



Public blasts TSA's body scanners

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WASHINGTON – Following a court mandate that the Transportation Security Administration review public opinion about its invasive airport body scanners, more than 2,000 comments have been posted.

The court mandate was in response to the case, Electronic Privacy Information Center v. Department of Homeland Security. TSA will continue to accept comments from the public until June 24th at www.regulations.gov.

Comments have noted various problems with the scanners, including privacy violations, potential health risks, and the machines accuracy in regards to risk detection.

One commenter posting under the name Aaron stated his concerns over the health risks posed by the full body scanners.

“I will never use the full body scan because I refuse to expose myself to unnecessary X-rays. As a biologist, I know there is no such thing as a safe dose of X-rays,” Aaron commented.

Another commenter, Alex, wrote, “this is supposed to be ‘the land of the free, and the home of the brave.’ There is nothing free or brave about being subjected to naked body scans or invasive pat-downs.”

A poster named Sam commented, “It’s a violation of our 4th Amendment rights protecting American citizens from unreasonable search and seizure. It’s as simple as that.”

EPIC also recently filed appeals in two Freedom of Information Act cases seeking documents related to airport body scanner radiation risks and threat detection software.

In its online announcement about the comment period, federal agency officials said they want to “clarify that the TSA may use advanced imaging technology to screen individuals at security screening checkpoints.”

They also mounted a strong defense of their actions in imposing the imaging process on the American public. Deploying tens of thousands of agents at costs of billions of dollars, the agency screens “nearly two million passengers each day.”

“Effective technology is an essential component of TSA’s arsenal of tools to detect and deter threats against our nation’s transportation systems,” the government explains. It also reveals that no passenger ever is required to submit to nude body imaging, and the alternative is an intimate physical pat-down by a TSA officer.

“The image is not an image of the individual passenger, but a generic outline that indicates where the anomaly is detected. ... Once the image is reviewed and any anomalies are resolved, the image is deleted. This process usually takes less than a minute,” the federal government claims.

Hundreds of the machines have been installed, although those by one brand name are being removed because of their emissions.

The agency says the nude body imaging machines have found a three-inch pocket knife, packets of powder, a syringe full of liquid and a plastic dagger.

EPIC argued for the agency to meet the requirements of the Administrative Procedures Act. The group said the time had come for the “court to end the agency’s unreasonable delay, and to set a date certain for the agency to issue a proposed rule or, in the alternative, to vacate the rule on which the agency relies.”

Once a rule is final, there are various challenges that are possible, including “judicial review under the APA ... which provides that a court may set aside agency action ... found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law,” EPIC argued.

EPIC noted the administration decided in April 2009 to use the body scanners and set the decision in motion “without explicit statutory authority and without publishing a proper rule as required.”

The security procedures being ramped up by the TSA have made headlines. An agent groped a member of Congress and another patted down a hysterical 4-year-old. Several passengers staged protests by stripping nude for their TSA security check.

On the state level, Texas fell narrowly short of moving forward with a bill that would have required “probable cause” for agents to act against a passenger. While the plan was under consideration, the federal government threatened to close down air traffic to and from the state.

The lawsuit that prompted the comment period came after EPIC sued in the District of Columbia Circuit Court of Appeals to challenge the TSA’s unilateral decision to make body scanners the primary screening technique in U.S. airports.

WND has reported multiple times on the dispute, including recently when EPIC contested TSA’s continuing use of the machines.

Recently the director of information policy studies at the libertarian Cato Institute launched a petition drive to force action.

The petition, which later was taken down by the White House, had sought to “require the Transportation Security Administration to follow the law.”

A separate challenge to the use of the enhanced procedures also has been beaten back by a federal appeals court, based on a “secret” order from the TSA. It was Judge Henry H. Kennedy Jr. who cited the undisclosed document in rejecting a complaint from passengers and pilots that the TSA invaded their privacy and violated their rights by demanding pat-down inspections or full-body scans.

The government, insisting that the “secret” order contains “sensitive security information,” has refused to make public the document outlining the procedures, according to John Whitehead, president of the Rutherford Institute.

Institute attorneys had argued that since the TSA “order” has remained “secret,” there has been no opportunity for the public to comment on it, and “passengers and pilots are not only being deprived of their Fourth Amendment rights, but also their due process right to a fair hearing on their challenge to the secret TSA policy.”

Whitehead said the ruling is a dark cloud.

“This ruling does not bode well for attempts to ensure transparency in government or efforts to safeguard Americans against virtual strip searches and other excessive groping of our bodies by government agents, especially when there’s no suspicion of wrongdoing,” he said.

“When civil liberties are tossed out the window – by government agents or by the courts – we all lose. No American should be forced to undergo a virtual strip search or be subjected to such excessive groping of the body as a matter of course in reporting to work or boarding an airplane when there is no suspicion of wrongdoing,” he said.

Former Rep. Ron Paul, R-Texas, had proposed a change in the law that would specify that screeners are “not immune from any U.S. law regarding physical contact with another person, making images of another person, or causing physical harm through the use of radiation-emitting machinery on another person.”

“It means they are not above the laws the rest of us must obey,” he wrote at the time.