



Transportation
Security
Administration

DEC 30 2010

The Honorable Tim Murphy
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Murphy:

Thank you for your letter of November 22, 2010, regarding the technology and procedures in use by the Transportation Security Administration (TSA) at our Nation's airports.

TSA has responsibility for protecting the security of the aviation system and specific authority to screen passengers and their property (49 U.S.C. §§114 and 44901). Regulations promulgated pursuant to these authorities provide that no person may enter a sterile area without complying with the systems, measures, and procedures in place to control access to that area (49 CFR §1540.105), and that "[n]o individual may enter a sterile area or board an aircraft without submitting to the screening and inspection of his or her person and accessible property in accordance with the procedures being applied to control access to that area or aircraft under this subchapter" (49 CFR §1540.107).

The courts have held that once a person elects to enter into the secured area of an airport, he or she cannot withdraw from security screening. Permitting an individual to withdraw from screening prior to completion "would afford terrorists multiple opportunities to attempt to penetrate airport security by 'electing not to fly' on the cusp of detection until a vulnerable portal is found." *United States v. Aukai*, 497 F.3d 955, 962 (9th Cir. 2007) (en banc). The extent of the permissible intrusion should be "neither more extensive nor more intensive than necessary under the circumstances to rule out the presence of weapons or explosives," the court said. *Aukai*, 497 F.3d at 962.

TSA began deploying state-of-the-art advanced imaging technology (AIT) in 2007. This technology better detects a wide range of threats to transportation security than previous screening measures. The December 2009 attempted bombing of a commercial aircraft by an individual concealing explosive materials in his underwear further emphasized TSA's need to increase its detection capabilities for finding explosives (non-metallic materials) on individuals.

Strict privacy safeguards are built into TSA's use of AIT to protect passenger privacy and ensure anonymity. TSA's AIT cannot store, print, transmit, or save the image of an individual, and the image is automatically deleted from the system after it is cleared by a remotely located security officer. Officers evaluating images are not permitted to take cameras, cell phones, or photo-enabled devices into the resolution room. To further protect passenger privacy, millimeter-wave technology blurs all facial features, and backscatter technology has an algorithm applied to the entire image. AIT screening is optional for all individuals, however, those who opt out of AIT screening receive an equivalent level of alternative screening, including a thorough patdown.

Regarding your concerns that the new screening procedures infringe on the civil liberties of passengers, privacy and civil liberties were taken into account when the new patdown procedures were developed. TSA's Office of Civil Rights and Liberties, the U.S. Department of Homeland Security's (DHS) Office for Civil Rights and Civil Liberties, and DHS's Privacy Office carefully examined the privacy and civil liberties aspects of the revised screening procedures to ensure that they adequately protected passengers' rights and liberties. The patdown measures were tested at TSA's Integration Facility and piloted at airports prior to nationwide deployment. Going forward, TSA will continue to assess screening procedures to ensure they are set at an appropriate level to mitigate threats while protecting the privacy of travelers.

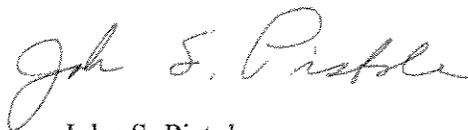
Regarding the training Transportation Security Officers (TSO) receive on conducting the new patdowns, TSA developed and deployed a training package that includes web-based components and a classroom instruction module that requires an end-of-course proficiency demonstration. Each TSO, Lead TSO, and Supervisory TSO is required to successfully complete 6 - 6 ½ hours of training before he or she is permitted to independently perform the revised patdown procedures.

The majority of the traveling public supports TSA's new technology and procedures. Since imaging technology has been deployed at airports, over 98% of passengers choose to be screened by this technology over alternative screening measures. In a recent CBS poll, 81% of those interviewed said they support the use of AIT at airports.

All of TSA's security measures serve an important goal: to provide safe and efficient air travel for the up to two million people who use the transportation system every day. We will continue to adapt our risk-based and intelligence-driven security approach to ensure that we are doing everything we can to stay ahead of emerging threats.

I appreciate that you took the time to share your concerns with me and hope this information is helpful. I look forward to working with you on these and other homeland security issues in the future. If I may be of further assistance, please do not hesitate to contact me personally or the Office of Legislative Affairs at (571) 227-2717.

Sincerely yours,



John S. Pistole
Administrator