

The Identity Project

www.PapersPlease.org

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February 19, 2010 (by e-mail and U.S. Postal Service)

Jennifer K. Carmichael, Director
Office of Civil Rights and Liberties (TSA-6)
Transportation Security Administration
601 S. 12th Street
Arlington, VA 20598-6901
TSA.OCR-ExternalCompliance@dhs.gov

William P. McKenney, Director for Review and Compliance
Office for Civil Rights and Civil Liberties
Department of Homeland Security
245 Murray Lane, SW, Building 410, Mail Stop #0800
Washington, DC 20528-0190
civil.liberties@dhs.gov

On December 11, 2009, we submitted a formal complaint to you that certain TSA practices, as described in the TSA's "Screening Management Standard Operating Procedures", violate published TSA civil rights policy, Federal statutes, Constitutional rights, and rights guaranteed by international human rights treaties binding on the USA, specifically the International Covenant on Civil and Political Rights (ICCPR).

Our complaint was submitted by e-mail to the addresses on your websites, <TSA.OCR-ExternalCompliance@dhs.gov> and <civil.liberties@dhs.gov>, and sent the same day by postal mail. Those e-mail messages should have been received that day.

We have received no indication that our e-mail was ever received. Indeed, the letter we eventually received from Mr. McKenney suggests that our e-mail was never received, and that our letter was severely delayed within DHS, since he said that, "We received your correspondence on December 30, 2009." Similarly, Ms. Carmichael's letter to us refers solely to "your letter". We urge you to take immediate steps to ensure that your postal and e-mail messages are reliably and promptly received. Not all complainants will have sent copies of their e-mail messages by postal mail, so your records of complaints made are likely to be incomplete, and not up to date.

In Mr. McKenney's letter dated January 22, 2010, he said, "TSA OCRL advised us that they are preparing a written response to you addressing the issues you raised."

Unfortunately, we have not yet received such a written response from TSA OCRL or anyone else.

Our only written communication from TSA OCRL has been a letter from Ms. Carmichael dated February 4, 2010 but postmarked February 16, 2010. Her letter refers in general terms to "our letter expressing concerns about recent press reports," but makes no mention of our complaint that specific TSA practices and procedures are illegal.

Despite the unambiguous language of our complaint, Ms. Carmichael's letter gives no acknowledgment or indication that our complaint has been docketed, logged, or will be included in your reporting and statistics of complaints received. It gives no indication of what, if any, investigation, fact-finding, enforcement, or corrective action has been taken on our complaint. It does not say what, if any, determination you or any office or officer within TSA or DHS has made with respect to whether the practices we complained of are in fact permitted by Federal law, the Constitution, and international human rights treaties. It does not say who is responsible for any such determination, whether any such determination is administratively final, or if not, what mechanisms for administrative appeal to an administrative law judge or otherwise are available to us.

Neither of your letters mentions international human rights treaties, the TSA's obligation to comply with them and to investigate and respond to complaints of violations of them, or our complaint of violation of the ICCPR by the TSA. Your letters do not acknowledge that we have made such a complaint, or that the fact that we have made such a complaint to you will be included in your next report to the U.N. Human Rights Committee, in accordance with Article 40 of the ICCPR. They do not say what, if anything, has been done to investigate this complaint. They do not say whether either of you or your offices are those designated pursuant to Section 3 of Executive Order 13107 as responsible for responding to such complaints, or if not, what office or officer has been so designated by DHS and/or TSA, and that our complaint has been referred to them.

We continue to await your action on, and response to, our complaint.

Should you have any questions or wish further information, please don't hesitate to contact me by phone at 415-824-0214 or by e-mail at <edward@hasbrouck.org>.

Sincerely,

Edward Hasbrouck
Consultant on travel-related civil liberties and human rights issues
The Identity Project