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Unionizing Airline Screeners Endangers National Security

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The Obama Administration has decided that the government will engage in limited collective bargaining with airline security screeners. This decision will reduce the Transportation Security Administration's (TSA) effectiveness. Collective bargaining impairs rewarding merit and raises the likelihood of illegal labor disputes. The limitations on union negotiations only partially mitigate these concerns. To protect passengers, Congress should prohibit collective bargaining in the TSA.

TSA Announces Collective Bargaining. The law gives the TSA discretion over whether to collectively bargain with airport security screeners. Since its creation, the TSA has determined that collectively bargaining with security screeners could endanger the safety of America's air passengers. As a result, the TSA has not engaged in collective bargaining.

TSA Administrator John Pistole recently reversed that decision and announced that the TSA would engage in limited collective bargaining if TSA officers vote to unionize.¹ Pistole decided that the TSA would negotiate performance management processes, employee awards and recognition processes, and shift and transfer policies. Pistole prohibited bargaining over pay, promotions, security procedures, personnel deployments, or fitness-for-duty standards. The TSA estimates the costs of these negotiations to be between \$5 million and \$8 million per year.²

Boost for Unions. This decision is a major victory for unions. As union membership falls, government agencies constitute their best organizing

opportunities. A majority of union members now work in government.³

Unionizing the TSA will bring 45,000 new members into the labor movement.⁴ These new members could increase union dues revenue by up to \$18 million a year, depending on how many TSA employees opt out of union membership.⁵

Bargaining Limitations Important. The Obama Administration's decision will not improve national security. The TSA has avoided collective bargaining for good reason: It would reduce its effectiveness. Fortunately, Pistole's decision to limit bargaining subjects will prevent unions from doing as much harm at TSA as they have in other agencies.

Unions have resisted allowing the Department of Homeland Security to change established procedures and flexibly assign personnel. For example, the National Treasury Employees Union (NTEU)—one of the unions vying to organize the TSA—brought the Customs and Border Protection (CBP) before an arbitrator after the CBP changed policies without collectively negotiating first. The arbitrator found that the CBP should have provided the NTEU with notice and the opportunity to bargain before the CBP made its changes, such as the Port of Hous-

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ton reassigning officers to Bush International Airport and the Port of New Orleans implementing a new master schedule.⁶

The TSA needs the maximum flexibility to respond to potential threats using the latest information available. It needs the ability to rush screeners to high-risk locations and modify screening procedures at a moment's notice. The TSA does not have weeks to bargain over officer assignments and new schedules before implementing them. By taking security procedures and personnel assignments off the bargaining table, Pistole has preserved this flexibility.

Excluding pay and benefits from bargaining similarly protects national security. Unions attempt to raise their members' pay and benefits. In the government, this means raising the proportion of an agency's budget spent on labor costs and reducing the proportion spent on other items—to the detriment of overall security.

Camel's Nose Under the Tent. Despite these limitations, however, collective bargaining has the potential to hinder the TSA. Permitting collective bargaining gives unions millions of dollars in new dues. They can use this money to campaign for and lobby politicians to expand permissible subjects of negotiation.

That is exactly how the TSA came to change its position on collective bargaining. Candidate Obama

promised it to unions on the campaign trail. Now his choice to head the agency is fulfilling that campaign promise.

Limited collective bargaining is likely to become less limited over time. While unions cannot currently negotiate pay or flexibility, a future TSA Administrator could change that. Allowing limited collective bargaining makes harmful changes likely in the future.

Labor Disputes Endanger Passengers. Collective bargaining at the TSA would be a mistake even if the bargaining limitations remain in place. The collective bargaining framework is inherently adversarial. Pitting employees and employers against each other at the bargaining table fosters attitudes of "labor versus management." This often leads to strikes and job actions to pressure management to accept union demands.

This has happened in other countries that allow security screeners to collectively bargain. Canada, for example, collectively bargains with its airline screeners. During Thanksgiving of 2006, this union was dissatisfied with contract negotiations. To pressure management, the union instructed its members to hand search every piece of luggage. This caused long backups in the security lines and prevented many passengers from making their flights. To ease the backlog, managers allowed 250,000 passengers to board their plans without being screened.

1. John Pistole, "Determination: Transportation Security Officers and Collective Bargaining," U.S. Department of Homeland Security, February 4, 2011, at http://www.tsa.gov/assets/pdf/determination_tso_and_collective_bargaining.pdf (February 9, 2011).
2. U.S. Department of Homeland Security, Transportation Security Administration, "Fact Sheet: TSA Administrator Pistole's Decision on Collective Bargaining," February 4, 2011, at http://www.tsa.gov/press/happenings/2011/11_0204_fact_sheet_on_collective_bargaining.shtm (February 9, 2011).
3. James Sherk, "Declining Unionization Calls for Re-Envisioning Workplace Relations," Heritage Foundation *WebMemo* No. 3099, January 21, 2011, at <http://www.heritage.org/Research/Reports/2011/01/Declining-Unionization-Calls-for-Re-Envisioning-Workplace-Relations>.
4. Eric Lipton, "Unions Can Bargain on Behalf of Airport Security," *The New York Times*, February 4, 2011, at http://www.nytimes.com/2011/02/05/us/05unionize.html?_r=1&hp (February 9, 2011).
5. Like most federal agencies, the TSA will have a "Right to Work" policy, which permits employees to not pay union dues. Heritage Foundation calculations are based on average American Federation of Government Employees (AFGE) dues of \$15 per pay period, as reported by the AFGE. See American Federation of Government Employees, "Dues and Eligibility," at <http://www.afge.org/Index.cfm?Page=HowtoBecomeaMember> (February 9, 2011).
6. Decision of M. David Vaughn in federal arbitration between the Bureau of Customs and Border Protection and National Treasury Employees Union, November 15, 2006. The full decision is available from the author upon request.

In the words of one Canadian security expert, “If terrorists had known that in those three days that their baggage wasn’t going to be searched, that would have been bad.”⁷ The government should not allow labor disputes to endanger passengers.

Pistole’s determination prohibits such “collective job actions.”⁸ Unfortunately, government unions often illegally strike despite such prohibitions, putting vital public services at risk. Detroit public school teachers went on strike in September 2006—despite a state law banning such strikes.⁹ As a result 130,000 students started the school year late. In December 2005, an illegal strike by transit workers paralyzed New York City during the busiest shopping days of the year.¹⁰ Unionizing the TSA brings the possibility of illegal labor disputes that would endanger passengers.

Limiting Merit Awards. Collective bargaining will also make rewarding and motivating employees more difficult. Today the TSA evaluates screeners’ performance and gives raises and bonuses to high performers. This allows the TSA to keep screeners motivated despite the tedium of their jobs.

Government unions typically oppose merit awards. They prefer seniority-based systems that ignore individual performance. Pistole has decided to collectively bargain over awards and recognition procedures. This will allow unions to negotiate

away merit recognition, reducing the incentive for good performance.

Congress Should Prohibit Collective Bargaining at TSA. In most parts of government, labor disputes and union inefficiencies raise costs for taxpayers. In national security agencies, they also put lives at risk. Federal law prohibits most national security agencies from unionizing for exactly this reason. The Secret Service, the FBI, and the CIA do not collectively bargain. America cannot afford conflict between unions and management that could allow a terrorist attack to succeed.

Unionizing the TSA is a mistake. The limitations on collective bargaining mitigate the worst problems with unionizing the agency, but allowing any bargaining makes it likely that a future Administration will remove those protections. Collective bargaining also makes labor disputes more likely and makes rewarding the best performers more difficult. Unions’ desire to increase their ranks does not justify risking national security. Congress should expressly prohibit the TSA from collective bargaining. If the President will not sign such legislation, Congress can use the appropriations process to prevent collective bargaining. Congress should prevent the TSA from spending any money on collective bargaining.

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7. CBC News, “Luggage Security Lax During Pearson Labour Dispute: Report,” December 20, 2006.

8. Pistole, “Determination.”

9. Associated Press, “Detroit Public Schools Cancel Classes Indefinitely Amid Teachers Strike,” September 5, 2006.

10. Associated Press, “New York City Transit Strike Ends,” December 23, 2005.