



U.S. Customs and Border Protection

Port of Seattle Commission
2711 Alaskan Way
Seattle, WA 98121

Dear Commissioners,

U.S. Customs and Border Protection (CBP) is in possession of a draft copy of the Port of Seattle's proposed document concerning the principles for use of biometric technology at Seattle port facilities, and is aware that this motion will be considered at a Commissioners meeting on December 10, 2019.

This letter is to confirm CBP's agreement with the principles outlined in the motion and to commend the Port of Seattle Commission on its efforts regarding adoption of biometric technology at its facilities. CBP agrees with the Port of Seattle's biometric principles and finds they align fundamentally with CBP's mission and approach to better secure our nation by incorporating biometrics into its comprehensive entry-exit system.

In support of the motion, CBP provides the following explanation on how CBP lives by these principles today in application of facial recognition technology in its biometric matching service, the Traveler Verification Service (TVS).

Seattle Port Principle & CBP Alignment

- 1) Voluntary:** *The use of biometrics to identify and validate travelers through Port facilities should be voluntary, and reasonable alternatives should be provided for those who do not wish to participate – through a convenient “opt-in” or “opt-out” process, except in specific situations authorized by the Port or required by federal law such as U.S. Customs and Border Protection's (CBP) entry and exit requirements for non-U.S. citizens. Unintended capture of data by biometric technology from those travelers opting out of such biometric data collection, or of any non-travelers or other visitors at the airport, should be prevented; any unintended capture of this data should not be stored.*

CBP Alignment: U.S. citizens are not within the scope of CBP's biometric entry-exit program, and those who do not wish to have a photo taken may request alternative processing, which typically involves a manual review of their travel documents. CBP posts information on opt-out procedures near the point of departure or arrival into the United States.

2) Private: *Data collected by biometric technology at Port facilities or by Port employees from travelers through Port facilities should be stored for no longer than required by applicable law or regulations, and should be protected against unauthorized access. The Port opposes this data being knowingly sold or used for commercial purposes unrelated to processing travelers at Port facilities without their clear and informed consent.*

CBP Alignment: As outlined in the TVS Privacy Impact Assessment (*DHS/CBP/PIA-056 Traveler Verification Service – November 2018*¹), once a match is made, U.S. citizens' photos are retained for no more than 12 hours in the TVS cloud for disaster recovery purposes, then deleted. CBP retains only a confirmation of the crossing and the associated biographic information. No photos of U.S. citizens are retained under this process.

Facial images for arriving and departing foreign nationals are retained by CBP for up to two weeks, not only to confirm travelers' identities but also to assure continued accuracy of the algorithms. As always, facial images of arriving and departing foreign nationals are forwarded to the U.S. Department of Homeland Security Automated Biometric Identification System (IDENT) system for future law enforcement purposes, consistent with established DHS processes and regulations².

CBP's Business Requirements do not allow its approved partners such as airlines, airport authorities, or cruise lines to retain the photos taken under this process for their own business purposes. The partners must immediately purge the images following transmittal to the TVS, and the partner must allow CBP to audit compliance with this requirement.

3) Equitable: *The Port opposes discrimination or systemic bias based on religion, age, gender, race or other demographic identifiers. Biometric technology used at Port facilities or by Port employees should be reasonably accurate in identifying people of all backgrounds, and systems should be in place to treat mismatching issues with proper cultural sensitivity and discretion.*

CBP Alignment: CBP is fully committed to the fair, impartial and respectful treatment of all members of the trade and traveling public. CBP has rigorous processes in place to review data and metrics associated with biometric entry and exit facial comparison performance. Significant variance in match rates that can be attributed to demographic variables have not been detected. Additionally, CBP is partnering with the National Institute of Standards and Technology (NIST) to conduct a comprehensive analysis of facial comparison technology used in CBP's biometric entry-exit efforts, in order to improve data quality, integrity, and accuracy.

4) Transparent: *Use of biometric technology for passenger processing at Port facilities should be communicated to visitors and travelers. Individuals should be notified about any collection*

¹ DHS/CBP/PIA-056 Traveler Verification Service - November 2018 is available at:
<https://www.dhs.gov/publication/dhscbppia-056-traveler-verification-service-0>.

²DHS/OBIM/PIA-001 Automated Biometric Identification System is available at:
<https://www.dhs.gov/publication/dhsnppdia-002-automated-biometric-identification-system>.

of their biometric data to facilitate travel at Port facilities, and how that data may be used, in easily understood terms.

CBP Alignment: CBP strives to be transparent and provide notice to individuals regarding its collection, use, dissemination, and maintenance of personally identifiable information (PII). CBP works closely with partners to post the required privacy notice on signs for impacted travelers and the public in close proximity to the cameras and operators, whether the cameras are owned by CBP or the partners. In addition, tear sheets are available as requested.

When airlines or airports are partnering with CBP on biometric air exit, the public is informed. We provide notice to travelers at the designated ports of entry through both printed and electronic signs, LED message boards, and verbal announcements to inform the public that photos will be taken for identity verification purposes and of their ability to opt-out of having their photo taken.

- 5) **Lawful:** *Use of biometric technology and/or access to associated biometric data collected should comply with all laws, including privacy laws and laws prohibiting discrimination or illegal search against individuals or groups.*

CBP Alignment: CBP is committed to ensuring that our use of technology sustains and does not erode privacy protections. We take privacy obligations very seriously and are dedicated to protecting the privacy of all travelers. CBP complies with all federal legal requirements, including under the Privacy Act of 1974, as well as all DHS and government-wide policies. In accordance with DHS policy, CBP uses the Fair Information Practice Principles (FIPPs)³ to assess the privacy risks and ensure appropriate measures are taken to mitigate any risks from the use of biometrics. As CBP is bound by the above mentioned privacy laws and policies and data collection requirements, partnering stakeholders are also held to the same standards, which ensures accountability with the public on how both government and the private sector use biometrics.

- 6) **Ethical:** *The Port and its partners should act ethically when deploying biometric technology or handling biometric data. Ethical behavior means actions which respect key moral principles that include honesty, fairness, equality, dignity, diversity and individual rights. In particular, use of biometrics at Port facilities should comply with Resolution No. 3747, establishing the Port's Welcoming Port Policy Directive to increase engagement with, and support for, immigrant and refugee communities.*

CBP Alignment: CBP is fully committed to the fair, impartial and respectful treatment of all members of the trade and traveling public.

- 7) **Justified:** *Biometric technology at Port facilities should be used only for a clear intended purpose that furthers a specific operational need. The Port does not condone biometrics for*

³ The Fair Information Practice Principles: Framework for Privacy Policy at the Department of Homeland Security is available at: https://www.dhs.gov/sites/default/files/publications/privacy_policyguide_2008-01_0.pdf.

Seattle Port Commission Biometric Motion

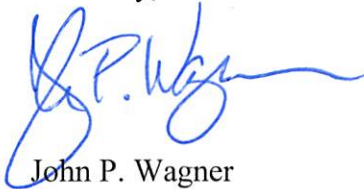
“mass surveillance” – for example, use of facial recognition on large groups of people without a lawful purpose, rather than single-use for travelers.

CBP Alignment: CBP TVS matches travelers to their travel documents only. It is not a surveillance program. CBP introduced the use of facial recognition technology into an already established process that requires the verification of an individual’s identity when entering or exiting the United States. CBP is simply replacing the current manual travel document comparison with facial comparison technology.

As outlined in the TVS PIA, CBP and partners inform travelers of the process through signage and announcements describing how a photo is taken and submitted to the TVS; this photo is used solely for the purpose of matching the traveler to the travel document and ensuring that the travel document being presented belongs to the bearer of the document.

Again, CBP strongly supports the list of principles outlined by the Port of Seattle. We look forward to working with the Port of Seattle Commission on the use of facial comparison technology in Port of Seattle facilities.

Sincerely,



John P. Wagner
Deputy Executive Assistant Commissioner
U.S. Customs and Border Protection, Office of Field Operations