

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

GOVERNOR JESSE VENTURA, a/k/a
James G. Janos, individually,

Court File No. _____

Plaintiff,

v.

JANET NAPOLITANO, in her official
capacity as Secretary of the Department of
Homeland Security; THE UNITED
STATES DEPARTMENT OF HOMELAND
SECURITY; JOHN S. PISTOLE,
in his official capacity as Administrator of the
Transportation Security Administration, and
THE UNITED STATES TRANSPORTATION
SECURITY ADMINISTRATION,

Defendants.

COMPLAINT

Plaintiff, Governor Jesse Ventura, for his claims against the defendants, Janet Napolitano, in her official capacity as Secretary of the Department of Homeland Security; the United States Department of Homeland Security; John S. Pistole, in his official capacity as Administrator of the Transportation Security Administration; and the United States Transportation Security Administration, states and alleges that:

THE PARTIES

1. Plaintiff, Governor Jesse Ventura, a/k/a, James G. Janos (“Governor Ventura”), is an individual citizen and resident of the State of Minnesota.
2. Defendant United States Department of Homeland Security (“DHS”) is an a agency of the United States of America.

3. Defendant Janet Napolitano (“Napolitano”) is the Secretary of DHS, and is a party hereto in her official capacity.

4. Defendant Transportation Security Administration (“TSA”) is an agency of the United States of America, and is a component of DHS charged pursuant to 49 U.S.C. § 114 with ensuring the safety of all modes of transportation, including air travel.

5. Defendant John S. Pistole is the Administrator of the TSA, and is a party hereto in his official capacity.

NATURE OF THE ACTION

6. Pursuant to Federal Rules of Civil Procedure 57 (Declaratory Judgments) and 28 U.S.C. § 2201 *et seq.* (Declaratory Judgment Act), Governor Ventura seeks a declaration that TSA and DHS have, and unless enjoined or restrained will continue to violate his rights under the Fourth Amendment to the United States Constitution to be free from unreasonable searches and seizures. Pursuant to 28 U.S.C. § 2202, Governor Ventura further asks the court to award injunctive relief co-extensive with this Court’s declaration of rights as is necessary to prevent further and irreparable harm, and to award all other relief which is just and equitable.

JURISDICTION

7. The Court has jurisdiction of the subject matter pursuant to 28 U.S.C. §§ 1331 and 1346 because Governor Ventura’s claims arise under the Fourth Amendment to the United States Constitution, and agencies of the United States are defendants to this civil action.

8. The Court has personal jurisdiction over the named defendants because they have sufficient minimum contacts with this district and the cause of action, are subject to service of process, and all or part of Governor Ventura’s claims arise from defendants’ commission of acts in this state causing injury or damages.

VENUE

9. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(2), and § 1391 (e)(2) and (3) because a substantial part of the events or omissions giving rise to Governor Ventura's claims occurred, and Governor Ventura resides, in this district.

STATEMENT OF FACTS

Governor Ventura

10. Governor Ventura is the former Governor of the State of Minnesota, having served in that capacity from 1999 through 2002, the former Mayor of Brooklyn Park, Minnesota, having served in that capacity from 1990 through 1993, and is also a veteran of the United States Navy, having served his country as a member of the Naval Special Forces Underwater Demolition / SEAL Teams.

11. Governor Ventura's current occupation is that of television performer and host for a program titled *Conspiracy Theory*, which airs on the TRU TV network.

12. Incident to his duties and responsibilities as a network television performer and host, Governor Ventura is required to travel frequently and extensively throughout the United States by commercial air.

13. In 2008 Governor Ventura underwent hip replacement surgery, incident to which he received a titanium implant.

14. As a consequence of Governor Ventura's hip replacement surgery, each and every time he passes through an airport screening magnetometer, commonly known as a walk-through metal detector ("WTMD"), the device's alarm is set off by the presence of titanium in his body.

15. Prior to November 2010, each and every time Governor Ventura set off the WTMD alarm, the additional airport security procedures he was subjected included only a non-invasive magnetic hand-wand inspection.

TSA'S Enhanced Airport Screening Procedures

16. Airline passengers, including Governor Ventura, are required by United States Code and Regulations, including, but not limited to 49 U.S.C. § 44901, 49 CFR §§ 1540.105(a)(2) and 1540.107, to comply with TSA's security procedures before entering designated portions of airports within the United States.

17. Since the terrorist attacks of September 11, 2001, TSA has implemented enhanced airport screening procedures, including the phased introduction between 2007 and the present of whole body imaging technology and physical pat-down body searches.

18. Whole body imaging ("WBI") is an umbrella term used to describe a number of technologies, including full body scanners ("FBS") and automated imaging technology ("AIT"), that use either backscatter x-ray or millimeter wave technology to produce detailed, three-dimensional images of the subject's body through and under clothing, including private and sensitive areas of the body.

19. Pat-down body searches require the security officer to run his hands and fingers over and to feel the subject's entire body, including private and sensitive areas of the body.

TSA's and DHS's Violations of Governor Ventura's Constitutional Rights

20. Governor Ventura has traveled on hundreds of commercial flights in the United States over the past 40 years, including more recently two to three flights a week during the filming of *Conspiracy Theory* over the past two years.

21. TSA and DHS have no factual basis to support any reasonable suspicion that Governor Ventura poses any threat to airline safety, nor does he in fact pose any such threat.

22. It is TSA's stated policy and practice that an individual who sets off a WTMD alarm and/or opts out of WBI will be subject to additional security screening. Attached hereto as **EXHIBITS A, B and C**, respectively, and incorporated herein by reference, are true and correct copies of: TSA's *Passenger Security Checkpoints*, as published on the TSA's web site at http://www.tsa.gov/travelers/airtravel/assistant/editorial_1049.shtm and printed on December 20, 2010 ("You will undergo additional screening if you set of the alarm on the metal detector. . . ."); *TSA Airport Screening, Pat-Downs: Myths and Facts*, as published on the TSA's web site at <http://www.tsa.gov> and printed on December 20, 2010 ("Only passengers who alarm a walk-through metal detector or AIT machine or opt out of the AIT receive a pat-down."); and *Pat-Downs*, as published on the TSA's web site at http://www.tsa.gov/travelers/pat_downs.shtm and printed on December 20, 2010 (pat-downs are used to "resolve alarms at the checkpoint," and "when a person opts out of AIT," but the "vast majority of passengers will not receive pat-downs").

23. Pursuant to TSA's stated policy and practice, Governor Ventura has been required to undergo a pat-down body search, and will be required either to undergo a WBI, if available, or submit to a pat-down body search each and every time he enters airport security, because he cannot pass through a WTMD without setting off the alarm due to the presence of titanium in his body.

24. In November 2010, Governor Ventura set off a WTMD at the Minneapolis-St. Paul International Airport, was directed by TSA agents to submit to additional security and, once so directed, was not free to leave the airport security area or to decline his scheduled flight to

avoid additional screening, which is a seizure of his person, and he was subjected to a pat-down body search, which is a search of his person.

25. Despite Governor Ventura's status as frequent flyer, a veteran of the United States Military and having been the State of Minnesota's highest elected official, and despite his easily verifiable medication condition, TSA did not give him the option of submitting to less intrusive security measures such as use of a magnetic hand wand, nor was he given the option of a "trusted traveler" medical or other exemption from the WBI or pat-down body search procedures.

26. Based on TSA's past practice, and according to TSA's stated policies and procedures, Governor Ventura is not and will not be subject only to random or suspicion-based selection for enhanced search procedures, as are the vast majority of other airline travelers, but instead is and will be specifically, repeatedly and consistently selected for WBI and/or pat-down body searches due to the presence of titanium in his body each and every time he enters a United States airport for a commercial flight.

27. Absent reasonable grounds for suspicion, WBI scans and pat-down body searches are unwarranted and unreasonable intrusions on Governor Ventura's personal privacy and dignity and his right to be free from unreasonable searches and seizures, and are a justifiable cause for him to be concerned for his personal health and well-being.

28. WBI violates Governor Ventura's basic rights to dignity and privacy and his right to be free from unreasonable searches and seizures, because through generation of a three-dimensional image of his person in an unclothed state, which image is viewed by others and can be electronically stored, saved, reproduced and transmitted, the procedure is tantamount to a warrantless, non-suspicion-based, electronically-recorded strip search.

29. The WBIs, to which Ventura will be repeatedly required by TSA to submit due to his titanium hip implant, meet the definition of unlawful video voyeurism under 18 U.S.C. § 801, and are demeaning and degrading.

30. The safety of individuals undergoing repeated exposure to WBI-generated radiation is currently the subject of legitimate scientific testing and debate among reputable medical professionals and medical research facilities, including, but not limited to, the publicly reported opinions of scientists and medical doctors associated with Columbia University, the University of California at San Francisco, and the University of California at Berkeley, which have linked WBI to, among other things, skin cancer.

31. Pat-down body searches violate Governor Ventura's basic rights to privacy and dignity, and his right to be free from unreasonable searches and seizures, because they include warrantless, non-suspicion-based offensive touching, gripping and rubbing of the genital and other sensitive areas of his body.

32. The pat-down body searches to which Governor Ventura has been and will be required by TSA to submit meet the definition for an unlawful sexual assault under Minn. Stat. § 609.341, and are demeaning and degrading.

33. On or about November 19, 2010, The United States House of Representatives Committee on Homeland Security expressed its concern to TSA about the "new enhanced pat down screening protocols" because of their "intrusiveness," and urged TSA to reconsider. Attached hereto as **EXHIBIT D** and incorporated by reference is a true and correct copy of the United States House of Representatives Committee on Homeland Security's November 19, 2010, letter to TSA.

34. In the Aviation and Transportation Security Act, Pub. L. No. 107-71, 115 Stat. 613 (codified as amended at 49 U.S.C. § 114), Congress recognized that enhanced airport security procedures should rightfully be focused on those who should be subject to more extensive screening, and that “trusted passenger” programs should be created to expedite the security screening of passengers that qualify.

35. Certain members of Congress are exempt from the WBI and pat-down body search security procedures.

36. Airline pilots are exempt from the WBI and pat-down body search security procedures.

Actual Controversy and Conduct Capable of Repetition Yet Evading Review

37. Governor Ventura desires to work and earn a living by performing on television, which is the occupation for which he is particularly well suited.

38. Because Governor Ventura’s occupation as a television performer requires him to travel by air, he must either repeatedly and routinely submit to TSA’s security procedures that may be hazardous to his health and which are an affront to his personal dignity, privacy and right to be free from unreasonable searches and seizures, or retire from his television work and forego his income.

CLAIMS FOR RELIEF

**COUNT I
DECLARATORY RELIEF**

39. Governor Ventura restates and adopts the allegations in paragraphs 1 through 38, above.

40. The Fourth Amendment to the United States Constitution requires the government to respect the right of the people to be secure in their persons and effects against unreasonable searches and seizures.

41. When a government search violates a subjective expectation of privacy that society recognizes as reasonable, the subject of the search is entitled to the protections afforded by the Fourth Amendment to the United States Constitution.

42. To satisfy the Fourth Amendment's guarantee of freedom from unreasonable searches and seizures, airport security searches must be minimally intrusive, well-tailored to protect personal privacy, and neither more extensive nor more intensive than necessary under the circumstances to rule out the presence of weapons or explosives.

43. The November 2010 pat-down body search to which Governor Ventura was subjected was not minimally intrusive, was not well-tailored to protect personal privacy, and was more extensive and intensive than necessary under the circumstances because it violated his reasonable expectation of privacy and exposed him to humiliation and degradation through unwanted touching, gripping and rubbing of the intimate areas of his body.

44. Absent reasonable suspicion of wrongdoing, mandatory, frequent and repeated pat-down body searches of Governor Ventura are not minimally intrusive, are not well-tailored to protect personal privacy, and are more extensive and intensive than necessary under the circumstances because they violate Governor Ventura's reasonable expectation of privacy and expose him to humiliation and degradation through unwanted touching, gripping and rubbing of the intimate areas of his body.

45. Absent reasonable suspicion of wrongdoing, mandatory, frequent and repeated WBI searches of Governor Ventura are not minimally intrusive, are not well-tailored to protect

personal privacy, and are more extensive and intensive than necessary under the circumstances because they may expose Governor Ventura to potentially dangerous radiation, and because they violate his reasonable expectation of privacy and subject him to humiliation and degradation through unwanted exposure of his unclothed body to others.

46. TSA's stated policy and practice of repeatedly requiring Governor Ventura to undergo either an offensive, intrusive, humiliating, degrading and potentially dangerous WBI, or an offensive, intrusive, humiliating and degrading pat-down body search in the absence of any reasonable suspicion of wrongdoing and in lieu of less intrusive search methods, violates his Fourth Amendment right to be free from unreasonable searches and seizures.

47. Pursuant to Rule 57 of the Federal Rules of Civil Procedure (Declaratory Judgments) and 28 U.S.C. § 2201 *et seq.* (Declaratory Judgment Act), Governor Ventura is entitled to a declaration that TSA and DHS have, and unless enjoined or restrained will continue to violate his rights under the Fourth Amendment to the United States Constitution to be free from unreasonable searches and seizures, and/or declaring the parties' respective rights, duties and liabilities to one another.

48. Governor Ventura has no other adequate and speedy remedy at law, and a declaration of rights is necessary and proper for a resolution of the dispute.

COUNT II INJUNCTIVE RELIEF

49. Governor Ventura restates and adopts the allegations in paragraphs 1 through 49, above.

50. Governor Ventura has been injured by TSA's and DHS's violation of his Fourth Amendment rights, continuing and future injury is imminent and, absent issuance of an

injunction, violations of Governor Ventura's Fourth Amendment rights are substantially probable to reoccur under circumstances capable of repetition yet evading review.

51. Pursuant to 28 U.S.C. § 2201 (Declaratory Judgment Act), Governor Ventura is entitled to such other and further relief as may be appropriate based on the Court's declaratory judgment including, but not limited to, temporary and permanent injunctive relief enjoining and restraining TSA and DHS from violating his rights under the Fourth Amendment to the United States Constitution to be free from unreasonable searches and seizures.

52. Governor Ventura has no other adequate and speedy remedy at law, and injunctive relief co-extensive with this Court's declaration of rights is necessary to prevent further and irreparable harm.

WHEREFORE, Governor Ventura respectfully asks that the Court:

(a) Enter judgment in his favor and against the defendants declaring that TSA and DHS have, and unless enjoined or restrained will continue to violate his rights under the Fourth Amendment to the United States Constitution to be free from unreasonable searches and seizures;

(b) Enter judgment in his favor and against the defendants enjoining and restraining them from unreasonable searches and seizures, including but not limited to subjecting Governor Ventura to warrantless and suspicionless WBI and pat-down body searches;

(c) Award his costs and disbursements, including reasonable attorneys' fees incurred herein; and

(d) Award all other relief which the Court deems to be just and equitable.

HENSON & EFRON, P.A.

Dated: January 24, 2011

By s/David Bradley Olsen

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Transportation Security Administration

Passenger Security Checkpoints

A Three Step Process

You must pass through this checkpoint to access your departure gate. Security Officers will screen you and your carry-on baggage. You should find this screening process familiar, although enhanced security measures are in place.

Travelers may now carry through security checkpoints **travel-size toiletries (3 ounces or less) that fit comfortably in ONE, QUART-SIZE, clear plastic, zip-top bag**. Read more about this new security procedure and the items included.

If you refuse to be screened at any point during the screening process, the Security Officer will deny you entry beyond the screening area. You will not be able to fly.

The passenger checkpoint includes three primary steps you may want to become familiar with:

Step 1. The X-ray machine

At the passenger security checkpoint, you will place all carry-on baggage and any items you are carrying with you on the belt of the X-ray machine. You will need to lay all items flat.

NOTE: TSA will screen any carry-on baggage that will fit through the X-ray machine, however, it is up to each individual air carrier as to whether the baggage fits the size restrictions for your flight. Please check with the air carrier prior to proceeding through the security checkpoints.

Laptop computers and video cameras with cassettes must be removed from their carrying cases and placed in one of the bins provided. You will also need to remove your coat, jacket, suit jacket or blazer and place it in one of the bins. These items go through the X-ray machine.

"IN - OUT - OFF"

- Place all metal items **IN** your carry-on baggage before you reach the front of the line.
- Take your computer and video cameras with cassettes **OUT** of their carrying case and place it in one of the bins provided.
- Take **OFF** your coat or jacket so that it can go through the X-ray machine. This includes, but is not limited to, trench coats, heavy winter coats, suit jackets, sport coats, and blazers.

TSA Shoe Screening Policy

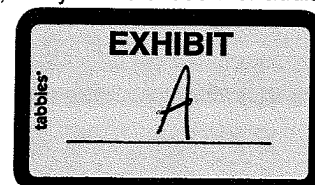
You **ARE REQUIRED** to remove your shoes before you enter the walk-through metal detector. All types of footwear must be screened, if you do not follow the Security Officers you will not be able to board your flight.

TIP: Since a thorough screening includes X-ray inspection of footwear, wearing footwear that is easily removable helps to speed you through the screening process.

Step 2. Walk-through metal detector

You will next walk through a metal detector, (or you may request a pat-down inspection instead). Objects on your clothing or person containing metal may set off the alarm on the metal detector.

You will undergo additional screening if you set off the alarm on the metal detector, or if you are chosen for additional screening. (See below)



TIP: Pack all metal items, including the contents of your pockets, in your carry-on baggage. Mobile phones, pagers, keys, and loose change are examples of items containing metal.

Step 3. Additional screening

Additional screening occurs when an individual sets off the alarm on the metal detector, or if he or she is selected for the additional screening. This screening includes a hand-wand inspection in conjunction with a pat-down inspection that includes the torso.

If you must go through additional screening, the screener will direct you from the metal detector to a screening station where he or she will brief you on the next steps.

- At this time, you should let the screener know of any personal needs you may have due to a religious or cultural consideration, disability, or other medical concern.
- Except in extraordinary circumstances, a screener of your gender will conduct your additional screening. You may request that your search be conducted in private.

While you will be separated from your carry-on baggage during this process, every effort will be made to help you maintain visual contact with your carry-ons.

Hand-Wand Inspection

The hand-wand inspection helps the screener to identify what may have set off the alarm on the metal detector.

During the wand procedure, you will be asked to stand with your feet apart and the screener will pass the wand over your entire body without actually touching you with the wand. Every effort will be taken to do this as discretely as possible. Please take note of the following:

- Areas of the body that have body piercings, thick hair, hats, and other items may require a pat-down inspection.
- You may ask to remove your body piercing in private as an alternative to the pat-down search that includes the torso.
- The screener may ask you to open your belt buckle as part of the process.
- The screener may ask you to remove your shoes, and your shoes may be X-rayed separately.

TIP: It is recommended (but not a requirement) that individuals with a pacemaker, or other device that is likely to alarm the metal detector, bring identification verifying the condition. This may help to expedite the screening process.

Carry-On Baggage

If your bag is selected for additional screening, it may be opened and examined on a table in your presence. Please **DO NOT attempt to assist the Security Officer during the search**, and do not attempt to retrieve the item before the Security Officer has advised you that the search is complete and your baggage is cleared.

Your baggage might also be inspected with an Explosive Trace Detection machine (ETD), which is separate from the X-ray machine.

Pat-Down Inspection

A pat-down inspection complements the hand-wand inspection. In order to ensure security, this inspection may include sensitive areas of the body. Security Officers are rigorously trained to maintain the highest levels of professionalism. You may request that your pat-down inspection be conducted in private.

Transportation Security Administration | U.S. Department of Homeland Security

TSA Airport Screening

Secretary Napolitano addressed TSA's airport screening methods on Monday in an op-ed in USA Today: "Our best defense against such threats remains a risk-based, layered security approach that utilizes a range of measures, both seen and unseen, including law enforcement, advanced technology, intelligence, watch-list checks and international collaboration... And we ask the American people to play an important part of our layered defense. We ask for cooperation, patience and a commitment to vigilance in the face of a determined enemy."

The truth is, the vast majority of Americans are willing partners in their own security. In fact, on Monday, CBS released a poll saying 4 out of 5 approve of AIT machines. USA Today and Gallup did a poll earlier this year that found 78 percent of Americans support AIT. Clearly, despite recent media attention, the public needle is not moving on this.

TSA will continue to deploy its layered security approach using risk-based, intelligence driven security measures. The thwarted Christmas Day plot and the recent attempt by terrorists to ship explosives aboard an aircraft headed for the United States reminds us that current terrorist threats are serious and evolving. So, too, are our security measures, which reflect our commitment to stay ahead of our adversaries.

Below, we have outlined a number of the **myths** surrounding TSA's important work at our nation's airports, followed by the **facts** that tell the real story about what travelers should know and expect when they fly this holiday season, and all year round. More information can be found at www.tsa.gov.

Pat-downs: Myths & Facts

Myth: All children will receive pat-downs.

Fact: TSA officers are trained to work with parents to ensure a respectful screening process for the entire family, while providing the best possible security for all travelers. Children 12 years old and under who require extra screening will receive a modified pat down.

Myth: The TSA pat-down is invasive

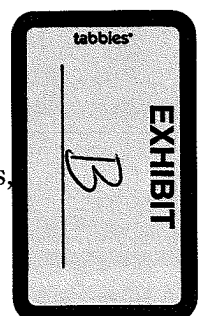
Fact: Only passengers who alarm a walk through metal detector or AIT machine or opt out of the AIT receive a pat-down. For this reason, it is designed to be thorough in order to detect any potential threats and keep the traveling public safe. Pat-downs are performed by same-gender officers and all passengers have the right to a private screening with a travel companion at any time.

Myth: The pat-down is a punishment for opting out of the AIT.

Fact: There's nothing punitive about it - it just makes good security sense. And the weapons and other dangerous and prohibited items we've found during pat downs speak to this.

Myth: Everyone who travels will receive a pat-down.

Fact: Only passengers who alarm a walk through metal detector or AIT machine or opt out of the AIT receive a pat-down. It is one layer in our tool kit to address the nonmetallic explosives threat. In yesterday's hearing, Administrator Pistole said: "The bottom line is few people in the overall scheme of things will actually receive those pat downs. Now, we've heard some examples,



and obviously, there's a vocal group out there who have experienced this for the first time, and, rightfully so, raising concerns, what's behind this. And the bottom line is we, the transportation security officers in particular, are trying to work in partnership with the traveling public to say we want to ensure that you are safe on this flight. Work with us in a partnership to provide the best possible security. And that's what it comes down to."

Myth: Complaints about the pat-downs are extremely high.

Fact: Only a small percentage of the traveling public receives a pat down as they travel through the security checkpoint. Approximately 2 million people fly in the United States every day. The number of complaints is extremely low.

Myth: Pat downs for certain individuals are limited to the head and neck.

Fact: No one is exempt. Everyone is subject to the same screening. TSA is sensitive to religious and cultural needs, but everyone must be screened effectively.

Administrator Pistole echoed those sentiments on MSNBC's Hardball recently. (4:42)

MR. SMERCONISH: All right, here's another one that I hear from radio callers, the Muslim guard exception. You may not even know what I'm talking about. But if someone approaches a TSA checkpoint and they're wearing, by way of example, a burka, what's the drill?

MR. PISTOLE: Everybody goes through the same process. So whatever their ethnicity or religious beliefs, which I'm sensitive to and appreciate, the bottom line is people are treated the same in terms of either going through the advanced imaging technology if that's available or to walk through the metal detector. And if they alert, then they would have to have that alert resolved. And the best way of doing that is through a pat-down.

MR. SMERCONISH: No free rides, right, Mr. Pistole?

MR. PISTOLE: That's correct.

AIT: Myths & Facts

Myth: AIT is not safe.

Fact: Backscatter technology is safe for all passenger and has been evaluated by the Food and Drug Administration, National Institute for Standards and Technology and Johns Hopkins University Applied Physics Laboratory. All results confirm that the radiation dose is well below the standard for safety set by the American national Standards Institute. The technology is safe. A person receives more radiation naturally each hour than from one screening with a backscatter unit. In fact a traveler is exposed to less radiation from one AIT scan than from 2 minutes of an airline flight.

Myth: There has been an overwhelming public outcry against AIT.

Fact: A recent CBS News Poll found that 4 in 5 Support Full-Body Airport Scanners

Myth: AIT cannot detect powdered explosives.

Fact: This is false. Advanced imaging technology is deployed specifically because of its ability to detect both metallic threats – which a metal detector would pick up – and non-metallic threats – which a metal detector would not pick up. This includes explosive material that can take the form of powders, liquids and gels and be used in an improvised explosive device made up completely of non-metallic material.

Myth: Everybody who travels must undergo AIT screening.

Fact: Advanced imaging technology is optional – anybody can choose to opt out and receive alternate screening, which will include a pat down.

Myth: TSA Advanced Imaging Technology (AIT) images can be stored on the AIT machines located in our airports.

Fact: Completely false – TSA’s machines should not be confused with the recent stories about the U.S. Marshals Service. The machines used by TSA at our airports cannot store, print or transmit images. They simply don’t have that ability. Administrator Pistole also addressed this on Hardball. (At 6:03 on the clip)

Myth: TSA Officers are sharing AIT images they are taking with their cell phones.

Fact: Our officers are prohibited from bringing electronic devices such as cell phones into the AIT viewing room. This is a fireable offense and no such reports have been substantiated.

Myth: The AIT images shared by TSA are proof the images can be stored.

Fact: The images shared by TSA are either from the vendor, or were photographed by the media at a press event where an example of the technology was shown.

Myth: Children must be screened by the AIT.

Fact: Anybody can opt out of AIT, including children.

Miscellaneous Myths & Facts

Myth: Airports can opt-out of TSA screening.

Fact: All commercial airports are regulated by TSA whether the actual screening is performed by TSA or private companies. So TSA’s policies – including advanced imaging technology and pat downs – are in place at all domestic airports.

Myth: Radio Host Meg McLain was handcuffed to a chair after choosing not to undergo AIT screening.

Fact: She was never handcuffed to a chair and many of her outlandish claims were proven to be unfounded.

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Transportation
Security
Administration

Pat-downs

For Travelers

What triggers a pat-down?

Pat-downs are used to resolve alarms at the checkpoint, including those triggered by metal detectors and AIT units. Pat-downs are also used when a person opts out of AIT screening in order to detect potentially dangerous and prohibited items. Because pat-downs are specifically used to resolve alarms and prevent dangerous items from going on a plane, the vast majority of passengers will not receive a pat-down at the checkpoint.

What can I do to prevent an alarm at the security checkpoint?

The majority of pat-downs occur when a passenger alarms either the metal detector or the AIT unit. To reduce this circumstance, the most important thing you can do is take everything out of your pockets before you go through screening. Also, when traveling, avoid wearing clothes with a high metal content, and put heavy jewelry on after you go through security.

What do I do during a pat-down?

All passengers have important rights during a pat-down. You have the right to request the pat-down be conducted in a private room and you have the right to have the pat-down witnessed by a person of your choice. All pat-downs are only conducted by same-gender officers. The officer will explain the pat-down process before and during the pat-down. If you have a medical device, please inform the officer.

Will children receive pat-downs?

Transportation Security Officers will work with parents to resolve any alarms at the checkpoint. If required, a child may receive a modified pat-down. Parents are encouraged to ensure their children have taken all items out of their pockets as they go through the security checkpoint.

- [TSA Statement on New Pat-down Procedures](#)

Transportation Security Administration | U.S. Department of Homeland Security





One Hundred Eleventh Congress
U.S. House of Representatives
Committee on Homeland Security
Washington, DC 20515

November 19, 2010

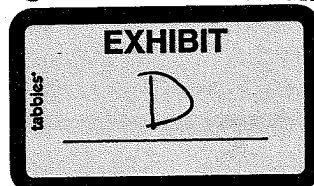
The Honorable John S. Pistole
Administrator
Transportation Security Administration
601 S. 12th Street
Arlington, VA 20528

Dear Assistant Secretary Pistole:

As strong advocates for the Transportation Security Administration (TSA), we strongly support the determined efforts of the committed men and women of TSA to secure our transportation systems from terrorist attacks. The country is more secure because there is a vigilant Federal workforce at our Nation's airports protecting the flying public. It is in that spirit that we are writing to you about the new enhanced pat down procedures being implemented at passenger security checkpoints at commercial service airports across the country. While we agree that security measures should be enhanced in the wake of recent attempted terrorist attacks on the aviation system, we are concerned about new enhanced pat down screening protocols and urge you to reconsider the utilization of these protocols. With Thanksgiving Day marking the beginning of the busiest travel season of the year, this request is timely.

As you know, on September 22, 2010, the Committee on Homeland Security held a Member briefing on a pilot that TSA was conducting at Boston Logan International Airport and Las Vegas McCarran International Airport to evaluate enhanced passenger screening protocols. At that time, Members viewed a demonstration of the protocols and expressed concern about their intrusiveness as well as about the risk of inconsistent nationwide implementation and urged TSA to work to educate the traveling public on the need for these reforms. Subsequently, TSA, over a two month period, began implementing these new protocols at our Nation's airports.

The American public has agreed, time after time, to submit to new screening protocols in the interest of security. Americans understand and accept the need to take off their shoes and coats and discard their liquids to foster greater aviation security. Before implementing this



new, more invasive pat down procedure, as a preliminary matter, TSA should have had a conversation with the American public about the need for these changes. Even before that conversation, TSA should have endeavored to ensure that these changes did not run afoul of privacy and civil liberties. Coupled with its duty to provide aviation security to the traveling public, TSA also has a duty to ensure that its procedures have been reviewed by experts in privacy and civil rights for constitutionality. In the absence of an Executive branch level Privacy and Civil Liberties Oversight Board that would evaluate decisions such as this, it was crucial that the Department of Homeland Security's Privacy Officer and Officer for Civil Rights and Civil Liberties thoroughly evaluate and publish written assessments on how this decision affects the privacy and civil rights of the traveling public. To date, the Department has not published either a Privacy Impact Assessment (PIA) nor a Civil Liberties Impact Assessment (CLIA) on the enhanced pat down procedures. Without a published PIA or CLIA, we cannot ascertain the extent to which TSA has considered how these procedures should be implemented with respect to certain populations such as children, people with disabilities, and the elderly. By not issuing these assessments, the traveling public has no assurance that these procedures have been thoroughly evaluated for constitutionality.

Further, given the sensitive nature of these changes to pat down protocols, it is incumbent on TSA to ensure that each Transportation Security Officer (TSO) receives the requisite training, evaluation, and supervision to ensure that the protocols are carried out in an effective and consistent manner. As you know, TSA has a long history of struggling with the management of TSO training programs. Most recently, on November 16th, the Department of Homeland Security's Office of Inspector General (OIG) found that there were weaknesses in TSA's training program and made a number of recommendations including the use of individual training test results to evaluate overall training program results, assigning standards for on-the-job trainers, and evaluating workforce and training needs to ensure screeners have the tools and time necessary to complete training requirements. At a time when TSA is deploying Advanced Imaging Technology (AIT) machines, the addition of enhanced passenger screening procedures further stretches the agency's already thin training resources. The introduction of these two new elements to passenger checkpoints may undermine TSA's ability to provide the training and oversight necessary to ensure high quality performance from this critical workforce.


For the reasons stated above including the privacy and civil liberties concerns raised by the public and advocacy organizations such as the American Civil Liberties Union, we respectfully request you reconsider the enhanced pat down protocols.

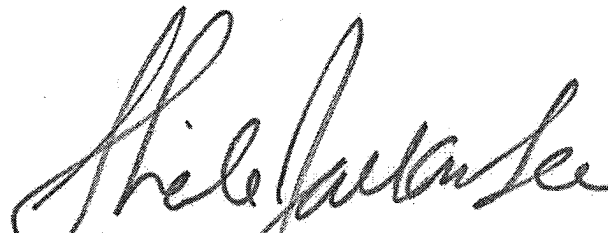
Further, pursuant to Rule X(3)(g) and Rule XI of the Rules of the House of Representatives, we request that you provide the Subcommittee with the following information in writing by December 1, 2010, in a manner consistent with any necessary classifications for sensitive information:

1. All internal studies, documentation and any other materials that support TSA's decision to implement the enhanced pat down procedures.
2. The extent, to date, to which enhanced pat downs are being conducted at airports and record keeping requirements in place to document the percentage of passengers subject to enhanced pat downs.
3. The process TSA has in place to document and review complaints from passengers regarding the enhanced pat down procedure.
4. Information on all complaints filed with respect to the enhanced pat down procedure.
5. Any forthcoming Privacy Impact Assessment on the enhanced pat down procedure.
6. Any forthcoming Civil Liberties Assessment on the enhanced pat down procedure.

We thank you for your prompt attention to this matter. If you have any questions or concerns, please contact Cherri Branson, Chief Oversight Counsel for the Committee, at 202-226-2616.

Sincerely,


Bennie G. Thompson
Chairman
Committee on Homeland Security


Sheila Jackson-Lee
Chairwoman
Subcommittee on Transportation
Security and Infrastructure Protection

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS Governor Jesse Ventura, a/k/a James G. Janos, individually, (b) County of Residence of First Listed Plaintiff Washington, MN (EXCEPT IN U.S. PLAINTIFF CASES) (c) Attorney's (Firm Name, Address, and Telephone Number) Henson & Efron, P.A. David Bradley Olsen and Wesley T. Graham 220 South Sixth Street, Suite 1800 Minneapolis, MN 55402 612-339-2500	DEFENDANTS Janet Napolitano, in her official capacity as Secretary of the Department of Homeland Security; The United States Department of Homeland Security; John S. Pistole, in his official capacity as of the Transportation Security Administration; and The United States Transportation Security Administration County of Residence of First Listed Defendant N/A (IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED Attorneys (If Known)
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II. BASIS OF JURISDICTION (Place an "X" in One Box Only) <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant) (For Diversity Cases Only) <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th style="width:25%;">PTF</th> <th style="width:25%;">DEF</th> <th style="width:25%;">PTF</th> <th style="width:25%;">DEF</th> </tr> <tr> <td>Citizen of This State <input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in This State <input type="checkbox"/> 1</td> <td>Citizen of Another State <input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State <input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country <input type="checkbox"/> 3</td> <td>Foreign Nation <input type="checkbox"/> 3</td> <td></td> <td></td> </tr> </table>	PTF	DEF	PTF	DEF	Citizen of This State <input type="checkbox"/> 1	Incorporated or Principal Place of Business in This State <input type="checkbox"/> 1	Citizen of Another State <input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State <input type="checkbox"/> 5	Citizen or Subject of a Foreign Country <input type="checkbox"/> 3	Foreign Nation <input type="checkbox"/> 3		
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Citizen or Subject of a Foreign Country <input type="checkbox"/> 3	Foreign Nation <input type="checkbox"/> 3												

IV. NATURE OF SUIT (Place an "X" in One Box Only)					
CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer w/ Disabilities Employment <input type="checkbox"/> 446 Amer w/ Disabilities - Other <input checked="" type="checkbox"/> 440 Other Civil Rights	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury—Med Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General Habeas Corpus <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt Relations <input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl Ret Inc Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)						
<input type="checkbox"/> 1 Original Proceeding	<input checked="" type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify)	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): **28 U.S.C. § 2201 et seq.**
 Brief description of cause: **Breach of Plaintiff's Fourth Amendment Rights**

VII. REQUESTED IN COMPLAINT:	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	DEMAND \$ N/A	CHECK YES only if demanded in complaint: JURY DEMAND: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
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VIII. RELATED CASE(S) IF ANY (See instructions):

JUDGE: _____ DOCKET NUMBER: _____

DATE: **1-24-11** SIGNATURE OF ATTORNEY OF RECORD: *Wesley T. Graham*

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____