



## VIPR Searches and the American Citizen: 'Dominate. Intimidate. Control.'

By John W. Whitehead  
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"They're trying to scare the pants off the American people that we need these things... Fear is a commodity and they're selling it. The more they can sell it, the more we buy into it. When American people are afraid, they will accept anything."--Kate Hanni, passengers' rights advocate

"Uncontrolled search and seizure is one of the first and most effective weapons in the arsenal of every arbitrary government... Among deprivations of rights, none is so effective in cowing a population, crushing the spirit of the individual and putting terror in every heart."-- Justice Robert Jackson, chief U.S. prosecutor at the Nuremberg Trials

The transition to a police state will not come about with a dramatic coup d'etat, with battering rams and marauding militia. As we have experienced first-hand in recent years, it will creep in softly, one violation at a time, until suddenly you find yourself being subjected to random patdowns and security sweeps during your morning commute to work or quick trip to the shopping mall.

Perhaps you have yet to experience the particular thrill, and I use that word loosely, of being manhandled by government agents, having your personal possessions pawed through, and your activities and associations scrutinized. If so, not to worry. It's only a matter of time before more and more Americans will experience such a military task force knocking at their door. Only, chances are that it won't be a knock, and they might not even be at home when government agents decide to "investigate" them. Indeed, as increasing numbers of Americans are discovering, these so-called "soft target" security inspections are taking place whenever and wherever the government deems appropriate, at random times and places, and without needing the justification of a



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particular threat. Worse, not only is this happening with the blessing of the Obama administration but at its urging.

What I'm describing--something that was once limited to authoritarian regimes--is only possible thanks to an unofficial rewriting of the Fourth Amendment by the courts that essentially does away with any distinctions over what is "reasonable" when it comes to searches and seizures by government agents. The rationale, of course, is that anything is "reasonable" in the war on terrorism. What the powers-that-be understand--and Americans remain oblivious to--is the fact that by constantly pushing the envelope and testing the limits of what Americans will tolerate, the government is thus able to ratchet up the level of intrusiveness that Americans consider reasonable.

The latest test of our tolerance comes from the Transportation Security Administration (TSA), the same agency that continues to make headlines with its intrusive airport searches of travelers. Most recently, for example, TSA agents at a Florida airport forced a 95-year-old wheelchair-bound cancer patient to remove her adult diaper during the course of a security check. This comes on the heels of numerous reports about travelers of all ages--most of whom clearly do not in any way fit the profile of a terrorist--being subjected to equally invasive searches and unreasonable demands by government agents, what one journalist refers to as "ritualized humiliation of travelers."

Now, thanks to TSA Chief John Pistole's determination to "take the TSA to the next level," there will soon be no place safe from the TSA's groping searches. Only this time, the "ritualized humiliation" is being meted out by the serpentine-labeled Visible Intermodal Prevention and Response (VIPR) task forces, comprised of federal air marshals, surface transportation security inspectors, transportation security officers, behavior detection officers and explosive detection canine teams. At a cost of \$30 million in 2009, VIPR relies on 25 teams of agents, in addition to assistance from local law enforcement agencies as well as immigration agents. And as a sign of where things are headed, Pistole, himself a former FBI agent, wants to turn the TSA into a "national-security, counterterrorism organization, fully integrated into U.S. government efforts." To accomplish this, Pistole has requested funding for an additional 12 teams for fiscal year 2012, bringing VIPR's operating budget close to \$110 million.

VIPR is the first major step in the government's effort to secure so-called "soft" targets such as malls, stadiums, bridges, etc. In fact, some security experts predict that checkpoints and screening stations will eventually be established at *all* soft targets, such as department stores, restaurants, and schools. Given the virtually limitless number of potential soft targets vulnerable to terrorist attack, subjection to intrusive pat-downs and full-body imaging will become an integral component of everyday life in the United States. As Jim Harper of the Cato

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Institute observed, "The natural illogic of VIPR stings is that terrorism can strike anywhere, so VIPR teams should search anywhere."

For now, under the pretext of protecting the nation's infrastructure (roads, mass transit systems, water and power supplies, telecommunications systems, and so on) against criminal or terrorist attacks, these VIPR teams are being deployed to do random security sweeps of nexuses of transportation, including ports, railway and bus stations, airports, ferries and subways. VIPR teams are also being deployed to elevate the security presence at certain special events such as the Democratic National Convention. Sweep tactics include the use of x-ray technology, pat-downs and drug-sniffing dogs, among other things. Unfortunately, these sweeps are not confined to detecting terrorist activity. Federal officials have admitted that transit screening is also intended, at least in some instances, to detect illegal immigration or even cash smuggling.

Incredibly, in the absence of any viable threat, VIPR teams--roving SWAT teams, with no need for a warrant--have conducted 8,000 such searches in public places over the past year. For example, in February 2011, a VIPR team conducted a raid at an Amtrak station in Georgia, not only patting down all passengers--both adults and small children alike--entering the station but also those departing. In a characteristic display of incompetence, TSA agents co-opted the station and posted a sign on the door informing patrons that anyone who entered would be subject to mandatory screening (this, despite the fact that boarding passengers can easily bypass the station entirely and access the boarding area directly). One officer rummaged through a passenger's hand luggage and even smelled her perfume. A vacationing firefighter roped into the search commented, "It was just not professional. It was just weird...we are being harassed by the TSA." In fact, when Amtrak Police Chief John O'Connor was informed of VIPR's activities, he "hit the ceiling" and banned VIPR personnel from entering Amtrak property.

These raids, conducted at taxpayer expense on average Americans going about their normal, day-to-day business, run the gamut from the ridiculous to the abusive. In Santa Fe, TSA agents were assigned to conduct searches at a high school prom. At the port of Brownsville, in Texas, VIPR units searched all private and commercial vehicles entering and exiting the port. Although the TSA admitted the search was not conducted in response to any specific threat, VIPR agents nonetheless engaged in "thorough" inspections of each and every vehicle. In a training exercise in Atlanta, VIPR teams allegedly arrested a man after discovering a small amount of marijuana in his semi-trailer. In San Diego, a VIPR investigation at a trolley station resulted in the deportation of three teenagers apprehended on their way to school.

In April 2011, Homeland Security official Gary Milano stated that VIPR teams involved in a raid at a Tampa bus

station, again conducted in the absence of any threat, were there "to sort of invent the wheel in advance in case we have to, if there ever is specific intelligence requiring us to be here. This way us and our partners are ready to move in at a moment's notice." He added, "We'll be back. We won't say when we'll be back. This way the bad guys are on notice we'll be back."

Likewise, in an intimidating display of force in June 2011, VIPR conducted a vast training exercise--that is, a military raid--covering more than 5,000 square miles' worth of crucial infrastructure sites such as bridges, gas lines, and power plants between Ohio, West Virginia, and Kentucky. The raid included members of 70 different agencies, over 400 state and federal agents, Black Hawk helicopters, fixed wing aircraft, and Coast Guard vessels. Although the surveillance activities constituted an exercise rather than a response to an actual terrorist threat, the sweep was clearly calculated to produce a deterrent effect. According to TSA official Michael Cleveland, the purpose of the exercise was to "have a visible presence and let people know we're out here...It can be a deterrent."

The question that must be asked, of course, is who exactly is the TSA trying to target and intimidate? Not would-be terrorists, given that scattershot pat-down stings are unlikely to apprehend or deter terrorists. In light of the fact that average citizens are the ones receiving the brunt of the TSA's efforts, it stands to reason that we've become public enemy number one. We are all suspects. And how does the TSA deal with perceived threats? Its motto, posted at the TSA's air marshal training center headquarters in the wake of 9/11, is particularly telling: "Dominate. Intimidate. Control."

Those three words effectively sum up the manner in which the government now relates to its citizens, making a travesty of every democratic ideal our representatives spout so glibly and reinforcing the specter of the police state. After all, no government that truly respects or values its citizens would subject them to such intrusive, dehumanizing, demoralizing, suspicionless searches. Yet by taking the TSA's airport screenings nationwide with VIPR and inserting the type of abusive authoritarianism already present in airports into countless other sectors of American life, the government is expanding the physical and psychological scope of the police state apparatus.

VIPR activities epitomize exactly the kind of farcical security theater the government has come to favor through its use of coded color alerts and other largely superficial yet meaningless maneuvers. These stings do, however, inculcate and condition citizens to a culture of submissiveness towards authority and regularize intrusive, suspicionless searches as a facet of everyday life. In April, for instance, at a Tampa bus station, VIPR patted down passengers and used dogs to search the luggage. That type of small-scale, random operation provides little actual value but does impart to some citizens a false sense of security. A passenger in Tampa, for instance, commented, "I feel safe, knowing that I get

on a bus and I'm not going to blow up."

It's an ingenious plan: the incremental ratcheting-up of intrusive searches (VIPR searches are not yet widespread), combined with the gradual rollout of VIPR teams permits the normalization of TSA activities while inciting minimal resistance, thereby muting dissent and enabling the ultimate implementation of totalitarian-style authoritarianism.

Sadly, this repeated degradation by government officials of Americans engaged in common activities inevitably normalizes what is essentially an abusive relationship to such an extent that authority figures are permitted to trample Americans' constitutional rights with impunity. And those abused are prevented even from protesting. Reinforcing this latter point is the TSA's recent admission that those who merely exercise their First Amendment rights by *complaining* about intrusive airport security exhibit a behavioral indicator of a "high risk" passenger that, in combination with other behavioral indicators, warrants additional screening.

The expansion of the police state is also fueled by the dynamics present in the relationship between a politician and his constituents. Popular anger over government policies is difficult to sustain for an extended period of time. Outrage over the TSA scanners, for instance, will have substantially diminished by the time the next election cycle occurs. Thus, in many cases, politicians have little incentive to roll back the national security apparatus. In the other direction, however, the incentives are substantial: a politician who dismantles portions of the police state risks being labeled soft on terrorism. The trend, therefore, is to strike a politically cautious balance by incrementally expanding the national security bureaucracy, thereby avoiding inciting civil libertarian outrage.

TSA and VIPR searches also indoctrinate children to accept pat-downs, full-body scans, and the like, as a regular component of the relationship between government and its citizens. In this way, police state tactics will gradually grow in acceptance as simply "the way things are." A child who has been molested by government officials since before he could read is unlikely to question such activities as an unjustified exercise of authority when an adult.

Furthermore, the normalization of intrusive searches arguably reworks the content of the protections provided by the Constitution, particularly the Fourth Amendment. Increasing use of pat-downs and other controversial screening procedures changes the definition of what is a "reasonable" search and seizure from a cultural perspective and therefore actually re-engineers the constitutional fabric by altering the definition of what is "reasonable" under the Fourth Amendment.

The increasing deployment of VIPR teams, obviously, also drastically undermines the right to privacy. There is both an intrinsic and instrumental value to privacy.

Intrinsically, privacy is precious to the extent that it is a component of liberty. Part of citizenship in a free society is the expectation that one's personal affairs and physical person are inviolable so long as one remains within the law. A robust conception of freedom includes the freedom from constant and intrusive government surveillance of one's life. From this perspective, Fourth Amendment violations are objectionable for the simple fact that the government is doing something it has no license to do, i.e., invading the privacy of a law-abiding freeman by monitoring his daily activities and laying hands on his person without any evidence of wrongdoing.

Privacy is also instrumental in nature. This aspect of the right highlights the pernicious effects, rather than the inherent illegitimacy, of intrusive, suspicionless surveillance. Encroachments on individual privacy undermine democratic institutions by chilling free speech. When citizens--especially those espousing unpopular viewpoints--are aware that the intimate details of their personal lives are pervasively monitored by government, or even that they could be singled out for inferior treatment by government officials as a result of their First Amendment expressive activities, they are less likely to freely express their dissident views. The chilling effect results from a host of government surveillance activities, including warrantless wiretapping and particularly the aggressive, Cointelpro-like tactics employed by the FBI.

Countless other examples also illustrate the potential chilling effects of TSA activity. For instance, when a group of peace protesters composed of high school students and Catholic priests and nuns were detained at an airport after showing up on a federal watch list, a sheriff's deputy, according to one member of the group, explained, "You're probably being stopped because you are a peace group and you're protesting against your country."

There are other ramifications to the widespread implementation of these VIPR teams, not the least of which is the further solidifying of a security-industrial complex. Political incentives inherent in the police state render it extremely difficult to dismantle the security bureaucracy once it has been implemented. Vested interests impede political change: as the number of individuals employed by the TSA expands, by definition, so does the political constituency opposed to reducing the size of the security bureaucracy. Like many constituencies that comprise the corporate state, TSA employees have a vested interest in ensuring the continuation and expansion of governmental programs from which they benefit directly, regardless of whether these programs effectively serve compelling national interests.

Moreover, corporate lobbying exerts enormous pressure on the security bureaucracy to expand its activities and procure additional equipment and technology to aid in the so-called "war on terror." The availability of vast sums of relatively unmonitored stimulus money encourages

government expenditures on products backed by powerful lobbying groups but with little value from a national security perspective. For instance, from mid-2009 through late 2010, \$118 million in stimulus funds was used to purchase full-body scanners from Rapiscan, despite the scanners' questionable effectiveness. Not coincidentally, Rapiscan is a former client of the consulting firm headed by Michael Chertoff, former head of the Department of Homeland Security. Although Chertoff denies marketing Rapiscan's technology to the TSA, he has frequently advocated the adoption of security products that align with his investments. Chertoff, however, is not an isolated player: the corporate-governmental partnership in Washington centered on the growth of the national security state thrives on a revolving door of governmental officials/lobbyists who barter contracts and favors without regard to their actions' effect on national security.

This brings me back to VIPR, whose deployments at present are essentially expansions of the procedures implemented by the TSA in airports nationwide. Because the number of potential soft targets is limitless and VIPR's funding is relatively constrained at present, the effects of VIPR have not yet been noticed by the vast majority of Americans. However, the consequences should not be dismissed lightly.

The goal of VIPR is to have an omnipresent anti-terrorist force deployed at every moderate or high-density site: malls, stadiums, restaurants, grocery stores and so on. Expanding VIPR to its logical conclusion necessitates a police state. Additionally, VIPR, by expanding intrusive searches beyond the spatially circumscribed confines of airports, regularizes abusive behavior by government officials and inculcates submissiveness and subservience on the part of the average citizen.

In effect, VIPR paves the way psychologically for the implementation of totalitarian apparatuses of control. Furthermore, by entrenching frequent, intrusive searches in the American mindset as an unquestioned component of everyday life, programs like VIPR actually serve to reduce the level of protection afforded citizens by the Constitution. And once VIPR has accrued a sufficient bureaucracy, it will be virtually impossible to eradicate.

[A shorter version of this commentary is available here.](#)

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