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Committee on Domestic Security

Senator Alex Diaz de la Portilla, Chair

SEAPORT SECURITY

SUMMARY

Florida's twelve active, public seaports have remained focused on providing security for their facilities and tenants since the terrorist attacks on America in 2001. The seaports have worked with local, state and federal agencies to meet increased federal and state security requirements.

Much has been accomplished in providing new and/or updated perimeter security, access control, fencing, gating and lighting on Florida's public seaports. Federal grant funds, state funds and seaport funds have been used to provide these infrastructure upgrades. Florida has been very successful in receiving federal grant awards and has used dedicated economic development funding for security infrastructure projects. Likewise, individual seaports have taken on additional security construction projects in lieu of capital outlay for new development. Florida's seaports have benefited from being chosen to participate in the federal Transportation Worker Identification Card (TWIC) prototype program as a result of Florida's new law requiring a single access control badge for all state recognized seaports. This prototype will result in Florida receiving all new technology for the federally required program, to be paid for, installed, and donated to the State of Florida upon completion of the prototype by the Department of Homeland Security.

While security infrastructure needs are being met, seaport security operational costs continue to grow. The federal government has not yet recognized the need to assist seaports with the regular, ongoing costs of maintaining a law enforcement and security force presence on the ports during operating hours. The Maritime Transportation Security Act of 2002 (MTSA), which took effect in July 2004, has direct cost implications for the provision of regular ongoing security details on seaports, yet no federal funding has been identified for assistance with these costs.

The State of Florida, through the Florida Seaport Transportation and Economic Development Council (FSTED), has provided funding assistance to public seaports to offset operational costs since September 2001. This redirection of state trust funds has resulted in a reduction of economic development projects at the ports in order to sustain an appropriate level of security. While this voluntary effort has been a crucial part of the state's ability to keep the seaports operating in a secure manner, use of FSTED funds was never intended as a permanent solution to the problem of maintaining their security. Seaports have increased fees and re-designed business practices to try to mitigate security costs, as well.

This report reviews the security operational structures of several public seaports and identifies methods that appear to reduce or mitigate these costs. A combination of new technologies, best business practices and specialized private seaport security forces may help to reduce overall operational security costs. Development of these tools and programs will be extremely important to Florida's success in the continued protection of the vitally important economic engine provided by the state's public seaports. The seaports and their many federal, state and local government partners must continue to work together to find the appropriate balance of security and economic development as well as a proper balance of responsibility for the duties required to achieve that goal.

BACKGROUND

Florida has fourteen statutorily designated public, deepwater seaports¹: Jacksonville, Port Canaveral, Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee, St. Petersburg, Tampa, Port St. Joe, Panama City, Pensacola, Key West, and Fernandina. Two ports, Port of Fort Pierce and Port St. Joe, have been

¹ S. 311.09(1), F.S.

designated as inactive under Florida's seaport security law and are not required to comply with that law as long as they are deemed to be inactive.²

Prior to 2000, Florida seaport security was focused on supply chain theft prevention to protect the commercial interests of seaport tenants.

Florida adopted statewide minimum security standards for public seaports in 2000 for the purpose of slowing the traffic of illegal drugs and cargo through the ports.³ In the Fall of 2001, the Florida Department of Law Enforcement (FDLE) began annual unannounced inspections of each of the state's active public seaports. Those inspections continue today and provide information to the ports, law enforcement and the Legislature regarding the relative security of the ports, conformance with state standards and actions that may be taken to increase that level of security. The inspections have incorporated reviews of issues directly related to the threat of terrorist activities with a strong focus on cruise line security and passenger protection. FDLE works closely with the public seaports to assist them in reaching the designation of "substantially compliant" with statewide standards. The Legislature has imposed a November 2005 deadline for all public seaports to achieve the "substantially compliant" designation.⁴ Failure to reach this goal will subject any such seaport to a complete review by the Legislature.

Since 2001, the FDLE has worked with the Florida Seaport Transportation Economic Development Council (FSTED), local law enforcement, the public seaports' administrators and security officers to develop an understanding of best practices and requirements to meet appropriate levels of security. This process has been successful, though sometimes difficult, since, historically, security, prevention and protection have not been part of a seaport's daily operational responsibilities. Traditionally, Florida's public seaports have served the role of landlord to the tenant facilities on the ports and focused on amenities such as quicker "on/off" times, availability of rail transport and ease of waterside access. Responsibility for perimeter security, access control, patrols and monitoring of activities on the ports were never considered as part of the ports' business plans.

As described in this committee's Interim Project Report 2004-150: Seaport Security, published in

December 2003, s. 311.12, F.S., and s. 311.125, F.S., provide the framework for security on Florida's public seaports. In addition, Congress passed the Marine Transportation Security Act of 2002 (MTSA), which required the U.S. Coast Guard (USCG) to establish security regulations for all public and private facilities and vessels entering U.S. waters. These regulations were adopted and went into effect in July 2004.⁵ Florida's public seaports went from a situation where there was no required security to a situation where security was no longer an option, and failure to comply with federal and state laws could have serious negative effects on port operations. The Coast Guard may fine, suspend operations, or close a port facility for lack of compliance.⁶ Under Florida law, FDLE reports its findings to the Legislature, which may take actions against a port if conditions warrant such action.⁷ Generally, Florida's seaports have adapted well to the required changes, though some requirements have proven to be more challenging to some seaports.

The federal government has provided several rounds of grants funding for seaport security infrastructure. These national grants, originally administered through the U.S. Department of Transportation and now administered through the Transportation Security Administration (TSA) within the Department of Homeland Security, are based on applications from seaports, private facilities and government entities and can only be used for pre-approved, physical infrastructure projects. Over time, Florida has been quite successful in securing these grants funds and through the cooperation of each of Florida's ports, the FSTED Council and FDLE, major infrastructure projects have been funded.⁸ In addition, the FSTED Council has redirected over \$100 million in funding and bond authority for capital improvements related to security and operational costs for required law enforcement presence on the seaports. While the FSTED Council and the seaports have done an excellent job of dealing with immediate security costs for infrastructure and operations, there is concern about a continued funding source for long-term operational security costs. The Council has voluntarily foregone needed economic development infrastructure projects

⁵ 33 C.F.R., Parts 101-106 (2003).

⁶ 33 C.F.R., s. 101.410(c).

⁷ S. 311.12(4)(d) & (e), F.S.

⁸ Florida Ports Council documents: "Florida Seaport Security Funding – Federal Security Grant Awards Rounds 1-4," September 2004; "FSTED Program Security Funding," January 2004

² S 311.12(1)(b), F.S.

³ S. 311.12, F.S.

⁴ S. 311.12(4)(e), F.S.

to meet pressing security needs over the last three years.

Through the focused commitment of the FSTED Council, the seaports, FDLE and the U.S. Transportation Security Administration, most of the critical infrastructure needs for perimeter security, access control, and visual monitoring (CCTV) are being met. Grant funding and TSA assistance with technology to provide access control through the Transportation Worker Identification Card (TWIC) Prototype Project,⁹ has allowed the ports to address infrastructure needs. The federal government has not provided any assistance for ongoing operational security costs, i.e., provision of law enforcement or security guard presence on the seaports.

Daily security patrols and law enforcement duties are performed by different agencies and entities from port to port, and within each port. Federal agencies such as the United States Coast Guard (USCG), U.S. Immigration Border Protection (CBP), U.S. Department of Agriculture (USDA) and the Federal Bureau of Investigation (FBI) maintain a regular presence for inspection and investigation purposes. At any given time, state law enforcement agencies such as FDLE, the Department of Agriculture Law Enforcement Division (AG LAW), the Fish and Wildlife Commission (FWC) Law Enforcement Division, and the Florida Department of Transportation Motor Carrier or Law Enforcement Divisions may be conducting inspections or investigations on Florida's public seaports. In addition, pursuant to security standards adopted in s. 311.12(1)(a), F.S., Florida's twelve active public seaports must meet specific requirements for law enforcement and/or security guard presence on the ports whenever those ports are operating.

Security guards employed on Florida's public seaports must have received prescribed port security training and carry at a minimum a Class D security guard license issued by the State of Florida. All exterior access points and principal interior access points are to be controlled by a security guard presence.¹⁰ Ports must have routinely scheduled (though not fixed) security patrols by sworn law enforcement personnel.¹¹ Law

enforcement or security guards should provide ongoing, roving building, perimeter, and wharf patrols.¹² Security guard presence should be sufficient in number to provide adequate 24 hour security on the port.¹³ Guards should have 2-way radio contact with sworn law enforcement to fulfill the need to provide back-up to non-sworn security personnel.¹⁴ On "high risk"¹⁵ ports, port management should work with local law enforcement to provide a dedicated full-time port security force of sworn personnel.¹⁶ On ports with cruise operations, the USCG requires sworn law enforcement presence in passenger terminal areas when ships are in port. In addition, cruise lines provide onboard and dockside security personnel for the protection of their passengers and their passengers' baggage.

Under federal law,¹⁷ the USCG requires additional landside and waterside security patrols at higher MARSEC levels.¹⁸

Each of Florida's ports is under local governance. Some ports, such as Port of Miami and Port Everglades, are divisions of county government. Some function under an appointed Port Authority – Port Canaveral functions under an elected Port Authority. Issues related to the types of law enforcement presence vary from port to port, with the county operated ports using large numbers of county law enforcement personnel, and other ports using a blend of local sworn personnel and private security personnel. Some private security personnel are port employees while others work under contract. Some law enforcement patrols are part of normal community policing operations and others are port specific and billed as such. Some ports hire off-duty sworn personnel to perform required security duties.

¹² Florida Seaport Security Standard 15.c

¹³ Florida Seaport Security Standard 15.e

¹⁴ Florida Seaport Security Standard 15.b

¹⁵ Florida has five "high risk" or "tier one" designated seaports. Designations are determined by FDLE and based on cargo and passenger security issues. The five ports are: Port of Miami, Port Everglades, Port of Tampa, Port of Jacksonville and Port Canaveral.

¹⁶ Florida Seaport Security Standard 14.b

¹⁷ 33 C.F.R. Parts 105.145 and 105.230

¹⁸ MARSEC, or Marine Security, levels are determined by the USCG and generally reflect the Homeland Security Advisory System. There are three MARSEC levels, with MARSEC 1 representing normal operations, MARSEC 2 – higher level of vigilance and MARSEC 3 – the highest level of security alert.

⁹ "TSA and The State of Florida Team up to Tighten Seaport Security," U.S. Department of Homeland Security – Transportation Security Administration, March 18, 2004.

¹⁰ Florida Seaport Security Standard 15.d

¹¹ Florida Seaport Security Standard 14.a

Ongoing costs for the daily, 24-hour/seven days a week security presence required on most of Florida's public seaports¹⁹ have continued to be a difficult problem for the ports. These costs were not anticipated in long-term business plans prior to 2001. The Florida Seaport Transportation and Economic Development Council (FSTED), a state-funded economic development mechanism,²⁰ has foregone new capital projects and business generating improvements for the last three years to assist in offsetting these costs for its members' ports. The Council has indicated that it cannot continue to subsidize these costs and will not fund operational security costs in the future.²¹

A combination of state and federal laws have created new and unanticipated recurring security costs for Florida's public seaports. In addition, some seaports are providing security presence beyond what the state and federal laws require. For example, the Broward County Sheriff has designated a "Port Security Zone" which encompasses more coastline and area than the boundaries of Port Everglades. The sheriff has determined that there is a security risk inherent to the entire area around the port. Assets and personnel used to provide security to the areas within the boundary of Port Everglades are also being used in the larger, surrounding security zone. While these procedures make sense from a local security protection perspective, the question is whether it is appropriate for those costs to be borne by the public port authority and its tenants.

Security operating costs which are required by state and federal law continue to grow. There is no dedicated funding source provided by the federal government to assist seaports with these costs. The State of Florida, through redirected FSTED Council economic development funds, has provided some assistance to offset these costs for the past three years. FSTED does not intend to continue putting of its economic development projects to fund operational security costs.

There is a need to determine what level of sworn law enforcement and security guard presence is required to maintain appropriate security on the state's ports, whether that level may be adjusted without effecting

security, and whether the state should be responsible for assisting local government authorities with the costs associated with complying with seaport security standards.

METHODOLOGY

In conjunction with the FDLE Office of Ports Administration, staff compiled data from each of the state's five largest seaports and one mid-sized seaport as a representative sample of those costs associated with operational security on Florida's twelve active public seaports. Data was compiled for Port of Miami, Port Everglades, Port of Tampa, Port of Jacksonville, Port Canaveral and Port Manatee. Plans to collect and compile data for a second mid-sized port, Port of Pensacola, were suspended due to the extensive damage incurred at that port from the passage of Hurricane Ivan in September 2004. Staff joined various committee members for site visits at Port of Miami, Port Everglades, Port of Tampa, Port of Jacksonville, Port Canaveral, and Port of Key West over the last two years. In addition, staff performed visual inspection of perimeters at Port of Panama City and Port of Palm Beach and the private cruise port facility at Key West. Ongoing security costs were central in the discussion of important issues at each of these site visits. Staff has met with representatives of the Florida Ports Council and attended Florida Seaport Transportation Economic Development (FSTED) Council meetings in an ongoing attempt to establish methods to mitigate operational costs.

Pursuant to s. 311.12(4)(f), committee staff has been working with assigned committee staff from the House of Representatives on this review.

FINDINGS

Upon review of the six ports included in this study, it is clear that each port has chosen a different staffing solution to meet requirements of the federal and state security laws. Due to the law enforcement sensitive nature of the data reviewed for this public report, specific operational information may not be shared in its entirety, but a general description of security operations for each port follows:

Port of Miami is a division of Miami-Dade County government. The County employs a Port Director and a Port Security Director. In addition to federal and state agency presence and private security services hired by individual terminals within the port, Port of Miami incorporates a mix of Miami Dade Police Department (MDPD) personnel (sworn and non-sworn officers) and

¹⁹ "Florida Seaports: Law Enforcement/Security Operational Costs since 9/11," Florida Ports Council, March 15, 2004.

²⁰ S. 311.09, F.S.

²¹ Remarks by FSTED Administrator John LaCapra at FSTED Council Meeting, October 14, 2004, Tallahassee, Florida.

a Seaport Security Officer force made up of port employees with appropriate training and certification. A little less than half of the local security presence at Port of Miami is employed by the MDPD.

Port Everglades is a division of Broward County government. The County employs a Port Director and a Port Security Director. In addition to federal and state agency presence, and private security personnel hired by individual terminals within the port, 100% of Port Everglades' security requirements are being met by either sworn law enforcement officers or Community Service Aides (CSA) employed by the Broward County Sheriff's Office (BCSO). This mission is fulfilled through the creation of a dedicated seaport security district within the department. BCSO incorporates a mixture of sworn officers and CSAs to perform required security on each shift. In order to meet state and federal security requirements for cruise passenger terminals, BCSO hires off-duty sworn and non-sworn (CSA) personnel and pays overtime rates for this assignment.

Port Canaveral is governed by an elected local Port Authority. The Port Authority employs a Port Director and a Port Security Director. In addition to federal and state agency presence, Port Canaveral has a contract for law enforcement services with the Brevard County Sheriff's Office and works very closely with its tenants to assure a complimentary blend of law enforcement personnel and private security services.

Port of Jacksonville (Jaxport) is governed by a port authority which is appointed in part by the Mayor of Jacksonville and in part by the Governor. The port authority employs a Port Director and a Port Security Director. In addition to federal and state agency presence and private security services hired by individual terminals within the port, Jaxport operates under a standing Memorandum of Agreement with the Jacksonville Sheriff's Office (JSO) through a dedicated unit of sworn law enforcement personnel and a separate contract for performance of security tasks and duties with a private security firm. Jaxport operates at three distinct locations throughout Duval County and provides security for each separate location. The Blount Island location receives additional federal security due to the active operations of the U.S. Marine Corps and the U.S. Army within the boundaries of that site. A majority of Jaxport's daily security operations are performed by trained private security personnel under port direction and with sworn law enforcement back-up availability on call.

Port of Tampa is governed by a port authority comprised of the Mayor of Tampa, a Hillsborough County Commissioner and three members appointed by the Governor. The Port Authority employs a Port Director and a Port Security Director. Like Jaxport, Port of Tampa is made up of several separate public port facilities. This expansive area requires innovative security solutions. Along with federal and state agencies and private security hired by individual terminal facilities on the port, Port of Tampa uses a complementary blend of law enforcement and private security forces. The port contracts with the Hillsborough County Sheriff's Office (HCSO) which has a dedicated port security component. Off-duty HCSO officers provide security at cruise passenger terminals, as required by federal and state directive. HCSO, City of Tampa, USCG, FWC and MacDill Air Force Base marine patrol units work together to assure security on the waterside and in the area shipping channels. The City of Tampa performs regular law enforcement duties within its jurisdiction in areas of the port. Port of Tampa has developed a successful training program for port employed security personnel. This program is designed specifically for seaport security and provides necessary education and training to perform the duties and responsibilities of guarding the port against danger and intrusion. The port makes this training available to other security personnel on Port of Tampa and to other ports.

Port Manatee is not a "tier one" port, but is recognized for the excellent training offered to its security forces and for working to achieve the goals of the federal and state laws. The port authority is appointed by the Manatee County Commission. The port authority employs a Port Director and a Port Security Director. As part of the port's approved security plan, it operates under a letter of agreement with the Manatee County Sheriff's Office to provide required security capabilities under federal and state laws. In addition, the port employs private security guards who receive specialized training addressing issues specific to seaport security.

As a general rule, private security personnel working on Florida's public seaport are required to maintain at a minimum, a CLASS D state private security officer license,²² including at least 40 hours of professional education completed at a school or training facility licensed by the Florida Department of Agriculture and Consumer Services. At least one Florida port employs CLASS G security officers as part of its private

²² S. 493.6303, F.S.

security force. These officers are permitted to carry firearms and must undergo additional training requirements prior to obtaining a state CLASS G license.²³

With the exception of Port Manatee, the state's county-operated ports appear to have operational security costs which are substantially higher than other public ports. The extensive use of government law enforcement employees, with the inherent costs of salary and benefits associated with those personnel, may be a driving factor in those higher costs. In fact, ports using a blend of sworn law enforcement, non-sworn law enforcement and private security forces had security operating costs of less than half that of the county operated facilities. One factor in the cost of security which is difficult to account for is the size of each port, both geographically and operationally. The two county-operated ports are the largest operationally, and thus have more activity requiring security presence on a daily basis. However, the extreme differences in security costs between Port Everglades and Port Miami as compared to Jaxport and Port of Tampa point to the method of service delivery being the reason for higher costs.

The use of some form of blended security force, either through additional port security officers holding appropriate state licenses, or through contracted services provided by licensed personnel from private security firms might provide some reduction in costs for ports now using county personnel. For example, Port Everglades, through its contract with the Broward County Sheriff's Office, pays overtime costs to non-sworn personnel (CSAs) to stand guard post assignments in cruise terminals when ships are in port. A private security officer, under the direction of sworn law enforcement, could perform this same duty under an hourly contract, thus saving the port the overhead costs of salary, benefits, administration and supervision. A focused review of the use of sworn and non-sworn law enforcement personnel by each public seaport could result in cost savings through a different proportion of sworn and non-sworn, government and private personnel without the loss of appropriate levels of security. Such changes would need to be implemented with the cooperation and agreement of FDLE, the USCG and the Office of Drug Control in order to assure continued compliance with state and federal laws.

Proper training of private security personnel employed to protect Florida's public seaports is an ongoing concern. Prevention, protection and response procedures on seaports are quite unique and require specialized education and training. While CLASS D and CLASS G security officers must receive specialized patrol and firearms training, respectively, there is no required additional training, nor any additional specialized seaport security certification or separate class of security officers that have completed such training, recognized by the State of Florida. Several ports have implemented training programs for port employees and others which provide such specialized training. Any certification offered upon completion of such training, while recognizable to those in the industry, has no official bearing and is not recognized by the State of Florida. Port of Tampa, Port Manatee and Jaxport have been working to develop training to provide better security for their employees and have proven that training can make a difference in performing security duties.

Technology provides another method for the mitigation of high operational costs for seaports. Federal, state and seaport funds have been expended to install and upgrade closed circuit television (CCTV) monitoring of perimeter fence lines and restricted areas on ports. Better and more complete fencing has been installed as part of each port's attempt to become substantially compliant with Florida's security law. Millions of dollars are being spent at public seaports around the state for the design and installation of new gate facilities, including technology being installed by TSA to allow for biometric access control under the TWIC Prototype program. Port of Miami is designing a gate which will allow for a reduction in the number of personnel required to operate the gate by using a remote system with a centralized gatehouse. This system has the added benefit of reducing chances for human error at the gate itself.

As technology continues to evolve, and port security operations become more a part of each port's business operations planning process, there is opportunity for highly blended, efficient and cost effective layered security that will meet federal and state requirements. This evolution is not complete, and will probably continue to unfold and change as better technology and business methods become available. The one consistent goal that will remain throughout the process will be to find a stable, reliable and continuous method for funding these concerns. Federal, state, and local governments can continue to work with the state's public seaports to find ways to reduce costs without

²³ S. 493.6115, F.S.

reducing the security provided through their efforts. In addition, consideration must be given to what entities should be responsible for those costs.

The federal government has not yet acknowledged the need to assist seaport facilities with costs directly related to the implementation of the MTSA requirements. While the State of Florida, through the redirection of FSTED Council project funds and work with the seaports to promote mitigating solutions to state standards, has recognized the additional burdens placed on the ports, the federal government has left payment of such costs to the ports.

The continued requirement to meet federal and state security standards with no dedicated funding source to perform those tasks places Florida's ports in a difficult economic position. While the seaports along the U.S. Gulf Coast are considering imposing some sort of unit or tonnage surcharge on products to offset some security costs,²⁴ the ports along the Atlantic Seaboard have not indicated a willingness to impose such an "across-the-board" fee. States which compete directly with Florida have taken different approaches. For example, Alabama ports may begin levying a surcharge to assist in payment for ongoing security costs²⁵ while Georgia's port security costs are paid entirely by the State of Georgia, which owns and operates both of the public ports in Brunswick and Savannah, through the state's annual appropriations process. While Alabama's seaports have taken a responsible position, the ongoing competitive advantage of the Georgia model contributes to a very difficult operating position for ports along Florida's Atlantic coast. Jaxport, in particular, is in a constant battle to keep customer costs low in order to remain competitive.²⁶ Even so, it has raised its customer surcharge since September 2001 in order to assist in offsetting security costs. Any additional pressure on this market could have negative economic consequences.

As Florida moves forward in assuring that its citizens remain as secure as possible and its economic base remains strong, it is important that these operational cost considerations be examined and a plan for the future be developed that allows for a proper balance of

security and economic development as well as a proper balance of responsibility for the duties required to meet those goals.

RECOMMENDATIONS

- Continue to educate federal agency representatives and Florida's congressional delegation about the ongoing costs of seaport security operations in Florida which are directly related to implementation of the Maritime Transportation Security Act of 2002 (MTSA).
- Work with Florida public seaports and appropriate state and local agencies to develop a certified training program and state license classification that recognizes specialized seaport security training.
- Continue to review state seaport security standards and efforts to reduce operational costs through mitigation of those standards.
- Continue to monitor operational security costs on Florida's public seaports to assure that the most efficient and effective practices are being implemented in order to reduce costs while maintaining security levels.
- Continue to monitor efforts by other states to meet costs associated with compliance with the MTSA.

²⁴ Port Security News: Interview with AAPA Chairman Gary LaGrange, by Martin Edwin Anderson, 8 November, 2004.

²⁵ "Alabama's State Docks Could Raise Fees to Cover Security Costs," Associated Press, November 15, 2004.

²⁶ "Ship Shape: The Port's Battle to Grow," by Gregory Richards, Florida Times-Union, November 15, 2004.