

**“Those who would give up essential Liberty, to purchase a little temporary Safety, deserve neither Liberty nor Safety” - Benjamin Franklin**

**FREEDOM TO TRAVEL USA – “Restoring Americans’ Freedom To Travel” (<http://ftusa.org>)**

November 28, 2011

Freedom To Travel USA



Dear Honorable Representative **X**,

We represent United States citizens who want to regain freedoms taken away by the Transportation Security Administration (TSA). We believe the TSA routinely engages in completely illegal, warrantless strip searches of our citizens and strongly coerces citizens into accepting otherwise totally inappropriate physical touching of bodies, including touching the genitals and breasts of us, our children, and the medically challenged. The TSA performs searches using abusive methods that are ILLEGAL for the police to perform unless one is under reasonable suspicion of committing a felony, under arrest or serving a jail sentence.

The TSA “justification” for these illegal and abusive activities is particularly flimsy – especially considering that police officers face actual documented violence successfully carried out every day in cities across our country. Even with the daily threats, the 4th amendment preserves our rights by limiting the circumstances under which police may perform searches and HOW they conduct these searches.

Contrast these real, daily threats to the alleged threat for why strip searches, and the sexual assault pat downs that occur after strip searches or as randomly assigned, are being done. The TSA primary justification is to counter the alleged threat of suicidal airline passengers smuggling non-metallic bombs on their bodies and successfully detonating non-metallic bombs on US domestic flights. In fact, the last documented fatality by this class of passenger in the US occurred nearly **HALF A CENTURY** ago in 1963. Since then, there have been 0 fatal attempts on US Domestic flights despite the current annual rate of around 670+ million passengers per year on over 9 million US Domestic flights. Globally, there have been **2 miserable failures** covering EVERY FLIGHT IN THE WORLD since 1997 (a liquid bomb on a Brazilian flight killed 1 person and the plane landed safely), despite the many years available for terrorist organizations to plan, design, develop, test, and refine a working device. One might suspect the only way to improve on the “zero dead out of forty eight years” odds is if the TSA could bring people back from the dead.

Please further consider the self-admitted lack of TSA efficacy: in 2004-2005 the TSA admitted to having its screeners fail 70% of the covert testing that had been conducted. During that time there were 21.9 million departures of US-owned airlines carrying over 1.5 billion passengers. During that same time (according to the GAO), there were and are many international airports that are “seriously noncompliant” with airport security standards. With all of that failure, it is significant to note that there were no air incidents. None. Not even from “seriously noncompliant” airport facilities. It certainly begs the question: how in the world are we justifying these egregious assaults on the personal integrity of our otherwise innocent passengers?

For these reasons, we are asking you as a duly elected official sworn to uphold the United States Constitution to preserve our constitutional rights as well as common decency for United States citizens. Specifically, we have reviewed

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the 112<sup>th</sup> Congress, First Session bill H.R. 3011 which is under your jurisdiction and offer the following comments and urge you to strongly consider our suggested changes to H.R. 3011 to help restore the rights of all Americans.

**SECTION 203-SECURITY SCREENING OF INDIVIDUALS WITH METAL IMPLANTS, PROSTHETICS, AND PHYSICAL DISABILITIES TRAVELING IN AIR TRANSPORTATION**

The TSA "profiles" citizens with "medical metal" and also those who exhibit "anomalies" as revealed in the illegal strip searches performed by the scanners. Well-documented cases of abuse include breast cancer victims, individuals with external medical devices on their bodies, and those who can't walk and must use wheelchairs. We ask that you strongly consider adding the following elements within this section:

- The TSA should design and establish a "Trusted Medical Traveler" program for United States' Citizens, and such qualification should ELIMINATE the touching of genitals and breasts and should ELIMINATE the intrusive inspection of areas outside of the medical device without separate cause. The reasons are that unwanted touching of genitals and breasts is a criminal activity in all instances in our society when not performed by law enforcement officers under their currently allowed legal authority when performing their duties, and the presumption of overall guilt for the mere reason of requiring a medical device somewhere on or within a body is simply an egregious distortion of "innocent until proven guilty."

**SECTION 204 – SECURITY SCREENINGS OF CHILDREN**

We applaud the efforts to begin to recognize that minors should not be subjected to "sexual assault pat downs" (we do not acknowledge the misnomer "enhanced pat down". "Sexual assault pat down" is the proper description of exactly what happens when the TSA employees perform unwanted touching of sexual organs and breasts). Additionally, the ability to rescreen to resolve security issues rather than moving immediately to sexual assault pat downs is an improvement in the near term. We ask that you strongly consider adding the following elements within this section:

- Expand the title to "Security Screenings of US Citizens". Commonsense approaches and protection of the 4<sup>th</sup> Amendment right against unreasonable searches should be preserved for ALL United States Citizens.
- Add the following concept (example wording provided) to help restore our 4<sup>th</sup> Amendment rights. "No security screening administrative searches by the Transportation Security Administration may include the touching of sexual organs, genitals, or breasts without prior reasonable suspicion that these specific body areas contain a threat to aviation safety."

**SECTION 211 –AUTOMATED TARGETING RECOGNITION SOFTWARE**

We applaud this beginning interim step which reinforces the concept that warrantless, suspicion less strip searches, whether performed physically or with technology, are a search of our persons and that the 4<sup>th</sup> Amendment protects us from these unreasonable searches. The obvious fact that taking and viewing nude images of passengers, notwithstanding the appalling rationale that the passenger's privacy is "protected" because the viewer is blocked from the passenger's view, is a completely unreasonable search technique which should have been apparent when first discussed. Allowing strangers we can't see to see nude pictures of us is clearly an invalid concept – otherwise there would be no criminal laws against voyeurism. If strip searching performed as a routine technique is "not unreasonable", then clearly the 4<sup>th</sup> Amendment becomes nearly null and void.

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The TSA has asserted its right in the court case of EPIC vs. DHS to perform warrantless strip searches at its whim. In addition, we believe the TSA has also laid the groundwork for further destruction of the 4<sup>th</sup> amendment through warrantless, unreasonable searches by reserving the right to probe anal and vaginal cavities without any reasonable suspicion, should it desire. What in the WORLD are they thinking?

We ask that you strongly consider adding the following elements within this section:

- Conceptually, we suggest something similar to the concept as drafted here: "The use of advanced imaging technology machines may only be used for secondary screening of passengers." The concept is that an inch-by-inch search of our bodies, despite the convenience of not removing one's clothes or not using nude images, is still the most invasive search of our bodies and should meet at least the minimum necessity of reasonable suspicion.

We provide the following background for your consideration on the definition of "reasonable, articulable suspicion". [http://www.erowid.org/freedom/courts/state/state\\_supreme\\_mn\\_case1\\_comment1.shtml](http://www.erowid.org/freedom/courts/state/state_supreme_mn_case1_comment1.shtml)

**Notes: Definition of "Reasonable, articulable suspicion"**

This standard for when a police officer may choose to detain someone, is known as the Terry Standard from a case in 1968 [[Terry v Ohio 392 U.S. 1 \(1968\)](#)] in which the Federal Supreme Court ruled that police had the right to detain and frisk individuals for weapons if they had "reasonable" suspicion that the individual is involved in a crime. The standard which the Supreme Court developed has become a standard in law across the United States. Police are expected to have a suspicion they can describe in words ("articulable") which is "reasonable". What is 'reasonable' is up to the judge hearing the case. "Officer must be able to point to specific and articulable facts which, when taken together with rational inferences from those facts, reasonably warrant the intrusion."

One major concern is that individuals performing an administrative search are NOT law enforcement officers, and giving them a lower standard of suspicion than police – who are trained in this area – is very troubling and leads to a "civilian" organization that diminishes the rights of citizens by asserting a broad power not even acceptable for police.

**SUMMARY**

In conclusion, we ask for your support in restoring our freedoms and not succumbing to the terrorist goals of changing our society – especially from very remote threats.

**Sir/Madam**, you have the ability to protect the disabled, our children, ourselves, and all United States citizens from an agency that has overstepped its constitutional bounds, no matter the initial reasons and good intentions that may have driven it to illegal and abusive behavior. We sincerely urge you take real steps to do so.

Respectfully,

Freedom To Travel USA

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