



A bold voice for transportation workers

RESPONSIBLE AIRPORT SECURITY REFORMS

In an era of heightened concerns over terrorist threats, Americans are acutely aware of the homeland security risks faced by our nation and specifically, our transportation system. Transportation labor has long been at the forefront of demanding the strongest federal measures to protect the transportation infrastructure and systems that have been terrorism targets.

In the aviation industry the pain and memory of September 11, 2001 endure, and attacks that have been thwarted serve as a reminder of the need for vigilance and strong federal measures. As such, TTD affiliates have actively engaged with Congress and federal agencies in developing stricter security protocols at our nation's airports and on board aircraft. We understand that access control procedures such as the credentialing of employees with access to secure areas, are an integral part of airport security. And we support efforts to identify and bar individuals who pose a terrorist threat from working in the aviation sector.

We do believe, however, that efforts to secure our aviation system must strike a balance. They should provide protection and security against the terrorist threat environment while also preserving the legitimate rights of employees. In the wake of the 9/11 attacks, Congress passed the Aviation and Transportation Security Act of 2001 which, among other things, required the Transportation Security Administration (TSA) to properly vet any aviation employees with unescorted access to a Secure Identification Display Area (SIDA) or a sterile area of an airport. It required that any employee or potential employee seeking a SIDA credential must undergo a TSA security threat assessment, which includes a finger-print based criminal background check, a review of relevant terrorism watch lists, and a verification that the individual is legally permitted to work in the United States.

The criminal record background check requirement in the legislation and subsequently modified by TSA excludes any employee convicted of a "disqualifying offense" within 10 years of application. This approach was far from perfect. The so-called "look-back" time is longer than we have seen in other modes of transportation and some crimes added to the list did not necessarily relate to security or terrorism. More importantly, the statute did not allow workers who were convicted of a disqualifying crime within the look-back period to demonstrate to TSA that they are not a security threat. This due process protection, known as a waiver right, is an important component of the federal background check program for other federally mandated background checks in transportation. Many airline and airport employees who had committed a crime in the past and had paid their debt to society lost their jobs without any right to an appeal, and without regard for their employment record or standing with their employer.

Unfortunately, over the past several months there have been efforts by some in Congress to expand both the list of disqualifying offenses for SIDA credential holders and applicants as well as the look-back period for background checks. While we agree that the TSA and other law enforcement agencies must adapt to ever changing threats to national security, we object to any efforts to indiscriminately expand the offense list and look-back period, particularly when these efforts are not in response to changes in the current security threat environment.

Senator John Thune, Chairman of the Senate Commerce Committee, introduced the Airport Security Enhancement and Oversight Act (S. 2361) in December of 2015. This legislation would require TSA to undertake a rulemaking process to not only increase the list of disqualifying offenses for those seeking a SIDA credential, but also would require them to propose an increase in the look-back period from 10 years to 15. The SIDA 10-year look-back period is already longer than the 7 years for Transportation Worker Identification Credential (TWIC) holders for most offenses and the 5 years for those who need to access secure customs areas. The 7 and 5 year look-back periods are based on extensive studies that show that recidivism rates for those who have committed a crime drop below crime rates for the general population in the 4-8 year period after conviction. Fortunately, at our insistence the bill ultimately included a waiver and appeals process for SIDA credential holders and applicants. Despite this improvement, we remain concerned that the remaining measures in this bill will have a detrimental and unnecessary effect on workers.

Earlier in the year Rep. John Katko (R-NY), chairman of the House Homeland Security Subcommittee on Transportation Security, introduced the Airport Access Control and Security Act (H.R. 3102). As originally introduced, this legislation had several of the same problems as S. 2361. But we worked with the committee to improve the legislation, resulting in several significant changes. While not perfect, this legislation would take a more measured approach to assessing the SIDA program. H.R. 3102 would require TSA to conduct an in-depth review of SIDA procedures and eligibility requirements. It would also put in place a clear waiver and appeals process modeled after the TWIC program. And, importantly, this review would be done with consultation from the FBI, DHS, airports, and the unions that represent aviation employees. H.R. 3102 passed the House of Representatives on a voice vote on October 6, 2015.

Despite the important differences between these two pieces of legislation, both are narrowly focused on credentialed employees who are granted unescorted access to secure areas. We believe that they are ignoring an increasingly large group of contract workers who do not face mandatory background checks in return for having escorted access to secure areas. These workers are not employed directly by the airport or airlines and perform work inside secure or sterile areas. Often times 10 or 15 non-credentialed workers are escorted by only one credentialed employee. This presents a security vulnerability that must be addressed in any airport security legislation moving forward.

It is reasonable and appropriate for Congress to use its oversight authority to require TSA to review and update its existing security procedures in order to best protect our nation's aviation system from security threats. But we believe that this objective can be met while ensuring that any further changes to SIDA credential requirements do not unfairly punish workers who pose no threat to national security. The central and necessary purpose of background checks and credentialing is to ensure that those who pose a terrorism security risk are not given access to secure areas. Legislative and regulatory reforms should be undertaken with this central goal in mind, and should consider all employees with access to secure areas, either escorted or unescorted.

Policy Statement No. W16-05
Adopted February 21, 2016