



Episode 431: The TSA Gropes, But at Least You're Safe, Right?

Guest: James Bovard

WOODS: I read your article in *USA Today* not long ago, and having recently read your book, *Public Policy Hooligan*, which we'll have you on sometime in the near future to talk about, I know that you had this perch at *USA Today*, this ability to write editorials in *USA Today* that will of course be hotly contradicted by somebody respectable at *USA Today* since the 1980s. And you continue to put it to good effect. The article title here is "TSA has no excuse to continue the groping," and then they've given sort of the subtitle, "Thieving agents, racial profiling, and excessive pat downs haven't made us safer." And the article starts by saying that the former TSA chief actually attacked one of your articles, calling it "misleading, inaccurate, and it unfairly disparages the dedicated TSA workforce. We will not sit back and allow misinformation and conjecture to malign our employees." What did you do to get him so upset?

BOVARD: Uh, I told the truth.

WOODS: Well, how about that?

BOVARD: (laughing) Yes, well, it doesn't happen too often, as far as some of these government agencies. But I've written about the TSA I guess for a dozen years now, and I've followed their various boondoggles, and I've followed their lies, and I've watched them become more and more heavy-handed and violate the rights of millions of Americans every year. And I've watched them impose one nonsense safety routine after another, which doesn't really protect anybody, but it gives government a lot of jollies.

And the article that the TSA chief attacked was actually a piece in *The Washington Times*, but he was very vehement. And I was especially pleased at his phrase that I had unfairly disparaged the TSA agents, because last week the Inspector General report leaked out that showed that the Inspector General undercover agents have been able to sneak weapons and makeshift bombs past 95% of the TSA agent checkpoints that they tested. And so it's almost impossible for a government agency to do worse. So it's fun to play with that and to take the words from the past from the TSA chief and say, okay, well, what now?

WOODS: You know, it's funny you say that about the weapons getting through and failing these tests, because I remember – of course, I've had many things go through

that weren't supposed to. Like, hey, look, that toothpaste they were supposed to confiscate. I crossed my fingers – I kept it somehow; it managed to get through.

But I remember back in my academic days, I had brought a steak knife to work, because I was bringing some leftovers. And so when I packed everything up into my bag that day, I had a steak knife, and I forgot all about it, and I had to board a plane that day. And I sailed right through with a steak knife, sailed right through. And I didn't even remember the steak knife was there until, on the way back, they did find the knife. And they sat me down, and interrogated me, and fair enough, I am trying to bring a knife onto the plane; I get that. But it occurred to me, that that means I got the knife through on the way here. A knife! Like, it's not like a microscopic thing; I got a knife through all those machines. How'd that happen?

BOVARD: Well, I mean it's all a bunch of security theater, and they have all these rules and basically they browbeat people as if that's going to make them safe. And it's kind of a – I've had a lot of run ins with the TSA over the years, as folks might imagine, but one of my favorite stories was, I think it was in late 2002, 2003, I was flying to Europe, and it was in the winter, and on the prior day, I had gone to a shooting range and spent a couple of hours there banging away, and it was a cold day, so I wore my down vest, and I didn't think twice about it. And I was heading to the airport, and then just as I was getting there, I kind of sniffed myself and was like, ooh, because it just radiated gunpowder; it just smelled, you know, 15 feet away. It just kind of had a very strong residue.

But so I went through the TSA and I got my boarding pass marked with a big "S," which meant that I got taken aside, and the TSA agents – and there were two of them, and they were going through my bag, every little inch of it. And I had been reading about the TSA, so I started asking them the questions about some of the agency's policies, and about how the TSA had just appointed a new chief, probably some admiral, and very, very detailed questions. And these guys started kind of – were kind of looking at me and were like, okay, it's fine, go, go. And it was funny, because if those folks had done any kind of tests for gunpowder residue, I would have failed instantly. And I was kind of concerned about that. But I got on the flight, and I dodged the TSA bullet that day.

WOODS: I want to read a couple of paragraphs, if I may, one at a time from this piece.

BOVARD: Sure.

WOODS: "In 2007, TSA expanded its covert behavior detection teams to search out tell-tale signs of dangerous travelers. More than 30 TSA agents complained in 2012 that the behavior-detection program at Boston's Logan International Airport, which relied on idiotic terrorist profiles such as black guys wearing baseball caps backward or Hispanics traveling to Miami. At the Newark airport, TSA agents complained that supervisors pressured them to fabricate false charges against illegal aliens to boost the program's arrest numbers."

I'm reasonably informed about government abuse, but I didn't know about any of that.

BOVARD: Well, this is a very, very brazen program. This is something which they started out a few years after the agency was created; it's sometimes called the "SPOT program", the "Screening of Passengers by Observation Techniques," and it's a typical D.C. B.S. acronym that sounds a lot more impressive than what it is. And this is something which I'm sure that I've hit some of their tripwires on this, because what happens is you've got thousands of TSA agents roaming the airports and doing chat-downs and looking for micro-expressions by travelers that might signal trouble.

There was a secret checklist which the TSA has kept very close to its chest, but it leaked out recently, and it turns out that some of the warning signs for travelers that these TSA wizards are looking for are things like yawning, throat clearing, gazing down. But my favorite warning sign for a terrorist traveler is someone who makes excessive complaints about the screening process. Now, this is probably not the first thing that the guys in Al Qaeda teach their terrorist trainees.

WOODS: Yeah, exactly, exactly. Of course you would shut up about the process; you don't want to call any attention to yourself whatsoever. So it almost sounds as if – I say "almost" – this policy exists simply as retaliation against people who stand up for themselves.

BOVARD: Yeah, well, the TSA has done a lot of that. Around 2003 or 2004, the TSA started to impose attitude fines on people. They would fine people up to \$1,000 for someone who had showed a bad attitude or had complained or had somehow insulted the dignity of a TSA agent. And this was something which Congress never approved; this is something that the agency pulled out of its hat.

And if someone wanted to file an appeal on this, it was a very onerous process. You had to go through an administrative law judge, who was of course completely biased in favor of the TSA. But this is typical of how the agency keeps making up rules as year after year after year and debacle after debacle. Because the TSA has been a laughing stock ever since it was created.

WOODS: What about the – well, I want to look for some happy news here, because when they introduced –

BOVARD: (laughing) Then why are you interviewing me?

WOODS: (laughing) But I mean, we have made at least a little bit of progress against the TSA, haven't we, in the sense that there were a couple of types of new scanners they introduced, and they did actually get rid of one of them, the more offensive of the two. That's at least something, although it's two steps forward, one step back for them in the old Leninist formulation. What's the detail about that? I don't know the scientific angle on it.

BOVARD: Well, around 2008, the TSA started to put these whole body scanners in airports and was pressuring folks to go through them. A lot of people were distrustful of that. In 2010, the TSA ramped this up and tried to put them in as many airports as possible. And lots of people were saying that they simply did not want to a government dossier of nude photos of themselves, because these are very, very detailed photos. It's possible to tell, for instance, if a woman has some kind of ring in her nipple; it's possible to tell if a guy is circumcised. Very, very detailed stuff, which the government of course lied about, and claimed, no, no, these are not very sharp photos. You know, typical government B.S. But there were a lot of people who did not want to do those, go through those.

What the TSA did was start what they called enhanced pat downs for people that opted out from the whole body scanners. And basically what this was, they were just trying to punish people who did not submit. So there were a huge number of complaints about TSA screeners grabbing women's breasts and squeezing their butts, grabbing men's private packages. There was a famous video made out in San Diego by a guy who was very savvy, who had a showdown with the TSA agent, and I think the phrase he used was, "Don't touch my junk." And that's something that went viral on the Internet.

But TSA kept that up, and TSA also lied about the safety risk of those scanners, because according to a PBS investigation, those scanners could cause up to 100 new cancer patients a year among travelers. These were the types of scanners that were banned in Europe, because they were considered a health risk.

But it's funny to see the different defenses the TSA made for these. At one point, the TSA was saying, well, these are safe because we checked their radiation level. And I think it was the General Accounting Office or somebody else that checked on that, and it turns out that the TSA was checking the radiation levels on machines once a year, which now, if you go to a hospital, if you go to your doctor and they said that they only checked the radiation level for X-rays once a year, you would think, what the hell is this, a third world country? But that's the attitude that the TSA had, and they didn't care about the health risk, because they didn't have to pay for them. And all they cared about was maximizing submission.

WOODS: All right, well, Jim, this brings up the key question, which is, why we think they're doing these things, versus why the average American thinks they're doing them. The average American thinks we do need some security after all; there are some bad people who, if given the chance, might want to cause some damage on a plane or hijack a plane or something, so at least they're keeping us safe, even if in their own bumbling way. Or maybe they're casting the net a little too broadly, but it's better than having nothing. We have to have something. That's what people would say. What would you say to that?

BOVARD: Well, you know, it's funny how some of these folks have blind faith in government, and it's something which I, having stood in numerous TSA lines and being a natural born troublemaker, I'm often trying to chat people up to see what they

think, and most of the folks are just kind of like cows going to a slaughterhouse. They're like, well, it's important not to cause trouble, and you know, folks kind of will frown or glower at me, because I'm saying, well, there was a report last week that shows duh-duh, duh-duh, duh-duh. And they're like, uh, who is this guy? It's also possible that some people might have thought I was an undercover government agent trying to entrap them into saying something that could be used against them. So there's that level of paranoia in some places.

95% failure rate for finding the bombs and guns is not really a safety blanket. But the federal government, politicians, two presidents, and others have made so many false statements on the TSA and its security – it'd make a lot more sense to privatize security, to let airports and airlines and passengers have a free choice and have a voice in choosing what level of intrusion and risk that people are comfortable to live with. Because if there was a TSA-free airline, I think they would do very well in a lot of places in this country. Maybe not Washington. There's an awful lot of servile folks here, but a place like Idaho, boy, people would love that.

WOODS: What about the argument that we should just privatize airport security? Because airport security is a good thing; at some level, we would like to have some security. And people say let's just privatize the TSA. Is there a problem with that approach?

BOVARD: Well, I mean, it doesn't make sense to try to privatize the TSA, because the TSA is born and bred in the briar patch. I mean, it's a federal agency. The folks who work there, many of them are used to being domineering. Many of them are the kind of folks who would have otherwise worked as prison guards, and when you have that kind of mindset, the thought of those same individuals shifting to a private and voluntary security system simply is not going to work. Some of them might be able to get jobs if the security is privatized. But it's interesting, Congress, a number of times, has tried to allow an option for airports to shift to airport security, but the TSA has done everything it could to sabotage airports from getting rid of the TSA agents.

WOODS: And the key thing to me is that if these are so-called private firms, but they're given the task of simply carrying out government orders more efficiently than a government agency could itself do, then it's not really a private firm. A private firm gets to make all the decisions. It's not just deciding what's the best way to carry out the government's version of security; we'll decide what security really involves. We'll decide how much intrusiveness the public wants and balance that against the need for security.

The issue is not is it a private firm carrying out government orders. It's what if the airports and the airlines, which presumably have something of a stake in airport security, said okay, we're going to compete along these lines too. And some passengers will find this particular practice too intrusive, so they won't travel on that airline. And others who are willing to take more risk will travel on this one, and it will be up to the consumer to decide. That would never be allowed under so-called TSA privatization.

BOVARD: Yeah, the feds would still want to have a one-size-fits-all dictate, and so if you have folks who – I mean, yeah, that's a good point. Something that would be great about moving to private airport security is the agents and the companies and the airports would no longer have sovereign immunity. So if somebody had a case and caught on videotape where they're going through airport security, and some security agency reaches down and squeezes a woman's breast, boom. You've got criminal charges. You've got a civil lawsuit. You've got all kinds of hell coming down on that agent and on the company that hired them. Nowadays, it's effectively impossible to hold TSA liable for anything that its almost 50,000 agents do to American citizens.

WOODS: Now, that is an excellent point. I hadn't actually thought of that one. So there are all kinds of good reasons to be thinking in the correct way about the TSA. It's funny; I think most people at this point have adapted themselves to the ever-changing demands of the TSA. The different requirements seem to change and be so arbitrary from time to time, in terms of what I can bring on board and how I can package it and do the shoes go on the belt or in the tray. It makes you think that maybe these standards are arbitrary and they're just meant to instill in the public a sense of submission and subordination. Now, am I just being paranoid to think that?

BOVARD: No, I think there's a very good case to make that assumption. It's often difficult to know what TSA's motivations are, because the agency often doesn't know what it's doing. Trying to figure out why the TSA did something can be like searching in a dark room for a black cat that is not there.

And the TSA has also been very, very secretive. It tends to scorn the Freedom of Information Act. Journalists who have tried to get key documents have had to wait four or five years when I think there's a 20 or 30-day limit under the federal Freedom of Information Act. But the TSA ignores that law in the same way that it ignores the constitutional rights of the American citizens to be free from warrantless searches. So it's such a cluster screw up of an agency, and there's really nothing that can be done to make it work right.

And politicians say, well, we'll have this reform, and there was a very amusing response to the Inspector General report that showed a 95% failure rate. The folks at *The Washington Post* chose to give the former head of the TSA, John Pistole, almost like half of a news article for him to make all these reasons why, well, you really shouldn't be concerned about the 95% failure rate, because the IG wasn't testing it like a terrorist would test it, and the system works. And I'm thinking, is *The Washington Post* being paid to do TSA PR? They often seem to be doing that. They've had some good stories over the years, but they've been pretty much almost as servile as the average person going through the TSA checkpoint at Washington National Airport.

WOODS: Well, Jim, I'm going to link on – let's see, this is Episode 431, so we'll link on the show notes page, TomWoods.com/431, to your *USA Today* article that we've been talking about today. You are one of the top people on this issue, and in keeping it before the public. A lot of times when one of these innovations – and I don't mean that in a praiseworthy way – comes about in our life, we tend to acclimate ourselves

to it, forget about it, view it as a minor inconvenience. But in a way, you with issues like this have been like the Sons of Liberty in the American Revolution, the committees of correspondence, to keep things always before the eyes of the public, so they don't fall back to sleep again. And if and when things do turn around, I genuinely believe it will be in large part because of you and people like you that it did happen. So thanks so much for your time today.

BOVARD: Thanks for your kind words, Tom.