



November 2022

# AVIATION SECURITY

## TSA Should Assess Potential for Discrimination and Better Inform Passengers of the Complaint Process

# GAO Highlights

Highlights of [GAO-23-105201](#), a report to congressional requesters

## Why GAO Did This Study

TSA screened over 1.5 million airline passengers per day in 2021 as part of its mission to protect the nation's transportation systems. However, TSA has faced allegations that some of its screening practices may negatively affect certain passengers and has received discrimination complaints.

GAO was asked to review the potential for discrimination in TSA's screening practices. This report addresses (1) how TSA helps ensure that its airline passenger screening practices do not result in discrimination and (2) the extent to which TSA has established and informed passengers about its complaint process for allegations of discrimination. GAO analyzed documents and data on TSA's screening practices and complaints process and interviewed TSA officials in headquarters and four airports, selected based on size, complaints filed, and other factors. GAO also interviewed seven stakeholder organizations, including those representing religious groups and persons with disabilities, selected based on their work on airline security screening.

## What GAO Recommends

GAO is making four recommendations to TSA to (1) collect data on passenger referrals for additional screening, (2) conduct assessments to determine the extent to which its screening practices comply with agency non-discrimination policies, (3) take additional actions to better inform passengers about its discrimination complaint process, and (4) strengthen its ability to analyze discrimination complaints. DHS concurred with these recommendations.

View [GAO-23-105201](#). For more information, contact Tina Won Sherman at (202) 512-8461 or [shermant@gao.gov](mailto:shermant@gao.gov).

November 2022

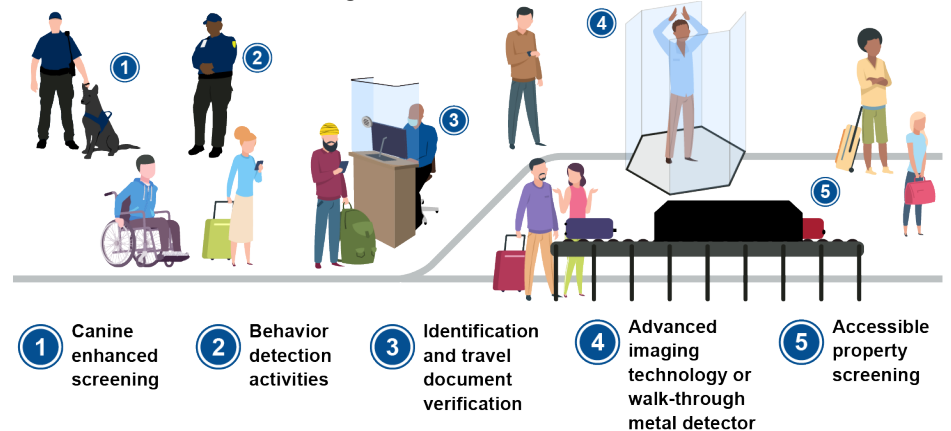
## AVIATION SECURITY

### TSA Should Assess Potential for Discrimination and Better Inform Passengers of the Complaint Process

## What GAO Found

The Department of Homeland Security's (DHS) Transportation Security Administration (TSA) has taken actions, such as establishing procedures and training, that can help to prevent the potential for discrimination in its airline passenger screening practices. However, it has not assessed the extent to which these practices may result in certain passengers being referred for additional screening more often than others. For example, TSA officials in all four airports GAO visited and representatives from the seven stakeholder organizations GAO interviewed stated that TSA's advanced imaging technology or other practices could result in certain passengers being referred for additional screening more frequently than others. These include transgender passengers or those who wear religious headwear or have disabilities. TSA has not collected data on referrals for additional screening and conducted assessments to determine the extent to which this occurs. Such data collection and assessments could help TSA identify any actions needed to better comply with agency policies that prohibit discrimination.

#### Examples of TSA Passenger Screening Practices at Airport Checkpoints That Can Result in Referrals for Additional Screening



Source: GAO analysis of Transportation Security Administration (TSA) information. | [GAO-23-105201](#)

TSA has a process for addressing passenger complaints alleging discrimination, but could improve how it informs passengers about this process. For example, representatives from all seven stakeholder organizations stated that passengers are often unaware of how to file discrimination complaints. While TSA provides signs for airports to place at checkpoints that include contact information for questions about screening, most do not explicitly cite complaints. Taking additional steps to better inform the public about the discrimination complaint process could help ensure any issues are identified and addressed. Further, TSA's data systems and collection practices limit its ability to fully analyze discrimination complaints. For example, TSA is unable to analyze the number of complaints that were found to have merit or resulted in disciplinary actions because the data are stored in different systems that lack specific fields to collect this information. Improving TSA's analyses of discrimination complaint data could better inform training and other initiatives to help prevent discrimination.

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Figure 4: Number of Civil Rights and Civil Liberties Complaints  
Alleging Discrimination Filed Per Million Passengers  
Screened

34

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**Abbreviations**

AIT	advanced imaging technology
DHS	Department of Homeland Security
FAA	Federal Aviation Administration
TSA	Transportation Security Administration
TCC	TSA Contact Center

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November 7, 2022

The Honorable Gary C. Peters  
Chairman  
Committee on Homeland Security and Governmental Affairs  
United States Senate

The Honorable Bennie G. Thompson  
Chairman  
Committee on Homeland Security  
House of Representatives

The Honorable Bonnie Watson Coleman  
Chairwoman  
Subcommittee on Transportation and Maritime Security  
Committee on Homeland Security  
House of Representatives

The Transportation Security Administration (TSA) is charged with the mission of protecting the nation's transportation systems, including preventing acts of terrorism on these systems and responding to ever-evolving threats. As part of this mission, TSA screened an average of 1.6 million airline passengers per day from 2019 through 2021.<sup>1</sup> However, the agency has received some complaints from passengers who believe they have experienced discrimination at airport checkpoints and faced allegations that some of its screening practices may negatively affect certain passengers.

For example, civil rights organizations have reported that TSA's advanced imaging technology (AIT) alarms regularly on passengers with coarse hair, religious headwear, and prostheses, which could lead to more frequent pat-downs and other additional screening of certain passengers.<sup>2</sup> Some of these organizations have also raised concerns that TSA's behavior detection activities could refer certain passengers for additional screening more often than others.

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<sup>1</sup>This number does not include known airline crew members.

<sup>2</sup>AIT machines use automated recognition software to screen passengers without physical contact and locate potential metallic and non-metallic threats, such as weapons or explosives, which may be concealed under clothing.

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You asked us to review the potential for discrimination in TSA's screening practices. This report addresses (1) how TSA helps ensure that its airline passenger screening practices do not result in discrimination against passengers based on race, religion, gender, and other characteristics; and (2) the extent to which TSA has established and informed airline passengers about its complaint process for allegations of discrimination.

To address how TSA helps ensure that its airline screening practices do not result in discrimination against passengers, we analyzed TSA policies, guidance, standard operating procedures, officer briefings, monitoring requirements, and training materials related to preventing the potential for discrimination in these practices. We also reviewed the agency's procedures and guidance for facilitating screening of certain passengers, such as transgender and gender nonconforming passengers and those who wear religious headwear or have disabilities. In addition, we analyzed available data on behavior detection referrals for additional screening from October 2015 through December 2021.<sup>3</sup> We also analyzed requests for information or assistance from TSA's passenger support program in 2021.<sup>4</sup>

Further, we interviewed TSA headquarters officials from Security Operations, Requirements and Capabilities Analysis, Training and Development, the Customer Service Branch, and the Multicultural and Disability Branches to obtain information on TSA's efforts to prevent the potential for passenger discrimination resulting from its screening practices.<sup>5</sup> We also discussed any data collected and analyses performed to assess the extent to which TSA's screening practices may result in discrimination. In addition, we obtained information on how TSA coordinates with stakeholder organizations, including civil rights

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<sup>3</sup>We selected the timeframes for behavior detection referrals to analyze trends in the number of referrals before and after TSA eliminated the stand-alone behavior detection program in fiscal year 2017. Since the program ended, TSA no longer has dedicated behavior detection officers, but Transportation Security Officers still use behavior detection to support checkpoint screening.

<sup>4</sup>We analyzed requests for passenger support assistance in 2021 because it was the last full calendar year that data were available when we conducted our review.

<sup>5</sup>Security Operations is the office responsible for managing and overseeing airport checkpoint screening. The Requirements and Capabilities Analysis office is responsible for assessing TSA's operational capability gaps and developing future requirements.

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organizations, to improve passenger screening experiences and help prevent discrimination.

We conducted site visits to Los Angeles International, Hartsfield-Jackson Atlanta International, and Chicago's O'Hare and Midway International airports to interview TSA officials (e.g., Federal Security Directors, screening managers and supervisors, officers who conduct behavior detection) and held discussion groups with selected non-supervisory Transportation Security Officers who conduct checkpoint screening.<sup>6</sup> During these interviews and discussion groups, we obtained information and perspectives on TSA's screening practices in relation to certain passengers, actions taken to help prevent potential discrimination, and any relevant data that these airports collect or report. We also observed checkpoint screening operations, including behavior detection activities, the use of canine units, AIT screening, and pat-downs, among other practices. We selected airports to primarily include those classified in TSA's highest security risk category and those with larger numbers of passengers screened, passenger complaints filed alleging violations of civil rights and civil liberties, and officers who have completed behavior detection training.<sup>7</sup> We included one smaller, lower risk category airport for variation. In addition, we considered other factors, such as geographic variation and proximity to our field offices. We randomly selected officers to participate in our discussion groups to obtain, where applicable, a mix of officers from different airport terminals.<sup>8</sup>

Further, we interviewed representatives from seven selected stakeholder organizations to obtain perspectives on what TSA screening practices, if

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<sup>6</sup>We conducted a total of 12 discussion groups—four at Los Angeles International Airport, four at Hartsfield-Jackson Atlanta International Airport, two at Chicago O'Hare International Airport, and two at Midway International Airport.

<sup>7</sup>TSA classifies airports into one of five security risk categories (X, I, II, III, IV) based on various factors such as the number of takeoffs and landings annually, the extent of passenger screening at the airport, and other special security considerations. In general, Category X airports have the largest number of passenger boardings and Category IV airports have the smallest. We reviewed data, by airport, on passengers screened in fiscal year 2019, passenger complaints alleging violations of civil rights and civil liberties filed from October 2015 through February 2018, and TSA officials and officers who completed behavior detection training from 2016 through 2021.

<sup>8</sup>TSA officials from each airport provided a list of non-supervisory officers who were scheduled to work on the day we conducted the discussion groups and their duty terminals. We randomly selected officers from a mix of terminals and provided the list to TSA. We selected more officers than the number needed for our discussion groups to account for varying shifts and help airport officials minimize any disruptions to checkpoint operations.

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any, may result in passenger discrimination. We also obtained information on how, if at all, TSA collaborates with these organizations to address the potential for discrimination in its practices. The organizations we interviewed were the American Civil Liberties Union, Autistic Self Advocacy Network, Council on American-Islamic Relations, National Center for Transgender Equality, National Disability Rights Network, Paralyzed Veterans of America, and Sikh Coalition. We selected these organizations based on their recent work on allegations of discrimination related to TSA security screening (e.g., testifying before Congress, involvement in drafting proposed legislation, reports and press releases issued), as well as recommendations from TSA and the organizations we interviewed.

To address the extent to which TSA has established and informed airline passengers about its complaint process for allegations of discrimination, we analyzed documentation and interviewed TSA headquarters officials from the Customer Service, Multicultural, and Disability Branches, and Human Capital office regarding (1) the processes for receiving, adjudicating, and resolving passenger complaints alleging discrimination; (2) how TSA informs the public about its complaint processes; and (3) actions taken in response to the complaints. We also analyzed available data on civil rights and civil liberties complaints alleging discrimination from 2016 through 2021 to describe the number of complaints received and the nature of the complaints (e.g., basis of discrimination). Additionally, during our airport visits, we interviewed TSA officials and observed signs placed at the checkpoints to obtain information about any allegations of discrimination and how TSA informs passengers of its complaint process. Lastly, we interviewed representatives from the selected stakeholder organizations listed above to obtain information and perspectives on, among other things, TSA's complaint process for allegations of discrimination related to security screening and the extent to which passengers are aware of their ability to file such complaints.

For both research objectives, we assessed the reliability of the data we analyzed by interviewing knowledgeable TSA officials about data quality control procedures and reviewing documentation on how TSA collects and maintains the data. We found the data to be sufficiently reliable for reporting referrals from behavior detection activities, requests for passenger support assistance, and complaints received alleging discrimination. In addition, we conducted content analyses on the information obtained from the site visit interviews and discussion groups and interviews with selected stakeholder organizations to identify key themes. The results from our analyses of the site visits and stakeholder



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interviews are not generalizable, but provided valuable perspectives on TSA's screening practices in relation to certain passengers and TSA's efforts to prevent discrimination and inform passengers about its complaint process for allegations of discrimination. We compared the documentary, testimonial, and observational evidence we obtained to relevant legislation; executive orders; agency strategies; and federal internal control standards for the use of quality information, evaluating issues and remediating deficiencies, and communicating externally.<sup>9</sup>

We conducted this performance audit from May 2021 through November 2022 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## Background

### Passenger Security Screening at Airport Checkpoints

TSA is the federal agency with primary responsibility for securing the nation's civil aviation system, which includes the screening of all passengers and property transported by commercial passenger aircraft.<sup>10</sup> The agency screens individuals and property at airport checkpoints to deter and prevent passengers from carrying unauthorized or prohibited items on board an aircraft or into the airport sterile area, which is

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<sup>9</sup>See, for example, Federal Aviation Administration (FAA) Reauthorization Act of 2018, Pub L No. 115-254, 132 Stat. 3186; Advancing Racial Equity and Support for Underserved Communities through the Federal Government, Exec. Order No. 13985, 86 Fed. Reg. 7009 (Jan. 25, 2021) (issued Jan. 20); Transforming Federal Customer Experience and Service Delivery to Rebuild Trust in Government, Exec. Order No. 14058, 86 Fed. Reg. 71,357 (Dec. 16, 2021) (issued Dec. 13); TSA, *2020 Biennial National Strategy for Transportation Security, Report to Congress* (May 29, 2020); and GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 10, 2014).

<sup>10</sup>See Aviation and Transportation Security Act, Pub. L. No. 107-71, § 101(a), 115 Stat. 597 (2001) (codified, as amended, at 49 U.S.C. § 114). "Commercial passenger aircraft" generally encompasses the scheduled passenger operations of U.S.-flagged air carriers operating in accordance with their TSA-approved security programs and foreign-flagged air carriers operating in accordance with security programs deemed acceptable by TSA. See 49 C.F.R. pts. 1544 (governing U.S.-flagged air carriers) and 1546 (governing foreign-flagged air carriers).

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generally defined as the area that provides passengers access to boarding aircraft.<sup>11</sup>

Standard TSA passenger screening at an airport typically includes verifying identifications, passing through an AIT machine or walk-through metal detector, and X-ray screening of passengers' accessible property (e.g., carry-on baggage and possessions). TSA may also use canines and behavior detection activities to further screen passengers for prohibited items. Figure 1 illustrates the screening practices passengers may encounter at the airport that can result in referrals for additional screening.<sup>12</sup> Further details on each of the practices are provided in the sections that follow. Additional screening could include a pat-down, explosive trace detection screening, and physical search of the passenger's accessible property, among other activities.<sup>13</sup> TSA has established standard operating procedures, training, and other guidance for conducting its screening practices at airport checkpoints.

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<sup>11</sup>Officers must deny passage beyond the screening checkpoint to any individual or property that has not been screened or inspected in accordance with passenger screening standard operating procedures. See 49 U.S.C. § 44901(a); 49 C.F.R. §§ 1540.107(a), 1540.111(a)-(b). See also 49 U.S.C. § 44902 and 49 C.F.R. §§ 1544.201(c) and 1546.201(c) (requiring, in general, that air carriers refuse to transport any individual who does not consent to a search or inspection of his or her person and property). See also 49 C.F.R. § 1540.5 for definition of airport sterile area.

<sup>12</sup>Passengers may also be designated for additional screening prior to their entry to airport checkpoints by TSA's Secure Flight prescreening program, which matches passenger information to federal government watch lists and intelligence-driven information to assign passengers to risk categories that either corresponds to the level of screening they will receive at the checkpoint or may deny them an opportunity to board the aircraft. Our review focuses on referrals for additional screening that are the result of screening practices performed at airport checkpoints and does not include these programs. For our prior work on these programs, see GAO, *Aviation Security: Actions Needed to Systematically Evaluate Cost and Effectiveness Across Security Countermeasures*, [GAO-17-794](#) (Washington, D.C.: Sept. 11, 2017) and GAO, *Aviation Security: TSA Coordinates with Stakeholders on Changes to Screening Rules but Could Clarify Its Review Processes and Better Measure Effectiveness*, [GAO-20-72](#) (Washington, D.C.: Nov. 20, 2019).

<sup>13</sup>Explosive trace detection works by detecting vapors and residues of explosives. Officers collect samples by rubbing swabs along the exterior and interior of an object that they determine to be suspicious, or over the inside of a passenger's hands. Officers then place the swabs in a machine, which chemically analyzes the swab to identify any traces of explosive materials.

**Figure 1: Examples of Transportation Security Administration (TSA) Passenger Screening Practices at Airport Checkpoints That Can Result in Referrals for Additional Screening**



**1 Canine enhanced screening**  
 Canine team trained to detect explosive materials may be positioned in the passenger queue at the security checkpoint.

**2 Behavior detection activities**  
 Officers trained in behavior detection techniques may observe passengers at the security checkpoint to identify persons exhibiting behaviors indicative of stress, fear, or deception and who may pose a risk to aviation security.

**3 Identification and travel document verification**  
 Officer verifies passenger's identification and confirms that the passenger has a valid boarding pass, among other activities.

**4 Advanced imaging technology or walk-through metal detector**  
 Passenger is screened by an advanced imaging technology machine or walk-through metal detector.<sup>a</sup>

**5 Accessible property screening**  
 Passenger's carry-on baggage and other accessible property are screened by an x-ray.

Source: GAO analysis of TSA information. | GAO-23-105201

Note: Additional screening could include a pat-down, explosive trace detection screening, and physical search of the passenger's accessible property, among other activities.

<sup>a</sup>TSA standard operating procedures generally afford passengers the option to request screening by a pat-down if they so choose in lieu of passing through an advanced imaging technology machine or walk-through metal detector.

**Canine enhanced screening.** As passengers approach the checkpoint, TSA may use canine teams—a canine paired with a handler—to search for odors that are consistent with explosive materials. If the handler discerns a change in the canine's behavior that signifies the potential

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presence of such materials, the passenger is to be referred for additional screening.<sup>14</sup>

**Behavior detection activities.**<sup>15</sup> Transportation Security Officers trained in behavior detection may observe passengers for certain behavioral indicators and engage with those passengers to ask security-related questions. These behavioral indicators include, for example, assessing the way an individual swallows or changes in breathing rate. According to TSA, behavioral indicators that are outside of an environmental baseline and meet established criteria may indicate mal-intent, such as the intent to carry out a terrorist attack. If a certain number of indicators are displayed that meet established criteria, the passenger is to be referred for additional screening. According to TSA officials, only officers who are trained and qualified in behavior detection can refer passengers for

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<sup>14</sup>When canine enhanced screening is conducted, TSA procedures allow passengers who are not flagged by the canine team to receive expedited screening, which typically includes walk-through metal detector screening and X-ray screening of passengers' accessible property. Unlike standard screening, travelers do not have to remove their belts, shoes, or light outerwear, among other items.

<sup>15</sup>See, GAO, *Aviation Security: TSA Has Policies that Prohibit Unlawful Profiling But Should Improve Its Oversight of Behavior Detection Activities*, [GAO-19-268](#) (Washington, D.C.: Apr. 23, 2019) for our report on TSA behavior detection training and oversight related to unlawful profiling and complaints received alleging violations of civil rights and civil liberties.

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additional screening.<sup>16</sup> Officials stated that behavior detection is predominantly used to support canine enhanced screening teams.<sup>17</sup>

**Identification and travel document verification.** Passengers who are 18 years old or older must show valid identification (ID) at the airport checkpoint in order to travel.<sup>18</sup> Officers are required to visually validate that the photo on the ID matches the individual presenting the ID, verify that the name on the ID substantially matches the name on the boarding pass, and determine the passenger's screening status (e.g., standard, TSA PreCheck®), among other things. Passengers who do not have a valid ID may be asked to provide other forms of identification or complete an identity verification process.<sup>19</sup> If their identity is confirmed, they will be allowed to enter the screening checkpoint and are subject to additional screening.

**AIT or walk-through metal detector screening.** AIT machines use automated target recognition software to screen passengers without physical contact and locate potential metallic and non-metallic threats, such as weapons or explosives, which may be concealed under clothing.

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<sup>16</sup>TSA officials reported that, as of November 30, 2021, about 3,730 officers were qualified to conduct behavior detection activities and refer passengers for additional screening. To be qualified, officers must complete a 40-hour behavior detection course, pass a knowledge test, and complete 24 hours of on-the-job training. Supervisory and lead officers may take the behavior detection course, without the testing and on-the-job training requirements, to learn the skillset but cannot refer passengers for additional screening based on behavior detection assessments.

<sup>17</sup>Behavior detection activities were initially introduced in 2006 as part of TSA's Behavior Detection and Analysis program, which employed specifically trained behavior detection officers to observe and interact with air passengers at screening checkpoints. However, we found that available evidence does not support whether behavioral indicators can be used to identify persons who may pose a risk to aviation security. See GAO, *Aviation Security: TSA Should Limit Future Funding for Behavior Detection Activities*, [GAO-14-159](#) (Washington, D.C.: Nov. 8, 2013) and GAO, *Aviation Security: TSA Does Not Have Valid Evidence Supporting Most of the Revised Behavioral Indicators Used in Its Behavior Detection Activities*, [GAO-17-608R](#) (Washington, D.C.: July 20, 2017). In fiscal year 2017, consistent with the Aviation Security Act of 2016, TSA eliminated the stand-alone behavior detection officer position. According to TSA officials, these officers were integrated into the screening workforce to support increased passenger volume at TSA's checkpoints. See Pub. L. No. 114-190, title III, subtitle C, § 3304(a)(1), 130 Stat. 615, 655 (2016).

<sup>18</sup>Children who appear to be under the age of 18 do not require ID verification, but their boarding pass must be checked.

<sup>19</sup>The process can include a TSA representative collecting the passenger's name, current address, and other personal information to confirm their identity through the National Transportation Vetting Center.

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When conducting AIT screening, officers are to (1) instruct passengers to stand with their arms positioned over their heads and (2) press a scan button corresponding to the passengers' gender presentation. If the recognition software detects a potential threat, the machine alarms and displays the area where the alarm occurred (e.g., head, chest, groin) on a generic human image. Some passengers, such as children who appear to be 12 years old or younger, individuals who appear to be 75 years old or older, and passengers with mobility issues, are eligible to be screened by a walk-through metal detector instead of an AIT machine. Passengers who trigger an alarm on the AIT machine or metal detector may be required to undergo a targeted pat-down and, in some cases, explosive trace detection screening.

**Accessible property screening.** During X-ray examination of passenger carry-on baggage and other accessible property, officers review the X-ray images, and if potential threats or prohibited items are detected, they are to manually inspect the property and conduct explosive trace detection screening, among other activities.<sup>20</sup>

**Random screening.** Passengers may also be randomly selected at airport checkpoints for additional screening, which includes a pat-down and a manual inspection or explosive trace detection screening of their accessible property.<sup>21</sup> TSA procedures require a certain percentage of passengers to be randomly screened based on airport risk category and screening lane (e.g., standard, TSA PreCheck®). According to the procedures, passengers are selected using a random generator in the walk-through metal detector.

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<sup>20</sup>To provide passengers with guidance on the types of items TSA policy prohibits from being carried onto an aircraft, TSA maintains a prohibited items list that specifies items passengers may not carry into the sterile area or onboard an aircraft. This list is available through TSA's website at <https://www.tsa.gov/travel/security-screening/prohibited-items>. The list is not exhaustive, but includes examples and categories of items that are prohibited, and officers may use their discretion to prohibit items they deem could pose a threat to transportation security.

<sup>21</sup>In addition to random screening at airport checkpoints, TSA's Advanced Threat Local Allocation Strategy teams may randomly screen passengers at flight boarding gates in certain circumstances.

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## Agency and Administration Policies on Discrimination, Profiling, and Equity

### TSA Policies and Guidance on Discrimination and Profiling

TSA's *2020 Biennial National Strategy for Transportation Security* states that while striving to enhance transportation security, the government must preserve and protect the fundamental civil rights and civil liberties of the public it serves.<sup>22</sup> Further, TSA's 2017 unlawful profiling guidance states that TSA must comply with applicable federal civil rights laws and civil rights directives in operating its security screening, law enforcement, and customer service programs and activities.<sup>23</sup> According to TSA officials, these laws and directives prohibit discrimination on the basis of race/ethnicity, color, national origin, sex (including pregnancy, sexual orientation, gender identity, and parental status), religion, age, disability, and genetic information, which are considered protected classes.

The guidance states that prohibited discrimination occurs when TSA provides members of the public lesser, segregated, or different treatment (e.g., profiling, harassment, denial of services) based on protected class characteristics (e.g., hair style, clothing, skin color, manner of speaking, country of origin, name, religious articles or jewelry). In addition, the guidance defines profiling as the use of personal characteristics or behavior patterns to make generalizations about a person. It states that profiling based on protected class characteristics (e.g., race, national origin, ethnicity, religion, and gender) is illegal.<sup>24</sup>

### DHS and Executive Administration Policies on Discrimination, Profiling, and Equity

In April 2013, the Secretary of Homeland Security issued a memo on the department's commitment to nondiscriminatory law enforcement and

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<sup>22</sup>TSA, *2020 Biennial National Strategy for Transportation Security*, Report to Congress (May 29, 2020).

<sup>23</sup>The guidance cites Title VI of the Civil Rights Act of 1964; the Age Discrimination Act of 1975; Title IX of the Education Amendments Act of 1972; and TSA Management Directive No. 900.1, Passenger Screening Complaints (Nov. 26, 2013). See Transportation Security Administration, *Unlawful Profiling: What It Is and How To Avoid It* (Nov. 13, 2017)

<sup>24</sup>In November 2021, TSA officials stated these are the definitions of discrimination and profiling the agency currently uses, in addition to the definition of profiling in the Department of Homeland Security (DHS) memo described below.

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screening activities.<sup>25</sup> The memo defines racial profiling as the invidious use of race or ethnicity as a basis in conducting stops, searches, and other law enforcement, investigation, or screening activities. It states that it is the department's policy to prohibit the consideration of race or ethnicity in its investigation, screening, and enforcement activities in all but the most exceptional instances.<sup>26</sup>

More broadly, a January 2021 executive order states that it is the policy of the presidential administration that the federal government should pursue a comprehensive approach to advancing equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality.<sup>27</sup> The order defines equity as the consistent and systematic fair, just, and impartial treatment of all individuals.

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## TSA Contact Center and Multicultural and Disability Branches

Within TSA's Civil Rights and Liberties, Ombudsman and Traveler Engagement office, the TSA Contact Center is an integral part of the agency's customer service program and the main portal for passenger questions and feedback. The center may refer screening complaints for resolution to other TSA headquarters offices, depending on the specific allegation. For example, complaints alleging discrimination on the basis of race, national origin, religion, sex, disability, or other protected class characteristics are to be referred to the Multicultural or Disability Branches. These branches are responsible for

- promoting respect for civil rights and civil liberties in policy and training creation and implementation;
- educating TSA personnel at headquarters and in the field on TSA's civil rights and liberties responsibilities to the public;

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<sup>25</sup>DHS, *Memorandum for Component Heads from Secretary Napolitano: The Department of Homeland Security's Commitment to Nondiscriminatory Law Enforcement and Screening Activities* (Apr. 26, 2013).

<sup>26</sup>The memo states that race- or ethnicity-based information that is specific to particular suspects or incidents, or ongoing criminal activities, schemes, or enterprises, may be considered.

<sup>27</sup>Advancing Racial Equity and Support for Underserved Communities through the Federal Government, Exec. Order No. 13985, 86 Fed. Reg. 7009 (Jan. 25, 2021) (issued Jan. 20). In response to the order, DHS issued an Equity Action Plan in January 2022 that identified seven key programs areas with the greatest potential for advancing equity in agency operations. These areas included airport screening and filing complaints in DHS programs.



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- collaborating with organizations and advocacy groups to identify promising practices for TSA's nondiscriminatory delivery of security, custody, and customer-service programs and activities; and
  - investigating and resolving civil rights and civil liberties complaints filed by the public alleging discrimination in TSA's security screening activities at airports.<sup>28</sup>

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## TSA Has Taken Actions to Help Prevent Discrimination, but Has Not Collected Data on and Assessed the Potential for Discrimination

TSA has taken actions that may help prevent discrimination and facilitate screening for certain population groups, such as establishing procedures, training, and passenger support services. However, TSA officials in the airports we visited and representatives from selected stakeholder organizations we interviewed stated that AIT scans and other screening practices could result in certain passengers being referred for additional screening more frequently than others. These include transgender passengers or those who wear religious headwear or have disabilities. TSA has not collected relevant data on referrals for additional screening to determine the extent to which this occurs or the associated effects, such as increased wait times for passengers with disabilities. Further, TSA has not assessed these and other data to determine whether its passenger screening practices comply with agency policies prohibiting discrimination.

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## TSA Has Taken Various Actions to Help Prevent Discrimination in Its Screening Practices

TSA's standard operating procedures, training, and other actions can help prevent the potential for discrimination against and facilitate screening for certain passenger groups. For example,

- **Checkpoint and Specialized Screening Standard Operating Procedures.** According to TSA screening managers, supervisors, and officers in all four of the airports we visited, TSA's standard operating procedures for checkpoint and specialized screening can help prevent potential discrimination, as they are required to be applied consistently to all passengers, regardless of race, religion, gender, or other characteristics. TSA officials and officers stated that referrals for additional screening are the result of TSA's security processes and requirements that apply to all passengers.

Standard operating procedures for checkpoint screening also include accommodations relating to screening passengers with disabilities and those practicing certain religions, as well as alternative screening

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<sup>28</sup>The branches' responsibilities related to such complaints apply to incidents that occur at federalized (i.e., TSA-regulated) airports. See 49 C.F.R. pt. 1542.

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procedures for transgender passengers. For example, the procedures state that passengers wearing non-formfitting headwear, including religious headwear, are to be offered a private screening area. Such passengers are also provided the option to conduct a self-pat-down of their headwear, in conjunction with hand-held metal detector screening of their headwear and explosive trace detection screening of their hands. The standard operating procedures also include advisements that TSA officers are to verbally state to passengers when conducting pat-downs, which include informing the passenger of the area(s) to be searched and a hands-off demonstration of how sensitive body areas will be screened.<sup>29</sup> Further, the procedures include instructions related to x-ray screening of medically necessary liquids (e.g., prescriptions, breast milk).

- **Behavior Detection Standard Operating Procedures.** In all four of the airports we visited, TSA officers who conduct behavior detection activities stated that the standard operating procedures help prevent discrimination and profiling. For example, officers at one of the airports said that the procedures require referrals for additional screening to be based on established behavioral indicators and specific criteria; and using race, religion, or other characteristics as a criteria is expressly prohibited. Officers also stated that, when possible, they work in teams of two or more, which allows them to confer and concur on observations of the behavior indicators that passengers may be exhibiting.<sup>30</sup>
- **Monitoring.** According to TSA officials, supervisors observe checkpoint officers to ensure they are following standard operating procedures. For example, as part of officer annual proficiency reviews and on an as-needed basis throughout the year, supervisors observe officers performing screening procedures in a live environment and

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<sup>29</sup>Advisements are specific verbal instructions or directions the officer provides to the passenger related to the screening procedure being performed.

<sup>30</sup>The operating procedures for behavior detection activities were updated in May 2022 to, according to TSA officials, reflect the end of the stand-alone program with dedicated officers and integration of behavior detection into the screening workforce. In addition, screening management at the airports we visited stated that the number of referrals from behavior detection activities have substantially decreased after the stand-alone program ended in 2017. Our analysis shows that there were 13,187 referrals (182 referrals per 10 million passengers screened) in 2016, compared to 506 referrals (six referrals per 10 million passengers screened) in 2018. Annual referral rates have continued to decrease through December 2021.

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use checklists to ensure the officers are following the procedures.<sup>31</sup> The checklists include providing the appropriate advisements when officers are, for example, conducting pat-downs. The checklists also require supervisors to note, among other things, whether officers screened passengers and their property without the use of unlawful profiling.

Further, for those officers who are performing behavior detection activities, screening supervisors perform behavior detection observations on a monthly basis and use a compliance checklist to evaluate the performance of the officers. As a result of our 2019 report on behavior detection, the checklist includes observations on whether all individuals were screened without regard to race, religion, gender identity, disability, and other characteristics.<sup>32</sup> Since October 2019, when this item was added to the checklist, TSA has not found any referrals that were out of compliance.

- **Weekly Shift Briefs.** TSA supplements its procedures by issuing national shift briefs on a weekly basis. These briefs may contain reminders to officers of TSA's anti-discrimination and profiling policies and refresher information on how to screen certain passenger groups in response to, for example, religious holidays or other events that may affect the types of passengers who are traveling. For example, the briefs have included information on medically necessary liquids, gels, and aerosols (e.g. breast milk, freezer packs, etc.); "X" gender markings on IDs; avoiding the use of discriminatory language; screening passengers with religious headwear; and screening passengers with service dogs, among other topics.
- **Training.** TSA provides basic training for all officers that covers procedures for screening passengers with disabilities, medical conditions, religious headwear, and other characteristics. The training also addresses discrimination and unlawful profiling. For example, the training states that the agency has a zero tolerance stance on racial

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<sup>31</sup>TSA uses annual proficiency reviews to evaluate officers' skill in performing various checkpoint screening functions, such as pat-downs of passengers, accessible property searches, and use of explosive detection equipment. TSA requires that officers pass the annual proficiency review to continue to remain employed in that capacity. See 49 U.S.C. § 44935(f)(5). If officers do not pass one of the components of the review after four attempts, they are subject to removal from their position.

<sup>32</sup>In April 2019, we recommended that TSA develop a specific oversight mechanism to monitor behavior detection activities. In October 2019, TSA implemented the recommendation by modifying existing behavior detection guidance and checklists used by managers and supervisors to include terminology and steps for monitoring for unlawful profiling. See [GAO-19-268](#).

profiling, and that all screening must be conducted without regard to race, ethnicity, gender identity, and religion or religious method of dress, among other things. Further, TSA's behavior detection training includes content on preventing racial, ethnic, and religious profiling in order to ensure security measures that require behavior analysis are appropriately and lawfully applied. TSA also provides both required and optional courses that address discrimination, profiling, and screening passengers from certain population groups. Table 1 provides examples of these courses and TSA's requirements.

According to the officers in all of the discussion groups we conducted at the four airports we visited, the training they received was generally useful in helping to prevent the potential for discrimination and profiling by TSA officers. TSA headquarters officials stated that the agency evaluates the effectiveness of its training related to anti-discrimination by administering course evaluation surveys that are completed by the participants. They stated that TSA reviews and analyzes the responses to identify themes and areas of improvement.

**Table 1: Examples of Required and Optional Transportation Security Administration (TSA) Training Courses for Transportation Security Officers That Cover Discrimination and Facilitating Screening of Certain Passengers**

Course title	Course description	Required/optional	Frequency
Public facing interactions	This online course is intended to familiarize Transportation Security Officers with federal civil rights and liberties laws and management directives that apply to TSA and how they govern TSA's engagements with the public it serves. The course is intended to provide officers with skills to identify and prevent discriminatory practices to promote fair and lawful treatment of the public. It covers how biases, stereotypes, and prejudices can lead to discrimination and negatively impact TSA's mission. The course requires officers to pass a proficiency test.	Required	Annual
Gender diversity awareness	This online training is intended to assist in increasing officer knowledge and awareness of the gender-diverse community.	Required	Annual
Introduction to Passenger Support Specialist <sup>a</sup>	This course introduces officers to the importance of the Passenger Support Specialist program to the screening process and the responsibilities of the Passenger Support Specialist at an airport. It provides best practices and interviewing techniques to use when engaging with diverse populations.	Required for officers who are becoming Passenger Support Specialists	Biennial
Preventing racial, ethnic, and religious profiling	This online briefing provides a reminder to all TSA screening personnel of their role in ensuring that security measures are appropriately applied, and that they are consistently and actively preventing any form of racial, ethnic, or religious profiling.	Optional	Not required
Effective engagement and screening of travelers with disabilities and medical conditions	Disability Branch virtual training to help officers understand TSA's obligation to comply with federal civil rights laws, identify a reasonable accommodation request, and recognize how to prevent unfair treatment of the traveling public due to a disability or medical condition.	Optional	Not required

Course title	Course description	Required/optional	Frequency
Passenger Support Specialist training - transgender screening	This training covers the roles and responsibilities of a Passenger Support Specialist to properly assist gender diverse and transgender individuals during the screening process.	Optional	Not required
How to engage with individuals with hearing loss	This course is designed to educate TSA personnel on what to know and expect when encountering individuals with hearing loss.	Optional	Not required
Traveling with a prosthetic	Presented by the Amputee Coalition of America, this course is designed to educate TSA personnel on what to know and expect when encountering individuals who are traveling with a prosthetic.	Optional	Not required

Source: GAO analysis of TSA information. | GAO-23-105201

\*Officers who are also Passenger Support Specialists receive specific training on how to assist passengers with disabilities, medical conditions, and other special circumstances.

- TSA Cares.** In 2012, TSA created TSA Cares, a service that allows passengers—via telephone or an online form—to obtain information on or request additional assistance with getting through the security screening process. Specifically, passengers with disabilities, medical conditions, and other special circumstances can use the service to request assistance 72 hours prior to their planned flight departure. Passengers who request the service may be assigned a Passenger Support Specialist to provide assistance with the screening process.<sup>33</sup> TSA airport officials stated that passengers who did not submit a request in advance of their flights are still able to request assistance with screening at the checkpoint.

According to the TSA officials in one of the airports we visited, either the Passenger Support Specialist or customer service manager is to contact the passenger prior to their arrival at the airport to confirm the request and explain what will take place during the screening process. The Passenger Support Specialists we interviewed in one airport stated that they accompany passengers (and their companions) as they go through the screening process to ensure they are screened as expeditiously as possible. TSA airport officials said that, while passengers who request assistance are still required to be screened the same as any other passenger, the service helps to alleviate the stress experienced by some passengers when going through the

<sup>33</sup>Transportation Security Officers who are also Passenger Support Specialists receive specific training on how to assist passengers with disabilities, medical conditions, and other special circumstances or needs.

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screening process. In 2021, TSA Cares received about 13,300 information requests and 25,100 requests for assistance.<sup>34</sup>

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### Some TSA Screening Practices Can Reportedly Refer Certain Passengers for Additional Screening More Frequently than Others

At all four airports we visited, TSA officials and the Transportation Security Officers we met with stated that their primary focus is on carrying out TSA's security mission. They also stated that they have rarely observed discrimination or profiling. However, these officials and officers reported that some screening practices may result in certain passengers being referred for additional screening more often than others. For example, supervisory officers in all four airports we visited and officers in all 12 discussion groups we conducted said that they have observed AIT machines alarming frequently on either transgender passengers, passengers with religious headwear, or passengers with coarse hair. Specifically, the officers stated that they push a blue or pink button on the AIT machine to specify the gender passengers are scanned as, based on their visual assessment of the passengers' gender presentation. The officers noted that transgender passengers may trigger alarms depending on the nature of their transition, because the AIT may register potential threats in the groin and chest areas.

Officers stated that passengers may also undergo additional screening if the gender button selected on the AIT machine does not match the gender of the passenger. TSA officials and officers at the airports we visited provided conflicting information regarding procedures for rescreening passengers who have triggered an alarm and self-disclose gender information that is inconsistent with the button selected for the initial scan. However, as discussed below, TSA revised its standard operating procedures after we conducted our site visits to clarify that rescreens are allowed under these circumstances.

In addition, the officers stated that the AIT cannot adequately screen coarse hair or heavy braids, which can result in some passengers,

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<sup>34</sup>Our analysis of TSA Cares data shows that the top five requests for assistance in 2021 (from most to least requested) were (1) passengers on the autism spectrum; (2) passengers who require the use of a wheelchair/scooter/Segway; (3) passengers with other mobility disabilities (not wheelchair or scooter); (4) passengers with cognitive, developmental, or other mental disabilities; and (5) passengers with diabetes. Additionally, our analysis showed that passengers infrequently use the program for assistance with transgender or religion-related screening. According to the Passenger Support Specialists we interviewed, transgender passengers may not request assistance because they do not want to attract attention to themselves.

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including Black women, triggering alarms on the machines. Furthermore, officers stated that passengers who have medical conditions, prostheses, or disabilities that prevent them from holding the required position for AIT screening may be required to undergo additional screening.<sup>35</sup>

Some of the officers we interviewed stated that these referrals for additional screening are not due to discrimination or profiling. Rather, they said that the alarms are a result of the detection of potential threats that cannot be cleared by the AIT machine and need additional screening based on TSA's operating procedures to resolve. According to lead officers in one of the airports we visited, anything that differs from the standard AIT algorithm will register as a potential threat and trigger an alarm, regardless of race, religion, or other characteristics. Officers in another airport noted that passengers who are wearing baggy clothing or clothing with sequins can also trigger alarms. According to the officers, they are required to perform targeted pat-downs as a means of resolving alarms to help ensure that passengers are not carrying potential threat items, such as weapons, past the screening checkpoint.

Similar to the observations of the TSA officials at the airports we visited, representatives from all seven stakeholder organizations we interviewed stated that TSA's screening practices could result in certain populations being referred more frequently for additional screening. Some of these organizations have also raised concerns about TSA's practices in congressional hearings. Representatives from some organizations stated that TSA has an important and challenging security mission, but some screening practices have contributed to negative passenger experiences with the screening process and can be perceived as discrimination or profiling. For example,

- **Identification Verification.** According to representatives from the National Center for Transgender Equality, transgender passengers experience challenges during identification verification if their appearance or name does not match their IDs.<sup>36</sup> Representatives stated that this can lead to invasive questions and passengers being

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<sup>35</sup>According to TSA officials, individuals who cannot hold the stance for AIT screening are considered ineligible, and the walk-through metal detector becomes the primary method of screening.

<sup>36</sup>According to TSA officials, if a passenger's appearance does not match that on their identification, officers are instructed to attempt another method to verify their identity. For example, officers may confirm a passenger's identity through the National Transportation Vetting Center.

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“outed” in public, potentially resulting in unwanted attention or harassment from other travelers.

- **Behavior Detection.** A representative from the Sikh Coalition stated that TSA’s behavior detection activities could potentially result in the targeting of minorities based on race or religion. The representative also noted that a majority of Sikhs originate from South Asian cultures where eye contact avoidance with security officials is indicative of respect, but could be interpreted as suspicious behavior. In addition, a representative from the Autistic Self Advocacy Network stated that TSA’s use of behavior indicators could negatively affect autistic passengers, as they may regularly display behaviors, such as excessive fidgeting and lack of eye contact, which could lead to more frequent identification of these passengers for additional screening.
- **AIT screening.** Representatives from the stakeholder organizations we interviewed said that TSA’s use of AIT affects certain passenger groups more often than others. For example, representatives from the National Center for Transgender Equality and American Civil Liberties Union stated that because AIT is based on a binary (i.e., male or female) selection by the officer, transgender passengers consistently trigger alarms and are subject to pat-downs of sensitive areas that they consider to be invasive and traumatic. These representatives noted that the prosthetic devices transgender passengers may wear could also trigger AIT alarms. In addition, representatives from the National Disabilities Rights Network and the Paralyzed Veterans of America stated that passengers who use wheelchairs and are not able to be screened by the AIT, are required to undergo a pat-down, and at times may have to wait for extended periods for an officer of the same gender to conduct the pat-down.<sup>37</sup>

Further, in testimony before the House Committee on Homeland Security in June 2019, a representative from the Sikh Coalition stated that Sikhs are virtually guaranteed to receive additional screening because of their turbans, which trigger AIT alarms. According to the representative, this perpetuates stereotypes that certain passengers, including Sikhs, Muslims, Arabs, and Hindus, are threats because other passengers consistently see them trigger alarms on purportedly neutral technology. Moreover, a representative from the National Association for the Advancement of Colored People Legal Defense and Educational Fund stated in the same hearing that Black women wearing natural or braided hair have frequently had to undergo pat-

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<sup>37</sup>A representative from the Paralyzed Veterans of America stated the screening issues are specifically related to standard screening.



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downs of their hair by TSA officers because the AIT technology is unable to distinguish contraband from natural Black hair.

Representatives from both of these organizations alleged that AIT screening singles out and imposes burdens on specific passenger groups, which could be experienced as discrimination by these groups.

TSA officials stated that the agency has a Disability and Multicultural Coalition and holds annual conferences and quarterly meetings with its members. This coalition includes over 400 organizations such as the Sikh Coalition, the National Center for Transgender Equality, and the Paralyzed Veterans of America. According to three of the seven stakeholder organizations we interviewed, the Multicultural and Disabilities Branches are aware of and receptive to hearing organizations' concerns. However, representatives from four stakeholder organizations stated that while TSA has taken some positive steps that may help prevent discrimination, it has not made meaningful changes to address the long-standing concerns they have raised. For example, a representative from one of these organizations stated that when AIT machines were implemented, TSA told them the technology would reduce the need for pat-downs. However, this representative believes that this has not occurred. Representatives from another organization stated that TSA's main focus is on security and reducing wait times for the general public, and not enough emphasis is placed on the civil rights and dignity of passengers with special circumstances.

TSA has taken recent actions that agency officials said may help better facilitate screening of transgender and gender-nonconforming passengers. For example, it revised its procedures and is developing new technology solutions for AIT screening. Specifically, in June 2022, TSA revised its screening procedures to clarify that officers can rescan a passenger if the AIT triggers an alarm in a sensitive area, such as the groin or chest area, and the passenger self-discloses gender information that enables the officer to select the button that aligns with the passenger's disclosed gender. According to TSA officials, the revisions were based on feedback from its frontline workforce and the traveling public, and are intended to reduce the likelihood of an AIT alarm triggered by a passenger's anatomy resulting in the need for a pat-down of a sensitive area.

In addition, TSA is currently in the process of developing an update to its AIT scanners that, according to officials, will increase detection rates and reduce false alarm rates for the traveling public, and also remove the

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need for gender-identifying buttons on the scanner. Specifically, officers will only be required to press a gender-neutral “scan” button which, according to TSA, is expected to facilitate screening of transgender passengers because officers will no longer need to discern a passenger’s gender prior to AIT screening.<sup>38</sup> TSA anticipates deploying the technology in the first quarter of fiscal year 2023, and it is too early to determine the potential effect it may have on referrals for additional screening for transgender, gender nonconforming, and other passengers.

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### TSA Has Not Collected Data on Referrals for Additional Screening or Assessed the Potential for Its Practices to Result in Discrimination

Although TSA is aware of many of the concerns that stakeholder organizations have raised regarding its screening practices, it has not collected data on the extent to which its practices refer certain passengers for additional screening more than others. The agency also has not conducted assessments to determine whether its screening practices comply with agency non-discrimination policies, which could help identify and prioritize any needed actions to improve compliance.

Specifically, according to TSA officials, the agency does not continuously collect data on passengers referred for additional screening that could allow the agency to assess the potential for discrimination in its screening practices. For example, officials stated that TSA does not collect data across all airports on the number of AIT alarms, where the alarms occurred (e.g., head, groin), number of pat-downs performed, characteristics of passengers referred for additional screening, behavior indicators observed for referrals, and wait times for passengers with disabilities and other special circumstances. As part of its annual resource planning assessment, TSA collects observational data from a sample of airports on AIT alarm rates, pat-down rates, and where the pat-downs occurred, among other information.<sup>39</sup> However, the data collection is not specifically designed to determine whether certain passengers are referred for additional screening more frequently than others. Further, TSA officials stated that they do not assess the data to determine the extent to which the agency’s screening practices may result in discrimination.

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<sup>38</sup>While preliminary testing in two airports found that the new technology resulted in an increase in groin pat-downs, TSA officials stated that they have addressed this issue during subsequent tests, which found no statistically significant increases in groin pat-downs.

<sup>39</sup>According to TSA officials, the number of airports in the sample vary annually and is dependent on transportation security equipment configurations. Observations are performed for specified time periods at each airport.

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TSA collected demographic data on a sample of behavior detection referrals from fiscal years 2014 through 2017 to determine how referral data could be used to determine if unlawful profiling occurs during the screening process. However, TSA officials told us that they did not analyze the data to assess the behavior detection program due to the stand-alone program ending in November 2017 and limitations to the analysis that could be conducted. Officials also stated that the agency has not performed other types of assessments that could provide information on the potential for discrimination in its screening practices, such as surveys of officers or covert testing that specifically addresses the experiences of certain passengers.

According to TSA headquarters officials, the agency has not collected certain data on referrals for additional screening and conducted assessments because of resource constraints, privacy considerations, and data reliability concerns. However, these officials said that additional data on referrals for additional screening could be collected and assessed based on the needs of the agency. In addition, TSA officials at two of the airports we visited stated that collecting certain data, such as data on wait times for passengers with disabilities or data on AIT alarms, could be feasible if required.

TSA's *2020 Biennial National Strategy for Transportation Security* states that while striving to enhance transportation security, government and industry must preserve and protect the fundamental civil rights and civil liberties of the public they serve. In addition, a January 2021 executive order highlights the importance of assessing the extent to which programs and policies perpetuate systemic barriers to opportunities and benefits for people of color and other underserved groups.<sup>40</sup> The order also states that such assessments will better equip agencies to develop policies and programs that deliver resources and benefits equitably to all.

The FAA Reauthorization Act of 2018 also requires TSA to submit a report to Congress each fiscal year that includes estimated wait times for assistance requests for passengers with disabilities, among other

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<sup>40</sup>In response to the order, DHS issued an Equity Action Plan in 2022, which tasks TSA with enhancing and standardizing training for officers and improving airport screening technology capabilities to advance equity for underserved communities.

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information.<sup>41</sup> Further, according to *Standards for Internal Control in the Federal Government*, management should identify the information requirements needed to achieve the agency’s objectives, obtain relevant data on the identified requirements, and use quality information to make informed decisions and evaluate the entity’s performance in achieving key objectives and addressing risks.<sup>42</sup> Additionally, the standards state that management should evaluate and document issues and determine appropriate corrective actions on a timely basis.

Collecting additional data on referrals for additional screening—ongoing or periodically—could help TSA determine the extent to which its screening practices lead to more frequent additional screening for certain passengers, which in turn could inform TSA’s assessments of compliance with its anti-discrimination policies. The data collection and assessments could also help TSA more proactively identify and prioritize possible improvements to technology, screening procedures, training, and public education efforts to mitigate the potential for discrimination against certain passengers. In addition, such assessments could help TSA determine if changes to its screening technology and processes have had their intended effect of reducing false alarms and pat-downs.

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## TSA Has a Process for Addressing Discrimination Complaints, but Could Improve Public Education Efforts and Data Analyses

TSA has created a process through which passengers can file complaints alleging discrimination. However, representatives from the stakeholder organizations we interviewed told us that many passengers may not know about this process. Both TSA officials and these representatives also stated that providing the public with additional information about the process would be helpful. In addition, TSA has limited ability to analyze its complaint data to identify the potential for discrimination in its screening practices.

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<sup>41</sup>See Pub L No. 115-254, div. K, title I, subtitle D, §1950(d), 132 Stat. at 3590 (2018) (codified at 49 U.S.C. § 44901 note). TSA’s fiscal year 2021 report states that the agency does not track wait times for assist requests from passengers with disabilities and medical conditions.

<sup>42</sup>[GAO-14-704G](#).

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## TSA Has a Process for Passengers to File Complaints Alleging Discrimination

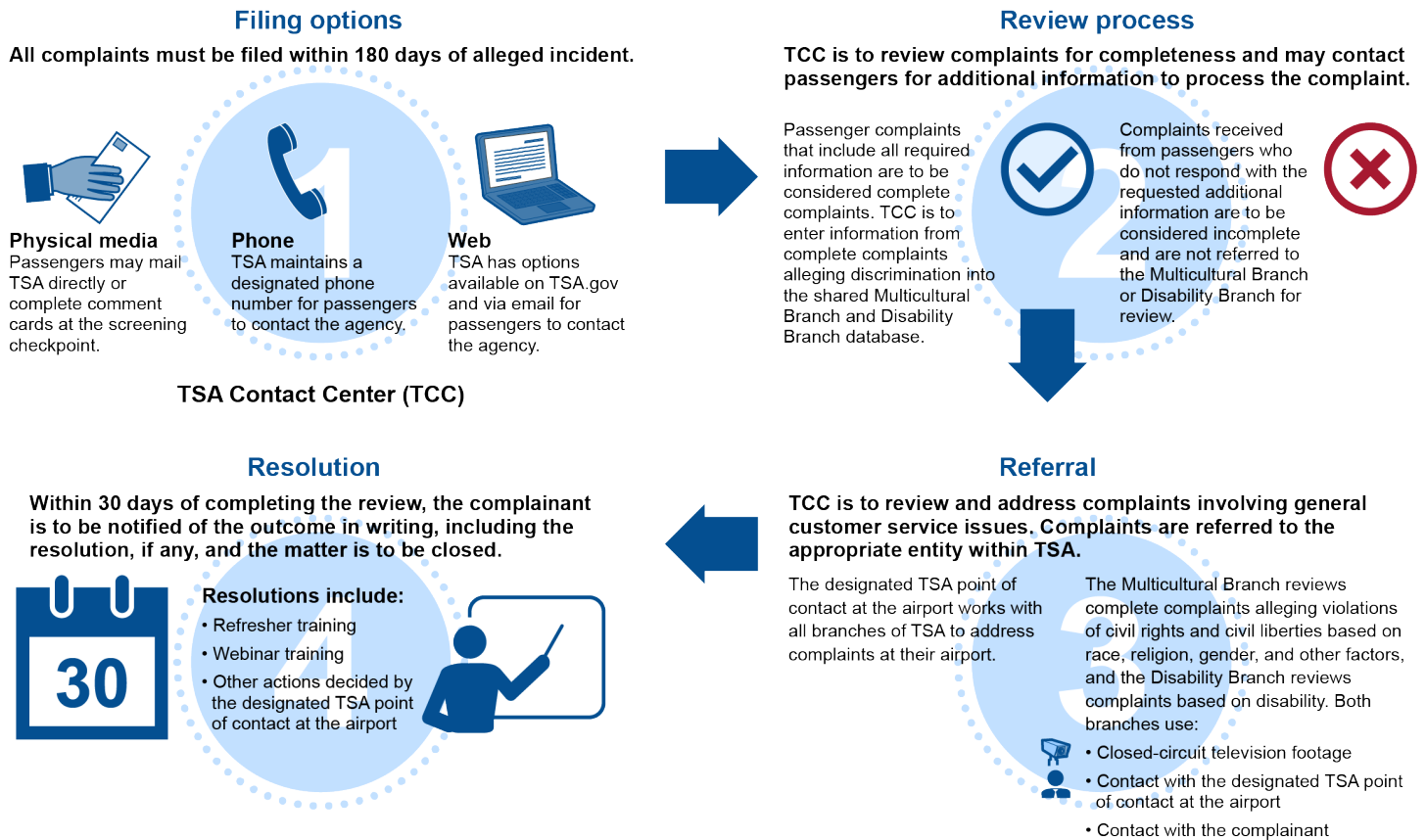
TSA has established policies for receiving and processing civil rights and civil liberties complaints alleging discrimination based on race, ethnicity, gender, religion, disability, and other characteristics.<sup>43</sup> These policies define the roles and responsibilities of each participating TSA office, guide the path of each complaint based on its subject matter, and provide for penalties in cases where merit is found.<sup>44</sup> Figure 2 shows the steps involved in TSA's passenger complaint process. Further details on the discrimination complaint process are provided in the sections that follow.

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<sup>43</sup>These policies are outlined in TSA standard operating procedures and management directives and are updated as needed.

<sup>44</sup>In November 2012, we reported that although TSA had mechanisms in place through which airline passengers could file complaints, it did not have agency-wide policies or consistent procedures to guide the receipt and processing of those complaints. We recommended that TSA establish a consistent policy for receiving, tracking, and reporting complaints. See GAO, *Air Passenger Screening: Transportation Security Administration Could Improve Complaint Process*, [GAO-13-43](#) (Washington, D.C.: Nov. 15, 2012). In November 2013, TSA addressed this recommendation by issuing guidance designating the roles of various offices and describing the policies and procedures for receiving and processing complaints. This guidance was in effect at the time of this review.

**Figure 2: Transportation Security Administration’s (TSA) Passenger Complaint Process**



Source: GAO analysis of TSA information. | GAO-23-105201

Complaints alleging discrimination generally follow the same process over the course of their life cycle. Specifically,

- **Filing complaints.** The TSA Contact Center is the primary point of contact for collecting, documenting, and responding to public questions, concerns, or complaints regarding passengers’ screening experience. TSA officials said that the center receives almost all

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airline passenger complaints alleging discrimination.<sup>45</sup> Passengers can file complaints through an online form on TSA's website, over the phone, via mail or email, by completing a comment card at the checkpoint, or by messaging TSA social media accounts. Complaints normally must provide a minimum amount of information in order to be filed. TSA officials stated that this helps ensure the center is able to review most complaints and maintain a reliable data set.<sup>46</sup>

- **Review and investigation.** According to TSA directives and procedures, following TSA Contact Center review, complete complaints alleging discrimination are forwarded to the Multicultural Branch or Disability Branch, depending on the type of discrimination alleged.<sup>47</sup> These branches investigate and adjudicate complaints, and may contact the complainant if additional information is needed.
- **Adjudication and resolution.** According to TSA officials, if a complaint is found to have merit, the Multicultural Branch and Disability Branch can recommend training and refer officers involved in the screening event to their local screening management for further action, among other remedies. For example, when an officer was found to have incorrectly identified the gender of a passenger undergoing screening in 2019 and made remarks the passenger perceived to be offensive, the Multicultural Branch distributed refresher training on gender identity to the TSA workforce at that

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<sup>45</sup>Complainants can also file complaints directly with the Disability Branch, per a sign posted at some checkpoints in accordance with a mandate in the FAA Reauthorization Act of 2018. Disability Branch officials told us that any complaints submitted directly to the branch are forwarded to the TSA Contact Center for intake processing. TSA officials reported that 102 complaints from October 2015 through September 2021 were filed this way.

<sup>46</sup>According to TSA's web page for filing civil rights and liberties complaints alleging discrimination, information required to file such a complaint includes: the basis on which discrimination is alleged; the airport at which the incident took place; the date of the incident; a description of the incident; and the complainant's name, street address, and email, for contact purposes. In some cases, passengers can submit incomplete complaints. According to TSA Customer Service Branch officials, if a complaint does not have enough information to be reviewed by the Multicultural Branch or Disability Branch, it will still be forwarded to the cited airport (if provided) for review.

<sup>47</sup>Complaints that allege discrimination, disparate treatment, or impact based on a protected class or constitutional rights or liberties are referred to either the Disability Branch or the Multicultural Branch. Complaints alleging discrimination on the basis of disability are referred to the Disability Branch. All other discrimination complaints are referred to the Multicultural Branch.

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airport.<sup>48</sup> TSA officials stated that if officers are referred to their local screening management for further action, management would consult with TSA's Human Capital office. The office uses the agency's guidelines for conduct-based discipline to recommend disciplinary actions based on what was found to have occurred. According to the guidelines, these actions can range from a letter of reprimand to termination. For example, for an employee found to have used offensive remarks on the basis of a person's race, management may enter a letter of reprimand into the employee's personnel file, suspend the employee, or terminate the employee, depending on the severity of the offense and whether the employee has committed the offense before.

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## TSA Could Better Inform Passengers about Its Discrimination Complaint Process

TSA has taken some actions to inform the public about how to file discrimination complaints.<sup>49</sup> According to the screening supervisors and managers we interviewed in all four of the airports we visited, if passengers ask an officer about where to file complaints, they are likely to receive information on where to go. For example, if requested, officers may provide passengers with a card that contains general information about how to reach the TSA Contact Center to provide comments or complaints. In addition, passengers may also conduct an internet search to locate TSA's web page for filing complaints.

However, TSA has taken limited steps to proactively inform passengers about their ability to file complaints, including those alleging discrimination, and the process for doing so. For example, TSA provides signs for airports to place at checkpoints that include general contact information for questions about airport security or assistance. The agency

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<sup>48</sup>In this example, while TSA found merit in the passenger's claim that he was misgendered, the agency determined that discrimination did not occur. However, according to agency officials, the Multicultural Branch may recommend training in response to complaints where discrimination was not found to have occurred, such as when standard operating procedures for screening were not followed or when it determines that proactively providing refresher training would be useful.

<sup>49</sup>In November 2012, we reported that TSA had several methods to inform passengers about its complaint processes, but that it did not have an agency-wide policy or mechanism to ensure consistent use of these methods. We recommended that TSA establish agency-wide policy to guide its efforts to inform air passengers about the screening complaint processes and establish mechanisms to share information on best practices for informing air passengers about the screening complaint processes. From March 2013 through November 2014, TSA addressed this recommendation by taking multiple steps to ensure that all airports used and advertised the full set of customer contact options. See [GAO-13-43](#).



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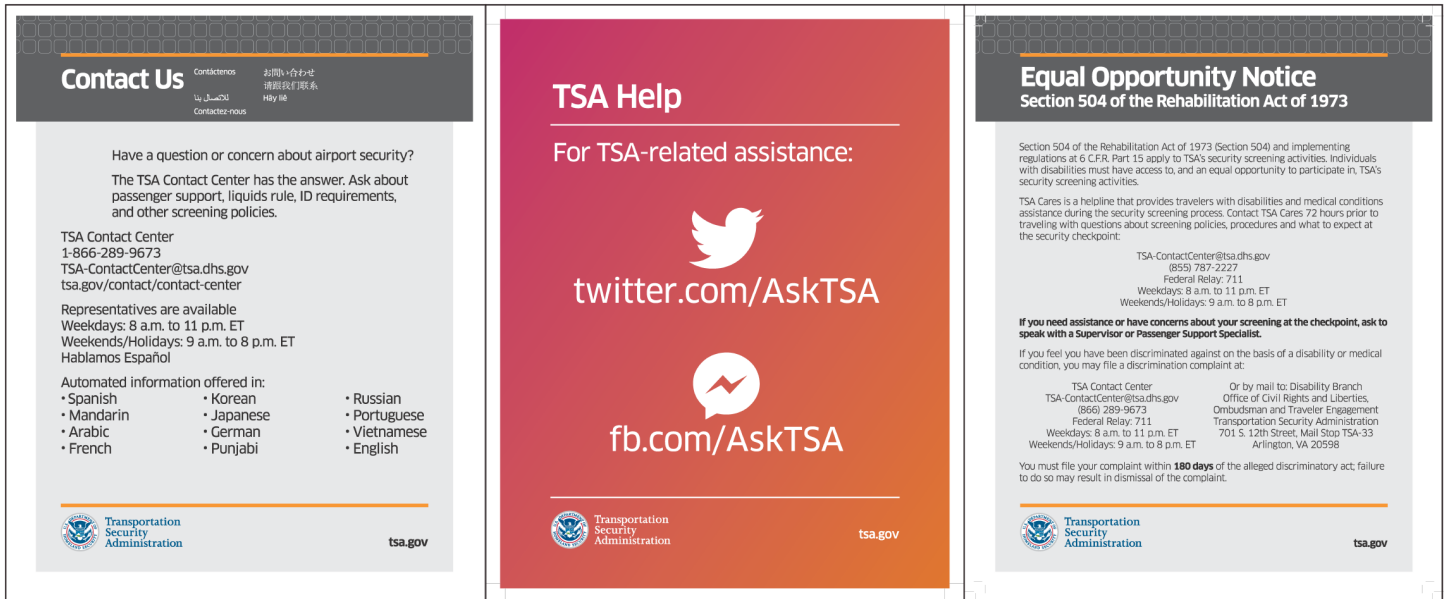
also posts similar information on its social media accounts. However, in general, these signs and posts do not specifically inform passengers about how to file complaints or provide information about the discrimination complaint process. As required by the FAA Reauthorization Act of 2018, TSA places signs in some airports that provide contact information for filing complaints alleging mistreatment based on disability.<sup>50</sup> At two of the four airports we visited, we did not observe these signs and, in accordance with the statutory requirement, the signs we did observe only addressed complaints alleging discrimination on the basis of disability.<sup>51</sup> See figure 3 for the checkpoint signs providing general TSA contact information and disability-related screening and complaint information.

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<sup>50</sup>The FAA Reauthorization Act of 2018 states that at each Category X airport, TSA shall place signage at each security checkpoint that specifies how to contact the appropriate TSA employee at the airport designated to address complaints of screening mistreatment based on disability, and describes how to receive assistance. See Pub L No. 115-254, div. K, title I, subtitle D, § 1950(c), 132 Stat. at 3589-90 (codified at 49 U.S.C. § 44901 note).

<sup>51</sup>Three of the four airports we visited were Category X airports. We did not make observations at every TSA airline passenger checkpoint at three of the four airports we visited. Signs may have been posted at other checkpoints, but are required to be placed at all checkpoints. The FAA Reauthorization Act of 2018 only requires that TSA post signage regarding complaints alleging discrimination on the basis of disability, but it does not otherwise limit the content of those signs or exclude the mentioning of other bases for discrimination.

**Figure 3: Transportation Security Administration (TSA) Contact Signage and Equal Opportunity Notice Posted at Airport Checkpoints**



Source: TSA. | GAO-23-105201

Representatives from all seven stakeholder organizations we spoke with told us that passengers are often unaware of how to file a discrimination complaint with TSA or of how the TSA complaint process works. In addition, representatives from those organizations stated that passengers may perceive that filing complaints must be done soon after an incident, is time-consuming, and that TSA will not do anything with the complaints or take any actions in response to the concerns raised.<sup>52</sup> The representatives believed underreporting of alleged discrimination is likely a result.<sup>53</sup>

<sup>52</sup>While TSA standard operating procedures allow passengers 180 days to file complaints after an incident has occurred, stakeholder organization representatives told us this window of time can be functionally much shorter, as airport operators may delete checkpoint security video footage sooner than 180 days. At the airports we visited, TSA officials told us footage could be deleted as early as 14 days after the incident, and that checkpoint security video footage is generally used as one of TSA's primary sources of evidence for investigations into complaints alleging discrimination.

<sup>53</sup>As discussed below, we found that TSA received about nine complaints per million passengers screened in 2021.

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For example, the National Center for Transgender Equality's 2015 U.S. Transgender Survey found that 43 percent of respondents who went through airport security in the year prior experienced at least one problem related to their gender identity or expression during airport security screening.<sup>54</sup> However, TSA only received 131 complaints related to transgender passenger screening in the following year. Some of the organizations we spoke with also told us that passengers may report their complaints to a stakeholder organization instead of TSA. Only one of these organizations has a system to transmit complaints to TSA.<sup>55</sup> In addition, DHS reported in its 2022 Equity Action Plan that a stakeholder engagement session the department held included feedback that lack of clarity on how and where to file complaints, including complaints about disability-access concerns, is affecting members of underserved populations. While the feedback was not specific to TSA, it indicates a general concern regarding how informed the public is about complaint processes for DHS programs.

According to TSA headquarters officials, most of the agency's signs and social media outreach lack specific references to complaints or discrimination because current TSA public education efforts primarily focus on informing passengers about where to direct any general airport security questions. Representatives from some of the stakeholder organizations we interviewed stated that TSA could take additional steps to increase public awareness of the process for filing complaints alleging discrimination, such as having more clear and prominent signs about the process. One organization stated that having signs with a QR code that takes the passengers to TSA's complaint website and fills in required information, such as the airport in which the incident occurred, would also be helpful. TSA headquarters officials stated that it would be feasible for TSA to consider including a QR code for its complaint webpage or more specific information on the discrimination complaint process in its signs and other outreach efforts, if needed. In addition, officials said that, if funding were available, an advertising campaign about TSA's feedback

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<sup>54</sup>See James, S. E., Herman, J. L., Rankin, S., Keisling, M., Mottet, L., and Anafi, M., *The Report of the 2015 U.S. Transgender Survey* (Washington, D.C.: National Center for Transgender Equality, 2016). The survey had 27,715 respondents, of which 53 percent reported having gone through airport security in the past year. This was the most recent survey available at the time of our review.

<sup>55</sup>TSA officials told us that stakeholder organizations may pass along constituent concerns to TSA outside of the formal complaints process, and that TSA has addressed issues in response to this feedback as well.

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mechanisms would be beneficial for increasing passenger awareness of the complaint process.

Executive orders on customer service require (1) federal agencies to make information, services, and complaint systems easily accessible, and provide a means to address customer complaints; and (2) the Secretary of Homeland Security to provide new opportunities for customers to connect with TSA, including, as appropriate, additional mechanisms to provide customer feedback, among other things.<sup>56</sup> Moreover, DHS's Equity Action Plan has instructed the department to enhance communication with the public regarding the right to file complaints concerning its programs and the processes for doing so.<sup>57</sup> *Standards for Internal Control in the Federal Government* also state that management should externally communicate the necessary quality information to achieve agency objectives, including considering the appropriate methods of communication based on factors such as the intended audience and nature of information being communicated.<sup>58</sup>

TSA officials told us that passenger complaints are one of the primary ways it identifies individual cases of potential discrimination that may be occurring during checkpoint screening. By taking additional steps to inform the public about how to file discrimination complaints, TSA could improve the extent to which passengers report cases of alleged discrimination and the extent to which issues and trends are readily identified and addressed. Taking such steps could also help TSA better convey that it is receptive to passenger input and has mechanisms available to passengers for processing complaints, which could help address the perception that filing complaints will not lead to any response or actions.

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## TSA Has a Limited Ability to Analyze Discrimination Complaints Data

While TSA collects specific pieces of information with every complaint alleging discrimination, the agency's data systems and collection

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<sup>56</sup>See Setting Customer Service Standards, Exec. Order No. 12862, § 1(g), (h), 58 Fed. Reg. 48,257 (Sep. 14, 1993) (issued Sept. 11); and Exec. Order No. 14058, §§ 1, 2, 4(i)(ii), 86 Fed. Reg. at 71,357-,358 & 71,360.

<sup>57</sup>See DHS Equity Action Plan, developed pursuant to Advancing Racial Equity and Support for Underserved Communities through the Federal Government, Exec. Order No. 13985, 86 Fed. Reg. 7009 (Jan. 25, 2022) (issued Jan. 20).

<sup>58</sup>See [GAO-14-704G](#).

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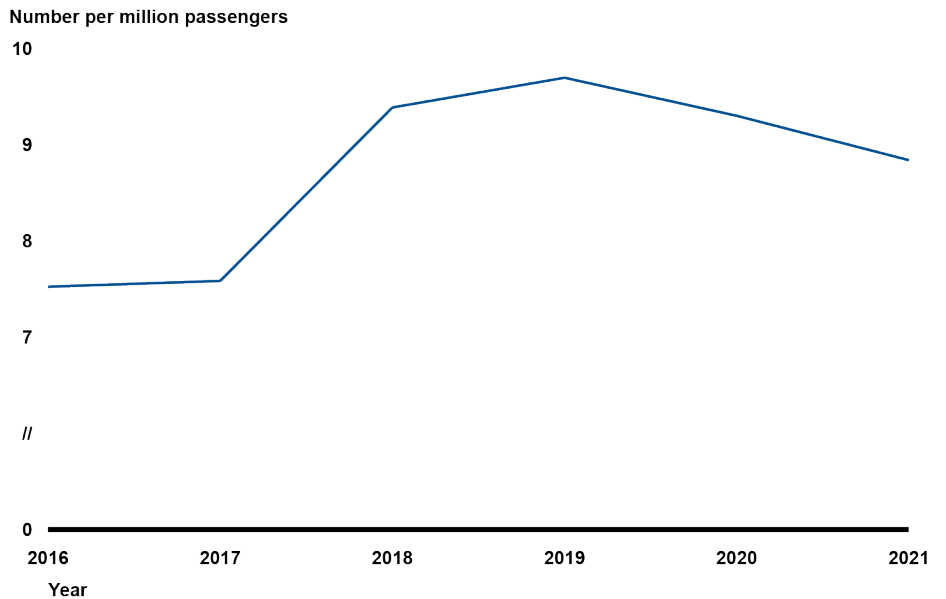
practices limit its ability to analyze trends.<sup>59</sup> In most cases, complaints are received by one source—the TSA Contact Center data system—and TSA analyzes data at that stage. These analyses are used to generate monthly reports on the general trends of civil rights complaints alleging discrimination. For example, the reports include airports with the highest and lowest complaint rates, the topics with the greatest number of complaints filed, and the change in complaint volume over the last year.

To better understand how existing TSA Contact Center data can be analyzed, we performed our own analysis of the available data on complaints received. Based on our analysis, there were 34,542 civil rights and civil liberties complaints alleging discrimination filed from 2016 through 2021. As previously noted, these complaints may not fully capture instances of potential discrimination because, for example, passengers may not be aware of how to file complaints or take the time to file them. The rate of complaints alleging discrimination per 1,000,000 passengers screened increased from 2016 through 2019, before declining from 2020 through 2021 (see figure 4).

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<sup>59</sup>In November 2012, we reported that TSA did not use most of its complaints data to improve screening operations due to deficiencies with how those data were collected, and recommended that TSA establish a process to systematically compile and analyze information on air passenger screening complaints from all complaint mechanisms. In 2013 and 2014, TSA addressed this recommendation by issuing guidance that is intended to improve the quality and reliability of the data collected for each complaint. See [GAO-13-43](#).

**Figure 4: Number of Civil Rights and Civil Liberties Complaints Alleging Discrimination Filed Per Million Passengers Screened**



Source: GAO analysis of TSA Contact Center data. | GAO-23-105201

From 2016 through 2021, racial profiling or discrimination was the top basis on which complaints were filed annually, and the majority of the remaining top six complaint categories filed during that same time period were on the basis of disability or medical condition. For example, see table 2 for the top six categories of complaints alleging discrimination in 2019.<sup>60</sup>

**Table 2: Six Most Cited Reasons for Discrimination for Transportation Security Administration (TSA) Civil Rights and Civil Liberties Complaints in 2019**

Reason for complaint	Type of complaint	Number of complaints
Racial profiling or discrimination	Civil rights	1,175
Medically necessary medication and medical supplies	Persons with disabilities	939

<sup>60</sup>We reported complaints for 2019 because it was the last full year of travel before the COVID-19 pandemic, which, according to TSA, reduced the number of travelers screened by TSA by about 500,000,000 in 2020.

Reason for complaint	Type of complaint	Number of complaints
Wheelchair/scooter/Segway	Persons with disabilities	745
Mobility disability (not wheelchair or scooter)	Persons with disabilities	678
Diabetes	Persons with disabilities	510
Sex/gender/gender identity - not transgender	Civil rights	505

Source: GAO analysis of TSA Contact Center data. | GAO-23-105201

However, while TSA is able to analyze data on complaints received from the TSA Contact Center data system, it is unable to fully analyze data from other stages of the complaint process, such as the number of complaints that have been found to have merit and actions taken in response to the complaints. Data on discrimination complaints are stored across three separate systems in the TSA Contact Center, Multicultural and Disability Branches, and, if applicable, the Human Capital office.<sup>61</sup> According to TSA procedures, when a complaint is referred from the TSA Contact Center to the Multicultural Branch or Disability Branch, TSA personnel manually enter certain information from the complaint—such as passenger name, airport, subject of the complaint, and the passenger’s account of the incident—into the shared Multicultural Branch and Disability Branch data system.<sup>62</sup> For complaints where merit is found and the officer involved is referred to local screening management for possible disciplinary action, additional information may be recorded in Human Capital’s system.

Across these systems, complaints are not linked with any identifier, and tracking of a complaint in one database stops as soon as it is forwarded

<sup>61</sup>According to TSA officials, every discrimination complaint with an airport listed is additionally uploaded to the Airport Information Management system, which is the database used by local TSA management at airports. However, discrimination complaints are processed at the headquarters level.

<sup>62</sup>According to TSA standard operating procedures, a TSA Contact Center supervisor emails the complete complaint to a dedicated and shared Multicultural Branch and Disability Branch inbox for an employee there to enter into the branches’ system. TSA officials stated that it has implemented several controls to address possible human error that may occur during this manual data entry process. For example, center supervisors review their employees’ work, including the sending of complaints to the branches daily. Branch employees review every complaint upon receipt from the center for errors and make corrections before entry. Additionally, TSA officials stated that the center has a quality team that oversees these processes, and that the TSA Customer Service Branch conducts monthly quality reviews of the data.

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to the next database, making it challenging to track the lifecycle of a complaint—receipt, adjudication, and the outcome of complaints. As a result, TSA is unable to readily determine, for example, the number of complaints alleging discrimination related to screening transgender passengers that were found to have merit, and what, if any, disciplinary actions were taken.

In addition, the individual systems are not configured in a way that makes data aggregation and analysis possible, and we found data reliability issues with entries in one of the systems. Specifically, due to technical issues with the Multicultural Branch and Disability Branch system, many entries contain duplicates for the categories for the basis on which discrimination was alleged, so those data are not reliable and cannot be analyzed.<sup>63</sup> Further, TSA officials stated that the TSA Contact Center data system does not track complaint outcomes, and the Multicultural Branch and Disability Branch system does not store records of complaint outcomes in a way that permits analysis of trends or aggregated data. For example, according to Multicultural Branch and Disability Branch officials, training recommendations in response to findings of merit may be recorded in the notes field, but this information cannot be readily aggregated.

Moreover, TSA officials told us on our site visits that to their knowledge, while rare, most discrimination that occurs is from inappropriate comments or actions by officers. However, because the Human Capital system does not separately track or aggregate actions taken specifically in response to discrimination complaints, TSA is not readily able to analyze the number and type of disciplinary actions resulting from these complaints. According to TSA Customer Service Branch officials, TSA's data systems track on what basis a given complaint alleges discrimination, but do not readily distinguish between complaints alleging inappropriate comments or behavior and complaints alleging discriminatory screening practices.

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<sup>63</sup>TSA officials told us that they knew neither the nature nor cause of these issues and could not duplicate them in testing with their vendor. In addition, they told us that the system's category labels used to classify complaints alleging discrimination are not the same as those in the TSA Contact Center data system. As a result, any analysis produced in or from one system cannot be generalized as equivalent to any analysis in or from the other system.



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A 2021 executive order states that it is U.S. government policy to prioritize improving service delivery and customer experience, and performance must be measured empirically and based on experiences of people with service delivery. The order also states that agencies must ensure their efforts appropriately maintain or enhance civil rights and civil liberties, among other protections.<sup>64</sup> Additionally, according to *Standards for Internal Control in the Federal Government*, management should use quality information that is appropriate, complete, accurate, and accessible, among other attributes, to make informed decisions.<sup>65</sup> The standards also state that management should use quality information to evaluate the entity's performance in achieving key objectives and addressing risks.

While TSA officials stated that the systems are sufficient for processing individual complaints, they said there are limitations with their data systems that create challenges with data aggregation and analysis. According to these officials, the information needed to fully analyze discrimination complaints across their lifecycles are generally captured within TSA's current systems, but these systems are not configured in a way that makes such analysis possible. TSA officials told us that more detailed and comprehensive tracking would be helpful in identifying and addressing any trends in complaints related to potential discrimination. Officials said they could explore actions to improve such tracking, including, for example, using a unique identifier to link complaints across their systems and adding fields to capture more specific information on complaint decisions and resolutions moving forward.

By improving its ability to analyze complaint data, including the collection and tracking of those data, TSA could enhance its understanding of complaints related to the potential for discrimination during passenger screening. Those data could help TSA identify potential trends in disciplinary actions resulting from passenger complaints of offensive remarks on the basis of a person's race or other trends about which it may otherwise be unaware. Improved analyses could also help TSA better understand the effectiveness of its current training and inform future training and other initiatives to help prevent discrimination.

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## Conclusions

TSA's *2020 Biennial National Strategy for Transportation Security* states that while striving to enhance transportation security, the government

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<sup>64</sup>See Exec. Order No. 14058, §§ 1, 2, 4(i)(ii), 86 Fed. Reg. 71,357, 71,357-,358 & 71,360.

<sup>65</sup>See [GAO-14-704G](#).

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must preserve and protect the fundamental civil rights and civil liberties of the public it serves. As such, it is important for TSA to carry out its security mission while ensuring its screening practices do not result in discrimination against passengers. However, TSA officials and stakeholder organization representatives reported that TSA's advanced imaging technology and other screening practices could result in certain passengers being referred for additional screening more frequently than others. Collecting data on passenger referrals for additional screening and conducting assessments on its screening practices could help TSA determine the extent to which this occurs and, more generally, whether its practices comply with agency policies that prohibit discrimination. Such actions could also help TSA proactively identify and prioritize possible improvements to technology, screening procedures, training, and public education efforts to mitigate the potential for discrimination against passengers.

Further, TSA has taken steps to provide contact information for general questions about screening, but could improve how it informs passengers about its discrimination complaints process. Because passenger complaints are one of the primary ways TSA identifies individual cases of potential discrimination that may be occurring during checkpoint screening, taking additional actions to specifically inform the public about how to file such complaints could help ensure issues and trends are readily identified and addressed. Taking such actions could also help TSA better convey that it is receptive to passenger input and has a process in place to investigate and resolve complaints. This, in turn, could help address perceptions that filing complaints will not lead to any response or actions.

Finally, TSA's data systems and collection practices limit its ability to fully analyze discrimination complaints. By improving the agency's ability to analyze complaint data, TSA officials could enhance their understanding of complaints related to the potential for discrimination during passenger screening, including any trends in areas where actual discrimination was found to have occurred, to help inform training and other initiatives.

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## Recommendations for Executive Action

We are making the following four recommendations to TSA:

The Administrator of TSA should collect additional data on passenger referrals for additional screening. (Recommendation 1)

The Administrator of TSA should conduct assessments to determine the extent to which TSA's passenger screening practices comply with agency

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non-discrimination policies to identify any needed actions to improve compliance. (Recommendation 2)

The Administrator of TSA should take additional actions to better inform passengers about TSA's discrimination complaint process. (Recommendation 3)

The Administrator of TSA should strengthen TSA's ability to analyze passenger discrimination complaints, including improving the collection and tracking of complaints data, to help inform training, procedures, and other initiatives. (Recommendation 4)

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## Agency Comments and Our Evaluation

We provided a draft of this report to DHS for review and comment. DHS provided written comments, which are reprinted in appendix I and summarized below. In its comments, DHS concurred with our four recommendations and identified actions underway and planned to address them. DHS also provided technical comments, which we incorporated as appropriate.

With regard to our first recommendation for TSA to collect additional data on passenger referrals for additional screening, DHS stated that TSA plans to conduct a study to explore ways to collect additional passenger information on alarms during checkpoint security screening. The main objectives of the study are to determine which types of data would provide useful information, the best methods for data collection, and whether those data can be cross-referenced with other data TSA already collects (e.g., passenger complaint information). As part of the study, TSA plans to use a sample of airports to determine whether the data collected can identify whether any passenger groups are disproportionately selected for additional screening. DHS noted that further research will be needed to identify root causes related to any outcomes found. DHS anticipates that these and other efforts to implement our recommendation will be completed by September 29, 2023. Collecting data on passenger referrals could help TSA determine the extent to which its screening practices lead to more frequent additional screening for certain passengers. This could, in turn, inform TSA's assessments of compliance with its anti-discrimination policy. We will monitor TSA's efforts in this area and the outcome of the study to assess the extent to which they fully implement our recommendation.

With regard to our second recommendation for TSA to conduct assessments to determine the extent to which its passenger screening practices comply with agency non-discrimination policies, DHS stated that

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TSA will continue to use existing mechanisms, such as reviewing screening procedures and related training products, to help ensure compliance with civil rights and civil liberties. DHS also noted that TSA's annual proficiency review checklists contain an item on whether the officer screened passengers without the use of unlawful profiling, as discussed in our report. In addition, the department stated that TSA plans to enhance the process for sharing passenger complaint trends and input from its Disability and Multicultural Coalition and begin sharing trend reports with field leadership and other officials. While these are positive steps, it is unclear how such steps will help TSA evaluate the extent to which its screening practices may result in referrals of certain passengers for additional screening more often than others. In conducting the assessments we recommended, it will be important for TSA to use the data on passenger referrals collected in the first recommendation to help determine whether its passenger screening practices comply with agency non-discrimination policies and identify any needed improvements to technology and screening procedures. Such assessments could also help TSA determine if changes to its screening technology, including the new AIT update that will remove the need for gender-identifying buttons on the scanner, have had the intended effect of reducing referrals for additional screening. We will continue to monitor TSA's efforts to address this recommendation.

With regard to our third recommendation for TSA to take additional actions to better inform passengers about its discrimination complaint process, DHS stated that TSA is broadening the language in its discrimination complaint signage posted at airports that currently addresses disability discrimination-related complaints, evaluating its public internet site to optimize its ability to share information about how passengers can file complaints, and working to provide new opportunities for customers to connect with TSA and provide customer feedback. DHS anticipates that these efforts will be completed by December 29, 2023. We believe these actions would help address our recommendation, provided they result in imparting clear information to increase public awareness of the discrimination complaints process. We will continue to monitor TSA's efforts to address this recommendation.

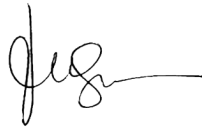
With regard to our fourth recommendation for TSA to strengthen its ability to analyze passenger discrimination complaints, DHS stated that TSA is assessing technological solutions to have distinct case management systems connect with each other within the applicable offices that manage complaint cases. According to DHS, this capability is intended to allow TSA to enhance its ability to perform data analysis on complaints,

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gain full lifecycle visibility into complaints, and expedite information sharing between headquarters and the field, along with other benefits. DHS expects these efforts to be completed by August 31, 2023. We believe these actions are beneficial and would help address our recommendation, provided they result in improving TSA's ability to analyze discrimination complaints to inform training, procedures, and other initiatives. We will continue to monitor TSA's efforts to implement this recommendation.

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We are sending copies of this report to the appropriate congressional committees, the Secretary of Homeland Security, the Administrator of TSA, and other interested parties. If you or your staff have any questions about this report, please contact me at (202) 512-8461 or [shermant@gao.gov](mailto:shermant@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix II.



Tina Won Sherman  
Director,  
Homeland Security and Justice

# Appendix I: Comments from the Department of Homeland Security

U.S. Department of Homeland Security  
Washington, DC 20528



**Homeland  
Security**

October 27, 2022

Tina Won Sherman  
Director, Homeland Security and Justice Team  
U.S. Government Accountability Office  
441 G Street, NW  
Washington, DC 20548

Re: Management Response to Draft Report GAO-23-105201, "AVIATION SECURITY: Actions Needed to Assess Potential for Discrimination and Better Inform Passengers of the Complaint Process"

Dear Ms. Won Sherman:

Thank you for the opportunity to comment on this draft report. The U.S. Department of Homeland Security (DHS or the Department) appreciates the U.S. Government Accountability Office's (GAO) work in planning and conducting its review and issuing this report.

DHS leadership is pleased to note GAO's acknowledgement of the Transportation Security Administration's (TSA) progress to date in assessing and addressing passenger complaints. TSA continually strives to ensure the best customer experience for the traveling public regardless of protected class or demographic characteristics. Through innovation, training, and advancement in technology (i.e., equipment, and new algorithms), TSA is minimizing passenger referrals including physical pat downs performed by Transportation Security Officers (TSO). TSA remains committed to improving the aviation passenger customer experience to better fulfill its mission of protecting the nation's transportation systems to ensure freedom of movement for people and commerce.

The draft report contained four recommendations with which the Department concurs. Enclosed find our detailed response to each recommendation. DHS previously submitted technical comments addressing several accuracy, contextual, sensitivity, and other issues under separate cover for GAO's consideration.

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**Appendix I: Comments from the Department of  
Homeland Security**

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Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions. We look forward to working with you again in the future.

Sincerely,

JIM H  
CRUMPACKER

 Digitally signed by JIM H  
CRUMPACKER  
Date: 2022.10.27 15:55:54 -0400'

JIM H. CRUMPACKER, CIA, CFE  
Director  
Departmental GAO-OIG Liaison Office

Enclosure

**Enclosure: Management Response to Recommendations  
Contained in GAO-23-105201**

GAO recommended that the Administrator of TSA :

**Recommendation 1:** Collect additional data on passenger referrals for additional screening.

**Response:** Concur. As noted in GAO's draft report, in June 2022, TSA's Requirements and Capabilities Analysis Office (RCA), in collaboration with the technical provider, developed a new algorithm for Advanced Imaging Technology (AIT) scanners that will eliminate the need for the TSO to determine a passenger's gender and will reduce the number of false alarms and pat downs. Consequently, TSA believes that, once implemented, this new algorithm will reduce the number of passengers referred for additional screening. TSA RCA will begin deploying the new algorithm in the first quarter of fiscal year (FY) 2023. TSA's Traveler Engagement Division, within the Civil Rights & Liberties, Ombudsman and Traveler Engagement Office (CRL/OTE), will also continue to coordinate with screening personnel and management within Security Operations (SO) and RCA to analyze complaint trends to identify potential issues with the application of TSA's screening process and customer experience.

Additionally, RCA's Human Performance Branch (HPB), in collaboration with SO, and CRL/OTE, will explore ways for TSA to collect additional passenger information on alarms during security screening in the checkpoint, to conduct a study certain data relating to alarm resolution. The main objectives of the study would be to determine: (1) the best methods for collecting data; (2) which types of data to collect to provide useful information; (3) and whether the data can be cross-referenced with other data streams collected by TSA (e.g., passenger complaint information). In the third quarter of FY 2023, the HPB will facilitate this study of current operations at a sampling of airports to determine whether this type of data gathering can identify whether any groups are disproportionately selected for additional screening. Further research following this study will be needed to identify root causes related to any outcomes found and to expand upon the number of data points.

RCA HPB has conducted focus groups and is currently working on a literature review to identify data from previous experiments, academic literature, and public media sources, and will compile a summary of the characteristics that increase the likelihood that an individual will require additional screening during on-person screening at the checkpoint. The literature review will be used to support further



improvement of AIT algorithms to support security and positive passenger experiences. Estimated Completion Date (ECD): September 29, 2023.

**Recommendation 2:** Conduct assessments to determine the extent to which TSA’s passenger screening practices comply with agency non-discrimination policies to identify any needed actions to improve compliance.

**Response:** Concur. TSA CRL/OTE will continue to use existing mechanisms, such as reviewing screening procedures and related training products, to assess how screening practices impact travelers and will refine processes, when necessary, to protect the civil rights and civil liberties of all travelers while ensuring freedom of movement for people and commerce. The purpose of the CRL/OTE review is to ensure compliance with civil rights and civil liberties, and to ensure these equities are embedded in the policies of the agency where compliance needs to be improved. In addition, CRL/OTE shares complaint-related information, complaint trends, and novel situations with SO and RCA to help the agency develop or modify screening practices, and ensure these actions are nondiscriminatory. CRL/OTE also shares information across TSA from the 450+ organizations that make up the TSA Disability and Multicultural Coalition, which allows CRL/OTE to identify the impact of screening practices and modify the policies to meet its mission and ensure the rights of all travelers are protected.

Further, TSA CRL/OTE, SO, and RCA will enhance the process through which these offices share passenger complaint trends and coalition input. Beginning in the first quarter of FY 2023, the Domestic Aviation Operations trend report will be briefed to all Federal Security Directors (FSD) and shared via TSA’s internal “iShare” site with members from the field, to include direct engagement from Traveler Engagement Division leadership with FSDs and SO leadership. The purpose of this effort is not to solely focus on past trends but to also discuss potential concerns to prevent a trend from developing.

In addition, the Annual Proficiency Review checklists include the following item: “Did the Officer ensure that all individuals and property were screened without the use of improper profiling?” If during their Annual Proficiency Review, the TSO is observed requiring additional screening that leads the observer to suspect improper profiling, pursuant to “Screening Policies for Standard Operating Procedures,” Chapter 12 – 3.3, Version 1 Change 7, dated October 28, 2021. The Observer is to have the TSO articulate why additional procedures were conducted. If the TSO is unable to articulate the reason they performed additional screening, the Observer must report the suspected observation of improper profiling to their local management official, in accordance with “2023 (FY) Practical Skills Observation (PSO) Reference Guide,” 3.6, dated October 01, 2022.

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**Appendix I: Comments from the Department of  
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ECD: December 29, 2022.

**Recommendation 3:** Take additional actions to better inform passengers about TSA’s discrimination complaint process.

**Response:** Concur. Beginning in FY 2023, CRL/OTE is broadening the language in its discrimination complaint signage posted at airports that currently addresses disability discrimination related complaints. CRL/OTE, in partnership with Strategic Communications and Public Affairs (SCPA), is also evaluating its public internet site (the main portal for sharing information online) to optimize our ability to share information about how the public can initiate a complaint. Further, and as part of TSA’s priorities to address Executive Order 14058 “Transforming Federal Customer Experience and Service Delivery To Rebuild Trust in Government,” dated December 13, 2021<sup>1</sup>, TSA’s Customer Service Branch is currently working to provide new opportunities for customers to connect with the TSA, including online chat, improved communication during additional screenings, and additional mechanisms to provide customer feedback.

Additionally, SCPA will continue to use its social media presence to remind passengers about the formal complaint process to ensure that reports of discrimination are received and fully investigated. Complaints received through social media, are referred to SO and CRL/OTE for applicable investigatory actions.

TSA, through its Disability and Multicultural Coalition, will continue to share information about the complaint process with underserved communities. In addition, TSA, through its Contact Center and social media platforms, will continue to share information with the traveling public on how to file a discrimination complaint and the complaint process.

ECD: December 29, 2023.

**Recommendation 4:** Strengthen TSA’s ability to analyze passenger discrimination complaints, including improving the collection and tracking of complaints data, to help inform training, procedures, and other initiatives.

**Response:** Concur. CRL/OTE and TSA’s Information Technology (IT) office are currently assessing technological solutions to have distinct case management systems connect with each other within the applicable offices that manage complaint cases. While TSA is still able to track complaint data to inform training, procedural improvements and other initiatives, having a case management system

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<sup>1</sup> <https://www.federalregister.gov/documents/2021/12/16/2021-27380/transforming-federal-customer-experience-and-service-delivery-to-rebuild-trust-in-government>

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**Appendix I: Comments from the Department of  
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that does not require analysis across multiple databases will be beneficial to the agency. This capability will allow CRL/OTE to enhance their ability to perform data analysis and expedite the sharing of information with the field and vice versa, to ensure a passenger's concern is properly addressed.

CRL/OTE is currently assessing the feasibility to fund this operational platform in FY 2023, including resolving concern regarding: (1) integration between TSA Contact Center (TCC) and the Airport Information Management (AIM) system; and (2) universal IDs or reference keys to map the complaints which originated from the source system. TCC is the point of origin for traveler complaints. Once complete, this operational platform will:

- Gain full lifecycle visibility into traveler complaints through integration to eliminate manual data loads and time-consuming workarounds by establishing an automated interface that connects the complaints in TCC to AIM.
- Improve the receiving and tracking of traveler complaints across these systems through standardized and consistent processes by adding referential unique IDs to link to TCC as a focal point for originated complaints records.

ECD: August 31, 2023.

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# Appendix II: GAO Contact and Staff Acknowledgments

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## GAO Contact

Tina Won Sherman, (202) 512-8461 or [shermant@gao.gov](mailto:shermant@gao.gov)

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## Staff Acknowledgments

In addition to the contact named above, Chris Ferencik (Assistant Director), Kevin Barsaloux, Russell Brown, Jr., Lilia Chaidez, Benjamin Crossley, Dominick Dale, Leslie Gordon, Anjalique Lawrence, Katherine Lenane, Zina Merritt, Amanda Miller, Sasan J. "Jon" Najmi, Joi Reece, Mary Turgeon, Eamon Vahidi, and Johanna Wong made key contributions to this report.

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