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VIA E-MAIL: FOIA.TSA@dhs.gov

Transportation Security Administration
TSA-20, East Tower
FOIA Division
601 South 12th Street
Arlington, VA 22202-4220

RE: Freedom of Information Act Request for TSA's New Identification to Fly Requirement and Request for Expedited Processing

Dear FOIA Officer:

This letter constitutes an expedited request under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and is submitted to the Transportation Security Administration ("TSA") on behalf of the Identity Project. The Identity Project ("IDP"), provides advice, assistance, publicity, and legal defense to those who find their rights infringed or their legitimate activities curtailed by demands for identification, and builds public awareness about the effects of ID requirements on fundamental rights. IDP is a program of the First Amendment Project, a nonprofit organization providing legal and educational resources dedicated to protecting and promoting First Amendment rights.

Documents Requested

IDP requests a copy of, and any documents relating to, the TSA's new requirement for passengers to produce identification to TSA agents when

passengers go through security checkpoints at airports in the United States. Failure to willfully comply with this new identification requirement purportedly results in United States citizens being prohibited from entering the secure area at airports and, therefore, making them unable to travel domestically by commercial air carrier.

On June 5, 2008, the Transportation Security Administration published online a press release entitled “TSA Announces Enhancements to Airport ID Requirements to Increase Safety” which reads in part:

Beginning Saturday, June 21, 2008 passengers that willfully refuse to provide identification at security checkpoint will be denied access to the secure area of airports. This change will apply exclusively to individuals that simply refuse to provide any identification or assist transportation security officers in ascertaining their identity.

This new procedure will not affect passengers that may have misplaced, lost or otherwise do not have ID but are cooperative with officers. Cooperative passengers without ID may be subjected to additional screening protocols, including enhanced physical screening, enhanced carry-on and/or checked baggage screening, interviews with behavior detection or law enforcement officers and other measures.

http://www.tsa.gov/press/happenings/enhance_id_requirements.shtm

This constitutes a departure from TSA’s previous identification requirement, which allowed those passengers declining to provide identification the option to undergo a heightened level of physical search in order to enter the secure area of airports. *See Gilmore v. Gonzales*, 435 F.3d 1125 (9th Cir. 2006).

http://papersplease.org/gilmore/_dl/GilmoreDecision.pdf

IDP requests a copy of TSA’s new identification requirement and all documents relating to it. As failure to comply with this new requirement would result in an individual’s inability to freely exercise their fundamental

right to travel, a right necessary to freely exercise the First Amendment rights of assembly and association, it is presumed that documents (other than the mere online press release by TSA announcing the change) are available for inspection by those subject to this new regulation.

Request for Expedited Processing

We request expedited processing of this FOIA request. This request meets the criteria for expedited processing under 28 CFR § 16.5(d)(1)(iv), as the subject and documents requested are “[a] matter of widespread and exceptional media interest in which there exist possible questions about the government’s integrity which affect public confidence.” 28 CFR § 16.5(d)(1)(iv). There has been substantial public interest in this new identification requirement, as evidenced by the following media coverage of the change in TSA’s regulation:

Ryan Singel, *TSA Nixes Flying Without ID*, Wired News, June 9, 2008 <http://blog.wired.com/27bstroke6/2008/06/tsa-nixesflyin.html>

Chris Soghoian, *Your papers please: TSA bans ID-less flight*, CNet, June 9, 2008 http://news.cnet.com/8301-13739_3-9962760-46.html

Ryan Paul, *TSA to let polite terrorists fly without ID*, Ars Technica, June 10, 2008 <http://arstechnica.com/news.ars/post/20080610-tsa-defiant-passengers-wont-get-to-fly-without-id.html>

Flying without an ID is coming to a controversial end, CNN, June 19, 2008 <http://www.cnn.com/2008/POLITICS/06/19/flying.id/>

Thank you for your consideration of this request. As the FOIA provides, we will anticipate your determination on our request for expedited processing within ten (10) working days. The Identity Project is willing to pay up to \$250.00 in reasonable fees and copying costs. If the amount is

estimated to be more than that, please contact me by phone before incurring the cost.

Thank you for your prompt attention to this matter.

Sincerely,

James P. Harrison
Director, Identity Project