

REAL ID COMING TO KENTUCKY

Federal Mandate vs. State Sovereignty

"Bio" means body and "metrics" means measurements. **How can we be "secure in our persons" under the Fourth Amendment if we are required to provide biometrics to any government entity without a warrant?**

*"Notwithstanding the voluntary nature of the REAL ID Act, DHS assumes that States will willingly comply with the regulation to maintain the conveniences enjoyed by their residents when using their State-issued driver's licenses and non-driver identity cards for official purposes, particularly as it pertains to domestic air travel." **When did our right to travel and other rights become 'conveniences'?***

State lawmakers must be the buffer between an overreaching federal government and the citizens, not surrogates of the federal government.

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Four facts about REAL ID:

1. **Requires states to collect a facial-recognition-compatible photograph of all driver's license applicants.** Prior to the passage of the Real ID Act in 2005, most states were not using facial recognition technology. Today roughly 35 states are using it.
2. **Gives Secretary of DHS sole authority to determine for what "Official Purposes" citizens must present a Real ID without consulting with or having the approval of Congress:**

"DHS will continue to consider additional ways in which a REAL ID license can or should be use...DHS does not agree that it must seek the approval of Congress as a prerequisite to changing the definition in the future as Sec. 201(3) of the Act gives discretion to the Secretary of Homeland Security to determine other purposes."

Items that could be added:

- purchase of a weapon
- purchase of ammunition
- pick up a prescription
- anything else

3. **Links state DMV databases, allows federal access.** TSA says people will be able to board airplanes even without a Real ID or alternative acceptable ID. Legally under the provisions of the Driver's Privacy Protection Act of 1994, TSA could get a copy of a person's photo from a state DMV database. **Database linking exposes people to more identity theft.**

4. **The MRZ (Machine Readable Zone) of a Real ID is not encrypted.** DHS said encrypting would create technical challenges to law enforcement officers in the field. "Swiping" of the MRZ has become a problem.

“EMBRACING REAL ID”

MEANS USING IT TO:

“CASH A CHECK, HIRE A BABY SITTER,
BOARD A PLANE OR ENGAGE IN COUNTLESS
OTHER ACTIVITIES.”

- Homeland Security Secretary Michael Chertoff

The Road REAL ID Takes Us Down:

- A. International Organization for Standardization (ISO) sets standard for digital photograph.
- B. Nlets (now International Justice and Public Safety Network) uses DMV databases as a primary source of information. They **share biometric information/data/samples with countries all over the world** (no warrant required).

- C. TSA and DHS are focused on biometrics, not ID documents + FBI is spending over \$1 billion to create the **world's largest biometric database** + federal databases **compromised/hacked** = move away from ID document to directly on/in body.
- D. Mobile biometric enrollment centers make it possible to enroll people in remote areas like India, where half of the population (1/2 billion total) is already enrolled.
- E. In a few short years 3/4 of the countries in the world, representing **90% of the world's population, will have international ID's with biometrics.**
- F. FBI's "Rap Back" program collects fingerprints of innocent citizens + Comprehensive Immigration Reform requires employers to submit a facial recognition photograph to DHS + federal agencies and departments share biometric information = digital facial images of **innocent citizens will be in the FBI's NGI database.**

More future roll-out options:

- A. The Legal Workforce Act before Congress would require every employer regardless of size to collect the biometrics of each prospective employee and provide to DHS.
- B. The Photo Identification Security Act has been introduced in Congress many times. It requires all financial institutions to collect the biometrics of all customers.

State response to REAL ID:

- A. Some states have legislation prohibiting compliance with the Real ID Act, but still meet the first 18 benchmarks ("material compliance") under the premise they are complying with the **"best practices" of AAMVA** (American Association of Motor Vehicle Administrators).
- B. In 2009 the Kentucky House of Representatives passed one such resolution, HJR 133, 100-0.

Fourth Amendment Violations:

- A. The Supreme Court says **anonymity is a right.** Officers must articulate reasonable suspicion to require an individual to produce identification. "Capturing" facial image in public + comparing to facial images in databases = identifying person PLUS:
 - charities a person gives to
 - magazines the person subscribes to
 - political party a person has supported or is supporting
 - medication a person has been prescribed
 - many other tidbits of personal information
- B. Losing anonymity **erodes other rights** to free speech, peaceful assembly, redress of grievances, and religious freedom.
- C. CCTV, smart phones, drones, smart meters **expand interaction with law enforcement.**

Foreign Entanglement:

- A. Safran (U.S. subsidiary is Morpho Trust) is the largest vendor for biometrics to local, state and federal government.
 - 22% owned by the French government
 - Proclaims it has a nearly 40-year partnership with Red China
 - Boasts of offices all over the world including in China and Russia
 - Under investigation in a number of countries for bribery and other serious charges
- B. **U.S. companies have the technical capability to do what Morpho Trust does.**

SOLUTION: How to we make sure a person is who they say they are and does not have more than one driver's license?

Create a 'State-to-State Identity Verification System.' Breeder documents (birth certificates, social security cards, baptism record, etc.) establish who a person is.

1. **Number the document, not the person.** Biometrics of eleven Russian spies did not tell us who they really were because fraudulent breeder documents established false identity. France issued hundreds of thousands of E-Passports (biometric and RFID) to people who used fraudulent breeder documents. Puerto Rico issued tens of thousands of driver's licenses to people who used fraudulent breeder documents.
2. **Create software to know when the breeder document is used to obtain an ID.** The *system* would inform the DMV if the breeder document was used to obtain ID from another state. No two people could use the same breeder document or a fraudulent/counterfeit one. Best of all, our personal information does not go to DHS before we buy, sell, work or travel.

You cannot reconcile a free society with a surveillance state!