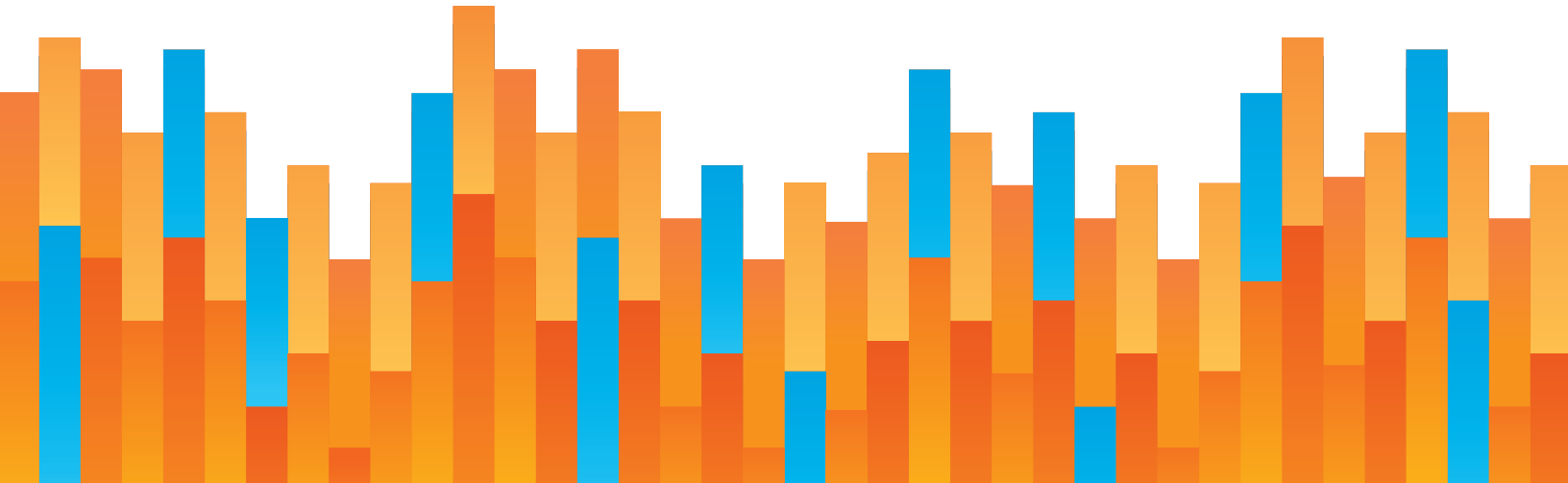
reason
FOUNDATION

FIXING TSA'S CONFLICT OF INTEREST

by Robert W. Poole, Jr.

June 2026



Reason Foundation's mission is to advance a free society by developing, applying, and promoting libertarian principles, including individual liberty, free markets, and the rule of law. We use journalism and public policy research to influence the frameworks and actions of policymakers, journalists, and opinion leaders.

Reason Foundation's nonpartisan public policy research promotes choice, competition, and a dynamic market economy as the foundation for human dignity and progress. Reason produces rigorous, peer-reviewed research and directly engages the policy process, seeking strategies that emphasize cooperation, flexibility, local knowledge, and results. Through practical and innovative approaches to complex problems, Reason seeks to change the way people think about issues, and promote policies that allow and encourage individuals and voluntary institutions to flourish.

Reason Foundation is a tax-exempt research and education organization as defined under IRS code 501(c)(3). Reason Foundation is supported by voluntary contributions from individuals, foundations, and corporations. The views are those of the author, not necessarily those of Reason Foundation or its trustees.

TABLE OF CONTENTS

PART 1

INTRODUCTION

The Transportation Security Administration (TSA) was enacted by Congress in 2001, just 10 weeks after terrorists hijacked four commercial airplanes on September 11th. In their haste to beef up aviation security, Congress built in a basic flaw: the new agency was designed to be both the regulator and a major provider of airport security services. The Senate bill's "complete federal takeover" of airport security made TSA both the regulator and the provider of nearly all airport screening—a built-in conflict of interest. The House bill allowed five airports to use private security contractors, selected by the new TSA.

This policy brief traces the evolution of airport security under TSA, pointing out conflicts due to its dual role as both regulator and provider, and recounts the slow growth of airports contracting with TSA-selected private firms under the agency's Screening Partnership Program (SPP). Based on this evidence, and comparing the U.S. approach to other countries, this brief recommends ways to improve the current system.

PART 2

TSA'S ORIGIN

Following the 9/11 disaster, both the Senate and the House resolved to improve airport security. Prior to 9/11, the Federal Aviation Administration required airlines to provide a basic form of passenger screening before passengers could reach their boarding gate. For the airlines, this was an unfunded mandate, and there were no FAA standards or performance requirements. Therefore, airlines contracted with security companies to provide the lowest-cost, least-intrusive screening of passengers and luggage.

Pre-9/11 airport screening was widely seen as inadequate, and both houses of Congress gave top priority to legislation that would significantly strengthen it. On October 11, 2001, the Senate unanimously passed a bill calling for the complete "federalization" of airport security. There was no fact-finding testimony from aviation and security experts, only bipartisan speeches attacking private security companies and assurances that a new federal workforce would take over as soon as possible.

Members of the House took more time, with the Transportation & Infrastructure Committee interviewing some aviation experts, including this author, who served as a subject matter advisor to the Committee's Aviation Subcommittee). With input from both Airports Council International-North America and the American Association of Airport Executives, and support from GOP leadership, the House passed, by a vote of 286 to 139, a bill that would allow airports (not airlines) to select private screening companies under new federal supervision. The two bills then had to be resolved by a House/Senate conference committee.

> *Pre-9/11 airport screening was widely seen as inadequate, and both houses of Congress gave top priority to legislation that would significantly strengthen it.*

As those efforts for a compromise were getting under way, a reporter asked White House Chief of Staff Andrew Card if President George W. Bush would sign a bill that would federalize all screening, as in the Senate bill. Card said that he would. That changed the balance of power in the conference committee in favor of a federal takeover. The one compromise for the new Air Transportation Security Act (ATSA) was the inclusion of a five-airport pilot program using private contractors, and for all airports to be able to choose this option starting in November 2004.[1]

[1] S.1447 Aviation and Transportation Security Act, 11-19-2001, Public Law No. 107-71.

PART 3

TSA'S UNRESOLVED DESIGN FLAW

In reports and testimonies over more than 25 years, this author has pointed out the built-in conflict in TSA as created by Congress in 2001, as both the regulator of aviation security and the provider of nearly all aviation passenger and baggage screening. A self-regulator has a tendency to be strict with private sector actors and not as strict with its own personnel.

This built-in conflict is in violation of aviation best practices promulgated by the International Civil Aviation Organization (ICAO), to which the United States along with 188 other countries is a signatory. This policy is found in ICAO Annex 17, Standard 3-4-7. Under the Chicago Convention that created ICAO, "contracting states are required to notify [ICAO] of any differences between their national regulations and practices and ICAO's international standards." The United States has failed to notify ICAO that it does not comply, based on the Air Transportation Security Act (ATSA) that created TSA.

Congressional criticism of TSA's built-in conflict began early in its existence. In a full-page guest editorial in *Aviation Week*, House Aviation Subcommittee's then-Chairman John Mica (R, FL) questioned the cost-effectiveness of TSA's 45,000-person screening workforce and characterized it as a "centralized, Soviet-style command-and-control operation." He went on to call for broadening the scope of what was initially called its screening "Opt-Out

program"—in which airports were given the option of contracting with a TSA-approved private screening company instead of having TSA itself provide the screening of passengers and checked baggage.[2]

Responding to such criticisms, in 2006 Reason Foundation released a policy study on rethinking TSA's role. It specifically called for removing TSA's built-in conflict of interest by converting it into the aviation security regulator and policymaker, divesting airport passenger and bag screening to the airports.[3] The study pointed out that airports were already responsible for all other security including access control, perimeter security, and all other aspects except passenger and bag screening. "A unified approach, using cross-trained people, would be more efficient and more effective," the report noted.

> *Congressional criticism of TSA's built-in conflict began early in its existence.*

In 2006 came the first public report on TSA's screening being tested by "Red Teams"—non-TSA personnel who attempted to get through airport checkpoints with forbidden articles. In the first non-classified test of this sort, the Red Team sneaked contraband past Newark airport screeners in 20 out of 22 attempts.[4] In response, TSA dispatched an investigative team not to analyze the screeners' poor performance but to find out who leaked the test results.[5]

In 2007, a Red Team member contacted this author, expressing concerns about TSA's practices. He explained that TSA's Red Team reports to the TSA administrator (who was Kip Hawley at time). His concern was that the TSA Inspector General, because he reports to

2 John Mica, "Don't Squander Awakening," *Aviation Week*, 2004.

3 Robert W. Poole, Jr., "Airport Security: Time for a New Model," Reason Foundation, January 2006. (https://reason.org/policy-study/airport-security)

4 "U.S. Shakes Up Security at Newark," *The New York Times*, March 11, 2006.

5 Robert Poole, "Conflict of Interest Still a Live Issue for TSA," *Aviation Security Newsletter*, Issue No. 22, December 2006.

Hawley, cannot provide independent quality control.[6] He also noted that under the ICAO Convention, aviation regulatory bodies must be organizationally separate from aviation service providers, and that "contracting states are required to notify [ICAO] of any differences between their national regulations and practices" and ICAO's international standards. At least at that time, TSA had not done so.

In October 2007, news reports revealed that a Red Team had managed to get hidden bomb materials past TSA screeners in 60% of attempts at Chicago O'Hare Airport (ORD) and in 75% of attempts at Los Angeles International (LAX).

In October 2007, news reports revealed that a Red Team had managed to get hidden bomb materials past TSA screeners in 60% of attempts at Chicago O'Hare Airport (ORD) and in 75% of attempts at Los Angeles International (LAX).[7] What might account for such poor performance? In an article about this story, this author contrasted a private security company and TSA's own employees.[8] If the former failed to detect forbidden objects, it would risk getting fired. But if TSA screeners fail in this way, they will get admonished to try harder. Furthermore, there is a tendency of any large organization to be defensive about its own poor performance. It's only human nature for a regulatory agency to be harder on those it regulates at arm's length than those who are part of its own family.

The first non-TSA assessment of covert testing was released by the Government Accountability Office in 2008 (GAO-08-958). This assessment of TSA's own covert testing of airport screening lauded TSA for carrying out such tests but faulted it for not systematically using the results to improve passenger and baggage screening. In 2009 GAO analyzed two studies of TSA's outsourced airport screening program, known as the Screening Partnership Program (SPP). The first was awarded by TSA to Catapult Consultants to review the cost and

6 Robert Poole, "TSA's Regulation-vs-Service Provision Conflict, Continued," *Airport Policy News*, Issue No. 25, April 2007.

7 "Airport Screeners Failed to Find Most Fake Bombs, TSA Says," *USA Today*, October 18, 2007.

8 Robert Poole, "New Questions About Screeners' Performance," *Airport Policy News*, October 2007.

performance at six of the 10 airports then using private operators selected by TSA. The others were completed in-house by TSA and sought to compare the costs of TSA and private screening. The Catapult study did some cost assessment, concluding that private screening was between 9% and 17% more expensive than TSA-provided screening. The agency's own report claimed that private screening cost 17.4% more than TSA screening. GAO pointed out that TSA did not include a variety of overhead costs in estimates of its own costs. Also Catapult estimated that "SPP airports' overall performance results are equal to or better than those delivered by non-SPP airports."

Based on findings that contract screeners are just as effective as TSA screeners, and using data on the number of screeners at each airport and the number of annual passengers screened, the report found that the contract provider at SFO processed 65% more passengers per screener than the TSA screeners at LAX.

In June 2011 the House Transportation & Infrastructure Committee released a report titled "TSA Ignores More Cost-Effective Screening Model."[9] Its focus was a comparison of screening costs at two major airports: SFO with contract screening and LAX with TSA screening. Based on findings that contract screeners are just as effective as TSA screeners, and using data on the number of screeners at each airport and the number of annual passengers screened, the report found that the contract provider at SFO processed 65% more passengers per screener than the TSA screeners at LAX. If the TSA screeners at LAX operated as efficiently as the contract screeners at SFO, the LAX workforce would be 867 persons smaller, saving an estimated $33 million per year. The study also found that annual screener turnover at LAX was 13.8% versus 8.7% at SFO. After also including the TSA's costs of filling in for vacancies at LAX, the report estimated that if the private screener model were applied to LAX, its annual cost would decline from $90.6 million to $52 million—a 42% reduction.

[9] House Transportation & Infrastructure Committee, "TSA Ignores More Cost-Effective Screening Model," June 3, 2011.

The Committee's report went beyond that to critique hurdles that airports wanting to shift to private-contract screening must go through, for which TSA requires a detailed justification. It then points out that the 2001 ATSA legislation does not put the burden of proof on an airport to justify switching to private screening, reminding TSA that the legislation allows any or all airports to make this shift.

In 2011 TSA Administrator John Pistole abruptly rejected all pending applications from airports seeking to replace TSA screeners with TSA-certified security companies. He insisted that those seeking to outsource screening must demonstrate a "clear or substantial advantage" of outsourcing their screening. *The New York Times* ran an article summarizing the House T&I Committee's detailed study from 2011.[10] Other media ran similar articles, several of them quoting House T&I Committee Chair John Mica on the Committee's 2011 study.

Also in 2011, Sen. Frank Lautenberg (D, NJ) asked the Department of Homeland Security's Inspector General to investigate well-publicized security breaches at Newark (EWR) and other airports. A redacted version of that report was released in May 2012.[11]

Based on their analysis of 17 months of data from six large airports, the OIG team found that not all security breaches were being reported to TSA headquarters, partly because two different TSA divisions defined security breaches differently. Only a fraction of breaches—ranging from 42% to 88%—were being reported. Due to this incomplete data, the report concluded, TSA headquarters "cannot use [security breach] information to monitor trends or make general improvements to security."

The OIG team did not ask (at least in the redacted version) how TSA, as the nation's first line of defense against threats to aviation, could do such a sloppy job of riding herd on its own work force. A plausible hypothesis is that this stems from the agency's dual role as both the aviation security regulator and the operator of nearly all airport screening. No other country that this author is aware of has built in this kind of organizational mistake. In every developed, modern country, the aviation security regulator functions solely as the aviation security policymaker and regulator.

---

10 Susan Stellin, "Lawmakers Push for More Private Screeners at Airports," *The New York Times*, January 30, 2012.

11 DHS Office of Inspector General, "Transportation Security Administration's Efforts to Identify and Track Security Breaches at Our Nation's Airports," OIG-12-08, May 2012.

December 2012 brought a new GAO study on the SPP. GAO-13-208 found that TSA-certified screeners at 16 airports were performing as well as or better than TSA screeners at comparable airports. That did not stop Rep. Bennie Thompson (D, MS) from issuing a news release calling for a halt to any more airports entering the SPP. But the GAO report omitted several key points, including the comparison of screening costs and performance at SFO and LAX and the benefits of making it easier for airports to apply.

> *In every developed, modern country, the aviation security regulator functions solely as the aviation security policymaker and regulator.*

In 2015 the DHS Inspector General's office carried out Red Team testing at a number of airports. Because the results revealed major vulnerabilities in current screening operations, the report remains classified. We do know that checkpoint screeners failed 67 of 70 tests. In 2014 that same agency had released a non-classified summary of a report called "Vulnerabilities Exist in TSA's Checked Baggage Screening Operations" (OIG-14-142, September 2014). It sent Red Teams to an undisclosed number of airports. The unclassified summary reports, "We identified vulnerabilities in this area caused by human and technology-based failures. We also determined that TSA does not have a process in place to identify the cause of equipment-based test failures or the capability to independently assess whether deployed explosive detection systems are operating at the correct detection standards."

In May 2015, OIG released "The Transportation Security Administration Does Not Properly Manage Its Airport Screening Maintenance Program" (OIG-15-86, May 6, 2015). It found that "Because TSA does not adequately oversee equipment maintenance, it cannot be assured that routine preventive maintenance is performed or that equipment is repaired and ready for use." The report also cited GAO-06-795, which had reported similar problems in July 2006, nearly nine years previously.

These problems are the result of TSA being both the aviation security regulator and the provider of nearly all airport security functions—self-regulation. As an in-house agency, TSA is inspected by its own department, creating disincentives for excellence in performance.

In November 2015 the House Oversight Committee held a hearing with testimony from both the DHS Inspector General and the GAO about the latest round of covert testing of TSA passenger screening. Inspector General John Roth reported that "The failures included failures in technology, failures in TSA procedures, and human error." Jennifer Grover of GAO testified that "TSA has consistently fallen short of basic program management." Yet the committee did not question TSA's dual role as both regulator and operator of aviation security.

Jennifer Grover of GAO testified that "TSA has consistently fallen short of basic program management." Yet the committee did not question TSA's dual role as both regulator and operator of aviation security.

In 2016 there were scenes of panic only a few weeks apart at both LAX and JFK airports. In an article for *CNTraveler*, reporter Barbara Peterson wrote that, "A major problem facing airport security is the post-9/11 patchwork of different agencies that are involved in keeping airports safe. While all airports are required by FAA to perform emergency drills, TSA—which is nominally in charge of security—is limited to the checkpoint area, although it does spot-checks of airport employees in other areas."[12]

That autumn, Rep. Mike Rogers (R, AL) discussed planned legislation to allow all airports to replace TSA screeners with qualified private contractors. In a *Boston Globe* article that winter, reporter Neil Swidey highlighted Rogers' ideas for reform.[13] He quoted Rogers, pointing out that outsourcing airport screening is common in Europe and that he intended to promote this approach on Congress' Homeland Security Committee in 2017.

In September 2017 the GAO issued an analysis of TSA's cost-effectiveness, GAO-17-794. Congress had asked GAO to look into what information TSA may have on the effectiveness

12 Barbara Peterson, "The Best and Worst TSA Checkpoints," CNTraveler.com, January 28, 2016.

13 Neil Swidey, "Do Airport Security Lanes Have to Be So Awful?" *Boston Globe*, December 8, 2016.

of its efforts and whether it uses such evidence to assess the cost-effectiveness of its program. The report is a sanitized version of the original classified report, but the short answer is that TSA has done little to look into cost-effectiveness. For example, it never compared the costs and benefits of Federal Air Marshals and armed pilots (Federal Flight Deck Officers). It does not identify the extent of false negatives in its Secure Flight prescreening system. Overall, GAO concluded that "TSA does not have any efforts under way to systematically evaluate the potential cost and effectiveness tradeoffs across the full aviation security spectrum." One might identify this as the expected response of an agency that is both aviation security operator and its regulator.

In the 2018 TSA Modernization Act, Congress asked the GAO to review whether and how TSA allocates resources for screening technology, based on risk, as well as the process by which TSA develops standards for technologies to detect prohibited items. The resulting report, GAO-20-56, revealed that TSA does not always operationalize detection standards, has not updated its 2015 guidance document on developing new standards, did not document key steps in its threat assessments, and has not documented the process it uses for risk assessments. One of the most shocking findings was this: "TSA does not ensure that screening technologies continue to meet detection requirements after deployment to an airport." An aviation security regulator at arm's length from operators of airport security services would be considered a failure if that were how it operated.

The resulting report, GAO-20-56, revealed that TSA does not always operationalize detection standards, has not updated its 2015 guidance document on developing new standards, did not document key steps in its threat assessments, and has not documented the process it uses for risk assessments.

In 2019 GAO released a new assessment of how TSA performs when covert testers try to bring prohibited items through TSA checkpoints. GAO-19-374's redacted version reveals that TSA is still pretty poor at detecting such items. The report reveals that some of TSA's self-operated testing was providing subtle clues that a test was about to take place. Even

tests carried out by TSA's Security Operations were still very flawed. GAO learned that it was common practice in these tests for senior officials to be standing by to observe the testing. And GAO also learned that TSA used the same test bag of prohibited items in all the tests. This kind of thing would be far less likely to occur if the aviation security regulator were not also the screening operator.

In early 2026, a federal funding shutdown left DHS and hence TSA unfunded. That meant TSA screeners reported for work despite not getting paid, and the longer this funding shutdown continued, the fewer screeners showed up for work. This is yet another flaw in our centralized approach to airport security screening. If TSA were solely the aviation security policymaker and regulator, screening would most likely be the responsibility of each airport, under the regulatory oversight of TSA. In U.S. airports that take part in TSA's Screening Partnership Program, the funding comes directly from the airport's budget, like all the other aviation security measures, such as securing the airport's perimeter and keeping unauthorized persons off the tarmac.

Our current model creates security vulnerabilities by causing current TSA staffers to leave the agency for careers with more stable pay. This agency exodus exacerbates the problem by leading to less staff seniority. Further the staff that stayed often took second jobs or called out sick more frequently. In addition to lessening security, it is a terrible way to treat agency staff.

PART 4

HOW OTHER COUNTRIES DO AIRPORT SECURITY

Different legal frameworks affect how countries conduct airport security screening. Given that Canada, the European Union (EU), Australia, and New Zealand are legally most similar to the U.S., they offer the best comparison. Other developed countries are not good comparisons. Israel's approach focuses on the person and includes profiling of certain population groups that would run afoul of U.S. equal rights and privacy protections. Japan does not have the same "innocent until proven guilty" protections under law. Many developing countries do not meet International Civil Aviation Organization (ICAO) International Aviation Safety Assessment Level 1 standards for airport security.

In 2008 the OECD's International Transport Forum commissioned this author to research and write a policy paper comparing and contrasting aviation security in the United States, Canada, and the European Union (EU). This research found that TSA's conflict of interest does not exist in Canada or any of the EU countries (which at that point included Great Britain).[14] In fact, neither Canada nor the EU countries had an aviation security entity that combined aviation security policy and regulation with the actual provision of airport security. In all those countries aviation security policy and regulation are carried out by an

[14] Robert W. Poole, Jr., "Towards a Risk-Based Aviation Security Policy," in OECD International Transport Forum, *Terrorism and International Transport: Towards Risk-Based Security Policy*, Round Table 144, 83-107, 2009.

agency of the national government. But the provision of security screening at airports is carried out either by the airport itself or by a government-certified private security firm.

Legally, in Europe, airport security is the responsibility of the airport operator. Whether the screening is done by the airport itself or via a private security company varies from country to country and in some countries from airport to airport. In no case is it provided by the national government's aviation security agency.

Whether the screening is done by the airport itself or via a private security company varies from country to country and in some countries from airport to airport. In no case is it provided by the national government's aviation security agency.

Canada's system is somewhat different but is far more like Europe's than the U.S.' approach. Following 9/11, the Canadian government created the Canadian Air Transport Security Authority (CATSA). Regulatory agency Transport Canada is responsible for airport security policy and regulation, while CATSA is responsible for the mechanics of airport security, including implementation of airport screening. But CATSA itself does not do airport screening. Instead, it certifies private security companies and contracts with them to provide screening services at the 89 airports where such services are required.[15]

Australia offers another example. In 2002 the government created the Office of Transport Security (OTS) as the regulator (not provider) of security for airports and other transportation modes. Airport security, including passenger and baggage screening, is the responsibility of airports, which can either provide screening themselves or contract with screening companies in accordance with OTS criteria.[16]

15 Robert W. Poole, Jr., Testimony before the House Committee on Homeland Security, Subcommittee on Transportation Security, 10 July 2012.

16 Mark G. Stewart and John Mueller, *Are We Safe Enough? Measuring and Assessing Aviation Security*, Elsevier, 2018, Appendix A, 225-227.

This brief focuses on a subset of countries to model because many developed and developing countries have too many differences with the U.S. to serve as good models. Israel, Japan, and Kenya are three examples of countries with robust aviation markets but a very different legal approach to airport security screening.

Israel faces security risks beyond those of the Unted States and Europe. Its government prides itself on what it considers the highest security in the world. But its approach to that security would violate U.S. anti-discrimination laws. It relies on four circles revolving around the aircraft and terminals. Passenger vehicles are stopped when they enter airport property, so that security officers can inspect passports and ask questions.[17] Once in the terminal, the next step is an interview with airport security personnel. After that, all luggage is X-rayed. Only then may the passenger check in at the airline's counter.

Israeli officers often use what is termed the "Nezwar Hindawi" approach after a would-be terrorist incident in which Israeli security relied on the suspicious behavior of a passenger.[18] This profiling system is successful, but frequently criticized for its bias against Arab citizens and travelers with Muslim names. Israeli security justifies the approach by explaining that in its experience (although not the world as a whole), "Not all Muslims are terrorists, but all terrorists are Muslim."

Asian countries have legal systems that are very different from western law. For example, although Japan claims to adhere to the presumption of innocence, human rights organizations refer to actual practice as "hostage justice," in which suspects can be jailed for long periods without a lawyer present during interrogations.[19] Japan does not have an agency analogous to TSA. Airport security is conducted by private security screeners contracted by airlines (as in the United States prior to creation of TSA). This process is regulated by the Ministry of Land, Infrastructure, Transport and Tourism (MLIT). Screening procedures are similar to those of the United States.[20]

17 Tourist Israel, "Israeli Airport Security—Things to Know," https://touristisrael.com/israeli-airport-security-things-to-know.

18 Hillel Avihai, "Air Transport Security in Israel," Air Transport Security, 2018. Edward Elgar Publishing Limited. Cheltenham UK. 2018.

19 Human Rights Watch, "Japan's 'Hostage Justice' System," May 25, 2023 (https://hrw.org/report/2023/05/japans-hostage-justice-system)

20 Narita Airport, "Guidance on Security Screening," https://www.narita-airport.jp/en/airportguide/security

In addition, Japan does not have one centralized government security coordinator.[21] At least 10 entities (public and private) share responsibility for airport security compared with two at most U.S. airports. In some ways Japan imitates U.S. and EU security, but it does not currently meet all the requirements set out by international organizations.

Many developing countries are in the process of adopting comprehensive security screening. All countries must meet ICAO or IASA Level 1 standards. Many, but not all, developed countries meet these standards, but many developing countries do not due to lack of financial resources or land use patterns surrounding the airport. Kenya is a good example.[22] Nairobi International Airport is the busiest airport in East Central Africa and a regional airline hub. Yet, the country fails to meet both international ICAO standards for air safety and U.S. IASA standards. Residential units are adjacent to the airport, providing non-screened persons with access to secure parts of the airport. As a result, any U.S. airline that serves Kenya must perform supplemental screening to meet U.S. standards.

21 Toki Udagawa Hirawaka, "Air Transport Security in Japan," Air Transport Security. 2018. Edward Elgar Publishing Limited. Cheltenham UK. 2018.

22 Evaristus Irandu, "Air Transport Security in Kenya," Air Transport Security. 2018. Edward Elgar Publishing Limited. Cheltenham UK. 2018.

PART 5

A BETTER MODEL FOR U.S. AIRPORT SECURITY

If TSA's built-in conflict of interest were ended, and it became solely the federal aviation security regulator, who would provide functions such as checkpoint screening and checked-baggage screening? Canada and Europe, along with most of the rest of the world, provide an answer. Airports carry out these security functions, using either their own staff or a government-certified screening company. The United States should follow their example.

The original U.S. aviation security law (ATSA), though its primary thrust was on a total federal takeover of airport screening, did include a pilot program in which five airports in a range of sizes—San Francisco, Kansas City, Rochester, Jackson Hole, and Tupelo—were allowed to use security firms for airport screening. The legislation also provided that after 2004 other airports could apply to TSA for permission to do likewise.

Unfortunately, this policy—which came to be dubbed Screening Partnership Program (SPP)—is unlike the vast majority of outsourcing by state and local governments. TSA controls every aspect of the process. Once the airport informs TSA that it wishes to switch to private screening, TSA does its own assessment, and if it agrees, TSA then selects what it decides is the best firm to handle screening at that airport. This policy needs to change.

As for any other contractor-provided service, the airport should define what it needs and then issue a Request for Proposals (RFP) to TSA-vetted private service providers. The airport would review the resulting proposals and select the one it judged to be the best fit. That would be far better than the status quo in which TSA assesses what the airport needs and assigns TSA's choice of screening company.

As for any other contractor-provided service, the airport should define what it needs and then issue a Request for Proposals (RFP) to TSA-vetted private service providers.

Defining the level of security an airport needs is consistent with TSA as the transportation security regulator. But since airports should be responsible (and pay for) screening services, they would face the traditional "make or buy" choice. Whether an airport chose to self-provide or to hire a security firm, TSA as regulator would set the standards.

Thus, reform of TSA should go beyond simply converting it into being solely a policymaker/regulator of aviation security. The reform should allow airports to manage their own procurement of a screening contractor, analogous to the way they procure other needed services that will be provided by contractors. The airport would request proposals from TSA-approved screening companies and select the one it judges as the best fit. In its role as aviation security regulator, TSA might also have a role in making sure that the TSA-certified firm has the size, resources, and experience to be a good fit for this category of airport.

Some previous proposals in Congress have sought to move in this direction. In February 2005, Rep. John Mica (R, FL) called for TSA to get out of providing (as opposed to regulating) airport screening, which would convert TSA into a "solely regulatory role."[23] In January 2011, TSA closed SPP to new applications from airports. That decision was overturned the next month in a unanimous Senate vote.[24]

[23] "Future of Airport Screening UP for Grabs," *Aviation Security Newsletter*. March 2005.

[24] "Senate Overturns TSA's Anti-Outsourcing Decision," *Airport Policy News*, March 2011.

Despite strong congressional support for SPP, and having been overruled by the Senate, the agency continued to hold back on using the program. In its FAA reauthorization bill in February 2012, Congress stressed that SPP must be available to all airports, and also required TSA to provide details on any decision to deny an airport's SPP application. While nominally agreeing, the agency that same month rejected two such applications, contending that they "failed to demonstrate an operational, security, or cost advantage" over TSA screening. None of those criteria were in the ATSA legislation, and the agency continued to accept SPP applications.[25]

Despite continued congressional and airport support for SPP, TSA leadership continued to oppose its expansion. In 2013 TSA imposed a new "cost-efficiency factor," which is nowhere in the legislation. That spring TSA held off on re-bidding SPP contracts at Orlando-Sanford Airport and Sarasota-Bradenton.[26] Yet a GAO report (GAO-09-27R) faulted TSA's cost comparisons by omitting various TSA costs, making the agency's "cost-efficiency factor" difficult to take seriously.

Given these actions, it is not surprising that a DHS Office of Inspector General report (OIG-13-99), written in 2013 at the request of Senators Blunt and Corker, claimed that TSA had fixed the SPP problems.[27] In response, Sen. Blunt (R, MO) wrote that "TSA Has Never Fully Embraced the SPP" and "has recently taken a series of actions and made a number of decisions which have been detrimental to SPP."[28]

Thankfully, over time, the FAA has become less hostile to SPP. In 2017 Florida's large hub airport, Orlando, applied to join SPP. By this time, however, SPP had new opponents in Congress, such as Sen. Bill Nelson (D, FL) and several prominent House Democrats, along with the then-new screeners' union. They strongly opposed Orlando's SPP application, which led to Orlando Aviation Authority voting on April 18, 2018 to rescind its SPP application.[29]

The following year began with a 35-day federal government shutdown. Since TSA staff, including its screeners, are federal employees, TSA screeners had to work without

25 "Congress Backs Airport Screening Opt-Out," *Airport Policy News*, March 2012.

26 "TSA Putting New Hurdles on, Screening Opt-Out," *Airport Policy News*, June 2013.

27 "IG: TSA Fixes Problems in Hiring Private Screeners," *Homeland Security Today*, July 5, 2013.

28 "The Future of Outsourced Airport Screening," *Airport Policy News*, July 2013

29 "Orlando Backs Off on Outsourcing Screening," *Aviation Policy News*, May 2018.

paychecks during that period. By this point, there were 21 airports in SPP, and since their contract screeners were paid out of airports' budgets, they continued to operate as usual. This was another instance where comparisons were made between contractor-served SFO and TSA-served LAX.

By this point, there were 21 airports in SPP, and since their contract screeners were paid out of airports' budgets, they continued to operate as usual.

Over the years since TSA's creation, the benefits of contract screening became increasingly visible, which led to a 2025 TSA screening reform bill in the Senate. In March of that year, Sens. Mike Lee (R, UT) and Tommy Tuberville (R, Al) introduced the "Abolish TSA Act of 2025," S.1180). Had it passed, it would have eliminated the TSA and transferred screening oversight to a new office within the Federal Aviation Administration (FAA). The bill called for a three-year transition during which TSA's regulatory functions would be transferred to a new Office of Aviation Security Oversight within FAA. Screening would be conducted either by airport staff or a contracted private security firm. The bill failed to amend the SPP legislation. In 2025, due to the ongoing TSA hurdles, still only 21 airports were served under SPP agreements.[30]

Another federal government shutdown took place in autumn 2025. Once again, TSA screeners at the large majority of airports were not paid, and increasing numbers stayed home to seek temporary work income. *Forbes* reported on October 7th that one-fifth of the mid-Atlantic screening workforce had called out sick. Reason Foundation analyst Marc Scribner reported that screener turnover was still roughly double the average federal employee attrition rate. [31]

[30] Marc Scribner, "A Flawed Approach to Reforming Airport Screening," *Aviation Policy News*, April 2025.
[31] Marc Scribner, "It's time to Reform TSA Airport Screening," *Aviation Policy News*, October 2025.

PART 6

CONCLUSION: THE NEED FOR CHANGE

Since 1980 there have been 12 federal government shutdowns, most of them taking place since 2013; the longest began in October 2025 and lasted 43 days. In each of these shutdowns, TSA screeners did not receive paychecks, and the longer the shutdown, the larger the number of screeners who went absent in order to earn money to pay their household bills.

This policy brief has reported studies finding that SPP airports' performance is equal to or better than non-SPP airports (Catapult study and 2012 GAO study), and that private screeners are more productive and hence cost less than TSA screeners (SFO versus LAX data). These findings support the idea that TSA should be the aviation security regulator but that airports should be served by their choice of airport screening company.

Accordingly, Congress should change U.S. airport security provision. First, it should terminate TSA's dual role as both aviation security regulator and provider of the vast majority of airport screening. After converting TSA to a regulatory-only role, Congress should devolve checkpoint and checked-baggage screening to airports, as is common practice in Canada, Europe, and many other countries. Airports could either self-provide by hiring checkpoint and checked-baggage screeners, or they could contract with their choice of TSA-approved screening companies. Because all screening would be the airport's

responsibility, screeners would be paid for by each airport, which would address the current problem of screeners not being paid during federal shutdowns.

This reform would reflect aviation security practice in Australia, Canada, and Europe. In those countries, the national aviation security agency is purely a regulator, and airports are responsible for providing and paying for checkpoint and checked-baggage screening. The United States should emulate their aviation security policies.

Airport organizations, such as Airports Council International-North America (ACI-NA) and the American Association of Airport Executives (AAAE) should embrace this reform, as should U.S. airlines. It is a global best practice in aviation that has long been aviation policy in most developed countries.

ABOUT THE AUTHOR

Robert W. Poole, Jr. is director of transportation policy and the Searle Freedom Trust Transportation Fellow at Reason Foundation, a public policy think tank based in Los Angeles and Washington, D.C.

He was among the first to propose the commercialization of the U.S. air traffic control system, and his work in this field has helped shape proposals for a U.S. ATC corporation. A version of his nonprofit corporation concept was implemented in Canada in 1996. He has advised the Office of the Secretary of Transportation, the White House Office of Policy Development, the National Performance Review, the National Economic Council, and the National Civil Aviation Review Commission on ATC commercialization. He is a member of the Air Traffic Control Association and of the GAO's National Aviation Studies Advisory Panel. In 2012-13 he was a member of the Business Roundtable task force on ATC reform, and in 2014-15 he was part of the Eno Center for Transportation working group on ATC reform. In 2018 he received the Eno Center's Thought Leader Award for his work on ATC corporatization.

Poole's Reason studies helped launch a national debate on airport privatization in the United States. He advised both the FAA and local officials during the 1989-90 controversy over the proposed privatization of Albany (NY) Airport. His policy research on this issue helped inspire the privatization of Indianapolis airport management under Mayor Steve Goldsmith and Congress' 1996 enactment of the Airport Privatization Pilot Program.

In aviation security, Poole advised the White House and House Republican leaders on what became the Aviation & Transportation Security Act of 2001, enacted in response to the 9/11 attacks. He has authored a number of Reason policy studies on aviation security and is the author of a paper on risk-based aviation security for the OECD's International Transport Forum.

Poole has testified on airports, aviation security, and air traffic control on a number of occasions before House and Senate aviation and homeland security subcommittees, and he has spoken on these subjects before numerous conferences. He has also done consulting work on several airport privatization feasibility studies. Poole also edits a monthly Reason Foundation e-newsletter on aviation policy issues. He received his B.S. and M.S. in mechanical engineering at MIT and did graduate work in operations research at NYU.