

is contained in the CAPPS II system to the greatest extent feasible consistent with national security concerns. As detailed below, passengers can request a copy of most information contained about them in the system from the CAPPS II passenger advocate. Further, DHS is currently developing a robust review and appeals process, to include the DHS privacy office.

System Testing of CAPPS II

At this point, partly in response to concerns raised by the public about the viability and function of the CAPPS II program, TSA plans to test certain portions of the system, including the technological communications between the CAPPS II system and the various data sources, as well as the identity authentication programs. These tests are intended to respond to public concerns about speed, accuracy, and efficiency of the system. Testing will be concerned with the accuracy of public and private information contained in the system, particularly in the authentication process; the speed of response of the system; identifying and minimizing the data necessary to effectively conduct the operation of CAPPS II; and the overall ability of the system to identify risk levels effectively. During these tests, TSA will use and retain PNR data for the duration of the test period. It is anticipated that the test duration may be as long as 180 days. A persistent link to law enforcement databases will not be created for the purposes of the test, nor will data from the test be transmitted to airport screeners or used for screening purposes during the test period. If, however, an indication of terrorist or potential terrorist activity is revealed during the test period, appropriate action will be taken. A final Privacy Act notice will be published before the CAPPS II system is deployed.

Public Comments

TSA received well over 200 comments on proposed system of records DOT/TSA 010—"Aviation Security Screening Records." Comments generally expressed concern that the proposed CAPPS II system was too broad in scope and would prove invasive to passengers' privacy. Several commenters stated that the proposed system of records contained too wide a variety of personal information and allowed for the collection and retention of too much information on private citizens. Commenters also expressed concern about the quality of data contained in commercial databases, and that such data could be used to prevent them from traveling by air. Some commenters stated that the proposed

retention of data for up to 50 years was too long. Another concern expressed was the broad variety of "routine uses," which, in the opinion of some commenters, allowed TSA far too much discretion to disseminate private information. One commenter expressed the view that the CAPPS II system would lead to the misallocation of security resources.

TSA respects the concerns raised by commenters and has modified the proposed system of records to address many of those concerns. The test of the technological systems responds, in part, to concerns of accuracy, efficiency, and effectiveness, which are among the underpinnings of evaluating such a system's impact on an individual's privacy. Any subsequent modifications to the system that arise from the knowledge gained from these tests will be published in a subsequent notice.

This system notice reduces the extent to which TSA will maintain or disseminate personal information on airline passengers. At the same time, however, TSA must ensure that it collects information sufficient to carry out its security screening functions in an efficient and effective manner, consistent with its legislative mandate to ensure passenger and aviation security. In establishing the parameters of the Passenger and Aviation Security Screening Records system, TSA has attempted to address privacy interests of passengers and the public, while simultaneously working towards increased transportation security.

Responses to Comments; Modifications to System

As discussed above, several commenters objected to the amount of personal information that TSA proposed to maintain in the proposed system of records. Under this system notice, TSA will not retain significant amounts of personal information after completion of a passenger's itinerary. TSA eliminated language in the proposed notice that could be read to mean that TSA will collect and maintain large amounts of information about individuals.

Concerns have been raised about the retention of data after a passenger's travel. In response, TSA is working to minimize the length of time any data about passengers will be retained. In response to concerns, the proposal to maintain information about certain individuals for up to 50 years has been deleted. Under the final CAPPS II program, when active, it is anticipated that TSA will delete all records of travel for U.S. citizens and lawful permanent resident aliens not more than a certain number of days after the safe

completion of their travel itinerary. At this time, the amount of information about non-U.S. persons and the length of time for which that information will be kept when the CAPPS II system is deployed are matters still under consideration.

The limited test data used during the test period will be retained solely for the duration of the test; at the conclusion of the test, DHS expects that all data from the test will be destroyed, unless otherwise required by law. In either case, such data will not be included in the live activation of CAPPS II.

Commenters also objected to the broad description of the types of data to be collected from passengers. Specifically, commenters stated that there was no clear explanation of what TSA meant by "associated data" in the reference to TSA's collection of PNR and "associated data." In response, TSA has deleted the phrase "associated data."

Some commenters objected to the large variety of different types of data that TSA proposed to maintain in the system of records. TSA has significantly reduced the variety of data to be maintained in the system. For the vast majority of passengers, the CAPPS II system, when active, will maintain only the routine information that all individuals provide when making reservations, as contained in the PNR, including full name, date of birth, home address and home phone number, to the extent available. In addition, the CAPPS II system will contain authentication scores and codes, and a TSA-generated risk assessment score. The system will also contain some information derived from governmental databases containing information on, or pertinent to, the detection of terrorists and their associates and the detection of the serious criminal violations detailed in this notice, as well as information on government officials and other persons holding security clearances or positions of trust such as not to warrant heightened scrutiny. However, in response to specific concerns regarding the use of information about an individual's creditworthiness or individual health records, TSA will not use measures of creditworthiness, such as FICO scores, and individual health records in the CAPPS II traveler risk determination.

Other commenters raised concerns that large numbers of people would be prevented from flying as a result of the use of inaccurate commercial records. One of TSA's primary purposes in creating this new system is to avoid the kind of miscommunication and improper identification that has, on