

The Identity Project

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1736 Franklin Street, 9th Floor
Oakland, CA 94612
510-208-7744 (office)
415-824-0214 (cell/mobile)

July 16, 2018

Ms. Sabrina Burroughs
Chief FOIA Officer
U. S. Customs & Border Protection (CBP)
1300 Pennsylvania Avenue, NW, Room 3.3D
Washington, DC 20229

(by e-mail to CBPFOIA@cbp.dhs.gov)

FOIA REQUEST

Fee benefit requested
Fee waiver requested

Dear Ms. Burroughs:

This is a request pursuant to the Freedom of Information Act, 5 U.S.C. § 552.

According to a “Privacy Impact Assessment” promulgated by CBP and the Department of Homeland Security (DHS) for the “Traveler Verification Service” (TVS):

The TVS relies upon information collected directly from the individual by the respective airlines and airport authorities (i.e., the photograph captured during the boarding process), as well as additional information collected from the airline (via the APIS manifest) and photographs collected previously from CBP, DHS, or the Department of State. Under CBP’s partnerships with airlines and airport authorities, agreements between CBP and the partner organization will guide opt-in/opt-out procedures.

(“Update for the Traveler Verification Service (TVS) Partner Process, DHS/CBP/PIA-030(c)”; June 12, 2017, updated July 6, 2018; <<https://www.dhs.gov/sites/default/files/publications/privacy-pia-cbp030-tvs-appendixb-july2018.pdf>>.)

We request access to and copies of any records created on or after September 11, 2001, of or pertaining to:

(1) Any of the “agreements between CBP the partner organization” referred to in the PIA cited above, and any other agreements, contracts, undertakings, or memoranda of understanding, regardless of how they are titled, between CBP and any airline(s), airport operator(s), contractor(s), vendor(s), service provider(s), or other partner(s) participating in, or contemplating participation in, TVS, or providing services for such participation.

(2) Any policies, procedures, documentation, training materials, functional specifications, user manuals, online or electronic help or reference materials, test data sets, or test reports of or pertaining to the collection by airlines or airport operators of biometric data for use in TVS, transmission of such data to CBP, transmission of responses or messages pertaining to such data from CBP to partners, retention or use of such data by CBP, or sharing of or access to such data by other government agencies.

(3) Any reports, memoranda, email messages, or other records pertaining to the legal basis for collection of such data by airlines or airports or their agents or contractors or for transmission of such data to, and retention and use of it by, CBP.

(4) The entirety of any document or electronic file containing any records responsive to any of the requests above (so that no portion of any document or file containing any responsive portions should be withheld as “unresponsive”).

(5) All records of file system information or metadata in, of, or pertaining to any responsive digital record, including but not limited to the filename of each responsive digital record, as it was found on a workstation, server, storage device, or media; the size of each such file in bytes, KB, MB, or GB; the name or other label or identifier of the workstation, server, storage device, or media on which the file was found; the path to the file in the filesystem on which it was found; and the file date(s) as recorded in the file, in that filesystem, and/or in any label(s) on physical devices or storage media.

We request that all responsive records be provided in text-searchable electronic form. With respect to any records held in electronic form, we request that they be provided in the original electronic form in which they are held, as complete bitwise digital copies of the original word processing files, PDF files, or other electronic files, including any file headers, embedded metadata, and all other file content. With respect to records of any e-mail message held in electronic form, we request that they be produced as copies of the raw “message source” files, including fully expanded addresses and all headers and attachments, as those message source files are held on CBP, contractor, or service provider mail servers or backup or archival digital storage media.

We specifically request that you not create new documents or files in response to this request, not create “documents” such as page-view images or print views from digital

records, and not substitute such newly-created “documents”, images, or views for requested records held by you as digital files.

If all or any part of this request or searches for responsive records are referred or delegated to other DHS components or other CBP or contractor offices or staff, we request that any referral, delegation, or search tasking instructions specifically include our request with respect to the form in which records are to be produced, so that records are not inadvertently converted to, or produced in, other forms or formats.

This information is being sought on behalf of The Identity Project (“IDP”). 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.

As a representative of the news media we are only required to pay for the direct cost of duplication after the first 100 pages. Through this request, we are gathering information on policies, procedures, and practices that is of current interest to the public as part of widespread public interest in DHS “targeting” of travelers. This information is being sought on behalf of The Identity Project (“IDP”). 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.

This information will be made available to the public. The principal activity of IDP is publication of the informational and educational Web site at <http://www.papersPlease.org>, where we have published documents obtained in response to our previous FOIA requests to CBP and other agencies.

Please waive any applicable fees. Release of the information is in the public interest because it will contribute significantly to public understanding of government operations and activities. The records we are requesting clearly relate to government operations and activities and the ability of US citizens and national to exercise their rights. Travelers who are asked to provide sensitive biometric information to airlines, airport operators, or their contors or subcontractors have a strong interest in knowing what agreements, if any, govern the retention, use, and sharing of this information. It is in the public interest for the public to know about the policies, procedures, and practices which affect their ability to exercise their rights, including systems used as the basis for making decisions based on “identity verification” about whether to allow them to travel.

The Identity Project is a nonprofit organization with no commercial interest in this information.

If our request is denied in whole or part, we ask that you justify all deletions by reference to specific exemptions. We will also expect you to release all segregable

portions of otherwise exempt material. We, of course, reserve the right to appeal your decision to withhold any information or to deny a waiver of fees.

Please respond as soon as possible to confirm your receipt of this request and to advise the expected date of completion of Departmental action with respect to this request. We look forward to your complete reply within 20 business days, as the FOIA statute requires. To avoid unnecessary delays, please contact us by telephone or e-mail should you have any questions regarding this request.

Sincerely,

Edward Hasbrouck
Consultant on travel-related civil liberties and human rights issues
The Identity Project