

A further attack on democratic rights

## All US airline passengers to undergo government background checks

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The US Transportation Security Agency (TSA) gave the go-ahead last week to a new screening system for airline passengers. The Computer Assisted Passenger PreScreening program, known as CAPPS 2, involves a two-stage process for determining who will be subject to additional security checks at airports, and who will be denied the right to fly altogether.

Stage one has the airlines turn over each passenger's reservation data, including name, address, telephone number, and travel itinerary to the government, which will now also require airlines to obtain the passenger's date of birth when he or she makes a reservation. The data is given in turn to a private contractor, who checks it against large databases developed commercially from public records and other sources such as credit bureaus and marketing lists. Social Security numbers are added to the passenger data from these records.

The contractor assigns a numerical value to each traveler, designed to rate the likelihood that he is the person he says he is. The rating is passed back to the TSA, which then crosschecks the information against federal "do-not-fly" lists. Finally, a color code is assigned to each passenger—green for normal screening, yellow for extra searches, and red for not being allowed to fly. In addition, "red" passengers may be subject to police interrogation and possible arrest.

Although dozens of peace activists and other opponents of the Bush administration have found themselves caught up in the "do-not-fly" lists, up until now the government has claimed that only suspected terrorists were tracked. Now, however, the TSA has expanded the list to include supposedly violent criminals. The TSA has not said whether a conviction or simply an arrest will earn someone a place on the list, nor exactly what crimes are considered violent.

This expansion of the list has the effect of making the detention of a passenger seem more routine and even justified. Anyone targeted, either mistakenly or strictly for their political activities, will be even more isolated as they are being led away, since they will be assumed to be a common criminal.

Hand in hand with CAPPS 2 will come another program for "trusted travelers," under which business people and other frequent flyers will submit their personal data—possibly to include a fingerprint scan—in advance to the TSA, which will issue them an identity card that automatically earns them "green" status when they check in. This creation of a preferred class of travelers will automatically throw greater suspicion on those who have not obtained the special ID, adding to the pressure for people to participate. One would expect that soon the identity card would be used in other business sectors—perhaps to check in to a hotel—as well.

In the works for over a year, the implementation of CAPPS 2 has been delayed because of passenger resistance to turning their personal information over to the government. When Delta Airlines initially agreed to submit its passenger data to use in testing the system, opponents of the plan set up a web site promoting a boycott, and Delta withdrew. Then in September, when JetBlue Airways acknowledged releasing 1.5 million passenger records to a military contractor, angry passengers filed a class action lawsuit over the violation of their privacy.

Northwest Airlines, the fourth-largest US carrier, has now admitted that it secretly provided the government with three months of confidential passenger data for use in a security project of the National Aeronautics and Space Administration's (NASA) Ames Research Center. The reservation data covered the period from October to

December 2001, when close to 11 million people traveled on the airline. As recently as September 23, 2003, Northwest denied that it had turned over the information, but last week admitted it had done so.

To overcome public opposition to providing such data to the government, the TSA has indicated it will order all airlines to uniformly turn over the requested information. In the meantime, it will conduct tests using data that European airlines have agreed to provide, despite concerns about possible violations of European Union privacy rules. The program is expected to be fully implemented by this summer.

CAPPS 2 represents a major buildup of the police-state apparatus that the Bush administration has been developing under the guise of the “war on terror.” Turning airports into internal checkpoints, similar to roadblocks, it creates a blanket system for monitoring and controlling the comings and goings of citizens and non-citizens alike.

No information is being released on the criteria established for assigning a “red” or “yellow” rating. In addition to being an extensive identity check, the stage one numerical rating incorporates an assessment of whether the traveler is “rooted in the community.” Does this mean that someone without a long credit or shopping history will be considered a high risk? Will those who recently moved be more likely to be denied the right to travel than those who have not? How this is determined remains secret, supposedly to prevent terrorists from figuring out how to “work” the system.

Such secrecy invites abuse. The government can target political opponents to be put in the “red” category without having to make any accounting for the action. Someone who finds himself banned from travel has no recourse. In truly Kafkaesque fashion, he cannot find out how his name got on the “do-not-fly” list, nor how he would be able to get it removed. The TSA claims it will have an ombudsman to whom those who feel they have been erroneously subjected to restrictions can complain, but there is no indication as to what authority the ombudsman will actually have.

TSA spokespeople expect that the new system will reduce the number of passengers subjected to additional searches to be reduced from the current 14 percent to as low as 5 percent. However, the computerized background and criminal record checks are expected to significantly increase the number of people who are denied permission to fly.

Civil liberties and privacy protection groups have

condemned CAPPS 2, the American Civil Liberties Union (ACLU) terming it “dragnet profiling.” As Barry Steinhardt, director of the ACLU’s program on technology, put it, “CAPPS 2 will be an even more intrusive form of data mining that, like the [current] no-fly list, will rely on both secret and inevitably incorrect information to make accusations against individuals.” He denounced the imposition of sanctions—interference with the constitutional right to travel—without due process.

In California, the ACLU has filed a lawsuit on behalf of two peace activists who were detained at San Francisco International Airport in August 2002, after being told their names appeared on a “master” list. They were not allowed to board their flight until police could question them and they were subjected to additional searches.

Documents received from the FBI under Freedom of Information Act requests suggest that the “no-fly” lists are being shared with embassies and military offices around the world. They also reveal discussion of posting the lists in the National Crime Information Center database, which is accessed every time police stop a motorist for a routine traffic violation. A misspelling, or just a similarity in names, could then subject innocent people to police harassment anywhere, not just at airports.

Security experts also express concerns that the new programs will detract from rather than enhance the safety of air travel. Besides the possibility of identity theft, they point out that determined terrorists can patiently develop a profile for themselves that develops a “green” rating, giving screening agents a false sense of security towards them.

Once in place, CAPPS 2 is not expected to be limited to the nation’s 26,000 daily airline flights. In 2002, the US Transportation Secretary Norman Mineta described the program as “the foundation” for broader measures, such as the screening of truck drivers, railroad conductors and other transportation workers. In fact, there is no reason to think that such screening might not become as common as the use of drug tests as part of pre-employment reviews.



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