



Memorandum

TO: Christopher Mazzella
Inspector General

DATE: April 21, 2004

FROM: Anne S. Lee, Associate Aviation Director
Professional Compliance Division

SUBJECT: Final OIG Report Regarding
Construction Personnel

Attached is the redacted version of the Final OIG Report regarding screening and wanding of construction personnel and their personal items before entering the North Terminal Development Project site.

The County Attorney's Office has reviewed the report regarding security sensitive issues and concurs with our interpretation of the applicable state and federal statutes regarding information that should be exempt from public access or disclosure.

Attachments

c: Angela Gittens, Aviation Director
Steven C. Baker, Deputy Aviation Director
Abigail Price-Williams, Assistant County Attorney
Mark Forare, Assistant Aviation Director

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Office of the Inspector General

Miami-Dade County

FINAL Report—Redacted

To: Angela Gittens, Director
Miami-Dade Aviation Department

From:  Christopher Mazzella
Inspector General

Date: March 17, 2004

Re: Security Screening of Construction Personnel Working on the North Terminal
Development (NTD) Project

I. INTRODUCTION

On April 25, 2003, the OIG submitted an interim report to the Miami-Dade Aviation Department (MDAD) indicating that there was no security screening required for hundreds of construction personnel that enter and leave, on a daily basis, sensitive areas of the Miami International Airport (MIA) on the North Terminal Development (NTD) Project. (See Exhibit A for a copy of the interim report (also redacted) and Exhibit B for the associated MDAD response.)



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¹ "Air operations area (AOA) means a portion of an airport, specified in the airport security program, in which security measures specified in this part [Part 1540] are carried out. This area includes aircraft movement areas, aircraft parking areas, loading ramps, and safety areas, for use by aircraft regulated under 49 CFR part 1544 or 1546, and any adjacent areas (such as general aviation areas) that are not separated by adequate security systems, measures, or procedures." 49 CFR §1540.5. This area does not include a secured area as also defined by 49 CFR §1540.5, where aircraft operators and foreign air carriers may have their own security program.

were allowed to leave the airport, again without going through any sort of security screening or inspections of themselves or their containers.

Since the OIG interim report of April 25, 2003, and despite assurances to the contrary, the OIG has observed minimal changes to MDAD's security screening procedure for construction personnel. [REDACTED]

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On November 19, 2001, Congress enacted the Aviation and Transportation Security Act (the "Act"), which establishes the Transportation Security Administration (TSA). Pub.L. 107-71. The Act requires TSA to prescribe specific requirements, as soon as practicable, for screening and inspection of the airport perimeter that assures the same level of protection as the screening of passengers and their baggage. Pub.L. 107-71, §106(a), codified as 49 U.S.C.A. § 44903(h)(4)(A) and (B). Although TSA has not yet issued such requirements, recent security lapses at airports throughout the United States and at local airports under the jurisdiction of MDAD support the immediate need for a higher level of security and an increased comprehensive screening process before allowing persons and containers onto the AOA where passenger airplanes are vulnerable. For example, at Opa Locka Airport, an unattended large security gate at a remote section of the airport was left unlocked to allow fuel trucks access to the airfield. MDAD Security was aware of this situation but no action was taken to correct the problem until the television media aired the story.

In addition, the OIG interim report noted issues related to the procedures for obtaining security identification badges and the issuance of temporary badges. [REDACTED]

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[REDACTED] The same issues still exist today and have not been adequately addressed by MDAD.

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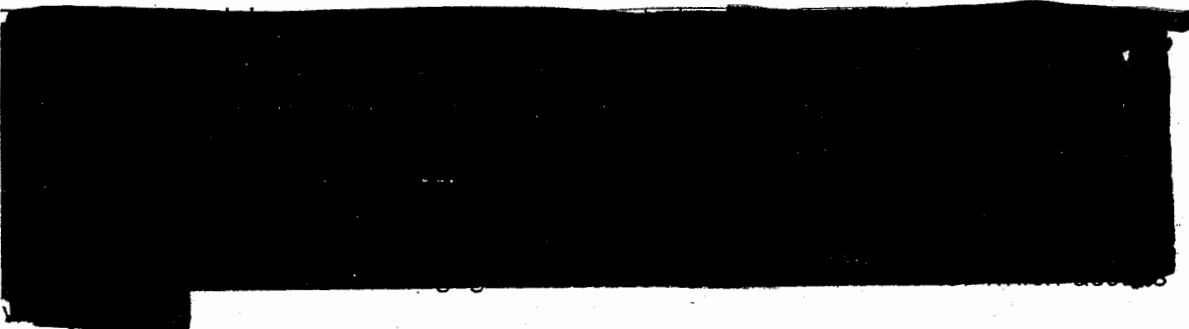
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II. BACKGROUND

Turner Austin is the Construction Manager for the NTD Project on behalf of American Airlines. The NTD is a massive construction project that expands American Airlines' facilities in the B, C and D concourses. The NTD Project is broken down into over sixty (60) subprojects, which are in various stages of construction. There are several hundred construction workers from various contractors, subcontractors, and suppliers working on the NTD Project on a daily basis. If the NTD construction were taking place at remote areas of the airport, away from the airline terminal areas, passenger and baggage loading/unloading areas, and fueling operations, then the current level of security screening might be considered appropriate. However, this is not the case. Much of this construction is in, and around, active and sensitive areas of the airport, where passengers are entering and leaving airplanes, baggage is being loaded and unloaded, and airplane-fueling operations are in progress.

MDAD, in conjunction with Turner Austin, controls the security screening for personnel and equipment entering the AOA to work on the NTD Project. The new federal agency, TSA, performs and controls the security screening for passengers and for some personnel entering sterile areas (portions of the airport that provide passengers access to boarding aircraft). TSA does not perform the security screening for entry into other restricted areas of the airport, specifically the AOA. This remains the responsibility of MDAD security personnel.



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III. FAILURE TO PROVIDE COMPREHENSIVE SECURITY SCREENING OF CONSTRUCTION PERSONNEL

MDAD's Response to the OIG Interim Report and Actions Taken by MDAD

In a memorandum dated April 28, 2003, the MDAD Director responded to the aforementioned interim report and advised that since MDAD was first verbally advised of the OIG concerns, MDAD had in fact taken "appropriate action to address

the OIG's issues and concerns regarding the screening and inspection of construction personnel."

MDAD reported that:

[REDACTED]

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Based upon this response, OIG Special Agents conducted follow-up observations to ensure that an "appropriate" screening protocol had been implemented.

Recent Observations Since MDAD's Response to the Interim Report

Since MDAD's response of April 28, 2003, the OIG has observed minimal changes to MDAD's security screening process for construction personnel. On various occasions³ after the interim report was issued, OIG Special Agents observed construction workers entering and leaving the AOA, and noted the following:

[REDACTED]

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³ OIG Special Agents made most of these observations on three separate occasions during the month of October 2003. The days were set weeks apart and falling on different days of the week. Different weather conditions were also noted.

[Redacted]

[Redacted]

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[Redacted]

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[Redacted]

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Based on these observations, it is evident that MDAD does not have a standardized or consistent procedure for comprehensive security screening,

[Redacted]

[Redacted]

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[REDACTED]

(4)

(1)

The cost of this off-site screening should be borne by the construction companies working on the NTD Project. [REDACTED] consider having

[REDACTED]

(1)

Comparison to Employee Security Checkpoints

The OIG does not understand why the security screening procedures for construction workers entering the AOA are so different than those security screening procedures in place at other locations in the airport. For example, MIA has four (4) employee security checkpoints located on the lower level of the terminal. These employee checkpoints should be distinguished from the screening checkpoints used by the traveling public and airport personnel for entry into the passenger concourses, i.e., the sterile area.

[REDACTED]

The NTD construction personnel enter the AOA via various vehicles directly onto the airfield area. The above-described employees enter the AOA through the lower level of the Terminal.

[REDACTED]

(1)

Clarification of MDAD's Response to the OIG Report

Given MDAD's response to the OIG interim report, and its commitment therein to address the OIG's issues and concerns, and in light of these recent observations, OIG Special Agents met with MDAD's Assistant Director of Safety and Security on October 29, 2003. OIG Special Agents described their observations to the Assistant Director, who responded that

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The OIG Special Agents then advised the Assistant Director that follow-up observations were also conducted on a few occasions at the contractor's loading site where the workers board the buses.

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OIG Special Agents also asked the Assistant Director to elaborate on the MDAD response of having taken "appropriate action" to address the OIG's concerns. He stated that his supervisors went down to the AOA access points and observed the construction related personnel and vehicles entering and departing the AOA to ensure that the required process (the TSA standards) was being adhered to.

Furthermore, the OIG inquired as to what constituted the "inspection" of the construction personnel mentioned in MDAD's response.

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These are the same procedures observed by OIG Special Agents. But these procedures do not address the underlying concern of the OIG -

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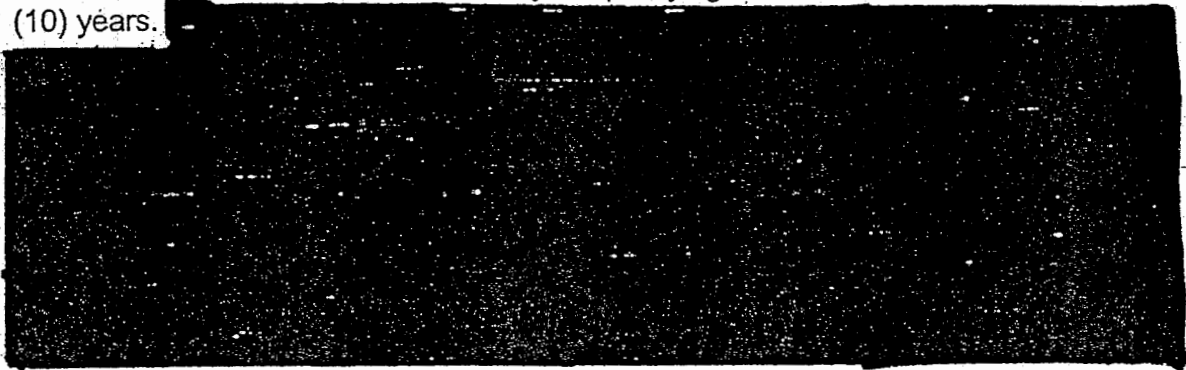
As for the vehicles mentioned in MDAD's April 28, 2003 response, OIG Special Agents were told that further explanation of the vehicle inspections is restricted by

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TSA regulations. Therefore, the OIG cannot make any assessment of the inspection procedures for verification.

Permanent Photo Identification Badges

The OIG recognizes that workers entering the AOA have to obtain security identification badges. As previously reported in its interim report, the OIG noted loopholes in the identification badge process as it pertains to the "badging" of construction personnel. In order to obtain a permanent badge, a worker must undergo a fingerprint-based criminal history background check to ensure that the worker has not been convicted of any disqualifying criminal offenses in the last ten (10) years.



In the course of this investigation, the OIG performed criminal history checks on :

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In light of MIA's past problems of theft and drug smuggling, and given the protracted period of time before a worker clears the fingerprint-based criminal history background check, the need for comprehensive security screening procedures becomes even more important and obvious.

Temporary Non-photo Identification Badges

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In its April 28, 2003 response, MDAD states:

"In its memorandum, the OIG states that there are loopholes in the ID issuance process. On the contrary, the MDAD ID System is in effect solely to meet TSA (formerly FAA) rules and regulations and the MDAD Security ID Section issues ID badges in full compliance with TSA regulations. For the same reason, contractors are issued non-photo badges and must comply with very specific procedures."

The OIG has requested that MDAD provide a copy of the procedures for the issuance of temporary non-photo badges by MDAD to the contractors, and in turn, the assignment of these same badges by the company to its employees. The OIG was provided with a copy of a *Non-Photo Construction I.D. Request Form*. The form does put the contractor on notice that it may be subject to an audit but nowhere on the form does it provide the contractor with any guidelines or rules on the number of times a temporary badge may be issued to an individual. Moreover, MDAD has not produced any written procedure governing the issuance of temporary non-photo identification badges.

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On its face, this would not appear to be a temporary worker and a fingerprint-based criminal history background check should be required.

Conversely, the Port of Miami requires that any person who enters the restricted areas of the seaport more than five (5) days in any ninety (90) day period must apply for, and obtain, a permanent identification badge. The procedure for obtaining a permanent identification badge at the seaport is similar to the airport in that a

fingerprint-based criminal history background check is required. While this requirement at the seaport is a State of Florida-based requirement, it makes sense and limits the potential abuse of "temporary" identification badges.

As part of its April 28, 2003 response, MDAD stated:

"Please be assured that the Aviation Department

to ensure compliance with security regulations and procedures."

As part of the October 29, 2003 meeting between the OIG and MDAD, OIG Special Agents sought elaboration of the periodic audit process mentioned above.

Submission of False Documentation for Drug-Screening Tests

Although this issue is the subject of a forthcoming report, a brief comment is warranted here. An OIG investigation has revealed that, in some instances, false employment documentation, specifically false drug screening results, was provided to airport personnel in an effort to get workers pre-screened, and thereby eligible to work on the NTD construction site. The submission of false employment data only compounds the need for increased security measures.

IV. TSA REQUIREMENTS FOR SECURITY SCREENING

On November 19, 2001, Congress enacted the Aviation and Transportation Security Act, a comprehensive piece of legislation that created the Transportation Security Administration (TSA) and sets forth its jurisdiction and responsibilities. Specifically, the Act, Section 106, added a new subsection relating to improved airport perimeter access screening [Pub.L. 107-71, § 106(a)], which reads, in part:

- (4) Airport perimeter screening. –The Under Secretary–
 - (A) *shall require, as soon as practicable after the date of enactment of this subsection, screening or inspection of all individuals, goods, property, vehicles, and other equipment before entry into a secured area of an airport in the United States described in section 44903(c);*
 - (B) *shall prescribe specific requirements for such screening and inspection that will assure at least the same level of protection as will result from screening of passengers and their baggage;*
 - (C) shall establish procedures to ensure the safety and integrity of–
 - (i) all persons providing services with respect to aircraft providing passenger air transportation or intrastate air transportation and facilities of such persons at an airport in the United States described in section 44903(c);
 - (ii) all supplies, including catering and passenger amenities, placed aboard such aircraft, including the sealing of supplies to ensure easy visual detection of tampering; and
 - (iii) all persons providing such supplies and facilities of such persons;
 - (D) *shall require vendors having direct access to the airfield and aircraft to develop security programs; and*
 - (E) may provide for the use of biometric or other technology that positively verifies the identity of each employee and law enforcement officer who enters a secure area of an airport.

49 U.S.C.A. §44093(h) (emphasis added).

In response to a Congressional request for review, the U.S. Department of Transportation Office of Inspector General (DOT OIG) issued a letter regarding TSA's progress in implementing Sections 106 and 138 of the Act.⁴ (Attached as Exhibit C.) Specifically, with regard to implementing Section 106, the DOT Inspector General stated that immediately after September 11, 2001, airport perimeter security was bolstered by limiting the number of access points to the secure areas of the airport. It was also noted that based on undercover stings, "protection against unauthorized access to secure areas of the airport via perimeter access points has improved; however, further improvements could be expected by executing more robust security policies and procedures, and by addition of advance access control technologies."⁵

The DOT Inspector General's letter specifically refers to the initiatives that were taken at Miami International Airport prior to September 11, 2001 "as a result of the Department of Justice sting operation [Operation Ramp Rat] involving air carrier employees who were bribed to smuggle drugs, contraband and weapons onboard passenger aircraft."⁶ The letter cites TSA as stating "Miami is currently the only airport screening all employees with authorized access to secure areas of the airport."⁷

The letter goes on to describe the findings of a TSA Airside Working Group report from October 2002. Salient to the instant matter of the NTD, the letter states:

"However, absent from the [TSA Airside Working Group] report was an assessment of the Section 106 provision *requiring vendors with direct access to the airfield and aircraft to develop security programs*. These programs would prescribe security requirements on the vendors designed to prevent or deter a terrorist or criminal act against the airport or onboard aircraft. . . . TSA informed us that it would soon issue regulations that greatly enhance security concerning airport vendors and tenants. Although no regulations have been issued, TSA has directed both aircraft and airport operators to conduct criminal history checks on all individuals who are employed or perform duties in the airport sterile area. *However, to further strengthen*

⁴ Letter to The Honorable James.L. Oberstar, Ranking Democratic Member, Committee on Transportation and Infrastructure, from Kenneth M. Mead, Inspector General, U.S. Department of Transportation. January 14, 2003, Control # CC-2002-132.

⁵ Id. at p. 2.

⁶ Id. at p. 3, footnote 4.

⁷ Id. at p.3.

*airside perimeter security, TSA needs to move forward with developing and executing a standard security program for all airport tenants.*⁸ (Excluding footnote reference.) (Emphasis added.)

Construction contractors and their workers performing on the NTD Project with the actual construction activity on the airfield are no different than the employees of airport tenants and vendors whose employees also work in the same area.

It is the Miami-Dade County Inspector General's assessment that there is no one more aware and more knowledgeable of the unique history and current complications facing Miami International Airport than our own MDAD officials. With that said, MDAD officials should move on their own accord to implement measures corresponding to the relative risk associated with the NTD construction project. Given the various construction projects' close proximity to passenger terminals, parked aircraft, fuel containers, etc., it is not unreasonable to suggest that the perimeter access security screening of construction personnel entering the AOA be no less thorough than what is currently required of the traveling public, employees, and construction personnel working inside the airport concourses, or passing through the other four points of entry mentioned previously.

The County, and specifically its Aviation officials, should not wait for TSA to issue its recommendations, but should act immediately to raise the level of security :

As stated in the DOT OIG letter: "TSA needs to move away from the study phase and into the implementation phase with its countermeasures expeditiously." As this letter was issued in January 2003, ten months ago, it is urged that MDAD not wait any longer.

V. CONCLUSION AND RECOMMENDATION

Recent events at airports throughout the United States support the immediate need for an increased comprehensive screening process before allowing persons and/or containers onto the AOA where passenger airplanes are parked. The strongest and most consistent screening procedures for all persons entering the AOA will help minimize risk to the public.

The NTD construction is comprised over 60 subprojects located near parked aircraft and passenger terminals.

⁸ Id. at p. 4.

Since the OIG's concerns were first raised, MDAD has taken what it considers to be "appropriate action." MDAD's Assistant Director for Security elaborated to the OIG on what it has done in recent months to implement a security protocol for the NTD Project. However, as described, and more importantly, as observed, the security screening measures in place continue to fall short of addressing the OIG's initial and continuous main concern,

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Another major concern is the abuse of the "temporary" identification badge process by construction personnel who use these "temporary" badges for protracted periods of time, and thus are not truly "temporary" workers.

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In the interim report that was released on April 25, 2003, and again in this report, the Miami-Dade OIG recommends that all personnel, in

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_____ This is the same level of comprehensive screening that Congress mandated TSA, almost two years ago, to establish "as soon as practicable" through Section 106 of the Aviation and Transportation Security Act.

APPENDIX

1. Draft Notification Letter to Angela Gittens, Director, Miami-Dade Aviation Department (MDAD).
MDAD response dated December 3, 2003, attached.
2. Draft Notification Letter to the Transportation Security Administration (TSA).
TSA response (including Enclosure 1) dated February 27, 2004 attached. Enclosure 2, which is the redaction of the OIG's draft report, is not included.
3. Draft Notification Letter to the U.S. General Accounting Office (GAO).
GAO response dated December 19, 2003, attached.

EXHIBITS

- A. OIG's Interim Report of April 25, 2003, as redacted by request of TSA.
- B. MDAD's Response to the Interim Report, dated April 28, 2003.
- C. Letter responding to congressional request for review dated March 13, 2002, from the Inspector General, U.S. Department of Transportation regarding airport perimeter access security.