



April 12, 2004

BY FACSIMILE - (571) 227-1946

Patricia Reip-Dice, Associate Director
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RE: Freedom of Information Act Request
and Request for Expedited Processing

Dear Ms. Reip-Dice:

This letter constitutes an expedited request under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and is submitted on behalf of the Electronic Privacy Information Center ("EPIC").

We are seeking the following agency records from September 2001 to the present, including but not limited to records referenced in press releases issued by AMR Corporation and Airline Automation Inc. (including but not limited to electronic records):

1. Any records concerning, involving or related to American Airlines passenger data.
2. Any records concerning, involving or related to disclosures of passenger data by Airline Automation Inc.

Request for Expedited Processing

This request warrants expedited processing because it pertains to a matter about which there is an "urgency to inform the public about an actual or alleged federal government activity," and the request is made by "a person primarily engaged in disseminating information." 6 CFR § 5.5(d)(1)(ii).

On April 9, 2004, American Airlines' parent corporation issued a press release stating:

American Airlines recently learned that in June 2002, at the request of the Transportation Security Administration (TSA), some passenger travel data was turned over by an American Airlines vendor to four research companies vying for contracts with TSA.

The discovery came as American reviewed whether it had turned over such data to the TSA following the announcement of data releases by other carriers. American authorized passenger names records (PNRs) held by its vendor, Airline Automation Inc., to be given directly to the TSA. Instead, AAI gave the data to four vendors.

Press Release, AMR Corporation, American Airlines Passenger Data Released In June 2002 (Apr. 9, 2004).

Airline Automation further explained that TSA sent it "written instructions . . . requesting AAI to provide the American Airlines data to four companies that were testing aviation security systems for TSA. AAI did so with the full knowledge and involvement of TSA officials engaged in efforts to test systems designed to improve airline security, as contemplated by the authorization from American Airlines." Press Release, Airline Automation, Inc., Airline Automation, Inc. Provided Data With the Consent of American Airlines, Inc. (Apr. 10, 2004).

The government activity at issue here -- requesting an airline to transfer passenger information to potential government contractors, possibly to test the CAPPS II passenger screening system without the knowledge or consent of the affected passengers -- raises serious privacy implications. American is the third airline, after JetBlue Airways and Northwest Airlines, to have disclosed passenger information at the government's request.

There is a particular urgency for the public to obtain information about TSA's involvement in this matter and how the data transfer relates to CAPPS II, perhaps more

now than when TSA granted EPIC's September 2003 and April 2004 FOIA requests for similar records concerning the JetBlue disclosure. Recent developments have placed CAPPS II under tremendous scrutiny from Congress and the media.

A report commissioned by Congress and issued by the General Accounting Office in February 2004 stated that serious problems in CAPPS II, including those related to privacy, have not yet been addressed by TSA. AVIATION SECURITY: Computer-Assisted Passenger Prescreening System Faces Significant Implementation Challenges, GAO-04-385 (February 2004). Furthermore, the House Committee on Transportation and Infrastructure Subcommittee on Aviation recently held a hearing on the status of CAPPS II where members of Congress expressed grave concerns about the program's feasibility.

American Airlines' disclosure of passenger information only fuels privacy concerns about disclosures of passenger data by airlines to the government. Numerous news outlets have reported on American Airlines' disclosure of passenger information since the airline announced it occurred. A search in the Lexis-Nexis U.S. newspaper and wire database for articles on "'American Airlines' and privacy" between April 9, 2004, when the airline revealed the disclosure, and April 12, 2004 returns 24 results from newspapers throughout the country (see attached search results).

The purpose of EPIC's request is to obtain information directly relevant to TSA's involvement in the transfer of American Airlines passenger data to companies vying for contracts with TSA and the testing of CAPPS II with actual passenger data. The records requested involve the manner and extent to which TSA is involved in such activities and clearly meet the standard for expedited processing.

Further, as I explain below in support of our request for "news media" treatment, EPIC is "primarily engaged in disseminating information."

Request for "News Media" Fee Status

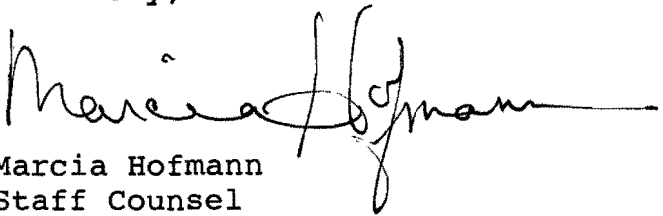
EPIC is a non-profit, educational organization that routinely and systematically disseminates information to the public. This is accomplished through several means. First, EPIC maintains a heavily visited Web site (www.epic.org) that highlights the "latest news" concerning privacy and civil liberties issues. The site also features scanned images of documents EPIC obtains under the FOIA. Second, EPIC publishes a bi-weekly electronic newsletter that is distributed to over 15,000 readers, many of whom report on technology issues for major news outlets. The newsletter reports on relevant policy developments of a timely nature (hence the bi-weekly publication schedule). It has been published continuously since 1996, and an archive of past issues is available at our Web site. Finally, EPIC publishes and distributes printed books that address a broad range of privacy, civil liberties and technology issues. A list of EPIC publications is available at our Web site.

For the foregoing reasons, EPIC clearly fits the definition of "representative of the news media" contained in the FOIA and the Department of Homeland Security regulations. Indeed, the U.S. District Court for the District of Columbia has held that EPIC is a "news media" requester under the FOIA. See Electronic Privacy Information Center v. Department of Defense, 241 F. Supp. 2d 5 (D.D.C. 2003). Based on our status as a "news media" requester, we are entitled to receive the requested records with only duplication fees assessed. Further, because disclosure of this information will "contribute significantly to public understanding of the operations or activities of the government," as described above, any duplication fees should be waived.

Thank you for your consideration of this request. As applicable Department regulations provide, I will anticipate your determination on our request for expedited processing within ten (10) calendar days. Should you have any questions about this request, please feel free to call me at (202) 483-1140 ext. 112.

Under penalty of perjury, I hereby affirm that the foregoing is true and correct to the best of my knowledge.

Sincerely,

A handwritten signature in black ink that reads "Marcia Hofmann". The signature is written in a cursive style with a long horizontal line extending to the right.

Marcia Hofmann
Staff Counsel