

## **Recommendations for Commentators on TSA's Nude Body Scanner Program**

### **Background**

In 2011 a federal court ruled in *EPIC v. DHS* that the Transportation Security Administration unlawfully deployed body scanners in US airports for primary screening. The court said that the agency was required by law to first give the public the opportunity to comment on its airport screening procedures. On March 26, 2013, the TSA began the court-ordered comment process.

The public comments process will end June 24, 2013. You must submit comments before the end of the comment period. To submit comments, go to: <http://www.regulations.gov/#!submitComment;D=TSA-2013-0004-0001>

### **Recommendations**

(1) Describe the devices as “Nude Body Scanners.” The TSA has downplayed the privacy impact of the program, calling the devices first “Whole Body Imaging” and then “Advanced Imaging Technology.” In fact, the devices are designed to scan the naked human body. For accuracy, we refer to the devices as “NBS” not “AIT.”

(2) Support “Regulatory Alternative #3.” The TSA proposal assumes the continued deployment of Nude Body Scanners. You don't have to agree. Option #3 proposes instead the use of walk through metal detectors and explosive trace detection devices. We believe that is a more effective, less costly, and less intrusive screening procedure that also minimizes health risks.

(3) Support the right of passengers to opt-out and demand the use of generic image filters. The TSA proposal would give the agency the authority to use NBS without any privacy safeguards. But the federal court made clear that TSA may not require individuals to undergo NBS. Congress also mandated that TSA use generic image filters on individuals that go through body scanners. The TSA must revise its proposal to acknowledge the ruling of the court and the act of Congress.

(4) Describe any personal experiences. Many travelers say they received coercive and punitive pat-downs when they tried to opt-out of body scanners. That is against the law. If this has happened to you, describe in detail noting the airport and the date and your opinion of the agency's behavior.

### **More Information**

EPIC “TSA Comment: NBS and Privacy”: <http://www.epic.org/TSAcomment/>