



December 13, 2004

Catrina Pavlik
Associate Director
Transportation Security Administration
TSA-20, West Tower
FOIA Division
601 South 12th Street
Arlington, VA 22202-4220

AMERICAN CIVIL LIBERTIES
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RICHARD ZACKS
TREASURER

Re: Freedom of Information Act Request

Dear Ms. Pavlik:

This is a request pursuant to the Freedom of Information Act (5 U.S.C. § 552) for all agency records (including, but not limited to letters, correspondence, tape recordings, notes, data, memoranda, reports, email, computer source and object code, technical manuals, technical specifications, or any other materials) held by the United States Transportation Security Administration (TSA) relating to the security screening of airline passengers.

Specifically we seek the following records:

- All agency regulations, decisions and procedures regulating the screening of airline passenger;
- All records related to the training of TSA screeners including training procedures, instructions, manuals or any other materials related to training;
- All records related to complaints filed regarding the TSA screening process including description of the complaints and any action or resolution of the complaint by the agency;
- All records related to audits or other investigations of the screening procedures;
- All records of disciplinary actions taken against screeners for violations of screening rules;
- All records regarding the creation of screening rules including any analysis of the effectiveness of the rules, or the

potential impact on individual privacy or other constitutional rights; and

- All legal opinions or memorandum discussing the screening process.

We request a fee waiver pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) & (iii) because the subject matter of the requested records concerns the operations and activities of the Federal government, the disclosure is likely to contribute to an understanding of Federal government operations or activities, disclosure of the requested information is in the public interest, the contribution to public understanding of Federal government operations or activities will be significant, and, as a non-profit 501(c)(3) organization, we do not have a commercial interest that would be furthered by the disclosure of the requested information.

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We seek expedited review of this FOIA request because this information relates to impending policy decisions to which informed members of the public might contribute. Timely public access to these materials is necessary to fully inform the public about the issues surrounding airline passenger privacy and security. Specifically, we request expedited access pursuant to 5 U.S.C. § 552(a)(6)(E)(v)(II) which allows such processing when a requester “primarily engaged in disseminating information” shows an “urgency to inform the public of an actual or alleged Federal government activity.” We further note that this “exceptional need or urgency for the records” is such that it is “beyond the public’s right generally to know about government activity” and “warrants prioritization” of this request “over other requests that were made earlier.” Access to information regarding the Agency’s airport search procedures are of great urgency. Because of the ongoing nature of these searches, and the large number of individuals that utilize air travel, it is likely that violations of individual rights are occurring on an ongoing and constant basis. The widespread use of these searches has already engendered a considerable amount of press coverage—a clear indication of the “urgency to inform the public” on this issue. (See, e.g. Joe Sharkey, *Another Shoe Drops on the Subject of Airport Security*, NEW YORK TIMES, November 30, 2004; Ron Moore, *Training Daze at The TSA*, WASHINGTON POST, December 7, 2004; Hailie Brook, *Some Passengers Call New Airport Screening “Violating”*, KBCI-TV)

Moreover, the American Civil Liberties Union Foundation (ACLU Foundation) meets the criteria laid out in *National Security Archive v. Department of Defense*, where a representative of the news media is defined as an entity that "gathers information of potential interest to a segment of the public" and "uses its editorial skills to turn raw materials into a distinct work, and distributes that work to an audience" 880 F. 2d at 1387. The ACLU Foundation publishes newsletters, frequent press releases, news briefings, right to know handbooks, and other materials that are disseminated to the public. Its material is widely available to everyone, including tax-exempt organizations, not-for-profit groups, law students, and faculty, not to mention our 400,000 members. The ACLU Foundation disseminates information through publications available on-line at www.aclu.org, as well. Thus the organization meets the pertinent regulatory requirements for expedited access as well as a fee waiver.

We have enclosed certification (for the purposes of expedited access) with this letter. If our request is denied in whole or part, we ask that you justify all deletions by reference to specific exemptions of the act. We expect you to release all segregable portions of otherwise exempt material, and we wish to have copies made and furnished of all such material. We reserve the right to appeal your decision to withhold any information or to deny a waiver of fees.

We look forward to your reply within ten calendar days, as required under 5 U.S.C. § 552(a)(6)(E)(ii)(I).

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Calabrese', with a long horizontal flourish extending to the right.

Christopher Calabrese
Counsel, Technology & Liberty Program