

# THE RUTHERFORD INSTITUTE

Post Office Box 7482  
Charlottesville, Virginia 22906-7482

JOHN W. WHITEHEAD  
Founder and President

TELEPHONE 434 / 978 - 3888  
FACSIMILE 434/ 978 - 1789  
[www.rutherford.org](http://www.rutherford.org)

October 13, 2011

John S. Pistole, Administrator  
Transportation Security Administration  
601 South 12th Street  
Arlington, VA 20598-6002

Re: Inappropriate treatment of passenger Mia Gambino by TSA agent

Dear Mr. Pistole:

The Rutherford Institute<sup>1</sup> has been contacted by Mia Gambino, a white, transgendered, disabled female and an advocate for the rights of disabled individuals,<sup>2</sup> who was allegedly subjected to highly inappropriate treatment by a TSA employee insensitive to her physical disability, as well as her transgendered state.

On March 21, 2011, Ms. Gambino—a resident<sup>3</sup> of Flushing Queens, New York, who suffers from a neurological disorder that causes paraplegia and is confined to a wheelchair—arrived at Los Angeles International Airport on Qantas Airways Flight 107. Ms. Gambino was entering the United States from Australia, and her final destination was New York City.

Upon deplaning and before she could board her flight to New York City, Ms. Gambino, was required to pass through a TSA security checkpoint. During the security screening, a female TSA agent asked Ms. Gambino if she was able to stand, to which Ms. Gambino replied “no.” The agent then informed Ms. Gambino that she would have to completely lift herself out of her chair in order for the chair to be searched. Having never been asked to lift herself out of her chair during previous airport screenings, Ms.

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<sup>1</sup> The Rutherford Institute is a civil liberties organization that provides free legal representation to those whose civil rights are threatened or infringed.

<sup>2</sup> Ms. Gambino has written in a number of publications on issues affecting disabled people worldwide. See Mia G. Vayner, *After the Flood: Mopping up in the Land of Oz*, Disability Now (September 2011), <http://www.disabilitynow.org.uk/latest-news2/world-view/after-the-flood-mopping-up-in-the-land-of-oz>

<sup>3</sup> Ms. Gambino will be naturalized as an American citizen this December.

Gambino informed the TSA agent that in previous airport screenings she was only required to lean forward, lean from side to side, and spread her arms. The agent immediately proceeded to call a supervisor and requested a cavity search, reporting to the supervisor that Ms. Gambino was refusing to stand up.

Ms. Gambino was understandably upset and frightened at this point. Insisting that she would cooperate, Ms. Gambino offered to transfer to another chair if the TSA agent would provide one. In response, Ms. Gambino was warned to be quiet or she would be strip-searched in a private room. After approximately 20 minutes had passed—during which time Ms. Gambino continued to ask for a supervisor and was allegedly subjected to further threats and insults by the TSA agent, including being referred to by the agent as “that there he-she”—a supervisor arrived.

The supervisor proceeded to perform the search dictated by TSA protocol, directing Ms. Gambino to lean forward, lean from side to side, and spread her arms—the very procedure Ms. Gambino had described to the first agent.

The supervisor asked the TSA agent, who is African-American, if she knew what “paraplegia” is and what a wheelchair is for, to which the TSA employee astoundingly responded that where she grew up wheelchairs are for “rich, white” people who do not want to walk anymore, and who want black people like her to push them around. The TSA employee also indicated that she had no real understanding of the nature of paraplegia. As a result of the encounter, Ms. Gambino was late for boarding her flight to New York and had to be rushed to board the plane on time.

These events took place in the presence of a number of witnesses, and Ms. Gambino was informed at the time that the events were video recorded and would be reviewed. Ms. Gambino was also told by a TSA supervisor that she would be contacted by TSA to follow up with her concerning what had transpired. However, no such follow-up ever took place. Nor was Ms. Gambino issued an apology by the TSA or its employees. Moreover, the TSA has since failed to respond to Ms. Gambino’s requests regarding a resolution of this incident.

The highly inappropriate remarks and unprofessional treatment to which Ms. Gambino was subjected by the TSA agent is not only unacceptable but it also skirts dangerously close to constituting discrimination based on disability, race (as noted above, the TSA agent stated that “white” people, like Mia Gambino, use wheelchairs so that “black” people will have to push them around) and gender (as noted above, the TSA agent referred to the transgendered Gambino as “that there he-she”).

Furthermore, such treatment clearly contradicts the TSA's own policies regarding disability<sup>4</sup> and race.<sup>5</sup> Specifically, TSA policy dictates that wheelchair-bound passengers "should not be required to transfer from your wheelchair to another chair or be lifted out of your chair during the inspection process."<sup>6</sup> Additionally, for those such as Ms. Gambino who are unable to leave their wheelchair, TSA policy dictates that "these inspections [of the wheelchair] will be conducted while you remain in your wheelchair...if you indicate that you cannot get out of your wheelchair."<sup>7</sup>

Clearly, the fact that Ms. Gambino knows more about TSA screening procedures as they pertain to disabled travelers than the TSA's own employee charged with that duty reveals stark deficiencies in TSA training and hiring protocol.

Unfortunately, as various news reports reveal, Ms. Gambino's experience at the hands of poorly trained TSA agents was not an isolated incident. In June 2011, TSA employees ordered a 95-year-old leukemia patient in a wheelchair to remove her adult diaper so that agents could search her.<sup>8</sup> Ninety-year-old Marian Peterson, also confined to a wheelchair, was pulled out of line for a random security check and according to her son, Joe, TSA agents "groped her. All of her body: her crotch, her breasts and everything else." She was also made to get out of her wheelchair and stand with her arms outstretched for over 10 minutes.<sup>9</sup>

In yet another incident, an elderly wheelchair bound woman was lifted out of her chair—in violation of TSA policy—as a TSA employee passed a wand over the woman's body.<sup>10</sup> Then there was the TSA employee who was arrested for allegedly stealing \$500 from a wheelchair bound individual.<sup>11</sup>

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<sup>4</sup> *Mobile Disabilities*, TSA website, [http://www.tsa.gov/travelers/airtravel/specialneeds/editorial\\_1371.shtm](http://www.tsa.gov/travelers/airtravel/specialneeds/editorial_1371.shtm) (last visited Sept. 15, 2011).

<sup>5</sup> *See Discrimination*, TSA website, <http://www.tsa.gov/travelers/customer/discrimination.shtm> (last visited Sept. 15, 2011).

<sup>6</sup> *Mobile Disabilities*, TSA website, [http://www.tsa.gov/travelers/airtravel/specialneeds/editorial\\_1371.shtm](http://www.tsa.gov/travelers/airtravel/specialneeds/editorial_1371.shtm) (last visited Sept. 15, 2011).

<sup>7</sup> *Id.*

<sup>8</sup> Mark Duell, *TSA Defends 'Asking Wheelchair Bound Leukaemia Sufferer, 95, to Remove Her Adult Diaper During 45-Minute Pat Down'*, Daily Mail Online (June 29, 2011), <http://www.dailymail.co.uk/news/article-2008406/TSA-pat-defended-Lena-Reppert-95-asked-removed-adult-diaper.html>.

<sup>9</sup> Shae Crisson, *94-year-old upset by TSA pat down*, WTVD (July 14, 2011), <http://abclocal.go.com/wtvd/story?section=news/local&id=8250625>.

<sup>10</sup> Jerry Chandler, *Employees 'Removed' & 'Suspended' From Honolulu International*, Cheapflights.com News and Views (Oct. 4, 2011), <http://news.cheapflights.com/2011/09/employees-%E2%80%98removed%E2%80%99-%E2%80%98suspended%E2%80%99-from-honolulu-international/>.

<sup>11</sup> Brian Thompson and Jonathan Dienst, *TSA Agent Accused of Stealing Case From Wheelchair-Bound Woman*, WNBC (March 30, 2011), <http://www.nbcnewyork.com/news/local/tsa-agents-accused-of-stealing-cash-from-elderly-woman-in-wheelchair-94179834.html>.

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These are only some of the more widely reported incidents of abusive behavior on the part of TSA employees against those in wheelchairs and other disabled individuals. It does not even begin to touch on the equally inappropriate and invasive treatment to which other airline passengers are subjected. Clearly, something must be done to address these deficiencies among your employees.

It is our expectation that you will treat this complaint with the utmost care. We await your assurance that TSA agents will be properly trained in respecting the rights of all passengers, particularly those with special needs such as Ms. Gambino, and that Ms. Gambino will be issued an apology for the indignities she was forced to suffer at the hands of your employee.



Sincerely yours,

John W. Whitehead  
President

cc: Jennifer K. Carmichael, Director, TSA Office of Civil Rights and Liberties