President's Council on Integrity and Efficiency, the association of federal Inspectors General.

## **Designating the Level of Risk and Depth of Investigation for Screener Positions**

As an essential first step in planning background checks, agencies evaluate how much risk to the efficiency of the federal service or to the national security is involved in a job position. The evaluation leads to a written position risk designation. The position risk designation guides the decision on what kind of background checks an individual must pass to hold the position. TSA was unable to provide a position risk designation record for screeners. Moreover, TSA has made conflicting statements about which position risk designation it is using for screeners.

Risk determinations are based on two assessments. First, the agency assigns a suitability designation; this reflects the degree to which an unsuitable employee could harm the efficiency of federal service. Second, the agency assigns a security designation; this reflects the degree of damage to national security that an employee in a certain position could cause. The security designation corresponds with the level of security clearance an employee may have for access to classified information. Generally, the security designation will determine the level of background investigation, although a higher suitability designation can be the determinant. Thus, while an agency makes two determinations on each position, one will determine the background check requirement. According to the DOT personnel security management policies that TSA adopted, TSA should have solicited input from the personnel security office, Human Resources Office, and Aviation Operations before determining suitability and security designations.<sup>9</sup>

The following table shows a simplified version of the DOT designations and investigation requirements that applied to TSA during FYs 2002-03:

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<sup>9</sup> *Personnel Security Management Manual* (Department of Transportation Manual 1630.2b, May 30, 2001). The Department of Homeland Security plans to issue its own policy that will affect TSA in FY 2004.

Suitability and Security Risk Designations		Minimum Investigation Required <sup>10</sup>	Cost & Time per case <sup>11</sup>
S U I T A B I L I T Y SF 85P	<b>Low Risk:</b> Positions that involve responsibilities of limited relation to an agency or program mission, so the potential for impact on the integrity and efficiency of the service is limited.	National Agency Check & Inquiries (NACI)	\$85 75 days
	<b>Moderate Risk:</b> Positions with the potential for moderate to serious impact on the integrity and efficiency of the service. Includes mid-level positions with responsibility for semi-independent action and positions delivering services that demand the public confidence or trust.	NACI	\$85 75 days
	<b>High Risk:</b> Positions with the potential for exceptionally serious impact on the integrity and efficiency of the service. Includes positions with authority for independent action and positions with law enforcement, fiduciary, public contact, or other duties demanding the highest degree of public trust.	Background Investigation (BI)	\$2,410 120 days
S E C U R I T Y SF 86	<b>Non-sensitive:</b> Any position that has limited potential for adversely affecting an agency's national security operations.	Investigate according to suitability designation	
	<b>Non-critical Sensitive:</b> Any position with the potential for significant or serious damage to the national security. Enables agency to grant confidential and secret clearances.	Access National Agency Check & Inquiries (ANACI)	\$130 75 days
	<b>Critical Sensitive:</b> Any position with the potential for exceptional or grave damage to the national security. Enables agency to grant top secret clearances.	BI	\$2,410 120 days
	<b>Special Sensitive:</b> Any position an agency head determines to be at a higher level than Critical-Sensitive due to special requirements, such as need for access to sensitive compartmented information.	Single Scope Background Investigation (SSBI)	\$2,725 120 days

TSA staff was unable to provide the position risk designation record for TSA screeners.<sup>12</sup> According to the DOT policy, both Aviation Operations and the Human Resources Office should have copies of the position risk designation records. TSA's position descriptions and vacancy announcements also should reflect the designation. Notwithstanding the absence of this record, we found evidence of four different possible risk designations. In documentation prepared for the June 3, 2003, congressional hearing, TSA reported that the

<sup>10</sup> *Ibid.*

<sup>11</sup> Costs are based on OPM prices for standard service during FY 2002, the period when TSA planned and began screener background checks. Time per case is approximate. OPM offers faster service for a fee, but in general, its investigations have encountered delays over the past two years due to an escalating volume of requests. Investigations that require field investigation in addition to automated checks, such as the MBI and SSBI, have incurred greater delays.

<sup>12</sup> TSA's position risk designation record should be DOT Form 1630.2b. For many agency positions, TSA instead used the position designation record from Appendix B of OPM's Suitability Processing Handbook. However, TSA staff was unable to provide either form for screeners.

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designation is moderate risk and non-sensitive. Moderate risk is also the risk level that TSA coded on the background check form for screeners, the Questionnaire for Public Trust Positions (SF 85P). A second TSA designation appeared in a July 2003 vacancy announcement for part-time screeners, which increased the security risk from non-sensitive to critical sensitive. Following discussion with OIG inspectors, TSA deleted the critical sensitive designation from the announcement. A third variation appeared in job descriptions posted on the TSA website, which stated that screeners' duties and responsibilities include "participat[ing] in information briefings concerning security-sensitive or classified information." The responsibility would require a minimum security designation of non-critical sensitive. A fourth variation was noted in a September 2003 vacancy announcement, which labeled the positions as "Code 1 public trust," an OPM indicator that translates to low risk and non-sensitive, the lowest possible designation.

### **Choosing the Investigation Type**

TSA's choice among the low risk, moderate risk, and non-critical sensitive designations has an impact on which background check the agency must conduct. In other words, TSA's choice between the different types of investigations and supporting forms affected the depth of the background check and thus the level of security provided.

If low or moderate risk is the correct designation, TSA could have selected the NACI for screeners and conformed to DOT policy. The ANACI investigation that TSA chose is more intensive than the NACI. The ANACI adds a credit search and a field investigation of local law enforcement records, if the locality does not respond to a written inquiry. Interestingly, OPM recommends a more intensive investigation than DOT for moderate risk positions: the Minimum Background Investigation (MBI), which surpasses both the NACI and ANACI, adds a field investigator's interview with the subject. The Chief of the Department of Homeland Security (DHS) Personnel Security Division said that DHS plans to require an MBI or a higher level of investigation for all its employees, including the TSA screeners, starting in FY 2004. If non-critical sensitive is the correct designation, TSA's ANACI investigation meets DOT, OPM, and DHS standards, with one qualification.<sup>13</sup> The ANACI is used across the government for positions designated non-critical sensitive and requiring a security clearance. Agencies typically collect

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<sup>13</sup> The DHS Personnel Security Division has proposed non-critical sensitive as the minimum designation for all DHS personnel in order to ensure all DHS employees are eligible for a secret clearance. DHS will accept the ANACI for employees investigated before October 1, 2003, according to its draft Interim Personnel Security Directive.

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information for the ANACI with the Questionnaire for National Security Positions (SF 86). However, TSA screeners used the Questionnaire for Public Trust Positions (SF 85P), which collects less detailed information about the subject's foreign activities; relatives and associates; substance abuse history; and medical, military, court, and police records. With the SF 85P, the adjudicator receives less information to evaluate when deciding whether the screener poses acceptable risk to the government. To date, TSA has not granted security clearances to screeners. If TSA decides in the future to grant clearances to screeners, each will first have to complete the more detailed SF 86, according to DOT and draft DHS policies.

Costs vary for each investigation type. The cost differences between performing a NACI, ANACI, or MBI on all TSA screeners are in the millions of dollars. For 55,600 screeners, the difference between the NACI (\$85) and ANACI (\$130) is more than \$2.5 million. The MBI (\$405) costs about three times as much as the ANACI, a cost difference exceeding \$15.2 million. Adopting the MBI as a minimum investigation in FY 2004 could create a significant financial burden for DHS components.

### **Investigation Options Outside OPM Services**

The fingerprint check and ANACI generally met the background check requirements in ATSA. However, with the help of a contractor, TSA took another step to reduce the risk that a screener was connected to terrorist organizations. The contractor, ChoicePoint, added a feature called "link analysis." In link analysis, ChoicePoint and its subcontractor Systems Research and Development compared information from ChoicePoint's proprietary database with TSA, FBI, and publicly available terrorist watchlists. ChoicePoint also helped TSA meet its rapid hiring objectives by returning results from criminal history and credit checks weeks faster than the OPM ANACI did.

TSA planned to use ChoicePoint's Phase 1 check, where ChoicePoint performed the link analysis, along with OPM's fingerprint check to eliminate unsuitable applicants before hiring them. TSA would complete the remaining two checks on screeners after hiring. A complete background check consisted of four elements:

Check	Content	Speed
1. OPM fingerprint check	FBI national criminal history records check	2-3 days
2. ChoicePoint Phase 1	Name-based proprietary database and local criminal history checks; credit check; link analysis against selected terrorist watchlist databases	7-10 days
3. ChoicePoint Phase 2	Telephonic employment, education, and reference checks	10-21 days
4. OPM ANACI	National agency records check incorporating fingerprint results; credit and local criminal history checks; written employment, education, and reference checks; citizenship verification	45-70 days or longer

With slight differences, both ChoicePoint and OPM checked the screener’s credit history; local law enforcement records; and education, employment, and references. In August 2002, the current, acting Director of TSA’s CPO and the former Director of the Office of Security notified the TSA Administrator of the duplication between these checks. They proposed that TSA quickly complete a comparison study to determine which provider to use because “TSA does not have the money to pay for ‘duplicate’ investigations or to add the staff required to process, monitor, coordinate, adjudicate, and perform all the related tasks required to run a full-service security office.”<sup>14</sup> TSA has not completed the comparison study. In March 2003, TSA shifted its processing emphasis from the ChoicePoint Phase 2 check to the ANACI, but some overlap remains.

TSA may be on a collision course with DHS regarding the extent to which it must use OPM investigations. TSA is contemplating ceasing to use OPM services altogether. The central question is whether ATSA exempts TSA from Executive Order 10450, *Security Requirements for Government Employment*. TSA believes it does. In May 2003, the TSA Office of Chief Counsel wrote that TSA is not required to use OPM investigations. According to ATSA and 49 U.S.C. 44936, screeners must undergo “an employment investigation, including a criminal history records check and a review of available law enforcement data bases and records of other governmental and international agencies to the extent determined practicable by the Under Secretary of Transportation for Transportation Security.” TSA interprets this and other portions of its statute to grant the TSA Administrator broad flexibility to determine the scope of screener background checks, including freedom not to use OPM’s services.

<sup>14</sup> Besides increasing costs, the duplicate checks increase the burden on TSA to submit the request paperwork, monitor the process, and review the results in order to approve or disapprove the screener.

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On the other hand, both DOT policy and the draft DHS Interim Personnel Security Directive set OPM investigations as their minimum. Their requirements are based in part on section 3(a) of Executive Order 10450, which requires agencies at a minimum to conduct national agency checks and inquiries for all government civilian employees. OPM's NACI investigation satisfies this requirement, because it includes a search of OPM's Security/Suitability Investigations Index, the Department of Defense Clearance Investigations Index, and FBI fingerprint- and name-based files. Private sector background checks do not include these searches, and TSA does not have the infrastructure in place to collect this information itself. According to the DHS Personnel Security Division Chief, TSA must meet Executive Order 10450 standards by conducting the national agency checks.

Whether or not ATSA exempts TSA from the Executive Order, TSA does not have to avail itself of the exemption. It can enhance the security of its background check process by taking account of the derogatory information that national agency checks reveal. However, TSA must first resolve the issue of what background checks satisfy requirements for the position risk designation it chooses. It might be possible for TSA to combine private sector background checks with national agency checks in a way that meets EO 10450 and DHS standards, enhances security, and promotes cost efficiency by eliminating duplication.

We recommend that the TSA Administrator:

**Recommendation 1:** Complete screener position risk designations with input from the personnel security officials of the Department of Homeland Security and from appropriate TSA offices, including the Credentialing Program Office, Human Resources Office, and Aviation Operations. Screener position risk designation records, position descriptions, and vacancy announcements should reflect the correct designation.

**Recommendation 2:** Complete the comparison study of the effectiveness of Office of Personnel Management and private sector background checks. Incorporating the review's results, the Administrator should modify screener background checks as needed to ensure they suit the position risk designation, meet Department of Homeland Security standards, and are cost-efficient.



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## **Completing Screener Background Checks**

The four background checks that TSA chose fit into a larger framework to make up TSA's background check process. Overall, the process consisted of four steps: 1) collecting applicants' background information; 2) performing the four background checks; 3) evaluating the results of the checks to decide whether the screener posed acceptable risk to the government (adjudication); and 4) disseminating the results so that disapproved employees did not train or work. The following table shows generally how TSA and its supporting contractors completed the steps:

	① Collecting information	② Checking backgrounds	③ Evaluating the results of the checks (adjudication)	④ Disseminating the results
OPM Fingerprint	NCS Pearson's subcontractor, PEC Solutions, collected electronic fingerprints from applicants and sent them to OPM.	OPM compared fingerprints with the FBI's national criminal history database and returned results to TSA electronically.	Reviewing results through an Internet database, TSA adjudicators decided to approve or disapprove the screener.	After approving screeners' fingerprint and ChoicePoint Phase 1 checks, TSA requested that the Department of Transportation print and deliver access badges so the employees could begin training and work.
Choice-Point Phase 1	Applicants completed the SF 85P, which NCS Pearson reviewed and sent to ChoicePoint as an electronic copy.	ChoicePoint used "link analysis" to compare the screener with selected terrorist watchlists. ChoicePoint also checked the screener against its proprietary database, collected local law enforcement records, and ran a credit check.	ChoicePoint posted cases to an Internet database. DynCorp adjudicated cases as ineligible, decisional, or eligible. DynCorp printed the first two types for TSA adjudicators to review and provide final approval or disapproval.	For employees who failed checks, TSA's personnel security office sent written requests for termination to TSA's Human Resources Office. The Human Resources Office wrote and sent termination letters for Federal Security Directors to deliver to screeners.
Choice-Point Phase 2		ChoicePoint telephoned employers, references, and schools.		Upon request, TSA's personnel security office compiled and sent reports to airports on the status of screener background checks.
OPM ANACI	NCS Pearson sent to OPM the applicant's original, paper copy of the SF 85P, along with a copy of the Declaration for Federal Employment (OF 306) and employment application.	OPM entered information from the SF 85P into its automated system and sent inquiries to local law enforcement agencies, employers, schools, and others. OPM incorporated the fingerprint results and ran a credit check. OPM also requested records from state bureaus of vital statistics and the Departments of Defense, State, Justice (FBI), and Homeland Security (Bureau of Citizenship and Immigration Services). OPM mailed completed packets to TSA.	TSA sent the ANACI packets to DynCorp, which adjudicated them as ineligible, decisional, or eligible before returning the packet to TSA. TSA adjudicators made the final decision to approve or disapprove cases that DynCorp adjudicated as ineligible or decisional. TSA also reviewed some of DynCorp's eligible cases. In July 2003, TSA added U.S. Investigations Services to adjudicate along with DynCorp.	

This process set a more rigorous background check standard than had been in place for screeners. Before TSA established its screener workforce, only the fingerprint check was required.<sup>15</sup> TSA used its authority under ATSA to set new standards for screener background checks. As we have described, TSA has argued that it is not obliged to meet standards in OPM's suitability

<sup>15</sup> Rules issued after 9/11 required the fingerprint check to be conducted routinely. Prior to 9/11, the airlines had to conduct an employment investigation, and if the results warranted, an FBI fingerprint-based criminal history records check.

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regulations and Executive Order 10450. We have nevertheless referred to these standards in order to illustrate requirements and handling times that are considered reasonable and applicable throughout government. We also refer to the standards set for background checks on the commercial screeners before TSA's hiring of federal screeners.

During the hiring process, TSA gave applicants a conditional job offer, pending approval of background checks. TSA planned to require employees to pass the OPM fingerprint and ChoicePoint Phase 1 checks before beginning training, receiving a badge, and working in the airport. TSA expected these two checks would reduce the risk of employing screeners who had links to terrorist organizations or who had criminal histories covered by the 28 disqualifying convictions, while still enabling TSA to meet its November and December 2002 deadlines. TSA and its contractors had originally planned to complete the longer ChoicePoint Phase 2 and OPM ANACI checks after the screener began working in the airport.

TSA's plan for completing the screener background checks could not withstand the increasing volume of background checks. The table below depicts the number of incomplete cases as of May 31, 2003:<sup>16</sup>

	<b>Completed</b>	<b>Outstanding</b>
1. FBI fingerprint checks	52,490	1,015
2. ChoicePoint Phase 1 checks	51,935	1,570
3. ChoicePoint Phase 2 checks	12,429	41,076 <sup>17</sup>
4. OPM ANACI	18,025	35,480

Some of the outstanding cases consisted of checks that had been conducted, but required adjudication. TSA had a backlog of 7,368 cases to adjudicate, and DynCorp had a backlog of an additional 37,669 cases that had not yet been sent to TSA.

Weaknesses in all four parts of the background check process contributed to the number of incomplete cases. First, TSA did not maintain control over the background information its contractors collected and submitted to begin the checks. Submissions inconsistently matched the roster of applicants TSA hired, and many submissions were untimely and of low quality. Second, some check results were neither as rapid nor as definitive as projected. Third, the

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<sup>16</sup> We counted checks that required adjudication as incomplete.

<sup>17</sup> In March 2003, TSA changed its priorities to emphasize completing ANACIs rather than ChoicePoint Phase 2 cases. As of May 31, 2003, 14,442 screener employees had outstanding ChoicePoint Phase 2 checks, and 26,634 had completed checks that required adjudication.

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high volume of checks created backlogs in adjudication. Since the deployment of screeners to airports did not pause, screeners began training and working before TSA reviewed their fingerprint and ChoicePoint Phase 1 checks. To manage the backlog, TSA came to depend on contract adjudicators for whom TSA provided limited oversight. Fourth, TSA headquarters did not notify the Federal Security Directors (FSDs)<sup>18</sup> and airport operators promptly about disqualifications, and screeners who failed checks continued to work. Further, some of the disqualifications were based on inaccurate information, and required that terminated screeners be reinstated.

### **Collecting and Submitting Background Information**

TSA did not maintain control over the quantity, quality, and timeliness of information collected by contractors and submitted to ChoicePoint or OPM during the critical March-December 2002 hiring period. As a result, TSA's contractors initiated thousands of unnecessary checks for applicants TSA did not hire, contributing to the backlog in adjudication. Furthermore, TSA's contractors did not initiate thousands of checks on screeners who were hired. In addition, some background information submissions were untimely and incomplete.

NCS Pearson and PEC Solutions collected the SF 85P, OF 306, employment application, and fingerprint chart and forwarded them to ChoicePoint and OPM. As of June 3, 2003, PEC Solutions forwarded 115,331 fingerprint files, including some duplicates, to OPM for the fingerprint checks; and ChoicePoint processed 112,278 ChoicePoint Phase 1 cases. TSA planned to process extra applicants for these two checks because some applicants would fail and drop out of the hiring pool.

Since TSA planned to complete ChoicePoint Phase 2 and ANACI checks after hiring screeners, TSA could have controlled the number of those checks by comparing employee rosters with rosters of active investigations, preventing or aborting checks on applicants who were not hired. However, 45,550 of the 84,613 ChoicePoint Phase 2 checks, or 54 percent, occurred for applicants who were not on the screener payroll as of May 31, 2003.<sup>19</sup> Similarly, 31,780 of 57,173 ANACIs, or 56 percent, occurred for applicants who were not employed. We conservatively estimated that unnecessary checks cost TSA more than \$7 million.

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<sup>18</sup> TSA's 159 Federal Security Directors and their staffs are responsible for security, including management of the screener workforce, at over 400 U.S. airports.

<sup>19</sup> Some of these applicants may have been on the payroll before May 31, 2003.

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Also, TSA did not use the employee rosters to review the status of checks on screeners who were hired. Thus, TSA's personnel security office did not know whether the four checks were initiated, in process, or complete for screener employees. In February 2003, TSA staff collected over 500 boxes of background check documentation from NCS Pearson, whose contract ended in December 2002. To TSA's surprise, the boxes contained unsorted, original background check forms for more than 20,000 screeners. NCS Pearson never submitted the forms to OPM, which meant OPM never scheduled thousands of ANACIs. With the help of U.S. Investigations Services, TSA began to identify screeners whose ANACI had not begun and to consolidate, complete, and submit their background check forms. As of June 3, 2003, TSA had not yet initiated ANACIs on 17,506 screeners.

With little control over when its contractors submitted background check information, TSA was not timely in initiating the ANACI. The federal standard for initiating an ANACI is within 14 days of hiring; however, as of June 3, 2003, TSA still needed to initiate ANACIs for about a third of its screeners, who had been employed 150 days or longer. Additionally, agencies are required to submit the SF 85P within 120 days of the applicant's or employee's signing it, to ensure the information remains current. On average, TSA or its contractor submitted the form within about 50 days, but 3,945 forms were submitted late.<sup>20</sup> After discovering the forms in the 500 boxes from NCS Pearson, TSA personnel security office staff negotiated with OPM, and OPM agreed to accept outdated forms.

Also, TSA did not meet the timeliness standard it set for itself to complete the fingerprint and ChoicePoint phase 1 checks before training screeners and allowing them to work in airports. As of May 31, 2003, TSA had not yet completed fingerprint checks on 1,015 screeners and ChoicePoint Phase 1 checks on 573 screeners. As of May 16, 2003, TSA had not performed either check on 146 screeners. The inadequate manner in which TSA's personnel security office monitored the status of employee investigations contributed to these lapses.

Another problem with this phase of the background check process was the poor quality of documentation that NCS Pearson submitted to ChoicePoint and OPM. ChoicePoint ran 16,987 "partial checks" based on incomplete SF 85Ps it received from NCS Pearson. OPM rejected as incomplete more than a quarter of the SF 85Ps it received. TSA's personnel security office did not

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<sup>20</sup> Based on 62,936 SF 85Ps submitted from March 2002 to July 2003.

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provide sufficient quality control over the SF 85P submission. TSA could have exercised more control over this step by reviewing, signing, and dating the agency portion of the SF 85Ps. However, TSA's personnel security office did not have an onsite presence at the assessment centers, and TSA allowed NCS Pearson to submit SF 85Ps directly to ChoicePoint and OPM without approving many of them. TSA signed and dated four SF 85Ps out of the 34 files in our review that contained at least the front page of the form.<sup>21</sup>

### **Checking Screeners' Background**

The checking portion of the process (fingerprint, ChoicePoint Phase 1 and Phase 2 checks, and OPM ANACI) experienced delays or contained deficiencies that also hindered background check completion. Some fingerprints took longer than usual to process, especially cases involving "unclassifiable" fingerprints. Furthermore, fingerprint results often did not provide information about the outcome of an arrest, which is critical for adjudication. We were unable to verify whether ChoicePoint met its own time standards for processing its checks. We determined, however, that OPM did not always meet its standard for processing ANACIs.

The fingerprint check is the first step of the background check and identifies individuals with criminal records in the FBI's fingerprint-based criminal history database. During the June 3, 2003, congressional hearing, OPM explained that fingerprint checks take two to three days to process. Our file review supported that statement. Of the 250 dated fingerprint checks in our sample, OPM completed 230 within three days. The median time to process a fingerprint check was one day. However, eight of the 250 fingerprint checks took longer than a week to process.<sup>22</sup>

"Unclassifiable" fingerprints, which are too poor in quality to be compared with the FBI's criminal history database, also delay the fingerprint check process. TSA often did not identify unclassifiable results and re-fingerprint applicants in a timely manner. Our file review showed ten instances in which screeners' first fingerprints were unclassifiable. TSA took from 132 to 246

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<sup>21</sup> As of July 2003, TSA did not have a standard policy for what to retain in the personnel security files. At different points, TSA retained or discarded the SF 85P. This reduced the number of files in our sample with SF 85Ps.

<sup>22</sup> This delay may have occurred in part because five states do not participate fully in the FBI's fingerprint-based criminal history database. Florida, New Jersey, North Carolina, Oregon, and Montana participate in Department of Justice's National Fingerprint File program, which allows them to submit only first arrest fingerprints to the FBI and then maintain all other records at the state level to be shared upon request. Screeners from these states underwent more time-consuming, name-based FBI checks.

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days to re-fingerprint four of these screeners.<sup>23</sup> Four other screener employees still had no classifiable fingerprint results on file as of July 16, 2003. The remaining two screeners were separated, having remained employees without re-fingerprinting for 107 and 221 days before their separation. We also found two cases in which screeners appeared never to have been fingerprinted at all; one was still a TSA employee. One cause of these delays was the inability of TSA's web-based CITS to produce reports of applicants who require re-fingerprinting. TSA recently added a mechanism to CITS that notifies Federal Security Directors of unclassifiable results, so that an FSD can quickly submit new fingerprints.

A significant shortcoming of the fingerprint check is the limited depth of information it provides. About 15 percent of the fingerprint check results suggest screeners may have a criminal record.<sup>24</sup> But the FBI's results often show a screener's arrests without indicating whether the arrest resulted in a conviction, acquittal, dropped charge, or other outcome. The results also do not clearly indicate whether listed crimes, which have different local labels and codes, are among the 28 felonies that preclude screener employment under ATSA. When the disposition of an arrest record is unclear, adjudicators must make inquiries, which add delays and are not always fruitful.

In spring 2003, media reports noted that some airport operators, doubting the fingerprint results from TSA's personnel security office, re-fingerprinted screeners and discovered disqualifying criminal histories among passenger and baggage screeners. We reviewed one set of re-fingerprinting results. For 38 screeners whom the airport operator considered to have disqualifying criminal histories, we found 32 fingerprint results that showed arrests without a disposition. TSA's personnel security office disqualified ten of the 32 after further research. Only one of the 38 records showed a clearly disqualifying conviction, which TSA's personnel security office also discovered, but not before the airport operator revoked the screener's access badge.

We also attempted to validate the timeliness of ChoicePoint's and OPM's checks. ChoicePoint reported that its Phase 1 checks take 7-10 days while the Phase 2 checks take 10-21 days. We were unable to verify this claim. We also examined the time required to complete ANACIs. OPM reported that ANACI cases take 45-70 days to complete. However, less than half of the 208 dated ANACI case files that we reviewed met that standard. The median time to

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<sup>23</sup> Two of the four had completed fingerprint checks that were awaiting TSA adjudication for more than 30 days.

<sup>24</sup> Based on 17,702 of 116,261 screener fingerprint checks that OPM reported completing between March 2002 and July 2003.

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process the ANACIs in our sample was 86 days, with cases ranging from 31 to 241 days to complete. OPM reported to the OIG that since June 1, 2003, it completed over 12,000 ANACIs in an average of 67 days.

Because OPM depends on other federal, state, and local agencies to supply background information, OPM's results are dependent on their timeliness. When OPM completes the bulk of its review but still lacks some responses from sources beyond its control, it may return the case to TSA as "closed-pending" and send the remaining information to TSA when available. DOT personnel security management policies allow TSA to accept closed-pending cases for adjudication. Most missing information carries little risk of revealing issues that could disqualify the subject. Of the 211 ANACI-based cases we reviewed, DynCorp and/or TSA recorded 200 cases as closed-pending when they adjudicated them. The majority of the cases were missing employer or reference inquiries. However, we found eight that were missing fingerprint-based checks or local law enforcement checks, steps that are more critical to the identification of disqualifying information.

### **Adjudicating the Results of the Checks**

A trained adjudicator must evaluate the information obtained during the background checks to determine whether the screener is suitable or unsuitable for federal employment. Specifically, an adjudicator must rule on each of the four background checks. TSA did not accomplish its objective of approving the fingerprint and ChoicePoint Phase 1 checks before allowing screeners to train and work. Despite assistance from contract adjudicators, TSA built up backlogs and did not meet timeliness standards.

TSA applied OPM's suitability standards, augmented by ATSA and TSA guidance, to help adjudicators identify and judge disqualifying criminal offenses, patterns of offenses, credit issues, and other adverse information. Two criteria dominate the standards to disqualify applicants: convictions within the past 10 years for the 28 crimes listed in ATSA, and bad debt in excess of \$5,000. Credit issue cases take longer to adjudicate because the Fair Credit Reporting Act requires adjudicators to give the applicant or employee written notice; TSA gives screeners an opportunity to resolve the matter within 14 days before the adjudicator can make an adverse finding. TSA does not require its adjudicators to question the applicant or employee about other adverse information; adjudicators may approve or disapprove the screener based on the check results alone.



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Before passenger and baggage screeners became TSA employees, the Federal Aviation Administration's regulations required aircraft operators to complete a fingerprint-based criminal history check for screeners. For screeners employed prior to December 6, 2001, the aircraft operator had 45 days from receipt of the fingerprint record in which to evaluate potentially disqualifying arrests and to suspend disqualified screeners. For new screeners, the aircraft operator was required to evaluate the potentially disqualifying arrests before allowing individuals to perform screening functions.<sup>25</sup> TSA did not follow these standards while hiring its screener workforce. Of the fingerprint checks we reviewed, about two-thirds of the screeners began working before their fingerprints were adjudicated.<sup>26</sup> In addition, ten screeners had criminal records that TSA did not adjudicate within 45 days of receiving the fingerprint results. When fingerprint checks showed criminal records but not clear convictions, TSA conducted further research that sometimes delayed adjudications. TSA adjudicators contacted localities to verify arrest outcomes. They also compared fingerprint results with SF 85Ps to determine whether screeners had falsely answered questions about their criminal histories. However, TSA's personnel security office did not receive an independent copy of the SF 85Ps; instead, the office waited for copies processed by ChoicePoint and OPM.

Additionally, TSA had insufficient staff to adjudicate both fingerprint checks and ChoicePoint Phase 1 checks before hiring new screeners. TSA believed the ChoicePoint Phase 1 check was an important step to reduce the security risk before hiring because the check included link analysis, which compared an applicant's background data against data from terrorist watchlists. With TSA's adjudicators focusing on fingerprint checks during the last critical months of hiring, TSA contracted with DynCorp to obtain help processing adjudications. However, TSA did not ensure that the adjudicators completed both reviews, and many ChoicePoint Phase 1 checks were not adjudicated before screeners were hired. DynCorp adjudicated several thousand ChoicePoint Phase 1 checks in February 2003 alone, and almost 1,000 still needed adjudication as of May 31, 2003. This reduced the benefit of the Phase 1 check because applicants were hired, trained, and put to work without undergoing the link analysis.

As of May 31, 2003, the backlog for employed screeners included 26,634 ChoicePoint Phase 2 adjudications and 17,406 ANACI adjudications.<sup>27</sup>

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<sup>25</sup> 49 C.F.R. 1544.229.

<sup>26</sup> Based on 131 of 193 cases in which both entry-on-duty and adjudication dates were available.

<sup>27</sup> In March 2003, TSA changed its priorities to emphasize completing ANACIs rather than ChoicePoint Phase 2 cases, and TSA did not plan to complete the ChoicePoint Phase 2 adjudications for the October 1, 2003, deadline.

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Because TSA hand-marked on some adjudication sheets the date it received the case from DynCorp, we were able to approximate how long DynCorp took to adjudicate some ANACIs.<sup>28</sup> The 130 dated cases in our file review took DynCorp between two and 235 days to return to TSA, with the median time at 85 days. DynCorp can complete 400-500 ANACI adjudications per day without building a backlog, if staff is not also processing other TSA adjudications or reports. TSA sometimes instructed DynCorp to focus on certain adjudications to the exclusion of others, such as ChoicePoint adjudications during February and early July 2003, which increased DynCorp's ANACI backlog. A new, July 2003 contract requires DynCorp to adjudicate ANACIs within 72 hours of receipt at a rate of 400 per day.

TSA's adjudicators also maintained a backlog in processing the cases DynCorp sent to TSA for final review and action. Of the 90 ANACI cases in our file review with dates showing when TSA received the case from DynCorp and when it completed adjudication, TSA completed 53 adjudications on the same day as receipt. But 35 adjudications took from seven to 92 days to complete. Our file review showed that the overall time from when OPM completed an ANACI, to when TSA incorporated DynCorp's work and documented a final adjudication, was between 14 and 224 days for 177 dated cases. The federal standard for adjudicating and completing final processing for a background check is 90 days.<sup>29</sup> TSA met this standard for 115 of the 177 cases (65 percent).

### **Question of How Much Adjudication Responsibility Contractors May Assume**

According to the TSA Administrator, TSA intended to make final adjudication decisions for all appointees while its contractors merely assisted in the process. However, we identified cases that TSA did not adjudicate and question whether TSA provided adequate oversight of its contract adjudicators. In March 2003, DynCorp contractors began issuing final decisions for cases adjudicated favorably. DynCorp signed and forwarded to Accenture completed Certifications of Investigation and sent the Report of Agency Adjudicative Action (OFI 79A) to OPM to populate OPM's Security Investigations Index database.<sup>30</sup> Our file review showed instances of this contractor work. Allowing DynCorp to fully adjudicate and document

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<sup>28</sup> Our sample did not provide clear information regarding the time to process ChoicePoint checks.

<sup>29</sup> *Security Requirements for Government Employment* (Executive Order 10450, April 27, 1953); 5 C.F.R. 732.302(b).

<sup>30</sup> Accenture maintains TSA's Official Personnel Folders for all TSA employees except the executive staff.

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favorable cases lightened the workload for TSA’s backlogged adjudication staff.

In the past, federal agencies have considered making final adjudication decisions to be an “inherently governmental” function that contractors may not perform.<sup>31</sup> For example, in a 1999 proposed rule, OPM noted, “With OPM’s Investigations Service privatization effort, OPM has contracted much of its adjudicative case processing, with close OPM oversight. However, OPM has retained all decision making responsibility, which it views as an inherently governmental function.”<sup>32</sup> OPM’s General Counsel continues to support this stance. While TSA was a part of DOT in 2002, the department listed the function code for personnel security clearances and background investigations, which includes adjudication, as inherently governmental on its FAIR Act inventory.

In August 2003, the TSA Office of Chief Counsel produced a legal opinion concluding that contractors may complete favorable adjudications as long as TSA completes adverse cases and provides “close agency oversight.” TSA noted that, according to OPM’s draft guidelines, *Suitability Overview for Federal Agencies*, “Adverse decision making is considered an inherently governmental function and may not be contracted. Agencies will be permitted to contract or re-delegate other portions of the adjudicative process but must ensure they do so with close oversight.”

However, TSA has not provided close, consistent oversight of its contract adjudicators. First, although TSA retained final decision-making responsibility for adverse and uncertain cases, which DynCorp reviewed and returned to TSA for completion, we noted two instances where a contractor at TSA headquarters signed the TSA final adjudication sheet for an unfavorable adjudication. Second, TSA’s contracting officer representative does not provide quality checks of the adjudication contractors’ work. Third, TSA’s on-site oversight and quality control has been inconsistent. At first, a TSA representative went to DynCorp once a week to answer questions and review a sample of 100 favorable cases. That is about four percent of DynCorp’s adjudications, which averaged 500 a day. However, TSA’s representative ceased oversight visits for a period of six weeks in May and June before

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<sup>31</sup> The Federal Activities Inventory Reform Act of 1998, P.L. No. 105-270 (FAIR Act), defines an inherently governmental function as “a function that is so intimately related to the public interest as to require performance by Federal Government employees.” Inherently governmental activities “require either the exercise of discretion in applying Federal Government authority or the making of value judgments in making decisions for the Federal Government”; and they include oversight of monetary transactions or entitlements and the appointment of U.S. employees.

<sup>32</sup> “Suitability,” 64 Federal Register 4336, 4337 (proposed January 28, 1999)(to be codified at 5 C.F.R. Part 731).

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resuming them in July. For comparison, OPM provides full-time, on-site representatives for its contract adjudicators. Also, DHS Personnel Security Division provides a 100 percent review of contractors' adjudications.

### **Disseminating the Results of the Checks**

The adjudication from TSA's personnel security office determined whether TSA would terminate the employment of screeners whom TSA hired conditionally, pending the completion of a background check. For screeners who failed a background check, the personnel security office advised TSA's Human Resources Office to draft a termination letter, which Federal Security Directors delivered. However, the notification process did not unfold as TSA envisioned. Screeners who failed checks continued to work in airports. Terminated screeners challenged hundreds of adjudications as erroneous, and TSA reversed many of their terminations upon reconsideration. Finally, TSA allowed OPM to begin or continue checks on screeners that TSA had already disqualified.

During the June 3, 2003, congressional hearing, the TSA Administrator reported that, as soon as the adjudicators identified employees as ineligible, TSA removed them from the airport and put them on administrative leave until their terminations were complete. However, TSA staff reported to the OIG that screeners with adverse adjudications continued to work in the airports until TSA delivered termination letters. Only for the most serious cases did TSA staff immediately inform the FSDs to place screeners on administrative leave, according to the draft screener credentialing process map that the TSA Human Resources Office was using in July 2003. Our comparison of the fingerprint check results at one airport and at TSA headquarters confirmed that there were notification delays. For 12 of 13 disqualified screeners, it took from 89 to 255 days from the time TSA disapproved the fingerprint check to the time the airport operator deactivated the screener's badge.<sup>33</sup> In four of those cases, TSA's personnel security office had no record of notifying the FSD or airport operator about the adverse fingerprint results, and the airport operator claims to have removed the screeners through its own initiative. Additionally, in our review of the 255 files at TSA headquarters, 23 of 65 disqualified screeners had no recorded separation date. TSA did not meet the federal standard of removing an employee within five work days of making its final decision.<sup>34</sup>

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<sup>33</sup> For the remaining case, the airport operator discovered the screener had a disqualifying conviction and deactivated his badge before TSA adjudicated his fingerprint check.

<sup>34</sup> 5 C.F.R. 731.404.

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Another significant issue for TSA during this portion of the background check process was the number of screeners who claimed that TSA terminated them erroneously. From approximately March to July 2003, 309 screeners challenged their terminations. Of the 309 terminated screeners, TSA reinstated 129 screeners after further review, reversing its adjudications 42 percent of the time. A second Human Resources Office database shows 40 other reinstatements in addition to the 129, yielding a total of 169.<sup>35</sup>

Were TSA to provide its screeners with the opportunity to explain or refute unfavorable information before termination, the number of reconsiderations would likely decrease. For most of this period, TSA did not have a defined policy for managing screeners' requests for reconsideration. In August 2003, TSA developed a termination letter that permits screeners to seek reinstatement with back pay if they can disprove the background check findings within ten days. By not providing screeners with an opportunity to contest the adjudication before they are terminated, TSA's policy contradicts the DOT personnel security management policies that TSA adopted. The DOT manual obligates TSA to "provide all applicants, employees, and contractor personnel the opportunity to explain or refute any unfavorable information *before* the department uses the information as a basis for any adverse personnel, security, or similar action against them." [emphasis added] According to the DOT manual, "This practice ... prevents errors which might otherwise result from mistakes in identity or erroneous information and provides the applicant or employee the opportunity to present mitigating information that may be unknown to the adjudicating officials." Not surprisingly, a number of TSA's reversals have been based on information that screeners provided to show mistaken identity or other errors.

TSA also did not have a defined procedure for managing requests for reconsideration. Requests came daily to TSA's Human Resources Office from FSDs, TSA's Office of the Ombudsman, and screeners themselves. For the requests that the Human Resources Office began tracking in May 2003, the median time the personnel security office took to re-adjudicate a screener's request was 24 days, and processing times ranged from 0 to 74 days. Overall, the personnel security office reviewed cases within 72 hours less than 10 percent of the time, although this is the adjudication standard TSA set for

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<sup>35</sup> In May 2003, TSA's Human Resources Office began a spreadsheet to monitor requests for reconsideration, and the 309 cases it tracked spanned this period. TSA's central human resources database has always noted reinstatements; however, since it does not track the total number of requests made, we could not calculate the rate of reinstatement prior to May 2003.

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itself in “Evaluation and Adjudication Requirements for TSA Screeners to Meet Congressional Deadlines.”<sup>36</sup> Terminating screeners based on inaccurate or incomplete information not only affects morale but also takes a toll on both the screeners and understaffed airports as capable screeners wait to return to work.

We note one additional administrative weakness in TSA’s notification process. Although OPM’s investigation guidance encourages agencies to discontinue background checks as soon as the agency makes an adverse finding against a person, TSA initiated and continued background checks on screeners who had already failed the fingerprint or ChoicePoint checks. During two of our file reviews, we noted that TSA continued to process ANACIs for 16 of 32 screeners disqualified by a fingerprint or ChoicePoint check (50 percent). Besides adding expense, this practice needlessly increased the processing and adjudication workload.

We recommend that the TSA Administrator:

**Recommendation 3:** Ensure, without exception, that all screeners undergo a fingerprint-based criminal history records check and receive a favorable adjudication before they begin training and work.

**Recommendation 4:** Incorporating guidance from the Department of Homeland Security, define the role that contract adjudicators will play in TSA’s background check process and the minimum requirements that TSA must meet to fulfill its oversight responsibilities.

**Recommendation 5:** Institute precautions to protect against terminations that are based on incorrect information.

**Recommendation 6:** Establish mechanisms to prevent and abort background checks on applicants and employees whom TSA disqualifies.

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<sup>36</sup> Based on 17 of 274 records with sufficient date information to be assessed (6.2 percent). This figure includes screener adjudications that TSA both reversed and sustained. For only the cases reversed, resulting in the screener’s returning to work, the personnel security office completed 11 of 110 dated requests within 72 hours (10 percent).

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## Verifying Citizenship and Personal Identification

U.S. citizenship is a job qualification and requires verification before hiring. Prior to August 2002, TSA had little assurance that it was hiring citizens because it was not requiring adequate evidence of citizenship. In August 2002, TSA recognized this problem and its personnel security office added citizenship verification to the ANACI by requiring checks with the appropriate bureaus of vital statistics. To its credit, TSA required the checks for screeners already hired, as well as for new hires.<sup>37</sup> This continues as a specific requirement on screener cases referred by TSA for the ANACI.

The Immigration Reform and Control Act of 1986 requires all U.S. employers to verify the identity and employment eligibility of those hired to work in the United States after November 6, 1986. Every new employee is required to complete the Employment Eligibility Verification Form (Form I-9). The form requires employees to provide personal identification and attest that they are eligible for U.S. employment, and it requires employers to certify that the identification presented matches the individual who submitted it. When the Form I-9 is completed, the hiring agency must certify and retain it for a minimum of three years.<sup>38</sup>

In a judgmental sample of 25 OPFs drawn from the 255 cases of employees selected for examination of processing data, only 22 had completed the Form I-9. Of the 22, a TSA contractor signed and dated 20. Of the two not signed and dated, both lacked dates and one lacked a signature. Any absent or incomplete forms are troublesome as they reveal flaws in the hiring process. Furthermore, we found 20 Form I-9s for which the applicants presented a combination of a driver's license and Social Security card or birth certificate. While these documents are authorized for use with the Form I-9, we note that they are all easily counterfeited documents.<sup>39</sup> The checks with bureaus of vital statistics that TSA now uses provide more reliable verification of citizenship. While we found no evidence that TSA hired ineligible applicants, we concluded that TSA could improve its procedures for processing the Form I-9.

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<sup>37</sup> Since OPM does not automatically verify citizenship status as part of the ANACI, TSA must request the search. OPM provides this service for \$15 per case, to cover the cost of obtaining records from bureaus of vital statistics.

<sup>38</sup> Employers must retain the Form I-9 and make it available for inspection by the Departments of Homeland Security, Labor, and/or Justice, for three years after hiring employees, or one year after terminating their employment, whichever is later.

<sup>39</sup> The documents are authorized pursuant to 8 C.F.R. § 2742.2. However, in *Counterfeit Identification Raises Homeland Security Concerns*, the General Accounting Office reported that it easily produced or obtained counterfeit birth certificates, driver's licenses, and Social Security cards. Government employees and others did not recognize the counterfeit documents (GAO-04-133T, October 1, 2003).

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We recommend that the TSA Administrator:

**Recommendation 7:** Strengthen procedures for completing and retaining the Employment Eligibility Verification Form (Form I-9).

## **Managing the Personnel Security Program**

The November 19 and December 31, 2002, deadlines mandated by Congress drove TSA's hiring of passenger and baggage screeners. These deadlines in the ATSA were extremely ambitious, forcing TSA concurrently to establish itself as a new agency and to assess, hire, train, equip, and deploy a new federal screener workforce.<sup>40</sup> Although contractors performed the background checks and helped TSA review most results, TSA was responsible for planning and guiding the process; managing the contractors' work; tracking background check progress and completion; making final suitability decisions; and terminating people who failed the checks. With no comprehensive plans, responsibilities for several other major programs, a limited number of adjudicators, and no comprehensive database or filing system, TSA's personnel security office was overwhelmed. It could not meet quality and timeliness standards while processing the volume of background checks. In effect, TSA was hiring screeners before it was organized to do so. In the rush to meet the statutory hiring deadlines, TSA abridged management practices and processing requirements normally considered essential to well-managed, established organizations.

### **Planning**

TSA officials were not prepared to manage the volume of screener background checks. TSA had no comprehensive plan for administering background checks that described how the different participants, resources, policies and procedures, and milestones would intersect to meet security goals. TSA's planning framework consisted of a few short-term, partial plans that presupposed that the personnel security office would receive additional resources to meet its mission. The policies and procedures consisted of DOT and OPM manuals that TSA selectively followed, sometimes supplemented by TSA guidance. Plans changed as TSA revised its hiring plans to obtain almost twice as many screeners as it originally contracted to hire. Without a guiding framework to unify the personnel security office's efforts and to indicate

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<sup>40</sup> TSA faced ten major deadlines within one year of passage of ATSA.



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potential shortfalls, TSA did not keep pace with the background check workload.

TSA's written plans for the background checks consisted of documents that partially discussed or charted operations. For example, we obtained a copy of a five-page August 2002 memorandum that outlined background check procedures and recommended steps to improve checks. The memorandum revealed that aspects of the process, such as how to reduce the duplication between OPM and ChoicePoint services, were unresolved. TSA also provided to the OIG two samples of internal outlines, dated February and March 2003, regarding tasks and issues for the personnel security office.<sup>41</sup> However, these outlines focused on short-term solutions to identified problems, such as finding missing security information on screeners. TSA appeared not to have a formal, organizational reference. Furthermore, although the documents addressed the personnel security office's need for greater staff, contract, and information support, the office received little of the support needed to implement the plans at the time.

For carrying out the plans, TSA pointed to OPM and DOT personnel security management manuals as its adopted procedures; however, it is unclear how much DOT or OPM policies and procedures governed personnel security management.<sup>42</sup> TSA staff and contractors used a mixture of OPM and TSA guide sheets to manage the results of the background checks. On the other hand, TSA also made exceptions to DOT and OPM guidance by virtue of the broad authority granted under ATSA. For example, TSA did not follow DOT and OPM procedures to complete screener position risk designations, or DOT procedures to grant due process to applicants and employees during adjudication. We did not locate documentation where TSA indicated its intent to depart from adopted practice. TSA staff informed us that internal directives existed but were unable to furnish them.

Even if TSA had begun background checks with a clearly stated plan and policy, it probably would have had to alter them. The instability of TSA's workforce projections partly explains the difficulties TSA encountered while completing background checks. Although TSA originally contracted with NCS Pearson to hire 30,000 screeners, management soon envisioned a need for a much larger workforce to include a more robust checked baggage

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<sup>41</sup> "Plan for Going Forward," (February 26, 2003); later version, March 6, 2003.

<sup>42</sup> On May 6, 2002, DOT delegated to TSA the authority to administer its own personnel security program under DOT personnel security orders and manuals. Implementing DOT policies in ways different from the orders and manuals would have required separate approval.

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screening function. The workforce grew to approximately 55,600 screeners by the end of the first round of hiring on December 31, 2002.<sup>43</sup> As TSA revised its workforce estimates, in one manager's words, "The whole plan changed...the entire methodology and process changed." TSA initiated numerous modifications to its contracts based on revised workload projections.

One clear example of TSA's poor planning involved the process TSA used to certify that screeners had passed a background check and were approved to begin training and work. TSA planned to adjudicate the results of the fingerprint check, print the screener's identification badge, and forward it overnight to the airport before the screener could begin training. This management control would prevent disapproved applicants from training, because they would never receive badges. However, TSA inadequately forecasted the logistics it would need to implement the plan. The DOT Badging Office that supported TSA could produce only 200 badges a day, and a backlog arose even before TSA's hiring accelerated to 5,000 screeners a week. Even if TSA and DOT had accurately forecasted the hiring surge, it is not clear that an operation producing 200 badges per day could have adapted to handle 1,000 per day. With deadlines to train and deploy the screeners, and screeners who needed badges in the airports, TSA instructed airport operators to issue badges independently. This planned solution eliminated the management control, and screeners who had not passed a criminal history records check received badges and went to work. In May 2003, TSA established its own badging unit to regain control over badges issued.

TSA staff acknowledged there were significant problems with the administrative elements of the background check process, and TSA is addressing them. The TSA Administrator created a new CPO to continue the administration of the background checks. Senior officials produced a draft charter for the CPO, which recognizes the organizational challenges and provides a foundation for improved operations. The draft charter acknowledges, "To date, these programs have moved forward in a largely uncoordinated fashion. Specifically, organizational alignment around overall TSA strategy, policy development, and resource sharing has not existed to date." Among its priorities, TSA plans to regain management control of all background checks and build a sufficient organizational infrastructure.

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<sup>43</sup> This number continues to fluctuate. First, to meet a ceiling of 45,000 permanent full-time employees set by Congress, TSA began reducing its workforce by 6,000 during FY 2003, with further cuts contemplated for FY 2004. At the same time, TSA has been adjusting the distribution of screeners among airports and selectively augmenting its workforce. For example, in July 2003, TSA announced its intent to recruit 1,300 part-time screeners and 600 permanent full-time screeners for its mobile National Screening Force.

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## **Personnel**

TSA began hiring screeners in March 2002, before it built a personnel security office to manage their background checks. In July 2002, a month before TSA began to hire at a pace of 5,000 screeners per week, the TSA personnel security office consisted of a supervisor, four adjudicators, and a new director. Personnel security staff correctly predicted that the office was understaffed and would fall behind schedule. One manager assessed that by August 2002, the personnel security office had ten staff but needed 50. A year later, TSA was still working to overcome the processing backlogs caused by staffing shortfalls.

The screener adjudication workload was a significant burden on the personnel security office staff, but it was not the only one. Since TSA did not use contract support to adjudicate fingerprint checks, its staff adjudicated all screener fingerprint records, plus they planned to review the adjudications contractors completed for the other checks. As TSA's hiring accelerated, the personnel security office could not keep pace with the number of screener adjudications required. With adjudication backlogs, TSA did not ensure that staff approved fingerprint and ChoicePoint Phase 1 adjudications before screeners began training and work. The personnel security office also accumulated backlogs for ChoicePoint Phase 2 and ANACI checks. By May 31, 2003, TSA's adjudication backlog was 7,368 screener checks. However, at the same time, the personnel security office staff was responsible for completing the background checks for other populations, such as FSDs and staff, Federal Air Marshals, Federal Flight Deck Officers, Security Identification Display Area workers, TSA headquarters employees, and others. TSA developed an additional adjudication backlog for Federal Air Marshals. Furthermore, in addition to adjudicating, personnel security office staff compiled status reports on background checks for FSDs and airport operators, a time-consuming process since the office lacked the capability to generate automated reports.

As early as August 2002, TSA officials informed TSA senior management that the personnel security office needed more staff. However, several issues inhibited the office's effort to acquire staff. First, all TSA offices were competing to build up their infrastructure. Second, TSA began FY 2003 under a continuing resolution, and the absence of a fiscal appropriation limited TSA's staffing and spending flexibility for several months. Third, although Congress gave TSA significant freedom to manage by exempting it from many personnel requirements, the type of personnel appointments that TSA could offer under its authority were less competitive in attracting adjudicators.

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Fourth, turnover disrupted the continuity of personnel security management. After June 2003, two officials responsible for the personnel security function left TSA headquarters, and TSA just recently reassigned their responsibilities. The first director of the new office that oversees personnel security management, the CPO, departed in July 2003; and TSA had not named a permanent director.

As of August 2003, the personnel security office had 19 adjudicators. Senior managers asserted that if needed, more adjudicators were available to help TSA meet the October 1 deadline. TSA's personnel security management responsibilities will increase considerably as the agency adds programs, such as background checks for alien flight students and hazardous materials transportation workers. TSA must develop a workforce plan that realistically projects personnel security workload and staffing requirements to meet these responsibilities.

### **Contractor Oversight**

With its small personnel security infrastructure, TSA relied heavily on several contractors and subcontractors to accomplish the screener background checks. However, TSA had insufficient staff and systems to monitor contractor performance and spending. Further, frequent tasking changes and contract growth also made oversight more difficult. Difficulties with contract management contributed to TSA's inability to complete background checks.

There was insufficient TSA staff to monitor contractor work. Because of staff shortages, the responsibilities of Contracting Officer Representatives (CORs) shifted often, preventing them from serving as a consistent point of authority on contracts and providing continuous oversight. This also led to confusion about their authority over contracts. Managers undermined CORs' efforts to monitor contractor work by directly tasking the contractor without the CORs' knowledge. This practice created multiple problems for the COR, chief among them being whether the COR could effectively review contractor invoices. CORs reported to the OIG that there were instances where they would not approve an invoice because it was thinly supported and the CORs were uncertain what they were paying for.

In addition, TSA did not consistently request or employ status reports to manage contractors' work. Some contractors provided weekly reports, while others did not. One key contractor provided few reports, and it did not provide statistical information we requested. We have reported TSA's inability to track and monitor the status of background checks, and given the volume of

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checks, it is inexplicable that TSA did not regularly obtain and use production data from all of its contractors.

TSA senior managers and staff were consistent in their remarks that TSA has not effectively managed its contractors.<sup>44</sup> Despite contract management weaknesses, TSA intends to continue to rely upon contract support rather than build an infrastructure to replace functions currently performed by contractors. TSA is developing a strategy for acquiring future contractor support, and it plans to improve COR training and delegations of authority.

### **Management Information**

Until recently, the personnel security office did not have adequate information systems in place to document, track, manage, and report on the status of screener background investigations. One TSA official called the absence of a tracking system “our biggest shortfall.” As of June 3, 2003, TSA had no hardcopy files and no reliable database for screener investigations other than CITS, which tracks only the fingerprint check. Most of the documentation that TSA did possess lay in unsecured boxes of investigation packets, not organized in a manner that enabled TSA to locate a particular individual’s records. The personnel security office’s electronic records consisted of CITS; spreadsheets that adjudicators developed for individual use, which had become corrupted; and an incomplete database replacing the automated spreadsheets, which could not support all TSA’s adjudicators simultaneously. As a result, TSA had no comprehensive picture of the status of investigations, nor did TSA have adequate information to control ongoing investigations or a ready means of reporting on screeners’ checks. These systems were wholly inadequate for TSA to manage the volume of background checks.

With contractors and the TSA Human Resources Office controlling employment data, the personnel security office staff had difficulty identifying how many screeners TSA actually employed and how many needed background checks. One TSA official commented that payroll lists did not match contractor processing lists and “It was impossible to figure out how many screeners there were.” Furthermore, the personnel security office had little information about the status of background checks its contractors were performing. For example, the office did not begin comparing OPM’s roster of ANACI investigations to TSA’s employee roster until 2003. TSA also did not

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<sup>44</sup> Following audits by TSA’s Office of Internal Affairs and Program Review and DOT OIG, TSA reported contract management as a material weakness in its December 2002 Federal Managers Financial Integrity Act report to Congress and the Office of Management and Budget.

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have comprehensive status information for cases that the personnel security office referred to the Human Resources Office for termination. The Human Resources Office did not begin to maintain data on screeners' requests for reconsideration until May 2003; before that, TSA has no information on how many screeners made requests, only on the number of actual reinstatements. TSA needs a comprehensive data system that unifies Human Resources Office data, such as appointments and terminations, with the contractor and personnel security office data on the status of checks.

Without an integrated, automated system to track all four checks, TSA has no automatic mechanism to abort checks on screeners who fail an earlier check. TSA also is unable to abort duplicate checks in some cases. For example, when ChoicePoint posted results to a website for DynCorp to adjudicate, ChoicePoint occasionally reposted old cases under new case numbers. This caused DynCorp to repeat adjudications unnecessarily. TSA was unable to fulfill DynCorp's request to resolve the issue.

TSA's new screener files have inconsistent, incomplete, and unconsolidated information. Although TSA began hiring screeners in March 2002, it was not until August 2002 that the personnel security office asked NCS Pearson to share daily rosters of appointees so that the personnel security office could create investigative files. Actual file creation did not begin until June 2003. Furthermore, TSA has not maintained or enforced a standard policy for what to retain in the personnel security file. During our file review, we found 23 SF 85Ps in 117 completed files; TSA staff explained that the personnel security office varied its policy on retaining the SF 85P. Of the 117 files, 32 had missing or incomplete Certification of Investigation forms. Further, we discovered instances where TSA filed duplicate folders for screeners, which will confuse efforts to retrieve information from the files. We also noted instances where TSA filed disqualified screeners in folders color-coded for qualified ones, and vice versa. Finally, we observed that TSA does not secure the cabinets and loose files, though they contain sensitive and Privacy Act information, including criminal histories.

One FSD complained that the TSA personnel security office could not provide accurate, current status reports for the background checks on screeners. When FSDs or other TSA staff requested reports on the status of screener background checks, personnel security office staff compiled the reports by hand because they lacked the capability to generate them automatically. Even after populating the two databases in June and July 2003, TSA still compiles reports on fingerprint checks by hand, assembling individual records that staff query by Social Security number. This is a time-consuming and labor-

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intensive process. One staff member reported taking two days to research the fingerprint check status of about 1,000 screeners at one airport. Partly because some did not trust TSA's information or assurances, at least one airport operator began checking screeners independently.

By 2003, the personnel security office was aware of the need for a functioning database and filing system in order to manage the amount of background check information. However, when security officials requested financial support to collaborate with the Information Technology Office in establishing a database, management denied the request, citing limited funds. Then, in March 2003, DHS advised components to suspend individual plans to develop personnel security databases in favor of plans for a comprehensive, low-cost system that all components would share.<sup>45</sup> Because of its pressing need, TSA's personnel security office continued to pursue database development. In May 2003, TSA management approved the creation of a database. Shortly after June 3, 2003, management allowed the office to obtain contract support to begin entering data in order to create a more robust database. Contractors also helped TSA begin a paper filing system. However, as contractors nearly completed the database, TSA realized it needed additional information to monitor the screener background checks for the October 1, 2003, deadline; therefore, TSA derived a second database from the first. Neither system tracks the investigations on populations other than screeners, including all other TSA employees, Secure Identified Designated Area workers, Federal Flight Deck Officers, and others.<sup>46</sup> The personnel security office staff said that they planned to add this data in the future. TSA will not be able to manage the volume of data involved in these personnel security programs without comprehensive, automated information management systems.

We recommend that the TSA Administrator:

**Recommendation 8:** Implement personnel security management policies and procedures and document departures from them.

**Recommendation 9:** Document the Credentialing Program Office workload and then plan and hire staff to meet workload requirements.

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<sup>45</sup> After researching this possibility, the DHS Personnel Security Division decided that the proposed system did not meet the department's needs. DHS abandoned the plan to require all components to use the same database, and instead it plans to develop an interface to unify the individual databases components use.

<sup>46</sup> Future background checks required for the full range of existing and planned TSA programs will number in the millions. The CPO plans to conduct background checks on between three and four million hazardous material transportation workers. Other credentialing efforts may target merchant mariners, maritime industry workers, Armed Law Enforcement Officer Credentialing, and the Registered Traveler program.

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**Recommendation 10:** Ensure that TSA program managers formally document contract modifications and instructions, maintain a substantive presence with contractors in order to provide guidance and oversight, and require status reports to track mission accomplishment.

**Recommendation 11:** Create a personnel security management tracking system that provides management with accurate, timely, and integrated information on the status of security investigations. The information should reflect the complete cycle of personnel security management, including data on incoming staff, separations, and reconsiderations.

**Recommendation 12:** Improve records management policies, procedures, and practices governing the content, organization, and storage of personnel security management case files.



Appendix A  
Management Comments


Arlington, VA 22202-4220




Transportation  
Security  
Administration

DEC 22 2003

MEMORANDUM TO: Clark Kent Ervin  
Acting Inspector General  
Department of Homeland Security

THROUGH: Asa Hutchinson   
Under Secretary for Border and Transportation Security  
Department of Homeland Security

FROM: David M. Stone   
Acting Administrator  
Transportation Security Administration

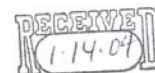
SUBJECT: Transportation Security Administration response to "Draft Report on  
the Review of Background Checks for Federal Airport Security  
Screeners (ISP-00-00)"

This memorandum constitutes the Transportation Security Administration's (TSA) response to your "Draft Report on the Review of Background Checks for Federal Airport Security Screeners (ISP-00-00)." I want to take this opportunity to thank you for the assistance your Office has provided to TSA's Credentialing Program Office (CPO) by identifying critical issues regarding the CPO's efforts to meet the October 1, 2003 Congressional deadline, and providing recommendations to enable the CPO to achieve long-term success.

TSA, through its CPO, is addressing or has already addressed the issues raised in the Draft Report, and will continue to show substantial improvement. TSA has already or is in the process of implementing all of the recommendations you have made, with the exception of Recommendation 2, due to lack of available resources.

As you know, the new CPO management and team performed remarkably well under extraordinary workloads and deadlines, and are well-positioned to continue this success. The CPO successfully adjudicated more than 20,000 Office of Personnel Management (OPM) Access National Agency Check and Inquires (ANACI) in less than 120 days, but also completed numerous other tasks necessary to complete this overall objective.

TSA submitted reports to House Homeland Security Appropriations Subcommittee Chairman Harold Rogers on October 10, 2003, regarding TSA's and OPM's successful collaboration on screener ANACIs, and completion of FBI and ChoicePoint checks on 749 screeners not part of the October 1 deadline, respectively.



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A representative listing of the other tasks completed by the CPO before October 1 follows:

- Coordinated the collection and submission of more than 13,000 outstanding Standard Form (SF) 85P and OF-306 case papers on Federal screeners (with assistance from TSA Aviation Operations).
- Coordinated the collection and submission of more than 2,000 outstanding SF 85P case papers on contract screeners at the five private screening company pilot airports (with assistance from Aviation Operations and the contract screening companies).
- Completed FBI fingerprint checks and ChoicePoint Phase 1 checks on more than 3,000 screeners who had not undergone these checks (with assistance from Aviation Operations and the fingerprint clearinghouse run by the American Association of Airport Executives).
- Adjudicated, for a second time, FBI fingerprint checks on more than 7,500 screeners whose ANACIs had been pending for more than 120 days, as required by OPM (with assistance from volunteer adjudicators from other Federal agencies).
- Collaborated with OPM to expedite the delivery of adjudication results to OPM as required by OPM; this effort places TSA's compliance rate in the top tier of all Department of Homeland Security agencies.
- Collaborated with the TSA Office of Human Resources (HR) to expedite processing of approximately 1,000 screener terminations.

In addition, by December 16, 2003, we adjudicated FBI and "prescreen" checks on more than 10,000 newly hired screeners.

TSA's responses to each of the recommendations raised in the Draft Report are enclosed, as are TSA and joint TSA-OPM reports to Chairman Rogers.

We look forward to an ongoing relationship with your Office as we work to address important issues for securing our homeland.

Enclosures

TSA Responses to DHSOIG Recommendations:

“A Review of Background Checks for Federal Airport Security Screeners”

**Recommendation 1: Complete screener position risk designations with input from the personnel security officials of the Department of Homeland Security and from appropriate Transportation Security Administration (TSA) offices, including the Credentialing Program Office (CPO), Human Resources Office (HR), and Aviation Operations. Screener position risk designation records, position descriptions, and vacancy announcements should reflect the correct designation.**

A group was convened with representatives from CPO, Aviation Operations, and HR to work through assigning risk designations to all four Security Screener positions. Aviation Operations will work with Human Resources to modify the Job Analysis Tool (JAT) that describes the competencies for each position, obtain the necessary approvals from the appropriate level of management, and ensure the TSA Intranet is updated to reflect the revised JATs. CPO will finalize the Position Designation Worksheets and maintain the original copies. Human Resources will ensure that all vacancy announcements reflect the proper designations. We expect this effort to be completed no later than mid-January 2004.

**Recommendation 2: Complete the comparison study of the effectiveness of Office of Personnel Management and private sector background checks. Incorporating the review’s results, modify screener background checks as needed to ensure they suit the position risk designation, meet Department of Homeland Security standards, and are cost-efficient.**

TSA has not conducted a comparison study as initially planned between the effectiveness of the Office of Personnel Management and private sector background checks since they are used by TSA for two distinct functions. These investigations are complementary rather than competing and, taken together, provide TSA with an investigative process that significantly reduces risk in the most efficient manner possible. Furthermore, the CPO does not have the resources to conduct such a study.

Private sector background checks are used as part of the hiring process and are conducted before a job offer is made to a candidate for employment as a TSA screener. These private sector background checks focus on criminal history, credit history, and determining whether candidates present a potential terrorist threat. They take about 3-5 days to complete and serve as an initial screen of a candidate’s background to ensure there are no clear disqualifiers before a job offer is tendered. This initial background check identifies candidates who may pose a security risk if they assume duties as a screener. For those identified as “unsuitable,” no job offer is made.

After an individual is hired, OPM conducts an Access National Agency Check with Inquiries (ANACI) background investigation that is much more in-depth. These are standard OPM background investigations that are conducted on a post-hiring basis for virtually all federal

## Appendix A Management Comments

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employees. In general, the ANACIs take 60-120 days to complete, although they frequently take longer. The ANACI is a much more detailed examination of an individual's background. All screeners are hired on a probationary basis, which requires that they undergo completion of a successful ANACI. In those cases where an ANACI leads to an "unsuitable" finding, termination procedures are executed.

As noted, current investigations are complementary rather than competing. The current concept allows TSA to effectively manage risk at the lowest cost. However, the CPO is always examining options to reduce costs and/or increase the speed with which investigations are completed while ensuring the accuracy and integrity of investigations. Consequently, we are currently examining alternatives to the OPM ANACI investigation that may prove to be less costly and much quicker. These options are focused on "ANACI equivalent" investigations used by other agencies in the Federal government. This analysis is ongoing with results expected in early 2004.

**Recommendation 3: Ensure, without exception, that all screeners undergo a fingerprint-based criminal history records check and receive a favorable adjudication before they begin training and work.**

Fingerprint-based criminal history records checks were completed prior to October 1 on all 53,505 screeners who were active employees as of that time, including all of the "non-10/1" screeners and the five airport pilot contract screeners. It is current TSA policy that before TSA will make an employment offer each job candidate must complete a favorably adjudicated criminal history records check and a "prescreen" before they can receive an offer of employment from TSA.

Processes, procedures, and systems have been put in place to ensure these checks are completed before candidates are certified to receive job offers. Additionally, on-going communications between the Credentialing Program Office and the Human Resources Office ensure all activities are done in collaboration and cooperation.

**Recommendation 4: Incorporating guidance from the Department of Homeland Security, define the role that contract adjudicators will play in TSA's background check process and the minimum requirements that TSA must meet to fulfill its oversight responsibilities.**

TSA no longer relies on contractors to conduct adjudications. All screener background checks are now adjudicated solely by Federal employees within the CPO. TSA's Office of Chief Counsel advised that contractors can perform an initial adjudication on screener background investigations subject to close oversight by TSA.

**Recommendation 5: Institute precautions to protect against terminations that are based on incorrect information.**

We have instituted two measures to guard against incorrect or erroneous terminations.

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First, in mid-August 2003, CPO instituted a quality assurance check to review all unsuitable determinations prior to referring these cases to HR for termination. This established a “filter” to ensure consistent application of the OPM/TSA suitability standards.

Second, CPO will send Interrogatory Letters to screeners with potentially disqualifying issues requesting additional information before recommending that they be terminated.

Taken together, these two measures present screeners with the opportunity to provide information that may explain or mitigate the issue and prevent inappropriate terminations.

**Recommendation 6: Establish mechanisms to prevent and abort background checks on applicants and employees whom TSA disqualifies.**

We have had mechanisms in place since mid-summer 2003 to send OPM lists of all terminated screeners for the purpose of aborting any in-process background investigations. These measures help to ensure that resources are appropriately focused.

**Recommendation 7: Strengthen procedures for completing and retaining the Employment Eligibility Verification Form (Form I-9).**

HR has implemented several new processes to ensure the completion and retention of these records. During new employee orientation, all individuals must complete all forms prior to leaving the orientation session. This is verified by a review of the orientation checklist and all forms. In addition, all new I-9 forms have been removed from all employees’ Official Personnel Folders (OPF) and are now being stored in a separate, security records file. For all employees, a systematic process is being implemented to pull and review all cards and ensure they are completed and then filed in the new retention area. This will allow for easier access and verification of information.

**Recommendation 8: Implement personnel security management policies and procedures and document departures from them.**

CPO is developing a “standardization guide” for screener adjudications, which captures in a comprehensive and integrated fashion all of the essential information associated with this process. This includes a summary of external and internal requirements, processes for “prescreening” screener candidates, initiating investigations, and adjudicating them. The guide also includes performance metrics and work standards to support staffing and scheduling. We plan to conduct internal audits to ensure compliance with our documented standards, policies, and practices.

**Recommendation 9: Document the Credentialing Program Office workload and then plan and hire staff to meet workload requirements.**

## Appendix A Management Comments

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The CPO has completed an analysis of its workload. The Office is expecting to adjudicate up to 35,000 prescreen background checks on screener candidates, up to 10,000 ANACIs on screeners, and several thousand other OPM investigations on non-screener TSA employees. In addition, there is some remaining personnel security workload associated with Federal Air Marshals, and numerous responses to external inquiries and audits. CPO is responsible for issuing identification badges to all 50,000 TSA employees and official credentials to those who require them in the performance of their official duties.

With respect to functions relating to the transportation industry, CPO is responsible for overseeing and executing background checks on: commercial drivers' license (CDL) holders who are authorized to carry hazardous materials (HAZMAT); aliens who want to undergo flight training in the United States; airport and air carrier employees; participants in the Transportation Worker Identification Credential (TWIC) prototype; general aviation pilots; Federal Flight Deck Officers (FFDO); air cargo industry employees; and, maritime workers and others as assigned. Finally, CPO provides daily support to the TWIC program on a broad range of strategic, tactical, and administrative matters.

CPO has received additional personnel allocations and is working to fill vacancies in all parts of the organization. However, CPO will need significant additional personnel and budgetary resources to successfully execute its mission.

One example of how CPO manages its workload is shown in the sample metrics used for screener candidates currently in the hiring process. These metrics include:

For Pre-employment Checks:

- Total # Initiated
- Total # In-Process
- Total # Adjudicated
- % Complete within 15 Days (requirement from HR)
- Daily # Initiated
- Daily # In-Process
- Daily # Adjudicated

For Completed ANACIs:

- Total Initiated
- Total In-Process
- Total Adjudicated
- Weekly # Initiated
- Weekly # In-Process
- Weekly # Adjudicated

CPO has established work standards to ensure that adequate resources are in place to achieve output requirements. These metrics are used on a daily basis to properly allocate resources. We will continue to refine these standards as we make process changes and improvements to enhance efficiency and effectiveness.

**Recommendation 10: Ensure TSA program managers formally document contract modifications and instructions, maintain a substantive presence with contractors in order to provide guidance and oversight, and require status reports to track mission accomplishment.**

CPO has implemented a policy requiring that all managers and security personnel are notified of contract modifications that impact their work or work products. This simple procedure will ensure that contractors and employees are both informed of, and prepared for, the modifications when they are implemented. The CPO works closely with the TSA Contracting Office to ensure that all contract requirements are met, and appropriate documentation is inserted in the contract file.

The CPO agrees with the recommendation to maintain a substantive presence with contractors to provide guidance and oversight. The CPO maintains daily oversight of all its contractors, through a combination of desk audits of the work performed, review of analytical and tracking reports, and meetings with contractor personnel. The purpose of the “visible presence” is to answer any questions that may arise regarding TSA’s requirements and policies, to perform quality control functions, and to clarify the criteria to be used for the various tasks.

For example, when preparing for the surge in adjudication work involving TSA screeners, CPO assigned two highly competent and capable team leaders to work with contractors. The contractors were US Investigations Services (USIS) and DynCorp Systems and Solutions, LLC (DynCorp). Both contractors were responsible for providing adjudication support. Within two days of USIS and DynCorp having received the contract, TSA’s team leaders conducted an orientation session for each contractor’s staff.

After conducting the orientation session, each team leader spent one week at a contractor’s office to answer any questions about TSA’s requirements and policies, perform quality control functions, and clarify the criteria to be used in adjudicating cases. The team leaders were highly instrumental in:

- Fostering an understanding of TSA’s adjudication standards and criteria;
- Promoting consistency in adjudicative decisions;
- Resolving issues and problems; and,
- Communicating TSA priorities and goals.

In addition, with the newly awarded contract to Kroll Government Services, Inc. to perform “prescreens” on screener candidates, we have included performance reporting requirements, as well as disincentives if Kroll does not complete its investigations within the allotted time set forth in the scope of work. CPO also works, through our contracting officer’s technical representative, to ensure that all contractual commitments are being addressed satisfactorily. The recent transition from ChoicePoint to Kroll has been essentially seamless.

**Recommendation 11: Create a personnel security management tracking system that provides management with accurate, timely, and integrated information on the status of security investigations. The information should reflect the complete cycle of personnel security management, including data on incoming staff, separations, and reconsiderations.**

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In August, the CPO established a stand-alone “10/1” database to focus on the population of screeners who had to have their investigations and adjudications completed by October 1, 2003, and track progress toward achieving this goal. Since then, CPO has taken the following actions:

- Combined the “10/1” database with information in our Background Investigation Tracking System (BITS) database to consolidate all CPO information in one place;
- Expanded the BITS database fields to incorporate additional information that will be helpful in managing CPO workload and status; and,
- Initiated a contact with the Office of Personnel Security at the Department to coordinate our database for tracking clearances with theirs.

We agree with the need for a comprehensive and integrated database and tracking system to facilitate management tracking and reporting on all key CPO processes. However, this will require significant additional IT support that is currently not available.

**Recommendation 12: Improve records management policies, procedures, and practices governing the content, organization, and storage of personnel security management case files.**

We are planning a variety of actions to improve our receipt, handling, storage, and retrieval capabilities for personnel files. These include archiving, securely storing and organizing files based on the status of each case to improve efficiency of file retrieval, and case management. We are also developing standards for each required element of a personnel security file, and implementing quality assurance mechanisms to ensure standards are met consistently.

Records management policies, procedures, and practices were reviewed by HR and revised to further ensure the proper safeguarding and storage of disciplinary files containing personnel security information. An audit of all disciplinary files is being conducted to ensure that they contain sufficient content and are properly organized. The disciplinary files containing personnel security information are maintained in a secure environment.



Appendix A  
Management Comments

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Transportation  
Security  
Administration

The Honorable Harold Rogers  
Chairman, Subcommittee on Homeland Security  
Committee on Appropriations  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:


This letter provides our report, per your request, on background checks on the two remaining groups of airport security screeners who are not part of the October 1, 2003 deadline for completing the Office of Personnel Management (OPM) investigation known as the Access National Agency Check with Inquiries, or ANACI.

There are 749 screeners related to database issues who are active TSA employees. As promised, TSA completed Federal Bureau of Investigation (FBI) fingerprint-based criminal history records checks and a so-called ChoicePoint Phase 1 check on each of these screeners by October 1, 2003. OPM ANACIs will be adjudicated by TSA as soon as they are completed by OPM.

There are 2118 screeners who work for private contractors at five airports across the country (Rochester, NY; Tupelo, MS; Kansas City, MO; Jackson Hole, WY; and San Francisco, CA), on whom we also completed FBI fingerprint and ChoicePoint Phase 1 checks by October 1. OPM ANACIs will be adjudicated by TSA as soon as they are completed by OPM.

Thank you for your leadership and ongoing support on the critically important issue of personnel security in a post-9/11 environment. Should you have additional questions or concerns, please do not hesitate to contact me.

Sincerely yours,

  
J.M. Loy, ADM  
Administrator

Appendix A  
Management Comments

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Transportation  
Security  
Administration



OCT 1 0 2003

The Honorable Harold Rogers  
Chairman, Subcommittee on Homeland Security  
Committee on Appropriations  
U.S. House of Representatives  
Washington, D.C. 20515

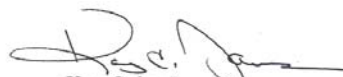
Dear Mr. Chairman:

Attached please find a report prepared, at your request, by the Transportation Security Administration (TSA) and the Office of Personnel Management (OPM) regarding the two agencies' efforts to complete background checks on all TSA screeners, as agreed to in a June 3, 2003 hearing before your Subcommittee.

TSA and OPM are pleased to report that we met the October 1 deadline set in the hearing. Should you have additional questions or concerns, please do not hesitate to contact either of us.

Sincerely yours,

  
J.M. Loy, ADM  
Administrator

  
Kay Coles James  
Director



Transportation  
Security  
Administration



**Report to the Subcommittee on Homeland Security,  
Committee on Appropriations, U.S. House of Representatives  
From The  
Transportation Security Administration and the Office of Personnel Management**

On June 3, 2003, the Subcommittee held a hearing to determine the extent to which the Transportation Security Administration (TSA) had conducted personnel background investigations on its Airport Screener staff to determine their suitability for Federal employment. During the hearing, TSA reported that it had not yet submitted requests to the Office of Personnel Management (OPM) for Access National Agency Check with Inquiry investigations (ANACI) for approximately 18,000 of its 53,505 screeners. The ANACI meets the investigative standard required for Executive Branch agencies by Executive Order. More than 98 percent of the screeners had undergone a Federal Bureau of Investigations (FBI) fingerprint check, to determine if any had a criminal history record on file with the FBI, as well as the so-called ChoicePoint Phase 1 pre-screen, which looks at criminal and credit histories, as well as possible connections to terrorist threats.

As a result of the testimony at the hearing, the Chairman of the Subcommittee asked TSA and OPM to commit to complete the investigation process by October 1, 2003 for all screeners employed as of May 2003. TSA agreed to submit complete investigation requests, OPM to complete and report the results of the investigations to TSA, and TSA to review the investigation results and adjudicate whether each employee was suitable for Federal employment.

OPM and TSA are pleased to report that the agencies have jointly completed this work and have met the deadline. This accomplishment is a significant demonstration of how two agencies worked together toward a common goal that had significant national security implications for the Nation. Both agencies devoted substantial resources to this effort, making it their highest priority. OPM called on the support from Federal, State and local agencies, and identified ways to improve its process while maintaining the integrity of its investigative process. TSA temporarily increased resources to ensure that each case could be adjudicated within the required timeframe. The lessons learned from this unprecedented effort will be applied to future challenges in this post 9-11 environment.

We are grateful for the Subcommittee's interest and leadership on this important issue and look forward to working with the Subcommittee in the future. Attached to this report please find a chart that provides additional details on our joint efforts.



Transportation  
Security  
Administration



**Status of Background Checks on TSA Screeners  
As of October 1, 2003**

<b>Category of Screeners</b>	<b>Number of Screeners</b>
Total active screeners as of May 31, 2003 (based on Pay Period 10 (ending May 3, 2003) payroll data	53,505
Screeners separated between May 31-October 1 due to attrition, right-sizing and suitability issues	6,440
<b>Active screeners as of 10/1/03</b>	<b>47,065</b>
Closed OPM ANACI cases favorably adjudicated	46,705
Closed Pending OPM ANACI cases favorably adjudicated	109
Screeners slated to be separated and currently on administrative leave until reported criminal histories can be resolved	16
Screeners on military leave (ANACIs will be completed when they return to TSA)	220
Screeners on extended sick leave (ANACIs will be completed when they return to TSA)	15
<b>Active screeners as of 10/1/03</b>	<b>47,065</b>

The OIG evaluated TSA's written comments and made changes to the draft report where deemed appropriate. Below are a summary of TSA's response to the report's recommendations and the OIG analysis of TSA's response.

**Recommendation 1: Complete screener position risk designations with input from the personnel security officials of the Department of Homeland Security and from appropriate TSA offices, including the Credentialing Program Office, Human Resources Office, and Aviation Operations. Screener position risk designation records, position descriptions, and vacancy announcements should reflect the correct designation.**

TSA agreed to complete the screener position risk designations and update the position risk designation records, position descriptions, and vacancy announcements by mid-January 2004. TSA reported that it has convened a group with representatives from CPO, Aviation Operations, and Human Resources Office to complete the designations.

Once complete, these actions will address the bulk of the recommendation. However, the OIG maintains that TSA should include input from the DHS Personnel Security Division in selecting the designations in order to ensure that TSA's chosen designation does not conflict with DHS guidance. DHS's draft Interim Personnel Security Directive sets forth non-critical sensitive as the minimum designation and the MBI as the standard minimum investigation. If TSA finds a lesser designation and investigation to be appropriate, TSA must resolve any conflict with DHS before completing the screener position risk designations.

**Recommendation 2: Complete the comparison study of the effectiveness of Office of Personnel Management and private sector background checks. Incorporating the review's results, modify screener background checks as needed to ensure they suit the position risk designation, meet Department of Homeland Security standards, and are cost-efficient.**

TSA does not plan to conduct the comparison study as recommended. TSA stated that the CPO lacks the resources to complete the study; moreover, TSA believes that checks are currently conducted in the most efficient manner possible. TSA maintains that the Office of Personnel Management and private sector background checks are complementary rather than duplicative. TSA

stated that the checks serve two different functions, with the private sector checks providing the rapid information needed to evaluate applicants before hiring, and the more in-depth OPM checks providing the information needed to retain screeners hired on a probationary basis. Currently, TSA is examining alternatives to the OPM ANACI investigation that may prove quicker and less costly. TSA expects to complete the analysis in early 2004.

The OIG believes that TSA's examination of ANACI alternatives may satisfy the intent of this recommendation. For that to occur, TSA's revised process should continue to meet the requirement of EO 10450 to conduct national agency checks and inquiries; should eliminate or justify duplicative checks, such as two separate credit checks; and should conform to Department of Homeland Security personnel security standards.

**Recommendation 3: Ensure, without exception, that all screeners undergo a fingerprint-based criminal history records check and receive a favorable adjudication before they begin training and work.**

TSA commented that it is current TSA policy to complete a favorably adjudicated criminal history records check before offering employment to job candidates. TSA stated that it has put in place processes, procedures, and systems to ensure that both fingerprint and preliminary background checks are complete before candidates are hired. TSA added that the CPO and Human Resources Office collaborate in administering this process.

The OIG accepts TSA's response. TSA should describe in its action plan what processes, procedures, and systems have been established and note which office holds responsibility for implementing them.

**Recommendation 4: Incorporating guidance from the Department of Homeland Security, define the role that contract adjudicators will play in TSA's background check process and the minimum requirements that TSA must meet to fulfill its oversight responsibilities.**

TSA reported that it no longer relies on contractors to conduct adjudications and that CPO employees now complete the adjudications. Additionally, the TSA Office of Chief Counsel has advised that contractors may perform initial adjudications, subject to close oversight by TSA.

The OIG accepts TSA's response and notes that the Office of Chief Counsel's current advice, allowing contractors to make initial and not final adjudication decisions, brings TSA in line with DHS practice. If TSA resumes use of contract adjudicators in the future, it will be important for TSA to define its minimum oversight requirements.

**Recommendation 5: Institute precautions to protect against terminations that are based on incorrect information.**

TSA has instituted two measures to guard against erroneous terminations. TSA has added a quality assurance check for all unfavorable adjudications before referring the cases to the Human Resources Office for termination. In addition, CPO will send interrogatory letters to screeners with potentially disqualifying issues in order to allow screeners to explain, refute, or mitigate the unfavorable information before CPO recommends termination.

The OIG accepts TSA's response. In its action plan, TSA should describe the process, including parties responsible, for conducting the quality assurance checks on unfavorable adjudications and for handling interrogatory letters and replies.

**Recommendation 6: Establish mechanisms to prevent and abort background checks on applicants and employees whom TSA disqualifies.**

TSA reported that it established and began using mechanisms to abort OPM background checks on disqualified screeners in mid-summer 2003.

The OIG agrees that aborting OPM background checks on disqualified screeners will eliminate a substantial amount of unnecessary case processing. TSA may have a further opportunity to reduce unnecessary case processing by aborting adjudications on screeners already disqualified by either a fingerprint-based criminal history records check or ChoicePoint-type check. The OIG accepts TSA's response and anticipates reviewing TSA's latest procedures in its action plan.

**Recommendation 7: Strengthen procedures for completing and retaining the Employment Eligibility Verification Form (Form I-9).**

TSA responded that it has revised its procedures for completing and retaining the Employment Eligibility Verification Form (Form I-9). TSA is conducting

a systematic review to ensure the forms' completeness as it establishes a new filing system, separate from the OPFs, for retaining these records.

The OIG accepts TSA's response. TSA should describe in its action plan the process and parties responsible for reviewing and filing the Employment Eligibility Verification Forms. TSA should also note the expected completion date for the review of previously collected forms.

**Recommendation 8: Implement personnel security management policies and procedures and document departures from them.**

TSA stated that the CPO is developing a "standardization guide" that captures all essential guidelines for screener adjudications, including processes for initiating and adjudicating screener background checks, performance metrics, and work standards. TSA also plans to conduct internal audits to ensure compliance with its documented standards and policies.

The OIG agrees that developing clearer guidelines for screener background checks, and auditing for compliance with them, are positive steps. However, the OIG is concerned that TSA's response does not fully address the recommendation. Before October 1, 2003, TSA nominally operated under DOT personnel security management policies, which include a manual that comprehensively addresses personnel security aspects such as personnel security responsibilities across the agency, position risk designation methods, investigation requirements including reciprocity standards, and procedures for adverse security actions. Adjudication guidelines, like those TSA plans to develop in response to this recommendation, are also one element contained in the manual. As the OIG reported, TSA inconsistently followed the DOT policies and did not document the instances in which TSA chose not to follow DOT policy.

The OIG holds that the TSA personnel security management program should operate under guidelines with a breadth similar to DOT personnel security management policies. Currently, the DHS draft Interim Personnel Security Directive can provide much of this structure for TSA, but it is incumbent upon TSA to elaborate how it will implement the general policy. DHS has noted that component agencies are not prohibited from exceeding the minimum standards set within the Interim Personnel Security Directive. Screener adjudication guidelines address one of the personnel security management areas in which TSA may develop more specific policies to implement the



general DHS policy. TSA should describe in its action plan the steps the CPO is taking to adopt policies and procedures for personnel security management.

**Recommendation 9: Document the Credentialing Program Office workload and then plan and hire staff to meet workload requirements.**

TSA responded that the CPO has completed an analysis of its workload. TSA found that significant, additional personnel and budgetary resources would be required to meet the office's multiple program requirements. TSA reported that the CPO received additional personnel allocations and is working to fill vacancies. In addition, the CPO continues to measure and document its workload in order to assist in future resource allocation.

It is not clear to the OIG that TSA's staffing plans will enable the CPO to adapt to a high workload, like the one that helped cause the backlog of thousands of screener background checks. Although it is unlikely TSA will repeat hiring screeners at such high volume, it is likely that other credentialing programs, such as background checks for hazardous materials transportation workers, will cause the CPO workload to swell. In its action plan, TSA should include the CPO workload analysis and a copy of the hiring plan based on that analysis.

**Recommendation 10: Ensure that TSA program managers formally document contract modifications and instructions, maintain a substantive presence with contractors in order to provide guidance and oversight, and require status reports to track mission accomplishment.**

TSA responded that several steps have been taken to improve control over the work of TSA contractors. Coordinating with the TSA Contracting Office, the CPO has implemented a policy for documenting contract modifications. Second, TSA reported that CPO maintains contractor oversight through meetings, desk audits, and reviewing reports; also, TSA illustrated previous examples of the onsite assistance to contractors that CPO provided. Finally, TSA noted that it incorporated performance reporting requirements in its newly awarded contract with Kroll Government Services, Inc.

The OIG accepts TSA's response. In support of its action plan, TSA should provide the OIG with a copy of the policy for documenting contract modifications and instructions and a copy of the performance reporting requirements set for Kroll Government Services, Inc. TSA should also explain

in greater detail its practices for monitoring the quality of contractor work related to the background check process.

**Recommendation 11: Create a personnel security management tracking system that provides management with accurate, timely, and integrated information on the status of security investigations. The information should reflect the complete cycle of personnel security management, including data on incoming staff, separations, and reconsiderations.**

TSA described the Background Investigation Tracking System (BITS) database that the CPO developed to consolidate and manage personnel security information. BITS currently contains information on the screener background checks, and the CPO is expanding it to incorporate additional information about CPO workload and status. TSA also stated that it plans to coordinate its database for tracking security clearances with that of the DHS Personnel Security Division, a task DHS is requiring of all components. TSA agreed with the OIG that the CPO needs a comprehensive and integrated database and tracking system, but TSA stated that it lacks available informational technology support to provide them.

The OIG acknowledges that over the past few months the CPO has made significant progress in automating its personnel security information. However, TSA's response insufficiently addresses the recommendation. Our report suggested that many of the weaknesses in tracking the screener background checks arose from the poor link between Human Resources data, including that on incoming staff, separations, and reconsideration requests, and CPO data. The OIG affirms the recommendation that TSA develop a stronger system for linking this data. If TSA's informational technology resources are insufficient to provide a comprehensive solution at this time, then TSA should pursue an interim solution. In its action plan, TSA should describe the steps it is taking to ensure that the CPO develops and receives the information necessary to track and manage personnel security investigations in an accurate and timely manner, including at a minimum key Human Resources data.

**Recommendation 12: Improve records management policies, procedures, and practices governing the content, organization, and storage of personnel security management case files.**

TSA stated that it has undertaken a variety of actions to improve the handling and storage of personnel security files. TSA is developing standards for the content of personnel security files and quality assurance mechanisms to ensure the standards are met. TSA also plans to reorganize personnel security files and to store them securely. Furthermore, TSA noted that it has improved the handling and storage of disciplinary files containing personnel security information. With input from the Human Resources Office, TSA revised its procedures for storing and safeguarding these disciplinary files, and TSA is auditing them to ensure proper content.

The OIG accepts TSA's response. TSA should begin securing the personnel security files at the earliest possible opportunity. Developing standards for the content of personnel security files will be another important step in improving TSA's policies for managing personnel security records. In support of its action plan, TSA should provide the OIG with a copy of the standards for content, organization, and storage of the personnel security files. TSA should also note its timeline for implementing the standards and any quality assurance reviews or audits planned to ensure the standards are met.

We recommend that the TSA Administrator:

**Recommendation 1:** Complete screener position risk designations with input from the personnel security officials of the Department of Homeland Security and from appropriate TSA offices, including the Credentialing Program Office, Human Resources Office, and Aviation Operations. Screener position risk designation records, position descriptions, and vacancy announcements should reflect the correct designation.

**Recommendation 2:** Complete the comparison study of the effectiveness of Office of Personnel Management and private sector background checks. Incorporating the review's results, the Administrator should modify screener background checks as needed to ensure they suit the position risk designation, meet Department of Homeland Security standards, and are cost-efficient.

**Recommendation 3:** Ensure, without exception, that all screeners undergo a fingerprint-based criminal history records check and receive a favorable adjudication before they begin training and work.

**Recommendation 4:** Incorporating guidance from the Department of Homeland Security, define the role that contract adjudicators will play in TSA's background check process and the minimum requirements that TSA must meet to fulfill its oversight responsibilities.

**Recommendation 5:** Institute precautions to protect against terminations that are based on incorrect information.

**Recommendation 6:** Establish mechanisms to prevent and abort background checks on applicants and employees whom TSA disqualifies.

**Recommendation 7:** Strengthen procedures for completing and retaining the Employment Eligibility Verification Form (Form I-9).

**Recommendation 8:** Implement personnel security management policies and procedures and document departures from them.

**Recommendation 9:** Document the Credentialing Program Office workload and then plan and hire staff to meet workload requirements.

**Recommendation 10:** Ensure that TSA program managers formally document contract modifications and instructions, maintain a substantive presence with contractors in order to provide guidance and oversight, and require status reports to track mission accomplishment.

**Recommendation 11:** Create a personnel security management tracking system that provides management with accurate, timely, and integrated information on the status of security investigations. The information should reflect the complete cycle of personnel security management, including data on incoming staff, separations, and reconsiderations.

**Recommendation 12:** Improve records management policies, procedures, and practices governing the content, organization, and storage of personnel security management case files.

Pursuant to 49 U.S.C. § 44936(b) and 49 C.F.R. § 1542.209(d), applicants convicted of one or more of the following 28 felony crimes within the past ten years are not eligible to serve as screeners:

1. Forgery of certificates, false marking of aircraft, and other aircraft registration violation, 49 U.S.C. 46306;
2. Interference with air navigation, 49 U.S.C. 46308;
3. Improper transportation of a hazardous material, 49 U.S.C. 46312;
4. Aircraft piracy, 49 U.S.C. 46502;
5. Interference with flight crew members or flight attendants, 49 U.S.C. 46504;
6. Commission of certain crimes aboard aircraft in flight, 49 U.S.C. 46506;
7. Carrying a weapon or explosive aboard aircraft, 49 U.S.C. 46505;
8. Conveying false information and threats, 49 U.S.C. 46507;
9. Aircraft piracy outside the special aircraft jurisdiction of the United States, 49 U.S.C. 46502(b);
10. Lighting violations involving transporting controlled substances, 49 U.S.C. 46315;
11. Unlawful entry into an aircraft or airport area that serves air carriers or foreign air carriers contrary to established security requirements, 49 U.S.C. 46314;
12. Destruction of an aircraft or aircraft facility, 18 U.S.C. 32;
13. Murder;
14. Assault with intent to murder;
15. Espionage;
16. Sedition;
17. Kidnapping or hostage taking;
18. Treason;
19. Rape or aggravated sexual abuse;
20. Unlawful possession, use, sale, distribution, or manufacture of an explosive or weapon;
21. Extortion;

22. Armed or felony unarmed robbery;
23. Distribution of, or intent to distribute, a controlled substance;
24. Felony arson;
25. Felony involving a threat;
26. Felony involving:
  - a) willful destruction of property;
  - b) importation or manufacture of a controlled substance;
  - c) burglary;
  - d) theft;
  - e) dishonesty, fraud, or misrepresentation;
  - f) possession or distribution of stolen property;
  - g) aggravated assault;
  - h) bribery; or
  - i) illegal possession of a controlled substance punishable by a maximum term of imprisonment of more than one year;
27. Violence at international airports, 18 U.S.C. 37;
28. Conspiracy or attempt to commit any of the criminal acts listed above.

Appendix E  
Major Contributors to This Report

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Melissa M. Howard, Ph.D., Chief Inspector  
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In addition, Marcia M. Hodges, Senior Inspector, and Meredith Megles, Senior Inspector, provided valuable contributions to the research for this report.



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