

# Waivers of Fingerprinting Under the BIOVISA Program

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FM SECSTATE WASHDC

TO ALL DIPLOMATIC AND CONSULAR POSTS COLLECTIVE

SUBJECT: WAIVERS OF FINGERPRINTING UNDER THE BIOVISA PROGRAM

REF: 04 STATE 141510

1. Summary: Under the Biometric Visa Program there is a strict standard for waiver of fingerprinting of a visa applicant. The fingerprinting may be waived only in the case of a person traveling to the United States for medical treatment who, due to a medical condition, is physically unable to appear at post. There are absolutely no other individual waivers from fingerprinting, although there are limited class exemptions. Supervisory consular officers must check on a daily basis to ensure that no unauthorized fingerprint waivers were granted. Failure to comply with the fingerprinting requirement should be considered in a consular officer's performance evaluation. (Note that fingerprint "waivers" are granted to individual visa applicants, while fingerprint "exemptions" are granted for classes of visa applicants, such as government officials applying for A-1 or A-2 visas.) End summary.

## FIRST ANNIVERSARY OF BIOVISA PROGRAM

----- 2. The Biometric Visa (BioVisa) Program officially went into effect on October 26, 2004. As we approach the first anniversary of the BioVisa Program, we may all be proud of the tremendous effort that consular officers have put into making it a success. By collecting fingerprints with visa applications and checking them against the IDENT watchlist, we are preventing many ineligible applicants from obtaining visas. By storing the visa applicant's fingerprints in IDENT so that biometric identity verification may be performed at ports of entry, we are preventing visa fraud. Your efforts under the BioVisa Program have greatly enhanced the integrity of the U.S. visa.

## BIOVISA PROGRAM MUST MAINTAIN STRICT COMPLIANCE STANDARD

----- 3. It is an axiom of the BioVisa Program that consular officers may not waive fingerprints except for those

traveling to the United States for medical treatment who, due to a medical condition, are physically unable to appear at post. We realize posts may be under pressures to waive the fingerprint requirement for other reasons, but you may not do so. There is no waiver of the fingerprint requirement except in a medevac situation. Maintaining a strict standard of compliance for fingerprinting visa applicants serves to protect posts from pressure to waive the requirement.

#### SUPERVISORY CONSULAR OFFICERS TO MONITOR COMPLIANCE

----- 4. In order to facilitate monitoring of the fingerprinting requirement, we are adding a report to the Consular Consolidated Database (CCD) for supervisory consular officers that will allow them to review on a daily basis the cases at post in which fingerprints were waived. This report is found under the IDENT/US-VISIT/IAFIS CCD tab and is called Waived Fingerprints Report. Upon receipt of this telegram, supervisory consular officers must review this report daily. This report will also be reviewed in the Department. Failure by a consular officer to comply with the fingerprinting requirement should be recorded by the supervisory consular officer and should be considered in evaluating the performance of the consular officer who made the unauthorized waiver.

#### FINGERPRINTING CASE EXAMPLES

----- 5. The following are explanations of various fingerprinting cases and how they should be handled. NO HANDS -- If a person has no hands, obviously, the person cannot be fingerprinted. Although technically the consular officer has to indicate in the NIV or IV system that the fingerprints are being waived, this is not truly considered a waiver. In such cases, the consular officer must state in the CCD notes that the applicant has no hands.

PARALYTICS -- If a person's arms are paralyzed, some discretion must be exercised. If a person accompanying the applicant can assist with the fingerprinting, the fingerprinting may be undertaken. However, if the person is severely physically handicapped to the extent that fingerprinting would not be possible to accomplish, then this should be considered in the category of the person with no hands, in that fingerprinting is physically not possible. This should be noted in the CCD.

**BURNED FINGERS** -- If a person has burn scars on all fingers so that no fingerprints may be captured, this is another case in which fingerprinting is not physically possible, but is not considered a waiver. This should be noted in the visa case file.

**ONE HAND** -- If a person has one hand, the index finger and the thumb of that hand should be printed.

**PERMANENT ABNORMAL FINGER** -- If an abnormal condition, such as a growth on the finger, is permanent, the applicant would need to present a statement from a doctor attesting to the permanency of the condition. In such a case, if a good quality print cannot be obtained from the index finger, the thumb should be printed instead.

**CUT ON AN INDEX FINGER** -- If an applicant has a cut or a boil or any other temporary condition on an index finger, the applicant must be refused 221g and told to return when the condition is healed and the finger can be printed.

**THE ELDERLY** -- Only at age 80 and above are visa applicants exempt from fingerprinting. Posts have no authority to waive the fingerprinting for applicants under age 80 and must not make any such unauthorized waivers.

#### **REASON FOR STRICT COMPLIANCE STANDARD**

----- 6. The IDENT watchlist includes fingerprints of known or suspected terrorists, of wanted persons, of immigration law violators, and of some persons with criminal history records in the United States. Persons whose fingerprints are on the IDENT watchlist are often aware of this and may try means such as cutting their fingers to avoid detection. The IDENT watchlist is based on index fingerprints; if only one of two index fingers are captured for a person whose prints are on the watchlist, this decreases the possibility of a match. If a post has reason to suspect that an applicant has purposely damaged both index fingers -- for example, if both index fingertips are burned, but there are no other such burns on the hands -- the applicant should be required to submit 10 fingerprints for a clearance through the FBI.

#### **FINGERPRINTS MUST BE COLLECTED IN REFUSAL CASES**

----- 7. Fingerprints must be collected from all

applicants,  
including those whose visas applications are refused.  
This helps ensure that any refused applicant who later  
attempts to apply again under another identity will be  
unmasked through the IDENT check. There have been cases  
in which previous refusals were identified through the  
fingerprints alone.

#### DIFFERENCE BETWEEN WAIVER AND EXEMPTION

----- 8. Fingerprinting exemptions are granted for classes of  
applicants, such as government officials applying for A-1  
or A-2 visas to conduct official business in the United  
States, while fingerprinting waivers are granted for  
individuals. Posts should note that a fingerprinting  
exemption is tied to the type of visa (for example, A-1 or  
A-2), which is based on the purpose of the visit (official  
government business). The fingerprinting exemption does  
not apply to diplomats or other government officials  
applying for other types of visas; for example, a diplomat  
applying for a tourist visa is not exempt from  
fingerprinting. Thus, if a high-ranking government  
official wishes to travel to the United States for tourism  
only and is applying for a tourist visa, he or she must be  
fingerprinted without exception. The fingerprinting  
exemption does not apply to applicants for A-3 or G-5  
visas under any circumstances. See Reftel for full list  
of classes exempt from fingerprinting.

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