

BIOMETRIC AIR EXIT POLICY

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I. BACKGROUND

Biometrics is the measurement and analysis of physical and behavioral characteristics that are used to identify individuals through technology. Examples of physical characteristics include the unique features of an individual's face or their fingerprint, while examples of behavioral characteristics includes an individual's voice, signature, or how they walk.

Due to technological advances, perceived customer benefits and federal requirements, there is a significant increase in public-facing facial recognition technology deployment by public and private sector users, including in airport and seaport settings. In fact, U.S. Customs and Border Protection (CBP) is Congressionally mandated to implement a biometric exit and entry screening process for all international passengers.

Facial biometrics are already being used at dozens of U.S. airports and cruise terminals by those who see the technology as a major benefit to travelers – both because of a faster and more efficient travel experience, as well as a more accurate security process. However, many members of the public and various advocacy organizations have expressed concerns about the rapidly expanding use of facial recognition. These stakeholders have raised issues around privacy, equity and civil liberties, as well as the potential for unregulated “mass surveillance.”

On December 10, 2019, the Port of Seattle Commission adopted seven “biometrics guiding principles,” and directed staff to translate those principles into tangible policies. Those principles are:

- Justified
- Voluntary
- Private
- Equitable
- Transparent
- Lawful
- Ethical

This Executive Policy is the implementation of that directive for “biometric air exit,” which is the use of facial recognition by CBP, the Port and/or airlines as part of CBP's Traveler Verification Service (TVS) to validate the identities of departing international airline passengers as they board the aircraft. Additional recommendations for other use cases will be enacted separately.

Biometric air exit is primarily intended to realize CBP's goal of determining whether foreign nationals have overstayed their authorized periods of admission, as well as to confirm whether the departing individual is truly the same person who entered the United States. Currently, this process relies upon passenger information provided by airline carriers through CBP's Advance Passenger Information System (APIS) from information furnished by ticket-purchasing passengers. That information is then matched to the entry data collected by CBP officers at the time that a foreign national was admitted to the U.S.

CBP has begun implementing its biometric exit program through its development of TVS and associated pilot programs. TVS is essentially a system of related databases hosted by CBP, containing the biometric facial recognition “template” of individuals that are ticketed on international flights. These templates are based on

images previously collected by CBP or other federal agencies, such as from passport or visa application photos. TVS allows CBP and/or one of its authorized partners (i.e. airports or airlines) to deploy camera systems that capture an image of an individual and send the image to CBP, along with the person's flight information, for processing. CBP attempts to match the image to its "gallery" of biometric templates for that particular flight and, if it confirms a match, transmits a "match/no match" confirmation back to the partner.

Authorized users of TVS are required by CBP to comply with a set of business requirements. For example, each camera must be connected to the TVS via a secure, encrypted connection, and each CBP's partner's IT system must allow CBP to audit compliance with these requirements. The biometric air exit program is only used at departure gates and only when international departing flights are boarding.

II. POLICY STATEMENT

Airports and airlines are not currently mandated to participate in CBP's biometric air exit program. Of the two dozen airports and airlines that have partnered with CBP to implement biometric air exit, all of them have joined the program voluntarily because they believe it improves customer facilitation and homeland security. However, if an airport or airline does not choose to partner with CBP to implement biometric air exit, CBP has authority to implement the program using its own staff and equipment at any international air departure gate.

After engaging in several months of consultations with both an internal working group and an external advisory group, the Port of Seattle believes that authorizing a Port biometric air exit policy is in the best interest of the Port of Seattle. Allowing the airport and/or its airline tenants to implement biometric air exit instead of CBP will give the Port greater control to ensure the transparency, accountability and customer service standards important to our organization.

The following biometric air exit policies will be implemented by the Port of Seattle as execution of the Port of Seattle Commission's Biometric Principles:

Policy 1:

- Port staff who request implementation of a common use¹ biometric air exit system at SEA gates used for international departing flights must receive approval from the Aviation Managing Director before proceeding with the procurement process, including by providing an explanation as to how it will comply with the Port's Biometric Principles. Staff must also provide documentation that their proposed process is compliant with CBP's Biometric Air Exit Requirements and TVS application programming interface (API) specifications.
- An airline requesting to implement biometric air exit at SEA gates used for international departing flights must receive approval from the Aviation Managing Director and provide an explanation as to how the implementation will comply with the Port's Biometric Principles and Policies. The airline requesting to implement biometric air exit at SEA gates must provide documentation that its proposed process has been approved by CBP, specifically documenting compliance with CBP's Biometric Air Exit Requirements and TVS API specifications.

Policy 2:

- If the proposed implementation of biometric air exit by Port staff does not require a Commission authorization², then the Aviation Managing Director must notify the Port Executive Director and the Port

¹ Meaning that the airport would provide technology that is then used by whatever airlines is using the departure gate for a departing international flight.

² Commission authorization is required for procurements valued at or above \$300,000.

Commission at least three (3) weeks before approving the request. The Aviation Managing Director must consider the following criteria in deciding whether or not to approve the implementation:

- Demonstrated operational benefit, which is defined as an added increased efficiency or effectiveness in passenger processing vs existing manual processes
- Compliance with all Port principles and policies
- Compliance with all CBP requirements
- Potential impact on travelers – both overall and for specific subsets of travelers

The Managing Director will also seek feedback from the Technology Ethical Advisory Board, once it is established.

- The Aviation Managing Director must notify the Port Executive Director and the Port Commission at least three (3) weeks before approving an airline request for biometric air exit, with an explanation of how the proposal complies with the Port's Biometrics Principles and Policies. The Aviation Managing Director must consider the following criteria in deciding whether or not to approve the implementation:
 - Demonstrated operational benefit, which is defined as an added increased efficiency or effectiveness in passenger processing vs existing manual processes
 - Compliance with all Port principles and policies
 - Compliance with all CBP requirements
 - Potential impact on travelers – both overall and for specific subsets of travelers

The Managing Director will also seek feedback from the Technology Ethical Advisory Board, once it is established.

- The Port will request that CBP notify the Port in advance of federal government implementation or expansion of biometric air exit.

Policy 3:

If the requested implementation of biometric air exit by Port of Seattle staff requires a Commission authorization, then the Commission memo must include an explanation of the intended use or purpose of the biometric air exit and how implementation furthers a specific airport operational benefit in compliance with the Port's Biometric Principles and Policies.

Policy 4:

If the proposed implementation of biometric air exit by Port staff requires a procurement, then the vendor solicitation document must include a request for explanation of how the technology will comply with the Port's Biometric Principles, Policies, and CBP's Biometric Air Exit Requirements.

Policy 5:

If the Port implements a common use biometric air exit solution, it should generally, subject to operational and logistical considerations, be used uniformly for all departing international flights at SEA; approval by staff of any biometric air exit solutions implemented by individual airlines shall be conditioned upon the airlines agreement that upon implementation of a Port common use biometric air exit solution, airline-implemented biometric air exit equipment and systems will be removed and replaced by the Port's selected technology.

Policy 6:

If the Port approves the implementation of biometric air exit for use at SEA by Port staff that requires a procurement, then the vendor proposal must include how its technology can help minimize the unintended capture of images of nontravelers or visitors.

Policy 7:

- The Port will develop standards and guidelines for where and how facial recognition cameras can be used at international departure gates. In particular, these guidelines will include ways to avoid unintended image capture – for example, by positioning the camera in a direction that does not face the main passenger area, use of a screen behind the individual being photographed, or use of a camera with a minimal field view.
- If the Port approves the use of biometric air exit by airlines, each airline must submit a plan for minimizing unintended capture of images of nontravelers.

Policy 8:

- If the Port approves any implementation of biometric air exit for use at SEA, the Port will design training standards for all users of biometric exit technology at SEA that includes the abovementioned standards for avoiding unintended capture.
- If the Port approves the implementation of biometric air exit for use at SEA, the Port will require all participating airlines to demonstrate that their employees have received training in line with the Port's standards for avoiding unintended capture.

Policy 9:

Where logistically feasible, implementing biometric air exit as an opt-in (rather than opt-out) program is most consistent with optimizing the intended voluntary nature of the program. The Port has specifically consulted with CBP in this regard and been informed that under current CBP requirements, airport and airline implementation of biometric air exit using CBP's TVS must be performed on an opt-out basis. However, going forward, the Port will continue to engage with CBP to determine whether it might consider an approved opt-in approach to biometric air exit, as opt-in, with appropriate notice to travelers, may be a preferable way to ensure voluntary and informed use of the program.

Policy 10:

For any Port implementation of biometric air exit that requires a procurement, all vendor proposals must include an explanation of how the technology solution will meet the Port's biometric Privacy principles and CBP's Biometric Air Exit Requirements, including by providing relevant privacy policies, data collection and storage practices, and cybersecurity practices.

Policy 11:

The Port will endeavor to seek clarification from the State of Washington Attorney General whether transmission of biometric data to CBP is exempt from state public disclosure requirements, so as to protect personally identifying information from release in conformity with the Port's obligations under the Washington Public Records Act and record retention requirements.

Policy 12:

- For any Port implementation of biometric air exit, all transmission of biometric data to CBP will meet CBP's Biometric Air Exit Requirements regarding encryption and other security standards.
- For any airline implementation of biometric air exit, any transmission of biometric data to CBP will meet CBP's Biometric Air Exit Requirements regarding encryption and other security standards.

Policy 13:

- Any data transmitted to CBP by the Port or received by the Port from CBP must be deleted in accordance with CBP's Biometric air exit requirements.
- Any data transmitted to CBP by an airline at SEA or received by an airline at SEA from CBP will be deleted in accordance with CBP's Biometric Air Exit Requirements.

Policy 14:

- No data transmitted to CBP by the Port or received by the Port from CBP may be used for any other purpose other than for processing departing international passengers at the boarding gate through TVS, in accordance with CBP's Biometric Air Exit Requirements. Unauthorized third-parties may not be provided access to any such data.
- Any data transmitted to CBP by an airline at SEA or received by an airline at SEA from CBP will not be used for any other purpose other than for processing departing international passengers at the boarding gate through TVS, and access to such data by unauthorized third parties will be prohibited, and such prohibition will be strictly enforced by the airlines, in accordance with CBP's Biometric Air Exit Requirements.

Policy 15:

If the desired implementation of biometric air exit by Port staff requires a procurement, then the vendor proposal must include an explanation of how it will meet the Port's Equity principle and CBP's Biometric Air Exit Requirements. Vendors will need to provide, to the extent applicable, information regarding how their proposed equipment and services enhance, to the extent possible in conjunction with use of CBP's TVS and required protocols, accuracy levels in identifying peoples of all backgrounds, gender, and age.

Policy 16:

As part of its due diligence in evaluating a decision to approve implementation of biometric air exit, to the extent publicly available from CBP:

- The Port will request updated accuracy rates from CBP – including a request for any available data segmented by key traveler characteristics – before approving any Port staff-requested biometric air exit implementation.
- The Port will request updated accuracy rates from CBP – including a request for any available data segmented by key traveler characteristics – before approving any airline-requested biometric air exit implementation.

Policy 17:

- In conformity with CBP's Biometric Air Exit Requirements, the Port will develop training standards for collecting and transmitting biometric data. The training must include, but not be limited to: the capabilities and limitations of facial recognition, and how to deal with mismatching issues with sensitivity and discretion.
- Before approving any airline-requested biometric air exit program, the Port will require airlines to verify that their employee training for operating biometric air exit includes the terms of CBP's Biometric Air Exit Requirements, the capabilities and limitations of facial recognition, and how to deal with mismatching issues with sensitivity and discretion.

Policy 18:

If the Port approves an implementation of biometric air exit by Port staff that requires a procurement, the vendor proposal must include an explanation of how it will support efforts to meet the Port's biometric "Transparent" principle. In addition, once the procurement contract is awarded, the vendor must support efforts to develop performance reports on a regular basis.

Policy 19:

- If the Port approves the implementation of biometric air exit by either Port staff or an airline, or CBP implements biometric air exit by exercising its federal jurisdiction, the Port will develop a comprehensive communications plan that complies with CBP requirements and notifies the general public of the implementation and all related information, including information pertaining to traveler rights with

regard to the program and avenues of potential recourse in case of violations of those rights and/or data breaches. The communications plan will include specific communications within the airport, including announcements, signage, flyers and web content.

- If the Port approves the implementation of biometric air exit by an airline for use at SEA, it will partner with that airline on implementation of the Port's biometric air exit communications plan.

Policy 20:

- If the Port approves the implementation of biometric air exit by Port staff or an airline or CBP implements biometric air exit by exercising its federal jurisdiction, the Port will produce an annual accountability report – in multiple languages – that includes approved, publicly available and/or disclosable information on topics such as:
 - A description of the biometric air exit program
 - Its general capabilities and limitations
 - How data is generated, collected, and processed
 - CBP's privacy guidelines
 - Information pertaining to traveler rights with regard to the biometric air exit system
 - The Port's biometric air exit training standards
 - Other relevant data, including any publicly available data shared by CPB about the accuracy and effectiveness of its system
 - Benchmarking data against the operational results of other airports' biometric air exit systems
 - An assessment of compliance with the Port's Biometrics Principles, CBP's Biometric Air Exit Requirements, and the biometric air exit policies promulgated in this document
 - Any Port conducted performance audits, within the limitations of CBP's federal jurisdiction, verifying the results of CBP audits
 - Any known or reasonably suspected violations of those rules and guidelines, including complaints alleging violations
 - Feedback about the public's experience, sought proactively in customer surveys, including whether travelers believe that they fully understand the information about the system
 - Any available information on data sharing within the U.S. Department of Homeland Security, such as what data is requested and by whom, within the limitations of the Port to require this information from CBP
 - Any airline sharing of individuals' biometric data with law enforcement, within the limitations of the Port to access and the airlines' ability to disclose
 - Any publicly available CBP audits of the biometric air exit system

This accountability report will be shared publicly through appropriate Port communications channels.

- If the Port approves the implementation of biometric air exit by an airline for use at SEA, it will work with the airline to share the Port's annual accountability report through relevant airline communications channels.
- As part of the Port's annual reporting, the Port staff shall request that each airline utilizing biometric air exit at the airport provide an annual assessment of its own compliance with the Port's Biometrics Principles and CBP's Biometric Air Exit Requirements, including any known or reasonably suspected violations or complaints alleging violations, as well as compliance with requirements implemented by staff pursuant to this Executive Policy.
The Port will include in its communications plan and accountability reports available and approved information publicly released by CBP about the biometric air exit program, including data on privacy, accuracy, audits, and other program details.

Policy 21:

The Port will periodically conduct its own performance evaluation, within the limitations of CBP's federal jurisdiction, to attempt to verify CBP's audit results and ensure that airline staff are following all Port policies, including those related to privacy, customer service, traveler communication and unintended image capture.

Policy 22:

- If the Port approves the implementation of biometric air exit by Port staff or an airline, it must comply, and shall require that airlines comply, with all applicable state and federal laws including privacy and discrimination laws.
- If the Port approves the implementation of biometric air exit by Port staff or an airline or CBP implements biometric air exit by exercising its federal jurisdiction, Port staff will develop a comprehensive understanding of how local, state and federal data breach statutes would apply to a biometric air exit data breach, and what recourse travelers would have in those situations. This information will be shared as part of the Port communications plan.

Policy 23:

- Port staff will actively track and work with stakeholders to advocate for state and federal laws and regulations that codify the goals of the Port's biometric principles.
- The Port will engage its airline partners in its advocacy for state and federal laws and regulations that codify the goals of the Port's biometric principles.

Policy 24:

If the Port approves the implementation of biometric air exit for use at SEA, or CBP implements biometric air exit by exercising its federal jurisdiction, the Port will develop an engagement plan with local jurisdictions, nonprofit organizations and others to educate local immigrant and refugee communities about the biometric air exit program. Specifically, the Port will ensure that these communities are fully informed about the program, the technology and information regarding traveler rights – in multiple languages and in culturally appropriate ways.

Policy 25:

- If the Port approves the implementation of biometric air exit for use at SEA, or CBP implements biometric air exit by exercising its federal jurisdiction, the Port will work with local jurisdictions, nonprofit organizations and others to inform local immigrant and refugee communities – in multiple languages and in culturally appropriate ways – about resources for sharing concerns about any incidents in which they do not feel they have been afforded their full legal rights and/or their treatment has not been fully respectful.
- If the Port approves the implementation of biometric air exit for use at SEA, the Port will work with participating airlines to inform local immigrant and refugee communities – in multiple languages and in culturally appropriate ways – about resources for sharing concerns about any incidents in which they do not feel they have been afforded their full legal rights and/or their treatment has not been fully respectful.

Policy 26:

The Port will form a Technology Ethical Advisory Board – composed of community stakeholders, academics, technology experts and other key stakeholders – to advise on the ethical issues raised by implementation of biometric technology and other innovations. This advisory board will be consulted on a regular basis to ensure that Port technology implementation – specifically new biometrics programs – are fully aligned with this principle.

III. PROCEDURES FOR NOTICE

- The Port will inform employees about this policy by posting it online at: <http://compass.portseattle.org/corp/legal/Pages/PoliciesandProcedures.aspx#exec>
- The Port will train relevant aviation employees and other associated corporate staff on this policy.
- The Port will communicate this policy directly to airlines and CBP through existing communication channels.
- The Port will communicate this policy to all relevant external stakeholders, elected officials and impacted community organizations through existing communication channels.

The Executive Director will work with Port staff to develop any necessary rules and regulations as necessary to implement the policies set forth herein at the airport.

IV. VIOLATIONS

In accordance with the Port of Seattle's Standards of Performance and Conduct, Corrective Action and Discipline policy (HR-18), employees who violate this policy may be subject to disciplinary action, up to and including termination.

All employees have a responsibility for ensuring that this policy is followed. Concerns and potential violations should be reported to the Workplace Responsibility Officer, or anyone identified in the "Reporting Concerns Violations" policy.

The Port of Seattle strictly prohibits retaliation against any employee for making a good faith report of any potential or suspected violation of this policy or for cooperating in any investigation of such violation.

For further information contact [Eric Schinfeld](#).