

January 8, 2012

Freedom to Travel USA is writing to comment on the DHS closed meeting that has been announced by the DHS and its concomitant notice that is it accepting public comment.

For the DHS: Docket No. DHS 2011-0111

The format of this communication will be in stated fact, followed by supporting documentation.

STATEMENT OF FACT: The aggressive, extreme and frankly questionable actions of the DHS vis-à-vis the TSA and VIPR teams are disproportionate to the existing threat. We speak specifically of the inch-by-inch physical and/or electronic searches of all domestic passengers, actions which law enforcement officers can only execute within the confines of a formal arrest.

EXISTING THREAT:

SUPPORT: There have been three known attempts at bringing down an aircraft over the US in the last 10 years. (Reid, Abdulmutallab, printer cartridges) Two were via international passengers and one was via cargo. During that time there were 106.8 BILLION passenger and cargo flights departing globally (*source: Bureau of Labor Statistics, RITA, Departures Performed Sept 2001 – Sept 2011 for passengers and cargo*). 3 divided by 106,800,000,000..... there are so many zeroes after the decimal point that the number approaches meaningless.

SUPPORT: Discounting person-to-person attacks (shootings, Anthrax, etc.) there has been one known actual attempt at a non-airplane target in the US within the last 10 years (Times Square). While there have been a small handful of trumpeted “disrupted” plots, those all were tainted by FBI involvement and therefore cannot be considered “pure”, viable, ideological threats. There is no single comparable statistic to put these facts in perspective. However, please consider the following:

- During the decade there were approximately 180,000 college and professional sports games (football, baseball, hockey, basketball) played. There was not even one ideologically-based incident. (*sources: NBA, MLB, NCAA, NHL website statistics*)
- There are approximately 102,200 shopping malls in the US (*source: AARP Bulletin Today, <http://assets.aarp.org/www.aarp.org/articles/bulletin/interactive/malls/index.html>*). Over the past decade that would provide 373.2 million opportunities (at one per day) for ideologically-based mayhem. While there have been many crimes at malls over the past decade, there have been no ideologically-based attacks.
- In the last decade, rail has transported over 5.4 BILLION passengers over nearly 6.8 BILLION miles. In that same decade, nearly 40 TRILLION ton-miles of freight were hauled (*source: Federal Railroad Administration, Office of Safety Analysis*) There have been no ideologically-based train attacks.

For these potential ‘soft targets’, risk is mathematically impossible to quantify because of the ‘zero’ numerator in the equation. With the billions upon billions of opportunities for incidents, however, the existence of ‘none’ leads the rational person to conclude the risk is so small as to fall into a

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category that also includes dying from an alien attack, a meteorite collision or the Mayan calendar end of the world.

AGGRESSIVE, EXTREME AND FRANKLY QUESTIONABLE ACTIONS OF THE DHS/TSA:

SUPPORT: It is not news that the TSA continues to receive significant negative. In the face of the threat risk as covered above, the DHS/TSA has responded with the following:

- Electronic (and occasionally physical) routine strip-searching of a large percentage of the air-traveling public, even though it has been reported that “Current Backscatter and Millimeter wave scanners installed by the TSA are unable to screen adequately for security threats inside turbans, hijab, burqas, casts, prosthetics and loose clothing.” (*source: Wikipedia, http://en.wikipedia.org/wiki/Full_body_scanner, which provides two sources for this statement.*)
- Physical pat-downs that in any setting except for arrest or conviction would be considered sexual assault. Causality in these cases is questionable at best... there is no statistic that supports the statement that a person’s need to have a medical assistive device, for example, is positively correlated to a predilection for ideologically-based violence.
- Increased VIPR teams in response to ... nothing.
- Increased PR campaigns that currently include messages that assault travelers in over a million domestic hotel rooms, at Wal-Mart and at NHL games. These are in response to ... nothing.
- Provision of millions of dollars to militarize local police departments and to provide anti-terrorist equipment. The latest example of this is the provision of 17 snow-cone machines, one of which was purchased for the West Michigan Shoreline Regional Development Commission, an agency responsible for managing and administering the homeland security program in Montcalm County, Michigan (*source: The Daily News, <http://thedailynews.cc/2011/12/03/montcalm-county-gets-homeland-security-snow-cone-machine/>*)
- TSA screeners that over and over again disprove Mr. Pistole’s assertion that this group is comprised of “professional and highly trained” personnel.
 - There were 54 criminal actions committed by 62 TSA employees reported in 2011. With a work force numbering 60,000, that correlates with a crime rate of 90 per 100,000. That statistic compares to an average rape statistic for 2009 (selected large cities) of 41.7 (*source: US Census statistic, <http://www.census.gov/compendia/statab/2012/tables/12s0309.pdf>. Analysis provided by writer*). While the overall crime rate of TSA workers is less than any single reported city, I question whether anyone is comfortable having anything but the most honorable people searching bags outside of an owner’s watchful eyes or being able to see and/or touch citizens in private areas.
 - The TSA continues to allow its personnel to engage in exceptionally questionable practices, such as confiscating a single iced cupcake, issuing orders contrary to stated TSA website instructions, disallowing free speech and engaging in threatening behavior for persons merely wishing to travel. (*sources: WJLA News, <http://www.pixiq.com/article/san-diego-man-arrested-for-videotaping-tsa-officials>,*

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Tobey v. TSA, <http://www.elliott.org/blog/tsa-threatens-to-fine-passenger-who-refuses-full-body-scan/>)

The above incidents, together with the over \$1.1 trillion estimated as spent (*source: Forbes, <http://www.forbes.com/sites/artcarden/2011/09/09/homeland-security-ten-years-after-911/>*), comprises the costs of these efforts at securing our country against harm in terms of both personal inconvenience/assault and money spent. It does not include the \$85 billion annually and the 900,000 jobs not offered due to the burden associated with current air-related security procedures (*source: US Travel Association Blue Ribbon panel paper: A Better Way*). In terms of economic and human terms, the US response to 9/11 has been exceptionally expensive.

Ladies and Gentlemen, the risk of ideologically-based violence (which is the way I have tried to discriminate between normal criminal activity and the emotionally-charged term “terrorism”) in no way justifies the costs we have borne. That the DHS and TSA continues to increase its scope and footprint into the United States based upon the thinnest strand of risk defies reason. For airplanes, we reached the law of diminishing returns years and years ago, with the advent of hardened cockpit doors. To indulge the DHS in more and more funding, for more and more exercises in domestic visibility for which we have no identified threat, is something we can scarcely afford – neither in terms of actual dollars spent nor in terms of our cultural fabric and principles. Sporadic, unannounced and unwarranted searches are much more a fixture of totalitarian regimes and are not at all appropriate in a country that espouses liberty and justice for all. It appears that we risk too easily sliding into using an extraordinary event... an attack on the US a decade ago... as an extremely convenient excuse to convert us into a full-blown police state. That circumvents the Constitution. That circumvents common human civil rights upon which we have (at least in verbiage) based our principles and weakens alleged human rights violations upon which we have invaded foreign countries.

WE leave you with one vignette (below) that displays very clearly how the principles applied within the TSA have affected one person. The following story did not grab national headlines, but it highlights someone who was the unfortunate recipient of the irrational and fear-driven current TSA policies. You can consider this collateral damage, if you like, but I ask you: is this what you want? Is this something you foresaw and accepted? Or does this tale (just a microcosm of many unheralded unfortunate events) make you see clearly that the unintended consequences of an emotionally founded and rationally unsupported set of policies are on their face unacceptable to this nation?

FREEDOM TO TRAVEL USA

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The TSA's effect on my life

Wendy Thomson

My saga starts when I was four years old and had my right leg amputated at the knee. Fast-forward to 2004, when I had a spate of business trips to Washington, DC and Texas.

12/1/2004: I walked up to a DTW (Detroit) security checkpoint and announced I had an artificial leg. Without being wanded I was taken aside by two women to Concourse A, MacNamara Terminal, where the women took three cubicle panels that were leaning up against the wall and made a makeshift enclosure at the public entrance to the Concourse. The panels were not stable, so the screeners had to lean them up against one another. When inside I was instructed to remove my pants. The screeners were about to instruct me to also remove my pantyhose, but since I was standing there pretty much naked anyway they swabbed the top of my prosthesis with a swab and told me to get dressed.

12/1/2004: return trip from Dulles. I announced I had an artificial leg. I again was not wanded, but was subjected to an extensive search of torso and especially my breasts. The toe of my right shoe was swabbed, but other than that my prosthesis was not checked.

12/12/2004: After my complaints, this time I called ahead to DTW and requested a supervisory escort. I was given one, Tyrone Stokes, who instructed the screener to conduct a "simple pat-down." The screener did not wand me to determine where my metal was but I was subjected to a "Full Monty" pat-down – crotch, inside my pants, everywhere. The screener wanted to show Mr. Stokes, apparently, that she knew how to do it.

12/14/2004: returning from DFW. Announcement by me about my leg. This time I was wanded to determine the location of the metal. I was instructed to lift my pant leg. I was also subjected to an upper-body pat-down (no metal alarm there) and had my hands swabbed.

12/23/2004: Back again at DTW. This time I had printed a copy of instructions from the TSA's own website. Made my announcement. I set off the regular metal detector but did not set off the subsequent wand. The screener did an upper body pat-down (no metal alarm there) but indicated that because the wand did not alarm around my announced prosthesis it would not need to be checked.

12/31/2004: Sky Harbor, Phoenix. Same announcement by me. I was wanded and my left shoe was swabbed (what's that about? My prosthesis is on my right side). Once again the upper body pat-down (once again, no metal alarm there).

2/12/2005: Back at DTW. Announcement per usual. I was wanded — again the only alarm was between my right knee and ankle. Never mind: I got a thorough chest/breast "massage" anyway, along with hand-swabbing and prosthesis-swabbing.

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12/14/2005: Back at Dallas-Fort Worth. This time, though, I told the screeners that they could check the area that alarmed but they could not check areas that did not. After over two hours of their trying to convince me to allow myself to be assaulted once again, to no avail, I was denied boarding. On 2/16/2005 my employer flew me home on the corporate jet but I was told that they “would have to think twice about putting me on a plane again.” So now you know what happened to THAT career

I didn't fly for several years. I discovered, however, that all the folderol would disappear if I took off the leg, put it on the conveyor, and hopped through the metal detector. I made several trips that way. But that move required that I wear dresses. All sorts of screeners were upset with me. That tactic stopped when I read about a woman from Grand Rapids who received a full-on grope for the sole reason she was wearing a dress. I did try once to go through a MMW machine (millimeter wave scanner), but I got called over for a grope anyway. The word from the “back room” was to check my right thigh. The result was no right thigh but an upper body pat-down instead.

The last time I flew was October 2010. The TSA's position of scanners or Full Monty is too much for me. I've done my share, and I will not be treated that way ever again.

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