



American-Arab Anti-Discrimination Committee
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In Memoriam

Hala Salaam Maksoud, PhD
(1943-2002)
Alex Odeh
(1944-1985)

June 23, 2008

ATTN; Air Exit NPRM,
Department of Homeland Security
1616 N. Fort Myer Drive
18th Floor
Arlington, VA 22209

RE: DHS Docket # DHS-2008-039
Proposed rule—Collection of Alien Biometric Data Upon Exit from the United States at Air and Sea Ports of Departure

On behalf of the American-Arab Anti-Discrimination Committee (ADC), we write you to support the additional collection of biometric data upon exit from the United States at air and sea ports of departure that the Department of Homeland Security proposed on April 22, 2008.

ADC, which is non-partisan and non-sectarian, is the largest grassroots organization in the United States dedicated to protecting the civil rights of Arab-Americans. ADC was founded in 1980 by former Senator James Abourezk to combat racism, discrimination, and stereotyping of Americans of Arab descent. ADC coordinates its efforts closely with US federal, state, and local government agencies in facilitating open lines of communication with the Arab-American community. With headquarters in Washington, DC, and offices in New Jersey, Massachusetts, Michigan and California, ADC has 38 chapters and members across the nation. ADC is also a member of the Executive Committee for the Leadership Conference on Civil Rights (LCCR).

While ADC welcomes the DHS's proposed additional collection of biometric information upon exit from the United States, ADC has three specific suggestions/concerns regarding the proposed program. First, while this is a commendable action to ensure that immigration laws are enforced, ADC firmly believes the NSEERS program needs to be terminated in its entirety when the US-VISIT exit procedures are implemented. Second, ADC urges DHS to address the current weaknesses in the US-VISIT program before expanding it. Third, ADC calls on DHS to ensure that airlines collecting biometric data from passengers do not use such information in any way, shape or form for commercial purposes.

Below are the above-mentioned suggestions and concerns in detail:

1. NSEERS must be fully terminated when implementing the new US-VISIT exit procedures.

Under the proposed changes, in addition to the current collecting of biometric data from all passengers upon entry to the United States, airlines will be granted the ability to collect such information from all non-U.S. Citizens and non-permanent residents upon exit. Until now, those who are asked to register at airports prior to leaving the United States are those who have registered under the NSEERS program.

If the proposed rule to the US-VISIT program is implemented, the exit procedures for both NSEERS and US-VISIT need to be consolidated. Such consolidation will eliminate the confusion individuals from NSEERS countries will have to go through; otherwise, these individuals will be subject to the requirements of both the NSEERS and US-VISIT exit procedures, which are similarly structured for purposes of identifying aliens in terms of the duration of their stay in the US, and as to whether they have violated their immigration status.



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The scenario of having individuals from NSEERS countries register twice will duplicate efforts and waste resources. Therefore, ADC urges that NSEERS be terminated when the new US-VISIT exit procedure takes effect. Moreover, not consolidating the two systems will once again highlight the underlying discriminatory nature of NSEERS, because only individuals from certain countries will have to undergo two registrations upon exit. Finally, NSEERS outlived any constructive purpose it may have once served since none of the 84,000 registrants were charged with terrorism.

2. DHS needs to address the current weaknesses of the US-VISIT program prior to expanding it.

While ADC supports the implementation of the proposed program, ADC urges that the current weaknesses in the US-VISIT program be addressed prior to incorporating the exit component of the program. A July 2007 report issued by the General Accountability Office cited several weaknesses. The program did not a) adequately identify and authenticate users in systems supporting US-VISIT, b) sufficiently limit access to US-VISIT information systems, c) ensure controls were adequately protected external and internal network boundaries, d) consistently encrypt sensitive data transmitted through the communication network or e) ensure that responsibilities and authorization for use of the information systems were adequately segregated to maintain secure configurations in the use of data. These weaknesses should be addressed in order for the program to be fully successful.

3. Legal safeguards and guarantees must be in place to ensure that airlines will not abuse the biometric data.

Under the proposed changes, airlines will be able to collect biometric data from all non-U.S. Citizens and non-permanent residents upon exit. This process involves the acquisition and retention of extremely sensitive personal information. For instance, iris and retinal scans can reveal certain medical conditions such as high blood pressure, pregnancy and AIDS. Fingerprints may reveal whether a person is suffering from Turner syndrome, Klinefelter Syndrome, Down Syndrome, leukemia, breast cancer, rubella, and chronic intestinal pseudo-obstruction disorder.

Therefore, by granting air and sea carriers the power and responsibility of collecting such personal sensitive information, it is imperative that proper legal safeguards and guarantees be in place to ensure that this information is not exploited through retention or distribution of such data by third-parties. ADC is concerned of potential abuse of information by the airlines, which might be immune if proper oversight and regulation are not implemented.

CONCLUSION:

For all these reasons, ADC believes that the proposed rule to the US-VISIT program for collection of alien biometric data upon exit from the United States should be adopted, but only with the simultaneous termination of the NSEERS program, and with proper legal safeguards in place to ensure that airlines are not abusing the collection of biometric data. We strongly urge DHS to take these suggestions and concerns into consideration when implementing the proposed rule to the US-VISIT program.

Sincerely yours,

Fahed Al-Rawaf, J.D.
Legal Advisor

Trent Taylor
Legal Associate