

United States Senate

WASHINGTON, DC 20510

November 20, 2024

The Honorable Joseph Cuffari
Inspector General
Department of Homeland Security
245 Murray Lane SW
Washington, D.C. 20528-0305

Dear Mr. Cuffari,

We urge you to conduct thorough oversight of the Transportation Security Administration's ("TSA") use of facial recognition technology for passenger verification from both an authorities and privacy perspective. This technology will soon be in use at hundreds of major and mid-size airports without an independent evaluation of the technology's precision or an audit of whether there are sufficient safeguards in place to protect passenger privacy.

TSA reportedly plans to introduce next-generation credential authentication technology (CAT) equipped with facial recognition at over 430 airports nationwide.¹ Yet the agency already deploys non-facial recognition devices, known as CAT-1 scanners, which are capable of determining if identification documents are fraudulent. TSA has not provided Congress with evidence that facial recognition technology is necessary to catch fraudulent documents, decrease wait times at security checkpoints, or stop terrorists from boarding airplanes.

Nor is this technology foolproof. According to the Washington Post, TSA reported a 3% false negative match rate in identity capture, which would mean more than 68,000 discrepancies daily if applied to all 2.3 million daily travelers.² Facial recognition would also fail to stop the hundreds of people who reportedly bypass security checkpoints in a given year.³

While the TSA claims facial recognition is optional, it is confusing and intimidating to opt out of TSA's facial recognition scans, and our offices have received numerous anecdotal reports of Transportation Security Officers (TSOs) becoming belligerent when a traveler asks to opt out, or simply being unaware of that right. Signage directing passengers to follow officer instructions and step in front of the facial recognition camera is prominently displayed, while the signage for opting out is often strategically placed in inconspicuous locations, making it challenging to read and locate. TSOs are inconsistently trained on how to respond to passengers who request to opt out and have told passengers they will face delays for opting out.⁴

¹ *Facial Recognition Technology*, Transp. Sec. Admin., <https://www.tsa.gov/news/press/factsheets/facial-recognition-technology> (last visited Oct. 8, 2024).

² Shira Ovide, *You Can Say No to a TSA Face Scan. But Even a Senator Had Trouble*, WASH. POST (July 11, 2023), <https://www.washingtonpost.com/technology/2023/07/11/tsa-airport-security-facial-recognition/>.

³ See Natalie B. Compton, *Hundreds of People Bypassed Parts of Airport Security in Last Year*, WASH. POST (Apr. 4, 2024), <https://www.washingtonpost.com/travel/2024/04/04/airport-security-tsa-stowaway/>.

⁴ Ovide *supra* note 2.

Additionally, despite promising lawmakers and the public that this technology is not mandatory, TSA has stated its intent to expand this technology beyond the security checkpoint and make it mandatory in the future. In April 2023, TSA Administrator Pekoske admitted at the South by Southwest Conference that “we will get to the point where we will require biometrics across the board.”⁵ If that happens, this program could become one of the largest federal surveillance databases overnight without authorization from Congress.

We urge you to thoroughly evaluate TSA’s facial recognition program and report your findings to Congress before it becomes the default form of passenger verification at security checkpoints. We specifically request the following:

1. Assess the effectiveness, including through red team testing by OIG law enforcement, of the use of facial recognition technology in identifying passengers traveling with disguises or false identification documents, compared to other methods of identity verification.
2. Assess whether or not the technology has resulted in a meaningful reduction in passenger screening delays, compared to other likely causes of delays.
3. Assess the number of times the system has prevented known terrorists or other individuals on the no-fly list from boarding an airplane and its effectiveness in this regard.
4. Evaluate whether the use of this technology would result in or enable TSO workforce reductions or reallocations.
5. Evaluate the prevalence and significance of identity verification errors across demographic groups.
6. Evaluate the effectiveness of TSA’s communication practices, especially regarding the right of passengers to opt out of facial recognition technology, and make recommendations for protecting individual privacy, civil rights, and civil liberties.
7. Evaluate TSA’s collection and storage of travelers’ biometric data and determine when and whether TSA deletes this information following passenger verification.
8. Identify the cybersecurity and data security protocols that TSA must follow in accordance with U.S. law to protect personally identifiable information and assess whether TSA is abiding by such requirements with respect to passengers’ biometric data.

Thank you for your attention to this matter and we look forward to your findings.

Sincerely,

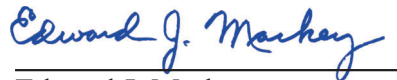


Jeffrey A. Merkley
United States Senator



John Kennedy
United States Senator

⁵*Accelerating Aviation Security: Innovative New Technology Keeping The Skies Safe*, SXSW(Mar. 14, 2023), <https://schedule.sxsw.com/2023/events/PP1143589>.



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