



Government

TSA Should Follow the Law

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A year ago this coming Sunday, the U.S. Court of Appeals for the D.C. Circuit ordered the Transportation Security Administration to do a notice-and-comment rulemaking on its use of Advanced Imaging Technology (aka “body-scanners” or “strip-search machines”) for primary screening at airports. (The alternative for those who refuse such treatment: a prison-style pat-down.) It was a very important ruling, for [reasons I discussed](#) in a post back then. The TSA was supposed to publish its policy in the *Federal Register*, take comments from the public, and issue a final rule that responds to public input.

So far, it hasn't done any of those things.

The reason for the delay, stated in a [filing with the court](#) last year, was the complexity and expense of doing a rulemaking in this area. But [CEI's Ryan Radia](#), at work on a legal brief in the case, notes that The TSA has devoted substantial resources to the [PreCheck program](#) during this time, rolling it out to additional airports. How can an agency pour resources into its latest greatest project yet claim poverty when it comes to complying with the law?

So on Monday, I started a petition on Whitehouse.gov. It says the president should [“Require the Transportation Security Administration to Follow the Law!”](#)

By the end of the day yesterday, the petition had garnered the 150 signatures needed to get it published on Whitehouse.gov. The petition says:

Defying the court, the TSA has not satisfied public concerns about privacy, about costs and delays, security weaknesses, and the potential health effects of these machines. If the government is going to “body-scan” Americans at U.S. airports, President Obama should force the TSA to begin the public process the court ordered.

That's not a huge request. Getting 25,000 signatures requires the administration to supply a response, according to the White House's petition rules.

The response we want is legal compliance. The public deserves to know where the administration stands on freedom to travel, and the rule of law. While TSA agents bark

orders at American travelers, should the agency itself be allowed to flout one of the highest courts in the land? If the petition gets enough signatures, we'll find out.

[Signing the petition](#) requires an email for confirmation, but it does not sign you up for any mailing list unless you volunteer for that. If you're quite concerned about sharing an email, you can create a throwaway email on AOL or Yahoo! and use it once.

Please pass the word about the petition. If it gets to 25,000 people, the Obama administration will owe the public a response. I'll report on it, and whether or not it's satisfactory, right here.

This column first appeared in [CATO@Liberty](#)