

Face scans for US citizens flying abroad stir privacy issues (Update)

July 12 2017, by Frank Bajak And David Koenig



U.S. Customs and Border Protection supervisor Erik Gordon, left, helps passenger Ronan Pabhye navigate one of the new facial recognition kiosks at a United Airlines gate before boarding a flight to Tokyo, Wednesday, July 12, 2017, at George Bush Intercontinental Airport, in Houston. The Trump administration intends to require that American citizens boarding international flights submit to face scans, something Congress has not explicitly approved and privacy advocates consider an ill-advised step toward a surveillance state. (AP Photo/David J. Phillip)

If the Trump administration gets its way, U.S. citizens boarding international flights will have to submit to a face scan, a plan privacy advocates call a step toward a surveillance state.

The Department of Homeland Security says it's the only way to successfully expand a program that tracks nonimmigrant foreigners. They have been required by law since 2004 to submit to biometric identity scans—but to date have only had their fingerprints and photos collected prior to entry.

Now, DHS says it's finally ready to implement face scans on departure—aimed mainly at better tracking visa overstays but also at tightening security. But, the agency says, U.S. citizens must also be scanned for the program to work.

Privacy advocates say that oversteps Congress' mandate.

"Congress authorized scans of foreign nationals. DHS heard that and decided to scan everyone. That's not how a democracy is supposed to work," said Alvaro Bedoya, executive director of the Center on Privacy and Technology at Georgetown University.

Trials are underway at six U.S. airports—Boston, Chicago, Houston, Atlanta, Kennedy Airport in New York City and Dulles in the Washington, D.C., area. DHS aims to have high-volume U.S. international airports engaged beginning next year.



A U.S. Customs and Border Protection facial recognition device is ready to scan another passenger at a United Airlines gate, Wednesday, July 12, 2017, at George Bush Intercontinental Airport, in Houston. The Trump administration intends to require that American citizens boarding international flights submit to face scans, something Congress has not explicitly approved and privacy advocates consider an ill-advised step toward a surveillance state. (AP Photo/David J. Phillip)

During the trials, passengers will be able to opt out. But a DHS assessment of the privacy impact indicates that won't always be the case.

"The only way for an individual to ensure he or she is not subject to collection of biometric information when traveling internationally is to refrain from traveling," says the June 12 document on the website of Customs and Border Protection, which runs the DHS program.

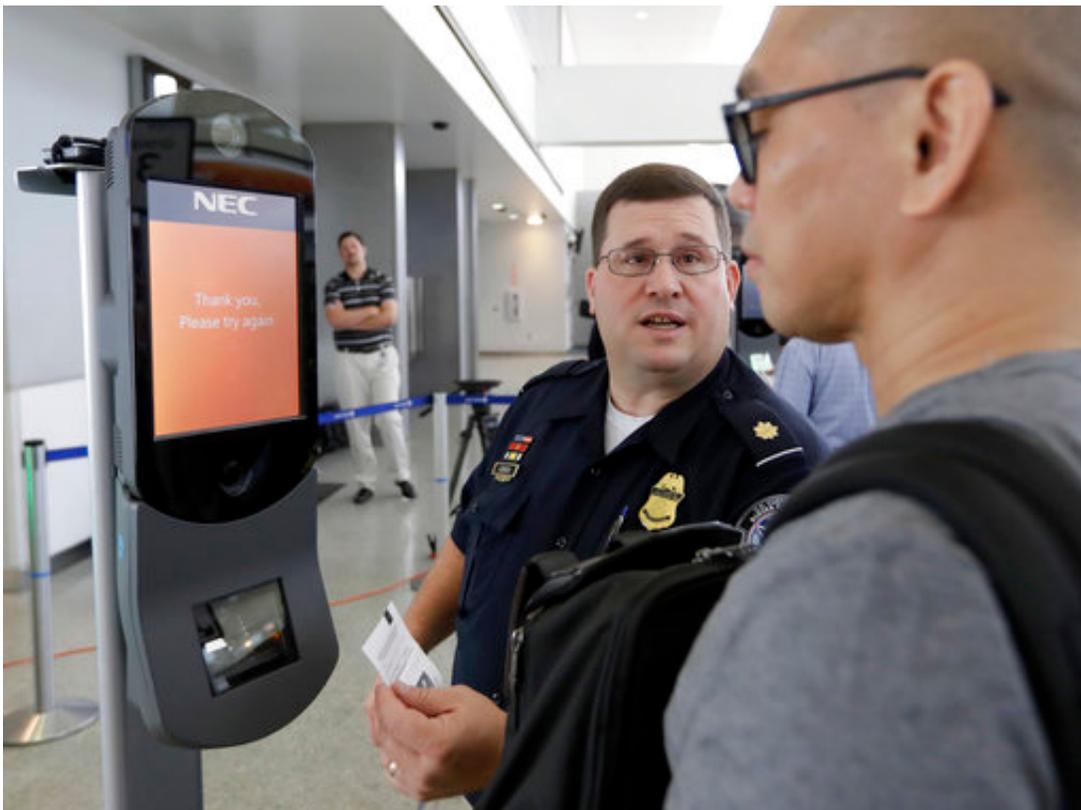
John Wagner, the Customs deputy executive assistant commissioner in

charge of the program, confirmed in an interview that U.S. citizens departing on international flights will submit to face scans.

Wagner says the agency has no plans to retain the biometric data of U.S. citizens and will delete all scans of them within 14 days. However, he doesn't rule out CBP keeping them in the future after going "through the appropriate privacy reviews and approvals."

A CBP spokeswoman, Jennifer Gabris, said the agency has not yet examined whether what would require a law change

Privacy advocates say making the scans mandatory for U.S. citizens pushes the nation toward a Big Brother future of pervasive surveillance where local and state police and federal agencies, and even foreign governments, could leverage citizens collected "digital faceprints" to track them wherever they go.



U.S. Customs and Border Protection supervisor Erik Gordon, center, helps a passenger navigate one of the new facial recognition kiosks at a United Airlines gate before boarding a flight to Tokyo, Wednesday, July 12, 2017, at George Bush Intercontinental Airport, in Houston. The Trump administration intends to require that American citizens boarding international flights submit to face scans, something Congress has not explicitly approved and privacy advocates consider an ill-advised step toward a surveillance state. (AP Photo/David J. Phillip)

Jay Stanley, an American Civil Liberties Union senior policy analyst, says U.S. law enforcement and security agencies already exert "sufficient gravitational pulls in wanting to record and track what masses of individuals are doing," he says.

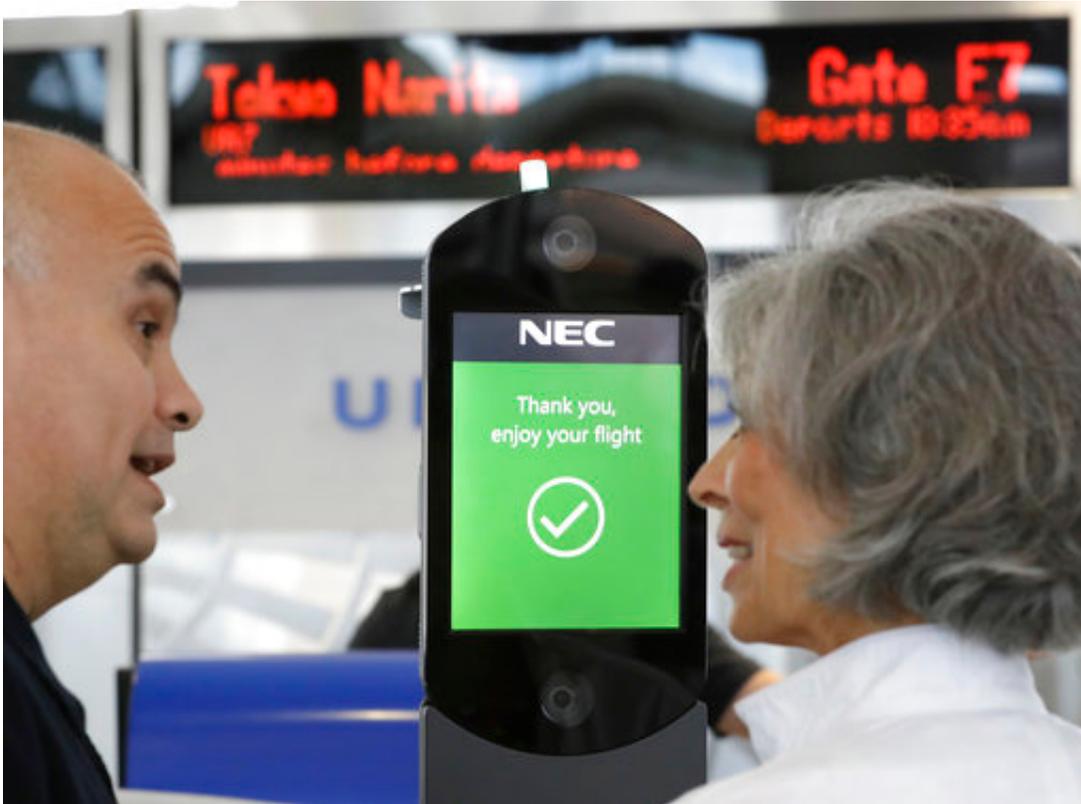
Sen. Edward Markey, D-Mass., said U.S. citizens should be able to opt out.

"I intend to closely monitor this facial recognition program to ensure that Americans can say 'no' to being subject to facial recognition and that DHS and airlines are fully transparent with the public about their future plans," he said in an emailed statement.

A network of government databases collects face scans from mug shots, driver's license and other images.

In an October report, the Georgetown center estimated more than one in four U.S. state and local law enforcement agencies can run or request face-recognition searches and federal agencies including the IRS have all had access to one or more state or local face recognition systems.

Bedoya said the images of at least 130 million U.S. adults in 29 states are stored in face recognition databases.



U.S. Customs and Border Protection officer Sanan Jackson, left, helps a passenger navigate one of the new facial recognition kiosks at a United Airlines gate before boarding a flight to Tokyo, Wednesday, July 12, 2017, at George Bush Intercontinental Airport, in Houston. The Trump administration intends to require that American citizens boarding international flights submit to face scans, something Congress has not explicitly approved and privacy advocates consider an ill-advised step toward a surveillance state. (AP Photo/David J. Phillip)

The FBI alone has more than 30 million photos in a single database, and New York state recently announced it would begin scanning the faces of

drivers entering New York City bridges and tunnels. Another DHS initiative worrying privacy advocates is TSA's Precheck, the voluntary program designed to speed enrollees through airport security with more than 5 million enrollees.

Participants are not being told the digital fingerprints and biographical data they submit for background checks when enrolling are retained in an FBI identity database for life, said Jeramie Scott, an attorney with the Electronic Privacy Information Center, a public interest nonprofit. Since last month, trials that let enrollees use a digital fingerprint scanner to speed through TSA security are underway in Atlanta and Denver.

EPIC worries not just about potential governmental abuse but also the vulnerability to hackers. In the 2015 breach of the federal Office of Personnel Management, 5.6 million sets of fingerprint images were stolen.

The biometric exit endeavor will cost billions. That's partly because U.S. airports don't have dedicated secure immigration areas for departing international flights. Domestic and international passengers commingle in the same concourses.

Currently, foreigners arriving in the U.S. submit to photo and digital fingerprint recording but there are no "exit" scans. U.S. citizens are subject to neither; their photos are digitally stored in a microchip in their passports with biographical data.

In written testimony to Congress in May, CBP said U.S. citizens leaving on international flights cannot be exempted from face scans because 1) It's not practical to run separate boarding systems for citizens and non-citizens and 2) Scanning U.S. citizens' passports will ensure they don't travel on a passport not their own.



U.S. Customs and Border Protection officer Sanan Jackson, right, helps a passenger navigate one of the new face recognition kiosks at a United Airlines gate before boarding a flight to Tokyo, Wednesday, July 12, 2017, at George Bush Intercontinental Airport, in Houston. The Trump administration intends to require that American citizens boarding international flights submit to face scans, something Congress has not explicitly approved and privacy advocates consider an ill-advised step toward a surveillance state. (AP Photo/David J. Phillip)

"This is a technologically advanced way to check identity as opposed to the 'analog' way it happens now," said DHS spokeswoman Jenny Burke.

Face recognition technology is getting better, but is far from perfect,

however. A smile recorded at the gate could, for example, trigger a mismatch when compared to a serious gaze in a passport photo.

Even the most accurate systems fail 5 percent to 10 percent of the time, said Anil Jain, a Michigan State professor.

Robert Mann, an aviation consultant in Port Washington, New York, said such a failure rate would be "a non-starter" by slowing the boarding process.

Congress last year approved up to \$1 billion over the next decade collected from visa fees to get the program rolling technically. That won't cover the additional border agents needed for gate checks, for starters.

DHS officials hope to defray costs through partnerships with airlines that are incorporating biometrics to boost efficiencies. Two airlines in the pilot program—Delta and JetBlue—tout identity-verification technology's convenience for other ends: Delta for speeding baggage handling, JetBlue for eliminating boarding passes.



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CBP knows it won't have a full picture of who is overstaying visas until face scans are also done at U.S. land and sea borders.

Such concerns shouldn't stop the government from moving ahead with the program and U.S. citizens have already sacrificed considerable

privacy as the price of fighting terrorists, said Dan Stein, president of the Federation for American Immigration Reform, which promotes restrictions on immigration.

He called it a "moral and security imperative."

More than 700,000 overstayed their visas in the year ending Sept. 30.

But Ben Ball, a biometrics consultant and former DHS analyst, says the government hasn't yet addressed the thorniest questions.

"This is still a theoretical system," he said. "We are the first country on earth to attempt a comprehensive biometric system and it's technically very complicated."



U.S. Customs and Border Protection officer Julio Corro, right, helps a passenger navigate one of the new facial recognition kiosks at a United Airlines gate before

boarding a flight to Tokyo, Wednesday, July 12, 2017, at George Bush Intercontinental Airport, in Houston. The Trump administration intends to require that American citizens boarding international flights submit to face scans, something Congress has not explicitly approved and privacy advocates consider an ill-advised step toward a surveillance state. (AP Photo/David J. Phillip)

Australia is among global pioneers in facial recognition for traveler processing. It is currently an option for bypassing manual immigration controls for arriving and departing international air travelers. Citizens from 15 nations including the United States are eligible.

The European Union is also moving toward face scans and fingerprint collection—but limited to third-country nationals crossing external borders. An agreement reached June 30 will now be submitted to the European Parliament.

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