

# TSA News

## The TSA's lawlessness

by **Amy Alkon** on August 5, 2012

Robert L. Crandall, former chairman and CEO of AMR and American Airlines, and the Competitive Enterprise Institute's Marc Scribner **write for McClatchy** about the TSA's disgusting use of full-body scanners in 190 airports nationwide:

While the agency keeps installing these devices — which most people agree intrude on our privacy — there are real doubts whether these are actually making anybody safer. Yet because TSA failed to solicit public comments about the scanners — in violation of federal law — the agency is flying blind.

In 2010, the Electronic Privacy Information Center sued the Department of Homeland Security, TSA's parent department, to compel TSA to solicit public and expert input. In July 2011, the D.C. Circuit Court of Appeals ordered TSA to “promptly” begin a rulemaking to allow for legally required public comments.

A year later, TSA has not even begun the process. The law empowers courts to compel agency action when it is “unreasonably delayed.” TSA says it does not have the resources to begin this public comment process. But it has a discretionary budget larger than that of the entire federal judiciary and a staff larger than those of the Departments of State, Labor, Energy, Education, and Housing and Urban Development combined. This supposed lack of capacity has not prevented TSA from opening new proceedings on far less important matters, adding many more body scanners at airports nationwide, and launching the new PreCheck program for frequent fliers during the last year.

On July 17, EPIC petitioned the court to enforce its mandate. Two days later, the Competitive Enterprise Institute filed an amicus brief supporting EPIC's petition, along with the National Association of Airline Passengers, Electronic Frontier Foundation, and six other organizations.

This rulemaking is the only way to determine whether TSA's air travel security regime is worth its huge costs and adverse effects on the public's well-being. Several independent analyses have found that TSA's use of these machines would be economically wasteful even if they worked as well as TSA claims, but may actually make us less safe.

Ohio State University professor John Mueller has done a thorough analysis of U.S. air travel security. He found that even assuming the scanners are capable of detecting body-borne explosives, the likelihood of a terrorist carrying out such an attack is so low that the massive annual cost of deploying and using these machines outweighs any security benefit and could be much better allocated elsewhere.

**Scribner posted** at OpenMarket:

. . . Wednesday, the D.C. Circuit Court of Appeals ordered TSA to respond to the Electronic Privacy Information Center's petition for writ of mandamus. The Court also ordered that an amicus brief submitted by CEI be accepted.

Please still sign the petition **here** to require the TSA to follow the law, and share this petition with everyone you know with a working computer and an email address. 6,000 more signatures are needed by August 9th.