

# WebMemo



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## Collective Bargaining for Airport Screeners Is Unnecessary and Bad for National Security

*James Sherk*

Members of Congress have tucked into the Implementing the 9/11 Commission Recommendations Act of 2007 (H.R. 1) and the Improving America's Security Act of 2007 (S. 4) a provision to weaken America's national security that the commission never recommended. The bills would require the Transportation Security Administration (TSA) to collectively bargain with government unions representing airport security screeners. Collectively negotiating every change in work procedures or duty assignments would significantly reduce the ability of the TSA to flexibly respond to terrorist threats and other emergencies. Moreover, TSA screeners already have a voice, are able to join unions, and leave their jobs less than private-sector transportation workers. This provision has no place in legislation intended to make Americans safer.

**Collective Bargaining at Issue, Not Union Membership.** When Congress created the TSA, it gave the agency the authority to decide whether or not to engage in collective bargaining with airport baggage screeners. The TSA concluded that collective negotiations would impair its ability to protect the American people, and the 9/11 Commission never suggested otherwise. Nonetheless, Members of Congress have inserted a provision requiring the TSA to collectively bargain with airport screeners into the legislation intended to implement the commission's recommendations.

At issue is whether or not the TSA must collectively bargain with government unions before it changes personnel and policies, not whether TSA employees

should be allowed to join a union. Much of the news coverage has gotten this wrong.<sup>1</sup> Airport screeners may voluntarily join a union today, and the TSA will withhold union dues at an employee's request.<sup>2</sup> Seven hundred security screeners have chosen to become dues-paying members of the American Federation of Government Employees (AFGE).<sup>3</sup> The union, however, has no standing to collectively bargain with the TSA. The new provision would require collective negotiation of personnel assignments and promotion policies.

**Less Flexibility to Respond to Threats.** 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. It has this flexibility now. Following the attempted U.K. airline bombings last summer, for example, the TSA overhauled its procedures in less than 12 hours to prevent terrorists from smuggling liquid explosives onto any U.S. flights.<sup>4</sup>

The TSA cannot spend weeks or months collectively negotiating new procedures or personnel assignments before implementing them. Collective bargaining would impose such delays. Other gov-

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214 Massachusetts Avenue, NE  
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(202) 546-4400 • [heritage.org](http://heritage.org)

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ernment unions in the Department of Homeland Security have strongly resisted changing established procedures and the flexible assignment of personnel. The National Treasury Employees Union (NTEU), for example, brought the Customs and Border Protection (CBP) before an arbitrator after the CBP unilaterally 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 Houston reassigning officers to the Bush International Airport and the Port of New Orleans implementing a new master schedule.<sup>5</sup>

The TSA does not have weeks to bargain over officer assignments and new schedules before implementing them. It needs the flexibility to act immediately to protect Americans. Collective bargaining introduces a layer of bureaucracy and delay that America cannot afford.

#### **Merit Promotions Protect National Security.**

Today, airport screeners earn their promotions through merit and competence, not seniority. The TSA evaluates screeners on the basis of their technical proficiency, training and development, customer service skills, teamwork, professionalism, and leadership, and then awards promotions, raises, and bonuses to high performers.<sup>6</sup> This allows the TSA to assign the best screeners to the most sensitive posts and to keep screeners motivated despite the potential tedium of their jobs.

Most government departments place considerable weight on seniority when promoting employees because government unions insist on it in collective bargaining. If Congress gives unions the chance, they are all but certain to insist on seniority-based promotions at the TSA. The AFGE has already sued the TSA for laying off workers who performed poorly on tests of skill without taking into account their seniority.<sup>7</sup> Seniority-based promotion systems may make life easier for many workers, but they would harm national security. America needs the best and most motivated screeners in the most sensitive positions, not those who have simply been on the job the longest.

**Screeners Voices Heard Today.** Airport screeners do not need collective bargaining because their voices are already heard. Screeners can already join a union, and the AFGE represents its members in grievance procedures and job safety complaints.<sup>8</sup> The TSA has created a Career Progression Initiative to create a career track for screeners without resorting to seniority-based promotions.<sup>9</sup> The TSA has also created employee advisory councils to address workplace issues and designed its merit pay system with consultation and feedback from 4,000 employees.<sup>10</sup>

Reflecting their job satisfaction, screeners are less likely to leave their jobs than private sector workers in comparable positions. The TSA's voluntary attrition rate was 16.5 percent in 2006, while in the private transportation-utilities sector, 19.6 percent of workers left their jobs that year.<sup>11</sup> Airport screeners

1. See, e.g., "Senate Panel Backs Union Rights for TSA Screeners," *The Associate Press*, February 16, 2007, at [www.cnn.com/2007/POLITICS/02/16/security.screeners.ap/index.html](http://www.cnn.com/2007/POLITICS/02/16/security.screeners.ap/index.html).
2. Tom Ramstack, "Unions Aim to Halt Layoffs of Airport Screeners," *The Washington Times*, July 9, 2003, at [www.washtimes.com/business/20030708-094836-4179r.htm](http://www.washtimes.com/business/20030708-094836-4179r.htm).
3. Kimberly Palmer, "Hard Bargain," *Government Executive*, March 15, 2005, at [www.govexec.com/features/0305-15/0305-15na2.htm](http://www.govexec.com/features/0305-15/0305-15na2.htm).
4. Statement of Kip Hawley, Assistant Secretary, Transportation Security Administration, before the Subcommittee on Homeland Security, Committee on Appropriations, U.S. House of Representatives, February 13, 2007, at [www.tsa.gov/assets/pdf/hahsc\\_security\\_challenges.pdf](http://www.tsa.gov/assets/pdf/hahsc_security_challenges.pdf).
5. Decision of M. David Vaughn in Federal Arbitration between Department of Homeland Security, Bureau of Customs and Border Protection and National Treasury Employees Union, November 15, 2006. The full decision is available from the author upon request.
6. Statement of Kip Hawley, February 13, 2007.
7. Tom Ramstack, "Unions Aim to Halt Layoffs of Airport Screeners."
8. *Ibid.*
9. Statement of Kip Hawley, February 13, 2007.

have a voice and are heard by management at every level and, so, do not need collective bargaining.

**Conclusion.** Forcing the Transportation Security Administration to collectively bargain with its airport security screeners' union would endanger Americans. The TSA needs the flexibility to rapidly move officers and overhaul procedures without first spending weeks in collective negotiations. Merit pay systems, which unions resist, keep screeners motivated and ensure that the best officers serve in

the most sensitive positions. Even without collective bargaining, the TSA listens to airport screeners and takes their advice when changing work conditions. Congress should remember that the TSA exists to protect American lives, not guarantee workers a stable work schedule or seniority-based promotions. Its mission requires flexibility that collective bargaining would foreclose.

—James Sherk is Bradley Fellow in Labor Policy in the Center for Data Analysis at The Heritage Foundation.

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10. Stephen Barr, "Effort to Give TSA Screeners Union Rights Advances," *The Washington Post*, p. D04, February 16, 2007, at [www.washingtonpost.com/wp-dyn/content/article/2007/02/15/AR2007021501811.html](http://www.washingtonpost.com/wp-dyn/content/article/2007/02/15/AR2007021501811.html).

11. *Ibid.*