

# Intrusive Searches Marked by Disparities

## Black Women Seen As Customs Target

By STEPHEN BARR  
Washington Post Staff Writer

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African American women returning from abroad were disproportionately singled out for strip-searches by U.S. Customs Service inspectors at airports, according to a congressional report scheduled for release today.

Black women were nearly twice as likely to be strip-searched on suspicion of smuggling drugs as white men and women, the report by the congressional General Accounting Office said. Moreover, black women were three times as likely as African American men to be strip-searched.

The intrusive searches were not justified by a higher rate of discovery of contraband among minority groups, according to the report.

Only about 102,000 of the roughly 140 million Americans returning from abroad were subject to special searches in fiscal years 1997 and 1998. The GAO said 95 percent of those were given simple pat-downs and were not required to disrobe.

Another 4 percent underwent strip-searches and 1 percent were X-rayed. African American men and women were nearly nine times as likely as white men and women to be X-rayed, while Hispanic American men and women were nearly four times as likely, the report said.

The GAO prepared the report for Sen. Richard J. Durbin (D-Ill.), and it is the first comprehensive analysis of "personal-search" patterns by the Customs Service. The report follows two years of criticism by minority women in Chicago and other cities who have complained of "racial profiling" and humiliating treatment by Customs inspectors.

Since 1998, the Customs Service has tightened up search procedures and put its lawyers on 24-hour duty to advise inspectors who detain travelers suspected of smuggling drugs or other contraband.

"We have made it clear to our people that racial profiling will not, cannot, be tolerated," Customs Commissioner Raymond W. Kelly said in an interview.

Customs said the number of intrusive searches has dropped by about half, and those that are conducted are far more likely to find drugs.

But Durbin said the GAO analysis showed the need for legislation that would ban racial profiling by Customs and "make sure this is a permanent policy that lives beyond Kelly and this particular report."

Durbin has drafted a bill to require Customs to document its reasons for frisking or intrusively searching individuals and submit such information to Congress annually. Rep. John Lewis (D-Ga.), who also has investigated claims that Customs mistreats international travelers, has introduced similar legislation in the House.

Every year, the Customs Service seizes hundreds of pounds of cocaine and heroin that international air passengers carry inside their clothes or in their bodies. Growing numbers of smugglers swallow cocaine-filled balloons or insert packages of heroin and cocaine into their body cavities, officials said.

Customs has far-reaching powers, upheld by the courts, to take travelers to holding rooms for pat-downs. Customs inspectors look for passengers who give evasive answers to their questions, exhibit signs of nervousness or give off other clues, such as wearing thick-soled shoes.

Often inspectors act on general information about a flight from "source countries" of the drug cartels or on intelligence tips about a specific passenger.

If a frisk or strip-search fails to ease an inspector's suspicions, the passenger can be handcuffed and taken from the airport to a hospital or clinic where doctors probe the person's body or take X-rays. Travelers may be forced to drink laxatives to enable inspectors to monitor bowel movements. Detention times can last from hours to days.

About 3 percent of the passengers undergoing a pat-down were caught with contraband. Twenty-three percent of strip-searches turned up drugs and 31 percent of X-rays were positive, the GAO found.

In its study, the GAO analyzed the data by gender and race and said women and men were equally likely to carry drugs, and whites and blacks were equally likely to be caught smuggling drugs.

Some passengers, however, were more likely than others to be forced to undergo an intrusive search, the GAO found.

"The most pronounced difference occurred with black women who were U.S. citizens," the GAO report said. "They were nine times more likely than white women who were U.S. citizens to be X-rayed after being frisked or patted down in fiscal year 1998."

"But on the basis of X-ray results, black women who were U.S. citizens were less than half as likely to be found carrying contraband as white women," the GAO said.

Hugh Price, president of the National Urban League, said the

GAO report showed "a major profiling problem. . . . It is a pattern of outrageous behavior."

Amanda Buritica of Port Chester, N.Y., said the GAO report showed why Customs needed to change its procedures. "I don't want people put through the hell they put me through," she said.

Buritica was held for 22 hours at a San Francisco hospital in 1994, given a laxative and X-rayed. Her lawyers argued that Customs had no reason to suspect her of being a drug courier, and a federal jury agreed, awarding her \$450,000.

In Chicago, Customs faces a class-action lawsuit originally brought by about 80 women, but the number has grown to about 1,300 women, lawyer Edward M. Fox said. Fox said Kelly's policy changes "are a step in the right direction."

Customs officials said Kelly's changes have reduced the number of intrusive searches from 1,386 in the first six months of fiscal 1998 to 649 for the same period in fiscal 2000.

According to Customs data from Oct. 1, 1999, to March 31, 2000, more African Americans and Hispanics than whites were X-

rayed, but Customs found drugs in more than half the cases involving minorities, officials said.

"We have to factor in where the drugs are coming from," Kelly said. "We are never going to have searches that reflect in a proportionate way people who are traveling. It is skewed by where the drugs come from and skewed in some sense by the intelligence information we collect."

During the past year, Kelly began a new policy requiring Customs supervisors to approve all pat-downs and senior managers to approve body searches that involve taking a traveler to a medical facility. Kelly also revised the handbook used by inspectors, increased their training and ordered more systematic collection of data on searches.

Customs purchased 10 body-scan machines, which see through clothing, to make the search process less intrusive. The machines have been installed at major airports, including Atlanta, Chicago, Los Angeles, Miami, New York and Washington. Customs also plans to spend \$9 million this fiscal year to install on-site X-ray machines at some airports.

THE WASHINGTON POST  
MAY 1, 2001

## Statement on GAO Report Customs Personal Searches

The GAO report released today, entitled, *"Better Targeting of Airline Passengers for Personal Searches Could Produce Better Results"* cites statistics from 1997 and 1998 which indicate that Black females were more likely to be subjected to an intrusive search, but were less likely to be found carrying illegal drugs.

The Customs Service does not dispute the accuracy of the statistics cited in the GAO report; however, it is important to note that the statistics are more than a year and-a-half old. Current statistics compiled for the first six months of Fiscal Year 2000 indicate that a series of sweeping reforms instituted by Customs Commissioner Raymond W. Kelly over the past eighteen months are working.

For instance, in the first six months of the current fiscal year, Customs reduced the overall number of most intrusive searches by nearly half (from 1141 searches to 563 searches) while actual seizures of illegal drugs increased by 5% (from 293 to 309). Roughly one of every 8,000 passengers who arrive in the United States are selected for a personal search, based on the suspicion of the inspector and the inspector's supervisor.

We believe it is critical that the Customs Service presents a credible deterrent to drug smugglers. At the same time it must protect the civil rights of people who arrive in the United States. The reforms instituted by Commissioner Kelly over the past 18 months appear to be meeting that objective.

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### Current Reforms:

- Closer supervision throughout the process
- Better info to inspectors on day-to-day
- Better info to traveling public re: rights
- Support for passenger comments (82% have been positive)
- Better technology to alert at physical touch

# F A C T S H E E T

United States Customs Service, 1300 Pennsylvania Avenue, NW, Washington, D.C. 20229



## SUMMARY OF ACTIONS BY CUSTOMS TO IMPROVE PASSENGER PROCESSING

As of October 28, 1999

### INFORMATION

#### Increased Legal Oversight

- Instituted a new policy, effective October 28, requiring Customs officers to contact the local U.S. attorney's office when Customs detains a person for eight hours or more. (10/99)
- Customs lawyers are now on-call 24-hours-per-day to advise Customs officers during the search process. Customs officers can consult with Customs counsel at any time. Such consultation is mandatory for all medical examinations. (In training and equipment process, ongoing.)

#### Increased Supervisory Oversight

- A Customs supervisor must approve all pat-down personal searches. (5/99)
- A supervisor must fill out a Supervisor's Check Sheet for all negative personal searches. (6/99)
- A Port Director must approve all searches that require moving a person to a medical facility for a medical examination. (5/99)

#### New Personal Search Handbook

- Enhanced the Customs Personal Search Handbook. The revised manual is being distributed to all inspectors in October. (10/99)
- Eliminated specific historical factors as the basis to conduct personal searches. Replaced with six broad criteria to support search decisions. (6/99)

#### Improved Data Collection

- Instituted an enhanced data collection system in May to gather data on race, gender, age, and citizenship of persons detained for a personal search, noting the new criteria. (5/99)
- Created a Passenger Data Analysis Unit in Customs Headquarters to review all personal search data. (6/99)

Commissioner,

Please find attached draft remarks for the Chicago O'Hare press conference on Nov. 22 for possible review during your trip to Korea.

This is rough, and I still have to get a better sense from the organizers of how this event will proceed, who exactly the participants will be, etc. But I thought we could at least start fine-tuning the rhetoric.

I have tentatively scripted the comments as follows:

- 1) Introduction and brief comments about new bodyscan system (after intro from Congressman Davis)
- 2) demonstration of technology
- 3) further comments on all the changes to the personal search policy

I am also attaching three charts from OFO for possible display during the press conference. They are referenced in the comments. One highlights the Search Efficiency Ratios and the other our airport seizures in FY 99 and FY 98.

# NEWS

Department of the Treasury  
U.S. CUSTOMS SERVICE



FOR IMMEDIATE RELEASE  
April 8, 1999  
99-039

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## U.S. CUSTOMS COMMISSIONER NAMES INDEPENDENT PERSONAL SEARCH REVIEW COMMISSION

(Washington)—Raymond W. Kelly, Commissioner of the U.S. Customs Service, today announced the formation of an independent Personal Search Review Commission to review U.S. Customs policies and procedures for international air passenger processing. The Commission will be composed of four non-Customs federal government officials, and will be chaired by Constance Newman, Under Secretary of the Smithsonian Institution and former Director of the Office of Personnel Management. In addition, Mr. Sanford Cloud, Jr., President and Chief Executive Officer of The National Conference for Community and Justice, has agreed to serve as Independent Advisor to the Commissioner.

In the past few months a growing number of people have complained publicly and privately about the treatment they received during a Customs search. Some people believed they were selected for this search merely because of their race.

"If a bias exists, whether perceived or real, it is paramount that we find its cause and eliminate it," Commissioner Kelly said. "Drug smugglers will try to exploit any weakness in our systems. If there is any bias in our systems—or even the perception of bias—it creates a weakness. Bias is not a part of Customs policy. We cannot afford it to be a part of our practice."

The independent Commission will look at U.S. Customs policies for processing travelers at international airports, review procedures for and methods of processing travelers and selecting passengers for further examination at airports through Customs, review adequacy of information made available to the traveling public about U.S. Customs procedures and search authorities, and review search procedures, including personal searches, and the impact of these procedures on air passengers. When the review is concluded, the Commission will advise the Commissioner on how U.S. Customs can effectively perform its informational and search responsibilities when processing passengers.

Constance Berry Newman has been the Under Secretary of the Smithsonian Institution since July 1992. Previously, Ms. Newman was Director of the Office of Personnel Management from June 1989 to June 1992. Ms. Newman has had a long and distinguished career in public service, including service as Assistant Secretary of the U.S. Department of Housing and Urban Development, Director of Volunteers in Service to America (VISTA), and Commissioner and Vice-Chairman of the Consumer Product Safety Commission.

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Report Drug Smuggling to 1-800-BE-ALERT  
<http://www.customs.treas.gov>

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Robin Renee Sanders is currently Director for Africa at the National Security Council. Ms. Sanders was previously the Special Assistant for Latin America, Africa and International Crime for the Under Secretary of State for Political Affairs at the Department of State in Washington, DC. From 1994-96, Ms. Sanders was the Chief of Staff and Senior Foreign Policy Advisor for Congresswoman Cynthia McKinney of Georgia.

Ms. Ana Marie Salazar is currently the Deputy Assistant Secretary of Defense for Drug Enforcement Policy and Support. She is the highest ranking Latina in the Defense Department. Ms. Salazar has served as the Judicial Attaché at the United States Embassy in Bogota, and as Policy Advisor for the President's Special Envoy for the Americas.

Sanford Cloud, Jr. is the eighth president, and first African American president, of the National Conference for Community and Justice (NCCJ). He became president of the NCCJ, formerly known as the National Conference of Christians and Jews, in 1994. Mr. Cloud has led the NCCJ in conducting public and private dialogues throughout the nation to further understanding on race, ethnicity and culture.

Congressman John Lewis (D-GA) joined Commissioner Kelly in announcing the review commission. "I am pleased to see Commissioner Kelly taking prompt action to address my inquiry into these serious allegations of discriminatory practices in the processing of international air passengers," Congressman Lewis said. "This is an important first step in insuring that all international air travelers are treated equally at airports around the country."

The independent external Commission is one of a number of actions Commissioner Kelly is taking to improve the procedures by which the U.S. Customs Service processes international air passenger. Customs is training all inspectors in cultural interaction, it published new brochures explaining search procedures and the the mission of the U.S. Customs Service, comment cards are now available for passengers to provide feedback on their Customs experience. In addition, signs are being posted in the International Arrivals areas of U.S. airports that detail U.S. Customs responsibilities and authorities in searching passengers, and explains passengers rights and obligations in the Customs process.

The U.S. Customs Service is also actively investigating advanced technology in order to make the search process less intrusive for passenger and inspector alike. This new technology includes a state-of-the-art Body Scan machine which is currently in use at Miami and JFK International Airports. The machine allows a detailed scan of a person's body underneath clothing without physical contact. Other types of technology include latex "breathalyzers," and portable x-ray machines that will be tested on-site at airports.

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# fact sheet

Department of the Treasury / United States Customs Service / Washington, D.C. 20229

## PERSONAL SEARCH REVIEW COMMISSION

The U.S. Customs Service is the front line of America's defense against the smuggling of drugs and other contraband. More than 400 million people cross the borders of the United States each year, by land, air and sea. In 1998, the Customs Service seized more than one million pounds of drugs from travelers and cargo which entered the country.

On April 8, 1999, Raymond W. Kelly, Commissioner of the U.S. Customs Service, appointed an independent Personal Search Review Commission to evaluate the policies and procedures of the U.S. Customs Service in processing international air passengers, including selection of passengers for searches. When the Commission's review is concluded, an Independent Advisor will make recommendations to the Commissioner on how U.S. Customs can effectively perform its responsibilities when processing passengers.

### COMPOSITION:

- Four non-Customs federal government officials

### ROLE:

- Review U.S. Customs policies for processing travelers at international airports;
- Review procedures for and methods of processing travelers;
- Review process of selecting passengers for further examination at airports;
- Review adequacy of information made available to the traveling public about U.S. Customs procedures and search authorities;
- Review search procedures, including personal searches, and the impact of these procedures on air passengers.

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REPORT DRUG SMUGGLING TO THE U. S. CUSTOMS SERVICE AT 1-800-BE-ALERT.  
For more information, visit Customs on the Internet at <http://www.customs.treas.gov>  
or call the Office of Public Affairs at 202-927-1770.

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COMMISSION MEMBERS:

- Constance Berry Newman, Under Secretary of the Smithsonian Institution, former Director of the Office of Personnel Management. Ms. Newman will chair the Commission.
- Ana Maria Salazar, Deputy Assistant Secretary of Defense for Drug Enforcement Policy and Support. Ms. Salazar is the highest ranking Latina at the Department of Defense.
- Ms. Robin Renee Sanders, Director for Africa, National Security Council.

Independent Advisor:

- Sanford Cloud, Jr., President and CEO of the National Conference for Community and Justice (NCCJ). Mr. Cloud will provide recommendations to the Commissioner based on findings of the commission.

**Racial Profiling  
Question & Answer  
April 10, 2000**

**Q: A GAO report released today indicates that minorities, especially African American women, were disproportionately singled out for strip searches by the U.S. Customs Service inspectors at airports between 1997 and 1998. The report also indicates that these searches were not justified by a higher rate of discovery of contraband among minority groups. What is the federal government doing to address this problem?**

**A:** Without question, the findings of the GAO report were deeply troubling. As the President has said before, no person should ever be targeted by law enforcement because the color of his or her skin. Stopping or searching individuals on the basis of race is not effective law enforcement policy, and it is not legitimate as a strategy for public protection. Simply put, racial profiling is wrong.

The GAO report is based on information that was collected prior to sweeping reforms were made by U.S. Customs Commissioner Raymond Kelly eighteen months ago. Upon his appointment to the post, Commissioner Kelly made it clear that racial profiling would not be tolerated by the U.S. Customs Service, and tightened up search procedures that include closer supervision of searches and increased training for inspectors. Current statistics compiled for the first six months of FY 2000 indicate that these reforms are working. For instance, Customs has reduced the number of the most intrusive searches by more than one half, while actual seizures of illegal drugs increased by five percent.

**Q: Will the Administration support Senator Richard Durbin's proposed legislation to require U.S. Customs to document searches of individuals and to submit the information to Congress? What else is the Administration doing to the problem of racial profiling in law enforcement?**

**A:** We support Senator Durbin's efforts to work with the Administration to address the problem of racial profiling, and look forward to reviewing his legislation. As you know, the President has spoken out repeatedly and forcefully against racial profiling. And he has recognized that in this highly charged issue, it is crucial to get the hard facts. To help ensure that federal law enforcement officers act in accordance with their broad policies against racial profiling, President Clinton in June of 1999 signed a Presidential directive to federal agencies to gather data about when and where racial profiling occurs. This data is currently being collected by the federal agencies. Having this data will arm us to combat this problem in the most thorough and effective manner possible – so that we can act on the basis of facts and not anecdote.