

RON WYDEN
OREGON

CHAIRMAN OF COMMITTEE ON
FINANCE

221 DIRKSEN SENATE OFFICE BUILDING
WASHINGTON, DC 20510
(202) 224-5244

United States Senate
WASHINGTON, DC 20510-3703

COMMITTEES:
COMMITTEE ON FINANCE
COMMITTEE ON THE BUDGET
COMMITTEE ON ENERGY AND NATURAL RESOURCES
SELECT COMMITTEE ON INTELLIGENCE
JOINT COMMITTEE ON TAXATION

November 3, 2022

The Honorable Antony Blinken
Secretary
Department of State
2201 C Street NW
Washington, DC 20520

Dear Secretary Blinken:

I write to express serious concern that the Department of State is providing law enforcement and intelligence agencies with unfettered access to personal data, originally collected through passport applications, of the more than 145 million Americans with a passport.

Abuses of this access came to light through a report of investigation by the Department of Homeland Security Office of Inspector General (OIG) into activities at Customs and Border Protection (CBP). According to the public version of the report, a CBP officer in a unit that was supposed to be looking into forced labor abuses inappropriately accessed the passport application of a U.S. journalist for purposes of “vetting” the journalist. The search was intended to identify “additional selectors” (e.g., email addresses or phone numbers) associated with the journalist as well as information on the journalist’s family members.

In the normal course of criminal investigations and intelligence collection, federal officers must rely on legal processes, including subpoenas and National Security Letters, in order to obtain subscriber information and similar records. The fact that many of the same records are readily available to federal agents through direct access to State Department passport applications removes any checks and invites exactly the kind of abuses detailed in the OIG report.

The breadth of this access highlights the potential for other abuses. In a July 13, 2022, briefing for my office, State Department officials confirmed that 25 other federal agencies have access to the Department’s database of passport applications. Department officials declined to identify the specific agencies, but said that both law enforcement and intelligence agencies can access the database. They further stated that, while the Department is not legally required to provide other agencies with such access, the Department has done so without requiring these other agencies to obtain compulsory legal process, such as a subpoena or court order.

My office has also sought information on the number of times that other agencies have accessed passport application data. However, on May 16, 2022, one month following this request, the Department informed my office by email that, while it was looking into the feasibility of generating such statistics, it “would not be able to break [the statistics] down by specific agencies most likely, but potentially State and non-State.”

911 NE 11TH AVENUE
SUITE 630
PORTLAND, OR 97232
(503) 326-7525

405 EAST 8TH AVE
SUITE 2020
EUGENE, OR 97401
(541) 431-0229

SAC ANNEX BUILDING
105 FIR ST
SUITE 201
LA GRANDE, OR 97850
(541) 962-7691

U.S. COURTHOUSE
310 WEST 6TH ST
ROOM 118
MEDFORD, OR 97501
(541) 858-5122

THE JAMISON BUILDING
131 NW HAWTHORNE AVE
SUITE 107
BEND, OR 97701
(541) 330-9142

707 13TH ST, SE
SUITE 285
SALEM, OR 97301
(503) 589-4555

[HTTPS://WYDEN.SENATE.GOV](https://wyden.senate.gov)

PRINTED ON RECYCLED PAPER

Given the clear abuses committed by CBP personnel and the potential for other abuses as a result of the broad interagency access to passport application data, I request that you provide me with answers to the following questions no later than December 9, 2022.

1. Please provide the complete list of external agencies with access to passport application data and any Memoranda of Understanding or other agreements governing that access.
2. Please provide data on the number of times each of these agencies have accessed passport application data. If no such data is available, please describe the specific actions the Department would need to take to be able to track such access.
3. What lessons has the Department learned from CBP's abuses of its access to passport application data and what is the Department doing to ensure such abuses don't occur in the future?

The Department's mission does not include providing dozens of other government agencies with self-service access to 145 million Americans' personal data. The Department has voluntarily taken on this role, and in doing so, prioritized the interests of other agencies over those of law-abiding Americans. While there is a legitimate role for the use of this information by law enforcement, the current unregulated system of interagency access to millions of Americans' records goes far beyond what a reasonable person would expect or tolerate.

In addition to requesting responses to the questions above, I urge the Department to undertake a number of reforms. First, the Department should develop a policy that would allow it to validate whether an interagency partner is accessing passport application data for a legitimate purpose, so that abuses such as those committed by CBP do not reoccur. Second, the Department should provide Americans with notice when their data is disclosed to other agencies, with clearly enunciated reasons for any exceptions to such notice. Third, the Department should annually publish aggregate statistics, broken down by requesting agency, so that Congress, the press, and the American people can be aware of the frequency with which Americans' personal data is accessed by other agencies. Fourth, the Department should work with other agencies that have expertise on privacy — such as the Federal Trade Commission and National Institute of Standards and Technology — to ensure that its policies are consistent with privacy best practices. I request that you provide me with a written plan, no later than December 9, 2022, detailing the steps that the Department will take to address these matters.

Thank you for your attention to this important matter. If you have any questions about this request, please contact Chris Soghoian in my office.

Sincerely,



Ron Wyden
United States Senator