



Guidance for Screeners And Other Security Personnel

The following guidance is provided to all direct and contract employees of Part 108 aircraft operators and Part 129 air carrier operators, and all other security personnel who conduct or supervise the screening of passengers and accessible property (e.g., screeners and screener supervisors). This includes, but is not limited to, any personnel responsible for security duties that require direct interaction with passengers at airport facilities (e.g., passenger service personnel, local station managers, airport operators and LEOs).

Background: In the aftermath of the September 11, 2001 tragedies, concerns have been raised about intimidation and harassment directed at individuals who are, or are perceived to be, of Arab, Middle Eastern, or South Asian descent and/or Muslim. It is important to reemphasize that in performing critical duties, personnel may not rely on generalized stereotypes or attitudes or beliefs about the propensity of members of any racial, ethnic, religious, or national origin group to engage in unlawful activity. Specifically, there appears to have been a rash of improper and insensitive searches and other improper treatment of Sikh and Arab Americans by airport and air carrier security personnel. Exercising our role under U.S. law to carry out security activities for the safety of the traveling public should not conflict with our obligation to protect the Constitution and civil rights of our citizens. It is illegal under federal law for an air carrier or its employees to discriminate on the basis of race, color, national origin, religion, sex, or ancestry.

Examples of Events and Actions: It is important that all available facts and circumstances be taken into account in identifying persons or property that may be a safety or security risk. Although actions may, at times, offend the person involved, security personnel in certain circumstances may be justified in conducting additional questioning, inspections or searches for safety or security reasons as noted below. The security personnel should use the “but for” test to help determine the justification for their actions: “But for a person’s perceived race, ethnic heritage or religious orientation, would I have subjected this individual to additional safety or security scrutiny?” If the answer is “no” then the action is likely to be unjustified and violate civil rights laws.

Event #1: After successfully passing through a metal detector, a Sikh is ordered by security personnel to publicly take off his/her turban and asked to unwind his/her hair for inspection.

Action: Sikhs view their turbans as an important connection to God that covers a very private and personal part of the body. Accordingly, removal of a turban is considered one of the most invasive acts imaginable. A Sikh turban is not like a hat; it is a long piece of cloth, usually several yards long that takes significant time to be retied. The request by the security personnel was unwarranted because the person did not trigger the metal detector, and there was no other reason or substantial suspicion to warrant the action. Consequently, asking a Sikh to remove his/her turban (or similarly to unwind his/her religiously required, uncut hair) in the absence of a similar requirement for all other passengers that have successfully passed through metal detectors to remove articles of

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clothing for inspection, is disparate treatment and must be discontinued. If search or inspection of a Sikh's hair and/or turban is necessary for safety or security reasons (e.g., a Sikh sets off the metal detector and additional security screening through the use of a handheld metal detector or a pat down search is insufficient to make a determination of whether a prohibited item may be carried), the Sikh should be provided a choice of public or private inspection, as public searches are often viewed as insulting and humiliating or may violate an individual's religious tenets.

Event #2: A woman is selected for an inspection solely because her hair is covered or she is wearing a veil; or a man is selected for inspection solely because he has a long beard or is wearing a hair covering.

Action: Discriminating on the basis of national origin or religion includes discriminating against someone based solely on an appearance or dress that is associated with a particular national origin or religion. Likewise, selection must not be based solely because a person speaks Arabic, Farsi, or another foreign language, or solely because they speak with an accent that may lead one to believe they are Arab, Middle Eastern, South Asian, and/or Muslim. Accordingly, these practices must not take place.

Event #3: A veiled woman shows photo identification to prove her identity, but the screening personnel cannot conclude that the woman is the same person in the photo because the veil covers most of her face. She is politely asked to remove the veil by a woman and given the option of public or private inspection, but is obviously offended. The woman explains that removal of the veil violates her religious tenets.

Action: Because verification of a person's identification is a security requirement for all other passengers under the same circumstances, and the security requirement cannot be otherwise met, this action would be justified. Whenever possible, the veiled woman's face should be checked by female security personnel in private or only in the presence of other women so as not to violate her religious tenets.

Event #4: On a routine stop, the driver of a truck containing hazardous material has identification showing he was born in the United States, but the driver does not speak any English and appears only to speak Arabic.

Action: In this instance, the security personnel would have just cause for suspicion and would be justified in conducting additional inspections, searches, etc. (Though it should be noted that speaking English with an accent or broken English does not constitute the inability to speak English)

Event #5: A person wearing a turban or head dress, while being searched at a checkpoint, triggers the handheld metal detector near his head, and after exhausting other FAA-acceptable means for resolving the alarm (e.g., a pat down search), the person is asked to remove the turban for further inspection.

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Action: Since all persons are subjected to this screening, and the screeners are required to resolve each alarm to their satisfaction before allowing the person to proceed in to the sterile area, the screening personnel would be justified in politely requesting that the person remove the turban provided the person is treated with respect and given the option of a public or private inspection. Security personnel must provide the individual the opportunity to retie the turban in a private area or area outside the view of the general population. A mirror should be provided, if possible.

Event #6: A Sikh is detected carrying a ceremonial sword or *kirpan* through a screening checkpoint and is respectfully told by the security personnel that FAA requirements forbid all persons from carrying any knife or other sharp object into an aircraft and informs the persons that they are permitted to place the kirpan in their checked baggage.

Action: The action taken by the security personnel is proper. The sheathed ceremonial sword known as a *kirpan*, is worn by Sikhs as a mandatory article of faith. The kirpan is usually two to four inches in length. If the kirpan cannot be stored in checked baggage or removed from the airport by someone in their party not entering the secure area, the kirpan must be confiscated. (Note: A smaller kirpan may be worn as a necklace around the neck. Notwithstanding where it is carried on the body, if it looks like a knife, e.g., it has a sharp blade, it may be placed in checked baggage but should not be allowed past the screening checkpoint). The kirpan should be kept by the security personnel in a safe place until it can be retrieved. Most Sikhs are now aware of the FAA requirement that disallows all knives and sharp articles aboard aircraft, except in checked bags.