

May 28, 2010

The Honorable Joseph I. Lieberman, Chairman
Committee on Homeland Security and Governmental Affairs
U.S. Senate
Washington, D.C. 20510

Dear Senator Lieberman:

We the undersigned consumer, privacy, and civil rights organizations and advocates are writing to urge you, as Chairman of the Committee on Homeland Security and Government Affairs, to demand that the Department of Homeland Security (DHS) stop the deployment of full-body scanning devices in US airports until an independent review of the devices' health effects, effectiveness and privacy safeguards is completed.

By the end of next year two out of every three passengers will be directed to enter one of these machines for a head-to-toe body scan. A large number of these devices will be the 'backscatter' scanner which use low-dose x-rays to scan passengers.

Scientists and radiation experts have come forward disputing the DHS claims that the x-ray doses pose negligible health risks to passengers. Several distinguished members of the science and medical faculty of the University of California, San Francisco (UCSF) wrote to President Obama's science adviser, John Holdren, stating that government officials have underestimated the x-ray dose these devices deliver to the skin. The UCFC scientists are concerned about the potential for skin cancers, and harm to pregnant women and those with compromised immune systems.

Another respected scientist, David Brenner, director of Columbia University's Center for Radiological Research gave a briefing to the Congressional Biomedical Caucus on airport backscatter scanners in March where he advised that more research is needed on the health impacts of low-dose radiation exposure. Dr. Brenner urged caution in employing any technology which would expose 800 million annual airport users to radiation. Dr. Brenner was a member of the government panel that set the radiation safety guidelines for the airport body scanners in 2002. He has now said that he would not have signed the report if he had known that the x-ray backscatter technology would be the primary security device for all airline passengers.

Last February, the Center for Study of Responsive Law and the Electronic Privacy Information Center (EPIC) convened a symposium on airport body scanners where we gathered experts in aviation security, radiation health and privacy. Symposium participants concluded that the devices can be easily defeated by concealing explosives in body cavities; the actual radiation health risks are unknown because no independent study has been undertaken; and privacy safeguards are unacceptable because the disabling of the machines' ability to record and store

naked images of passengers can be reactivated by the Transportation Security Agency (TSA) whenever it wants.

On April 21, a broad coalition of organizations sent a formal petition to the DHS demanding that they suspend the body scanner program. The petition states that the "uniquely intrusive search" is unreasonable and violates the Constitution. The petition further states the program fails to comply with several federal laws, including the Religious Freedom Restoration Act, the Privacy Act of 1974, and the Administrative Procedures Act. The petitioners also argue that the machines are ineffective and that there are better, less costly security technology. The DHS has yet to respond to the petition, and there is no indication when or if they ever will do so.

Passenger complaints to the TSA obtained by an EPIC Freedom of Information Act request, reveal that in practice many passengers are directed to a scanning machine without being given the option of an alternative pat down security search, as mandated by the TSA. Many passengers objected to scanning on religious grounds and parents complained about having their children subjected to scanning both on health and privacy concerns.

On April 12, US Senators Collins, Kyl, and Chambliss wrote to DHS Secretary Janet Napolitano urging that the DHS reconsider the whole body scanner program. The Senators encouraged Secretary Napolitano to consider "auto-detection" scanning devices, currently used in the Amsterdam airport, which may address privacy concerns and avoids exposing passengers to radiation.

The TSA has made costly errors in the past concerning new security technologies. The "puffer" devices were cancelled at a cost of \$30 million after the TSA found them be "unreliable."

The potential public health risks, privacy concerns, taxpayer costs and questionable effectiveness of body scanners demand that the DHS stop the deployment of body scanners to the nation's airports until an impartial panel can be convened to study these issues.

Sincerely,
Ralph Nader
American Civil Liberties Union (ACLU)
Bill of Rights Defense Committee
Center for Financial Privacy and Human Rights
Consumer Action
Consumer Federation of America
Electronic Privacy Information Center (EPIC)
Essential Information
National Workrights Institute (NWI)
Privacy Activism
Privacy Rights Clearinghouse
Chip Pitts, Stanford Law School

References:

Letter from UCSF Faculty to John Holdren, WH Science Adviser: <http://n.pr/bKGCKx>

Briefing by Dr. David Brenner on Airport Body Scanners: <http://lifescience.blip.tv/>

Petition for Suspension of TSA Full Body Scanner Program: <http://bit.ly/dfawrQ>

Letter from Senators Collins, Kyl and Chambliss to DHS Secretary Napolitano: <http://bit.ly/bJFn5K>

cc: The Hon. Byron Dorgan, Chairman

Senate Committee on Commerce, Science and Transportation