

HARPER'S

M A G A Z I N E

May 18, 2011

Mr. John S. Pistole
TSA-1
Transportation Security Administration
601 South 12th Street
Arlington, VA 20598-6033

2011 MAY 25 A. 10: 56
EXECUTIVE SECRETARIAT

Re: MDR request

Dear Mr. Pistole:

This is a request for a mandatory declassification review (MDR), under the terms of EO 13526, of the following document: a list of behavioral indicators used by TSA SPOT behavior detection officers to identify potentially high risk passengers, which is discussed in the attached April 15, 2011 article from CNN.

As EO 13526 requires, please release all reasonably segregable nonexempt portions of documents.

Please feel free to contact me by phone at (212) 420-5741 or by email at west@harpers.org with any questions or concerns you may have regarding this request.

Sincerely,


Ryann Liebenthal
Editorial Assistant

SECRETARIAT

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TSA security looks at people who complain about ... TSA security

Washington (CNN) -- Don't like the way airport screeners are doing their job? You might not want to complain too much while standing in line.

Arrogant complaining about airport security is one indicator Transportation Security Administration officers consider when looking for possible criminals and terrorists, CNN has learned exclusively. And, when combined with other behavioral indicators, it could result in a traveler facing additional scrutiny.

CNN has obtained a list of roughly 70 "behavioral indicators" that TSA behavior detection officers use to identify potentially "high risk" passengers at the nation's airports.

Many of the indicators, as characterized in open government reports, are behaviors and appearances that may be indicative of stress, fear or deception. None of them, as the TSA has long said, refer to or suggest race, religion or ethnicity.

But one addresses passengers' attitudes towards security, and how they express those attitudes.

It reads: "Very arrogant and expresses contempt against airport passenger procedures."

TSA officials declined to comment on the list of indicators, but said that no single indicator, taken by itself, is ever used to identify travelers as potentially high-risk passengers. Travelers must exhibit several indicators before behavior detection officers steer them to more thorough screening.

But a civil liberties organization said the list should not include behavior relating to the expression of opinions, even arrogant expressions of opinion.

"Expressing your contempt about airport procedures -- that's a First Amendment-protected right," said Michael German, a former FBI agent who now works as legal counsel for the American Civil Liberties Union. "We all have the right to express our views, and particularly in a situation where the government is demanding the ability to search you."

"It's circular reasoning where, you know, I'm going to ask someone to surrender their rights; if they refuse, that's evidence that I need to take their rights away from them. And it's simply inappropriate," he said.

The TSA says its security programs are informed by real-world situations and intelligence. Indeed, the immigration agent who refused to let the alleged "20th hijacker" into the United States in 2001 later testified that the man's arrogant behavior contributed to his suspicions.

Agent Jose Melendez-Perez told the 9/11 commission that Mohammed al-Qahtani "became visibly upset" and arrogantly pointed his finger in the agent's face when asked why he did not have an airline ticket for a return flight.

But some experts say terrorists are much more likely to avoid confrontations with authorities, saying an al Qaeda training manual instructs members to blend in.

"I think the idea that they would try to draw attention to themselves by being arrogant at airport security, it fails the common sense test," said CNN National Security Analyst Peter Bergen. "And it also fails what we know about their behaviors in the past."

The 9/11 commission's report says that "none of the checkpoint supervisors (on September 11th) recalled the (successful) hijacker"

