June 3, 2003

Statement of
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U.S. Department of Homeland Security

Before the House Appropriations Committee
Subcommittee on Homeland Security

Mr. Chairman, Mr. Sabo, thank you for the opportunity to appear today to discuss how the Transportation Security Administration is meeting the challenge of checking the backgrounds of employees hired by TSA.

TSA drew upon more than 1.7 million applications and interviewed more than 340,000 applicants over a ten-month period to deploy a work force of more than 55,000 of the world's best-trained screeners to more than 440 commercial airports in every corner of the nation. At the height of the hiring period during the summer of 2002, TSA hired 5,000 screeners per week. We are very proud of that work force, and the quality and dedication of the Americans who stepped forward to serve at a critical time of national need.

Our task began in tumultuous times. As a nation, we were still reeling from murderous attacks that had turned elements of our aviation system into weapons of mass destruction. No one was sure where the next attack might come, or when.

In this atmosphere, our new front-line force -- recruited, vetted, trained and deployed at a wartime mobilization pace -- was screening all passengers by November 19, 2002, as mandated by Congress, and screening all checked baggage by December 31, 2002.

In order to accomplish that work within the deadlines established by Congress, TSA turned in part to the private sector to assist us in performing thousands of background checks.

When this process began over a year ago, TSA discovered that the tight deployment schedule would not permit us to use the standard federal background investigation process. Instead, we utilized an existing Department of Justice contract with a company

called ChoicePoint to do initial background investigations on screeners.

ChoicePoint is the leading provider of identification data to all federal law enforcement agencies, as well as 7,500 state and local agencies and major corporations across the country. More than half of the nation's largest 1000 corporations use ChoicePoint to review the backgrounds of prospective employees. Non-profit organizations also use ChoicePoint to screen volunteers who work with children and the elderly. ChoicePoint's database of more than 17 billion public records includes in excess of 63 million criminal convictions and other identity verification data.

ChoicePoint's extensive database, nationwide infrastructure, longstanding experience with federal agencies, and – importantly – speed, made it the right candidate for the mission at hand. ChoicePoint demonstrated an ability to complete its portion of initial screener background investigations in a range of 7 to 21 days. As you know, the full Office of Personnel Management (OPM) background check can take 60 to 90 days to complete, which meant we could not rely solely on the OPM process. We took advantage of ChoicePoint's rapid processing capability in order to meet the deadlines Congress established to deploy screeners. We appreciate the cooperation and service we have received from ChoicePoint's management and staff throughout this process.

We did not rely on ChoicePoint alone. We designed a thorough three-part background check process, to use until all airports were initially staffed. The system consisted of:

(1) An FBI fingerprint-based criminal history records check, which captures an individual's entire criminal history, if one exists;

(2) A ChoicePoint background check, which included two phases: ChoicePoint Phase 1 included a credit check; a name-based check of ChoicePoint's proprietary criminal history database; in-person criminal record checks in every jurisdiction where screeners have lived over the past 10 years; and link analysis against selected terrorist databases. ChoicePoint Phase 2 included telephone or facsimile checks to verify prior employment and education, and personal references.

(3) The traditional OPM investigation equivalent to the OPM investigation used for clearances at the SECRET level – although screeners are not issued clearances, the background check is similar.

The information generated by this process was reviewed at each stage and assigned color codes, developed by TSA:

(1) Red indicates disqualifying information, or false information submitted during the job application process;

(2) Yellow indicates incomplete or potentially disqualifying information, often involving credit history; and

(3) Green indicates no disqualifying information discovered in the background check.

TSA has generally equated these categories with OPM's "A/B/C/D" classification system. Under the OPM coding system, an "A" represents "minor" suitability issues, such as disorderly conduct, minor traffic offenses, and infrequent bad checks. A "B" rating constitutes "moderate" suitability issues, including driving while intoxicated, infrequent use of controlled substances, and a bad debt exceeding $5,000. Individuals with a bad debt exceeding $5,000 are typically given an opportunity to reduce or eliminate this debt, and if they fail to do so the rating shifts to a "D" score.

A “C” rating means there are “substantial” issues that must be resolved, such as excessive use of intoxicants, possession of illegal drugs for sale, or regular use and addiction. Finally, an OPM “D” rating represents “major” suitability issues, such as a pattern of violence reflected in conviction records, illegal possession or firearms or explosives, or deliberate misrepresentation or falsification.

OPM’s “A” generally was equated by TSA to “Green” / “B” and “C” to “Yellow” / and “D” to “Red.”

Note that the twenty-eight disqualifying criminal offenses found in the Aviation and Transportation Security Act (ATSA), which have been the source of much discussion, may give rise to a “C” or “D” rating. Also, it is important to note that a “C” or “D” rating may result where no disqualifying criminal offense has taken place.

With the assistance of our evaluation contractor, DynCorp, TSA then evaluated and adjudicated each case. If ChoicePoint determined that a candidate was “red”, and DynCorp and TSA confirmed this, the candidate was deemed unsuitable. We appreciate the service and cooperation we have received from DynCorp throughout this endeavor.

As part of the adjudication process, TSA checks applicants’ criminal history records against the list of 28 disqualifying criminal offenses found in ATSA. In many cases, applicants may have a criminal history record, but the offense does not rise to the level of a disqualifying offense. For example, a conviction for reckless driving would show up on a criminal records check but is not one of the 28 disqualifying offenses. Additionally, records may indicate an applicant was charged with a disqualifying offense, but further investigation reveals the charge was dropped or

the applicant was found not guilty. TSA will readily hire an applicant under both of these circumstances, so long as the applicant does not otherwise pose a security threat to the aviation industry.

ChoicePoint completed 112,278 preliminary background check investigations based on (i) candidate data entered on the Questionnaire for Public Trust Positions, Standard Form 85P (SF 85P), and (ii) candidate histories generated by ChoicePoint in cases where no SF 85P was available. Of these, ChoicePoint classified 282 as red and 54,564 as yellow. Keep in mind, of course, that not all of these candidates were hired – some failed the background check, some failed other portions of the assessment testing during the hiring process, and some found other employment.

Based on data provided by OPM to TSA, as of May 27, 2003 OPM has indicated that they have conducted 25,393 Access National Agency Check With Inquiries (ANACI) investigations on TSA employees. Of these, OPM classified 450 as having "D" issues, 18,453 as having "C or Less" issues, and 3,193 FBI fingerprint checks showing some criminal history. This data also became input data to our adjudication process.

DynCorp makes an independent assessment of every investigative result, and forwards this evaluation to TSA, at which point we make a final suitability determination. The investigative rating provided by OPM, ChoicePoint, or DynCorp may very well not match the final suitability determination.

As of May 31, 2003, we have terminated 1208 screeners for suitability issues. This number of terminations includes many of the 282 ChoicePoint "ineligibles" and 450 OPM "D" issues[1] , but some of the ChoicePoint "ineligibles" and OPM "D" issues were

[1] Generally equated by TSA to a "red" designation as noted previously.

either never hired in the first place or were not ultimately adjudicated as "reds." The number of terminated screeners includes individuals with disqualifying criminal offenses, those who failed alcohol and drug tests, those who falsified the employment application, and those with other suitability concerns. By the middle of July, we will adjudicate the results of the remaining ChoicePoint Phase 1 checks, and between now and October, we expect to adjudicate an additional 24,000 OPM investigations as we receive them from OPM. We are receiving new cases on a regular basis from OPM now.

TSA is working closely with the FBI, ChoicePoint, DynCorp, and OPM to ensure that **every** screener currently working has undergone our entire three-part review, except those hired since January 2003. Screeners hired after the first of this year are subject to the traditional two-part background check involving the FBI and OPM described earlier.

We have verified that approximately 97% of the current 53,505-person screener force [*note that this screener workforce number is subject to change daily due to ongoing screener reductions*] has undergone an FBI criminal history records check based on fingerprints. The remaining 3% includes approximately 1015 fingerprints that were unreadable due to hand injuries or blurring during the fingerprinting process. We are in the process of capturing these again and should have the new fingerprints adjudicated by June 15, 2003.

Our records indicate that all but 573[2] of the current workforce has had their ChoicePoint 1 background check completed. ChoicePoint expects to complete its checks within the next week. TSA expects to adjudicate these checks by the middle

[2] This number may be revised downward as (i) ChoicePoint completes the background checks that it is currently working on ; and (ii) the list of outstanding background checks is matched against the revised list of current screeners which is a dynamic list reflecting continual reductions in the workforce.

of July. As described before, this check searches public records for an applicant's criminal history and credit history and looks for possible links to potential terrorist threats.

Let me pause here to underscore the significance of this initial check. Recent media reports may create the perception that we haven't done enough background checking; to the contrary, in fact we have done **more** than is necessary.

The Aviation and Transportation Security Act required TSA to perform a basic employment investigation, including a criminal history records check, for its screeners. We have far exceeded that requirement by using the responsiveness of the private sector and the traditional methodology of the OPM process. As a result, we have created a multi-layered system to ensure that TSA screeners are comprehensively vetted.

Make no mistake, the background data review at the initial phase of our process – a fingerprint and ChoicePoint 1check – is more thorough than what is required for airport workers with unescorted access to secured areas of the airport. It is more rigorous than the checks required of drivers that transport hazardous materials by truck. Federal agencies routinely check data identical to that found in the fingerprint and ChoicePoint 1 check to issue Interim SECRET clearances to new hires. And, they routinely employ those new hires while the appropriate in-depth check is completed.

In addition, 86% of our current screeners have completed the ChoicePoint 2 check, which entails telephonic verification of education history, employment history, and personal references.

For each background check component, completed and outstanding adjudications are as follows:

(1) FBI fingerprint-based checks: TSA has adjudicated more than 101,000 fingerprint-based background check results. As mentioned above, TSA is working to re-capture fingerprints on approximately 1550 screeners and will adjudicate these results as soon as they are available.

(2) ChoicePoint Phase 1: More than 82,000 ChoicePoint Phase 1 checks have been adjudicated. The remaining ChoicePoint Phase 1 checks must still be evaluated by DynCorp and adjudicated by TSA. That number is 573 as of May 31, 2003[3]. TSA expects to complete these adjudications by the middle of July.

(3) ChoicePoint Phase 2: While a large number of ChoicePoint Phase 2 checks have been adjudicated, we are now substituting the OPM Access National Agency Check with Inquiries (ANACI) results for adjudication instead of ChoicePoint Phase 2 checks.

(4) OPM ANACI: Almost 25,000 OPM ANACI investigations have been evaluated by DynCorp, and about 18,000 have been adjudicated by TSA. DynCorp has a current OPM ANACI backlog of about 10,000 cases. When these are completed, they must be adjudicated by TSA. In addition, OPM must complete 28,000 OPM ANACI investigations and forward them to DynCorp for evaluation. DynCorp will, in turn, forward them to TSA for final adjudication. TSA will adjudicate these in an average of 30 days of receipt of a completed OPM investigation.

As you might imagine in an effort of this scope, there have been problems. A small number of screeners' criminal histories have gone undetected until recently. Those cases have been aggressively resolved. Each screener who has come to our attention with a **disqualifying** background issue, either through the normal vetting process or other sources, has been released. As

[3] See, footnote 2, above.

noted earlier, with respect to criminal activities, Congress has specified that conviction of any of 28 criminal offenses within the past 10 years is disqualifying.

OPM has been and continues to be a partner with TSA in this mission. We greatly appreciate the level of cooperation we have received, particularly in light of the massive workload the deployment of more than 50,000 screeners entails. Of course, OPM can only provide adequate investigations if we provide them adequate data. That has not occurred at every stage of this process, and we now have a team in place to provide support to OPM when asked.

Let me assure the members of this committee of some key facts at the core of this discussion:

1. The leadership of TSA takes this issue very seriously;

2. I personally understand the importance of ensuring that the integrity of our vetting process is beyond question;

3. Every screener has undergone an FBI fingerprint-based background check, except for those who are unable to produce a classifiable fingerprint due to injury or other circumstances;

4. ChoicePoint Phase 1 checks have been completed or are in process on every screener on the payroll today; and

5. No screener classified as a “red” by DynCorp and confirmed as a “red” by TSA as of May 31, 2003 is working at an airport today.

I have taken appropriate action to rectify remaining concerns. I have also asked Carol DiBattiste, TSA Chief of Staff, to personally oversee a newly formed credentialing office, and to

review background investigation issues, including TSA contract oversight, program management, and responsiveness to Congressional inquiries.

I will insist on strict accountability in all of these areas as we move forward.

Again, Mr. Chairman, thank you for the opportunity to review these issues with you today. I will be happy to take questions.