

b7C -1

b6 -1

From: [redacted]
Sent: Thursday, June 20, 2002 9:42 AM
To: [redacted]
Cc: [redacted]
Subject: Re: RE: USA PATRIOT Act Sec. 1009?

b7C -1

b6 -1

[redacted] - yes, I think so re coordinating and with [redacted] as POC.

[redacted] - as I originally stated, I think my draft letter is accurate, but should be coordinated/reviewed by others, which like CJIS and [redacted]

[redacted] - If you want to meet on the response I drafted and/or for us to gain a common understanding of the legislative intent etc, just let me know. Obviously, I could be off base because I responded only based on my own observations of the current situation and what I know or think I know to be happening in other Bureau entities.

Thanks to all [redacted]

>>> [redacted] 6/20/02 9:24:14 AM >>>

Thanks [redacted] From the threads on this message, sounds like CJIS and [redacted] will want to get together on this.

>>> [redacted] 06/20/02 09:14AM >>>

[redacted] just talked to [redacted] and we agree that he is best suited to take over this responsibility for now. if duties evolve into something else, then we may have to reassign later. for now [redacted] is the man. ext [redacted]

b7C -1

b6 -1

b2 -1

-----Original Message-----

From: [redacted]
Sent: Wednesday, June 19, 2002 9:55 AM
To: [redacted]
Cc: [redacted]
Subject: USA PATRIOT Act Sec. 1009?

[redacted] you may recall that back in November the FBI made a report to the AG on implementation responsibilities for various parts of the USA Patriot Act. IRD designated then-DAD Frank Sauer as the POC/ticket-holder for Section 1009. DOJ (OLP's [redacted]) is now calling for an update on implementation status (report was dues to Congress months ago). Now that Frank's moved from IRD, can you advise who has this ticket?

b7C -1,3

b6 -1,3

[redacted] Section 1009 requires the FBI to study and report to Congress on the feasibility of providing to the airlines "via computer" the names of passengers who are suspected of terrorist activities by federal law enforcement officials.. So I've also addressed this to you on the chance that in pursuit of your other info-sharing efforts you might have picked this up???

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 8/6/03 BY 60267NLS/AG/JS
CA# 03-1779

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FEDERAL BUREAU OF INVESTIGATION
FOIPA
DELETED PAGE INFORMATION SHEET

1 Page(s) withheld entirely at this location in the file. One or more of the following statements, where indicated, explain this deletion.

- Deletions were made pursuant to the exemptions indicated below with no segregable material available for release to you.

Section 552

Section 552a

(b)(1)

(b)(7)(A)

(d)(5)

(b)(2) - 4

(b)(7)(B)

(j)(2)

(b)(3)

(b)(7)(C) - 1, 3

(k)(1)

(b)(7)(D)

(k)(2)

(b)(7)(E) - 1

(k)(3)

(b)(7)(F)

(k)(4)

(b)(4)

(b)(8)

(k)(5)

(b)(5)

(b)(9)

(k)(6)

(b)(6) - 1, 3

(k)(7)

- Information pertained only to a third party with no reference to the subject of your request or the subject of your request is listed in the title only.

- Documents originated with another Government agency(ies). These documents were referred to that agency(ies) for review and direct response to you.

Pages contain information furnished by another Government agency(ies). You will be advised by the FBI as to the releasability of this information following our consultation with the other agency(ies).

Page(s) withheld inasmuch as a final release determination has not been made. You will be advised as to the disposition at a later date.

Pages were not considered for release as they are duplicative of _____

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SUSSMAN 202

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From:
Sent:
To:
Subject:

[Redacted]
Monday, July 22, 2002 1:48 PM
[Redacted]
Info for TSA Legal Request

CA# 03-1779
ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 8/6/03 BY 60267NLS/AG/JS

[Redacted] seems to believe that he is entitled to an immediate response to his issues, when the FBI has been waiting since Nov 2001 for resolution to our issues asking them for [Redacted] to the watch lists and to cooperate on crafting the Security Directives. They ignored [Redacted] January letter, and have yet to act, based on discussions held at a meeting in early June to go over these issues again. Therefore, I don't know that we should be in any rush for him, but you have to keep letting him think you're working on "it" - same tactic they use with us.

[Redacted] is going to write the FBI a letter about what TSA wants to know from us about detaining passengers, etc. These are the points that I think need to be iterated, among any others we might add about how a person gets on the list in the first place.

[Redacted]

b2 -4

b7E -1

1. What does the FBI want the TSA to "do" re a "No Fly" List?

A. [Redacted]

B. [Redacted]

C. [Redacted]

D. [Redacted]

E. [Redacted]

F. [Redacted]

G. [Redacted]

H. [Redacted]

b2 -4

I. [Redacted]

b5 -1,2

b7E -1

2. What is the legal justification for what the FBI wants the TSA to do?

A. The legal justification for requiring air carriers to identify passengers on threat lists (including NCIC) and for preventing passengers from boarding until and if identified as a "match" may be found in the Aviation and Transportation Security Act (ATSA) of 2001, passed on November 19, 2001, mandates in Section 101, (a), §114 (h) entitled "Management of Security Information", that the Under Secretary of Transportation for Security shall:

- (1) enter into memoranda of understanding with Federal agencies or other entities to share or otherwise cross-check as necessary data on individuals identified on Federal agency databases who may pose a risk to transportation or national security;
- (2) establish procedures for notifying the Administrator of the Federal Aviation Administration, appropriate State and local law enforcement officials, and airport or airline security officers of the identity of individuals known to pose, or suspected of posing, a risk of air piracy or terrorism or a threat to airline or passenger safety;

(3) in consultation with other appropriate Federal agencies and air carriers, establish policies and procedures requiring air carriers--

(A) to use information from government agencies to identify individuals on passenger lists who may be a threat to civil aviation or national security; and

(B) if such an individual is identified, notify appropriate law enforcement agencies, prevent the individual from boarding an aircraft, or take other appropriate action with respect to that individual; and

(4) consider requiring passenger air carriers to share passenger lists with appropriate Federal agencies for the purpose of identifying individuals who may pose a threat to aviation safety or national security.

B

C

That's as far my legal brain will carry me, which may still not be far enough to properly address the issues. Thanks.

SSA [redacted] (fax)
Civil Aviation Security Program, Room 11795
Domestic Terrorism Counterterrorism Planning Section
Counterterrorism Division
[redacted]@leo.gov

b2 -1, 2, 4

b5

b7C -1

b7E -1

b6 -1

SUSSMAN-204

b7C -1
b6 -1

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 8/6/03 BY [redacted]

b2 -4
b7C -3
b7D -1
b7E -1
b6 -3
b2 -4
b7C -1,5
b7D -1
b7E -1
b6 -1,5

Ref of Slave of TSA

[redacted]
From: [redacted]
Sent: Wednesday, July 31, 2002 9:14 PM
To: [redacted]
Cc: [redacted] ACLIMMIN
Subject: Re: [redacted]

I talked at great length with [redacted] onite. She is with Customs as you said. [redacted]
[redacted] They are the same issues we face with our own agents, so solve those and we don't need a meeting. I think we need to talk in-house again, once you get those criteria about who ends up on the list. We need to try and draw a line about the minimum info needed on someone before they go on a list.

[redacted]

>>> [redacted] 07/30/02 09:55AM >>>
All - Re previous mail, the day was incorrectly listed as Tuesday, and because the flight time from Dulles doesn't arrive [redacted] until 9:56 am [redacted] scheduled the meeting from 11am - 1pm. I've made the change in the original mail below. In addition, there will be no discussion [redacted] as the No Fly List issues will undoubtedly take up the whole 2 hours.

I will be attending, as will [redacted] for TSA. I strongly suggest that as many of you plan to attend as possible (with the possible exception of TMU).

FYI - The [redacted] and TSA consider [redacted] TSA No Fly List matters (I'm still [redacted] The list is known as the "FBI Watchlist" in all circles and the TSA is referring all complaints from citizens to the FBI, [redacted] Now, I don't mind that as I believe I am able to explain to them how it works and some of their options for contacting the airlines, as in most cases, it is the airlines that are causing delays by not clearing the passengers when they can.

Thank you. [redacted]

[redacted]

[redacted]

b7C -1, 3, 5

Thank you.

b7D -1

b2 -4

b6 -1, 3, 5

From: [redacted] state.gov>

b7C -1, 3, 5

To: [redacted] (FBI)" <[redacted] (E-mail)" [redacted]

b7D -1

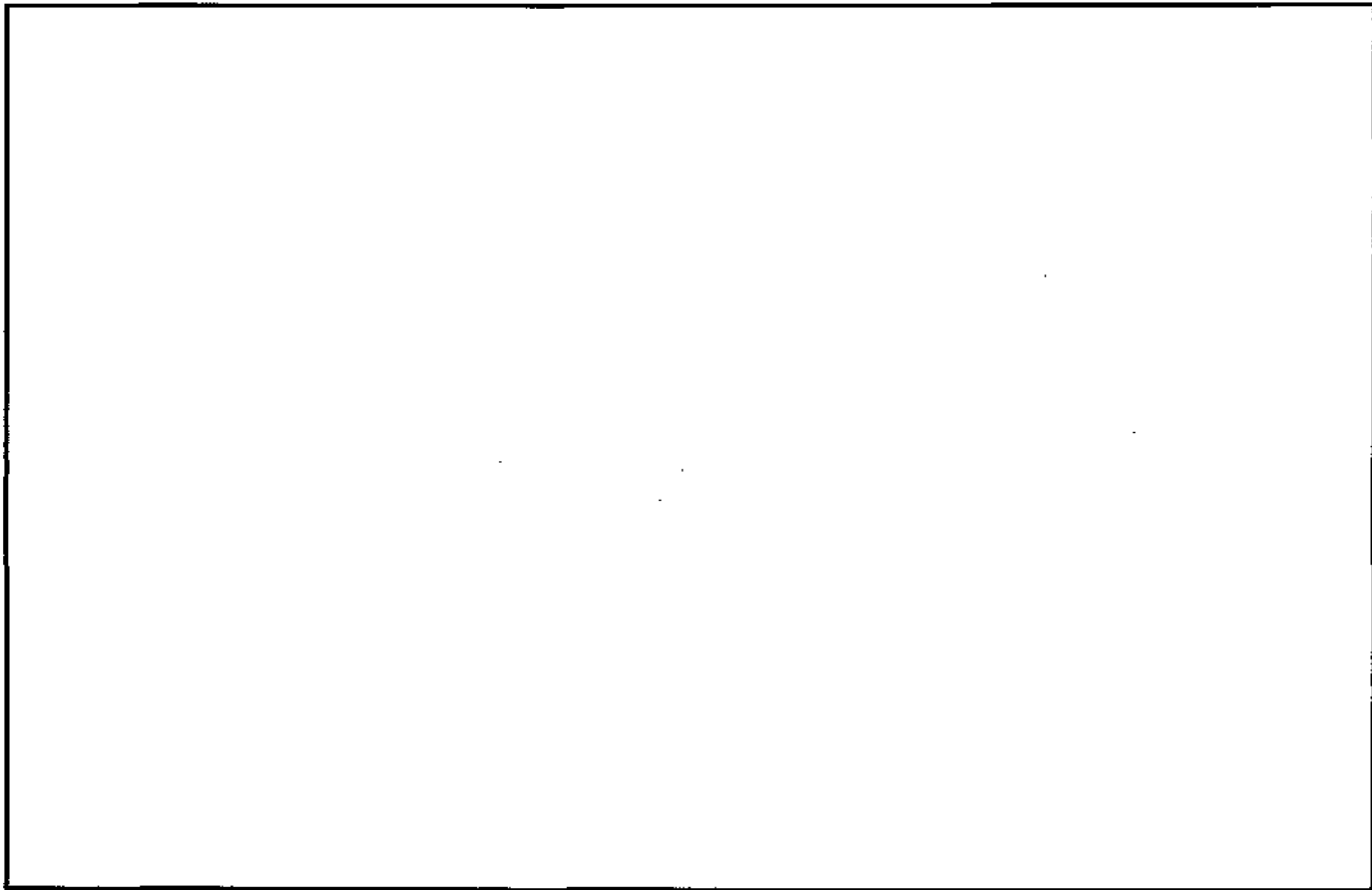
Cc: [redacted] (E-mail)" <[redacted] <[redacted] <[redacted]

b7E -1

Subject: RE: TSA No Fly List

b6 -1, 3, 5

Date: Thu, 18 Jul 2002 13:51:03 -0400



-----Original Message-----

b2 -2

From: [redacted] (FBI) [mailto:[redacted]@leo.gov]

b7C -1, 2, 3, 5

Sent: July 06, 2002 2:51 PM

To: [redacted] (E-mail); [redacted]

b7D -1

Cc: [redacted] (E-mail); [redacted] (E-mail)

b6 -1, 2, 3, 5

Subject: Re: TSA No Fly List

[redacted] sorry, I was looking on the wrong lists - it looks like there is a [redacted] on the most current Selectee List 44.

[redacted]

-----Original Message-----

From: [redacted] (FBI)" <[redacted]@leo.gov>
To: [redacted] (E-mail)" <[redacted]@faa.gov>
Cc: [redacted] (E-mail)" <[redacted]@state.gov>; [redacted] (E-mail)" <[redacted]@ost.dot.gov>
Sent: Friday, July 05, 2002 5:50 PM
Subject: Re: TSA No Fly List

b7C -1,3,5

b6 -1,3,5

b7C -2,5

b6 -2,5

Hello, [redacted]

It appears that there is no more [redacted] on either of the two lists (No Fly 73 or Selectee 44), so Mr. [redacted] should have no more problems for now. However, if another [redacted] should be put on the list, his name would trigger something. Your advice was the best that could be given under the circumstances. I don't know if FBI put him on the list or not.

[redacted]

[redacted] Supervisory Special Agent
Civil Aviation Security Program
Special Events Management Unit, Room 11795
Domestic Terrorism Counterterrorism Planning Section
Counterterrorism Division
Federal Bureau of Investigation
[redacted] (fax)

b2 -1

b7C -1

b6 -1

----- Original Message -----

From: [redacted]@tc.gc.ca
To: [redacted] (E-mail)" <[redacted]@faa.gov>
Cc: [redacted] (E-mail)" <[redacted]@state.gov>; [redacted] (E-mail)" <[redacted]@ost.dot.gov>; [redacted] (E-mail)" <[redacted]@leo.gov>
Sent: Friday, July 05, 2002 9:51 AM
Subject: TSA No Fly List

b7C -1,3,5

b7D -1

b6 -1,3,5

b7C -2,5

b7D -1

b6 -2,5

There is a specific case involving the TSA List which is a slightly bigger problem for us. The list contains the name: [redacted] we have a Mr. [redacted] who is continually denied access to the automated check-in and is given the third degree every time he flies. The problem is our Mr. [redacted] which means that he is a member of [redacted] which means that he is required to travel the world for preparatory meetings related to the [redacted] We have advised our [redacted] to book his ticket using his full names which match those on his passport i.e. [redacted] His travel agent has added his Frequent Flyer details to all his bookings and provides Mr. [redacted] DOB, Passport # and Country of Issue so he can be checked out early through [redacted] when he travels to the [redacted] Still he gets hassled. Is there anyway way for you folks to verify whether [redacted] is still a valid name, add more details or delete it? We're still looking forward to meeting with you folks to try and come to grips with the TSA List issue.

[redacted]

097 03-1779

From: [redacted]
Sent: Tuesday, July 30, 2002 9:56 AM
To: [redacted] ACUMMINGS b7D -1
Cc: [redacted]
Subject: UPDATE/FOLLOWUP [redacted]

State SA

All - Re previous mail, the day was incorrectly listed as Tuesday, and because the flight time fr
doesn't arrive [redacted] until 9:56 am, [redacted] scheduled the meeting from 11am - 1pm. I v
change in the original mail below. In addition, there will be no discussion [redacted]
Fly List issues will undoubtedly take up the whole 2 hours.

b2 -4
b7C -3
b7E -1

I will be attending, as will [redacted] fo
strongly suggest that as many of you plan to attend as possible (with the possible exception of TMU).

b6 -3

FYI - The [redacted] and TSA consider [redacted] TSA No Fly List matters (I'm still
[redacted] The list is known as the "FBI Watchlist" in all
circles and the TSA is referring all complaints from citizens to the FBI. [redacted] Now, I don't
mind that as I believe I am able to explain to them how it works and some of their options for contacting the
airlines, as in most cases, it is the airlines that are causing delays by not clearing the passengers when they

b2 -4
b7E -1
b7C -1,3

Thank you. [redacted]

b7D -1
b6 -1,3

[Large redacted block]

b2 -4
b7D -1
b7E -1

Thank you.

b2 -4
b7E -1

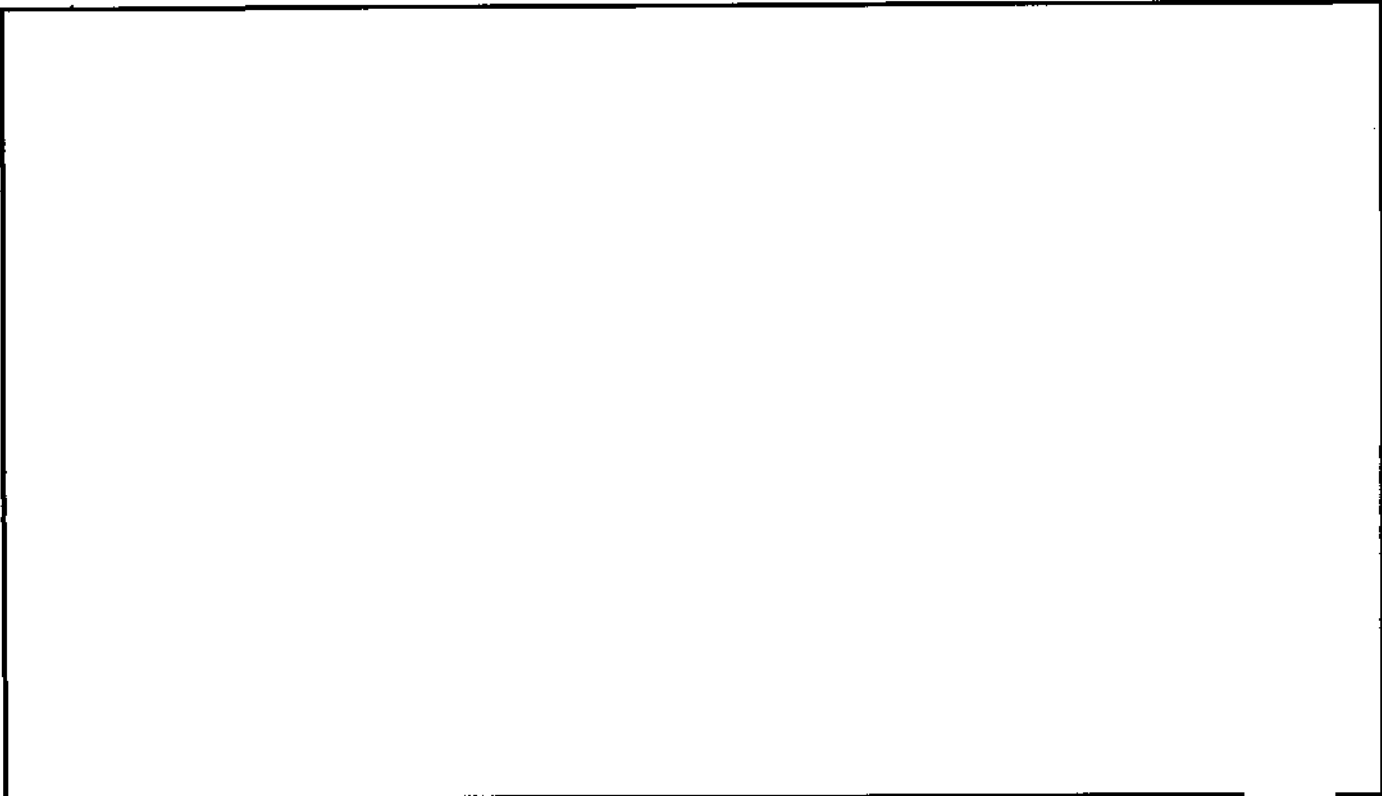
From: [redacted] <[redacted]@state.gov>
To: [redacted] (FBI) <[redacted] (E-mail)>
Cc: [redacted] (E-mail) <[redacted]>

b7C -1,3,5
b7D -1
b6 -1,3,5

Subject: RE: TSA No Fly List
Date: Thu, 18 Jul 2002 13:51:03 -0400

[Redacted block]

b2 -4
b7D -1
b7E -1



b2 -4

-----Original Message-----

From: [redacted] (FBI) [mailto:[redacted]@leo.gov]
Sent: July 06, 2002 2:51 PM
To: [redacted] (E-mail); [redacted]
Cc: [redacted] (E-mail); [redacted] (E-mail)
Subject: Re: TSA No Fly List

b7C -1, 3, 5
b7D -1
b6 -1, 3, 5

b7C -1, 3, 5
b7D -1
b7E -1
b6 -1, 3, 5

[redacted] - sorry, I was looking on the wrong lists - it looks like there is a [redacted] on the most current Selectee List 44.

b7C -1, 2, 5

[redacted]

b7D -1

b6 -1, 2, 5

----- Original Message -----

From: [redacted] (FBI)" <[redacted]@leo.gov>
To: [redacted] (E-mail)"
[redacted]@faa.gov>
Cc: [redacted] (E-mail)" [redacted]@state.gov>; [redacted]
(E-mail)" [redacted]@ost.dot.gov>
Sent: Friday, July 05, 2002 5:50 PM
Subject: Re: TSA No Fly List

b7C -1, 3, 5
b7D -1
b6 -1, 3, 5

b7C -2, 5
b6 -2, 5

Hello, [redacted]

It appears that there is no more [redacted] on either of the two lists (No Fly 73 or Selectee 44), so Mr [redacted] should have no more problems for now. However, if another [redacted] should be put on the list, his name would trigger something. Your advice was the best that could be given under the circumstances. I don't know if FBI put him on the list or not.

[Redacted]

[Redacted] Supervisory Special Agent
Civil Aviation Security Program
Special Events Management Unit, Room 11795
Domestic Terrorism Counterterrorism Planning Section
Counterterrorism Division
Federal Bureau of Investigation
[Redacted] (fax)

b2 -1
b7C -1
b6 -1

b7C -1, 3, 5
b7D -1
b6 -1, 3, 5

----- Original Message -----

From: [Redacted]
To: [Redacted] (E-mail)" [Redacted]@faa.gov
Cc: [Redacted] (E-mail)" [Redacted]@state.gov; [Redacted] (E-mail)"
[Redacted]@ost.dot.gov; [Redacted] (E-mail)" [Redacted]leo.gov
Sent: Friday, July 05, 2002 9:51 AM
Subject: TSA No Fly List

b7C -1, 5
b6 -1, 5

[Redacted]

There is a specific case involving the TSA List which is a slightly bigger problem for us. The list contains the name: [Redacted] we have a Mr. [Redacted] who is continually denied access to the automated check-in and is given the third degree every time he flies. The problem is our [Redacted] which means that he a member of [Redacted] which means that he is required to travel the world for preparatory meetings related to the [Redacted] We have advised our [Redacted] to book his ticket using his full names which match those on his passport i.e. [Redacted] His travel agent has added his Frequent Flyer details to all his bookings and provides Mr [Redacted] DOB, Passport # and Country of Issue so he can checked out early through [Redacted] when he travels to the [Redacted] Still he get's hassled. Is there anyway way for you folks to verify whether your [Redacted] is still a valid name, add more details or delete it? We're still looking forward to meeting with you folks to try and come to grips with the TSA List issue.

[Redacted]

[Redacted]

b7C -5
b7D -1
b6 -5

b7C -1,5

b7D -1

b6 -1,5

*State
&
TSA*

From: [redacted]
To: "[redacted] (FBI)" [redacted]@leo.gov>
Subject: RE: TSA No Fly List
Date: Tue, 18 Jun 2002 20:46:23 -0400
Hi [redacted]

ALL INFORMATION CONTAINED
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DATE 8/6/03 BY 603
CAH/03

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b6 -3

b7C -3

[redacted]

1. [redacted]

2. [redacted]

3. [redacted]

4. [redacted]

[redacted]

[redacted]

[redacted]

b2 -2

From: [redacted] (FBI)" [redacted]@leo.gov>
To: [redacted]
References: [redacted]
Subject: Re: TSA No Fly List
Date: Tue, 18 Jun 2002 21:31:57 -0400

b6 -1,5

b7C -1,5

b7D -1

[redacted]

b2 -4

1. [redacted]

b7E -1

[Redacted]

b2 -4
b7E -1

2. [Redacted]

3. [Redacted]

[Redacted]

From: [Redacted]
To: [Redacted] (E-mail)" @state.gov>
Cc: [Redacted] (E-mail)" @faa.gov>, [Redacted] (E-mail)" @ost.dot.gov>, [Redacted] (E-mail)" @leo.gov>

b2 -2
b6 -1, 3, 5
b7C -1, 3, 5
b7D -1

Subject: TSA No Fly List
Date: Tue, 18 Jun 2002 12:18:29 -0400

[Redacted]

[Redacted]

b2 -4
b6 -5
b7C -5
b7D -1
b7E -1

[Redacted]

[Redacted]

b7C -1,3

b7D -1

b6 -1

From: [redacted]
Sent: Wednesday, September 18, 2002 3:24 PM
To: [redacted]
Cc: [redacted]
Subject: No Fly List issues [redacted]

b2 -4

b6 -1,3

b7C -1,3

b7D -1

b7E -1

In [redacted] absence, and [redacted] not being available at the time, I responded to [redacted] today re the below question [redacted]

I advised [redacted] that this was not an FBI list, but a list to which the FBI, as well as other domestic and foreign law enforcement/intel services contribute and which the TSA compiles and disseminates to the air carriers, airports and the FBI. [redacted]

[redacted] want to think of it, Congress authorized the U.S. to require any air carrier [redacted] (for example) that flies to the U.S. to comply with measures to protect U.S. interests. To wit, the Aviation and Transportation Security Act authorizes the TSA to "...to use information from government agencies to identify individuals on passenger lists who may be a threat to civil aviation or national security; and, if such an individual is identified, notify appropriate law enforcement agencies, prevent the individual from boarding an aircraft, or take other appropriate action with respect to that individual;..."

b2 -4

b7E -1

Re handling similarly-named passengers at the airport, I told him that if a possible match approaches the ticket counter, the [redacted] police would hopefully be able to eliminate that person as IDENT. [redacted]

b2 -4

b7E -1

b2 -4

b7E -1

SSA [redacted] (fax)
Civil Aviation Security Program, Room 11795
Domestic Terrorism Counterterrorism Planning Section
Counterterrorism Division
[redacted]@leo.gov

b2 -1,2

b7C -1

b6 -1

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DATE 8/6/03 BY 60240NLS/AG/JS

CA# 03-1779

b2 -4

b7E -1

>>> [redacted] 9/18/02 10:10:22 AM >>>

[redacted] will coordinate with CTD and [redacted] (FAA) in an effort to answer your question.

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1 SUSSMAN-213

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FEDERAL BUREAU OF INVESTIGATION
FOIPA
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Section 552a

(b)(1)

(b)(7)(A)

(d)(5)

(b)(2)-5

(b)(7)(B)

(j)(2)

(b)(3)

(b)(7)(C)-1,5

(k)(1)

(b)(7)(D)-1

(k)(2)

(b)(7)(E)-2

(k)(3)

(b)(7)(F)

(k)(4)

(b)(4)

(b)(8)

(k)(5)

(b)(5)

(b)(9)

(k)(6)

(b)(6)-1,5

(k)(7)

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Pages contain information furnished by another Government agency(ies). You will be advised by the FBI as to the releasability of this information following our consultation with the other agency(ies).

Page(s) withheld inasmuch as a final release determination has not been made. You will be advised as to the disposition at a later date.

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SUSSMAN 214

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 08/23/2002

To: Criminal Investigative

Attn: VCMOS
SC Gerald L. Buten
MT/TCU
UC [redacted]
SSA [redacted]

Counter Terrorism

Attn: DT/CPS
SC Tom Carey
SEMU
SSA [redacted]
ITOS-I/II
SC Andrew Arena
SC Charles Frahm

b7C -1

b6 -1

From: Office of the General Counsel
Investigative Law Unit

Contact: David C. Larson, ext [redacted]

Approved By: Steele Charles M

[redacted]

b2 -1,3 INFORMATION CONTAINED

Drafted By:

[redacted]

b7C -1

8/6/03 60367NLS/AG/JS
CA#03-1779

Case ID #: [redacted] (Pending) b6 -1

Title: CRIMES INVOLVING CIVIL AVIATION;
FBI INVESTIGATIVE JURISDICTION

Synopsis: To provide a legal opinion from the Office of the General Counsel (OGC) concerning the jurisdictional relationship between the FBI and the Transportation Security Administration.

Administrative: This document is a privileged FBI attorney communication and may not be disseminated outside the FBI without OGC approval. Also, to read the footnotes in this document, it may be required to download and print the document in WordPerfect.

b5 -1,2

Details:

[redacted]

To: Criminal Investigative From: Office of the General Counsel
Re: 08/23/2002

b2 -3

(1) Carrying out the provisions in Chapter 449 of Title 49 of the U.S. Code, relating to civil aviation security, and related research and development activities;

(2) Airport screening operations; and

(3) Receiving, assessing, and distributing intelligence information related to transportation security.

Chapter 449 of Title 49, entitled "Security," addresses all aspects of aviation security, including: screening passengers and cargo; receiving and evaluating threats to aviation; research and development of modern security systems and facilities; and regulation of security of foreign carriers and foreign airports that serve passengers bound for the U.S.

In addition, ATSA grants the Under Secretary permissive (as opposed to mandatory) authority to designate federal law enforcement officers (LEOs) and empowers these LEOs to exercise standard law enforcement powers when engaged in "official duties of the Administration as required to fulfill the responsibilities under [ATSA]." These powers include authority to carry firearms, make arrests without warrant for any federal offense committed in their presence or for which they have probable cause, and seek and execute federal warrants for arrest or search and seizure of evidence. ATSA also requires the Under Secretary to provide guidelines by which to exercise these law enforcement powers in consultation with the Attorney General. The proposed guidelines have been submitted to the Department of Justice for review.

Finally, ATSA continues the Federal Air Marshal (FAM) program (formerly part of the Federal Aviation Administration) by authorizing the TSA to deploy FAMS aboard aircraft for what are clearly reactive law enforcement functions.

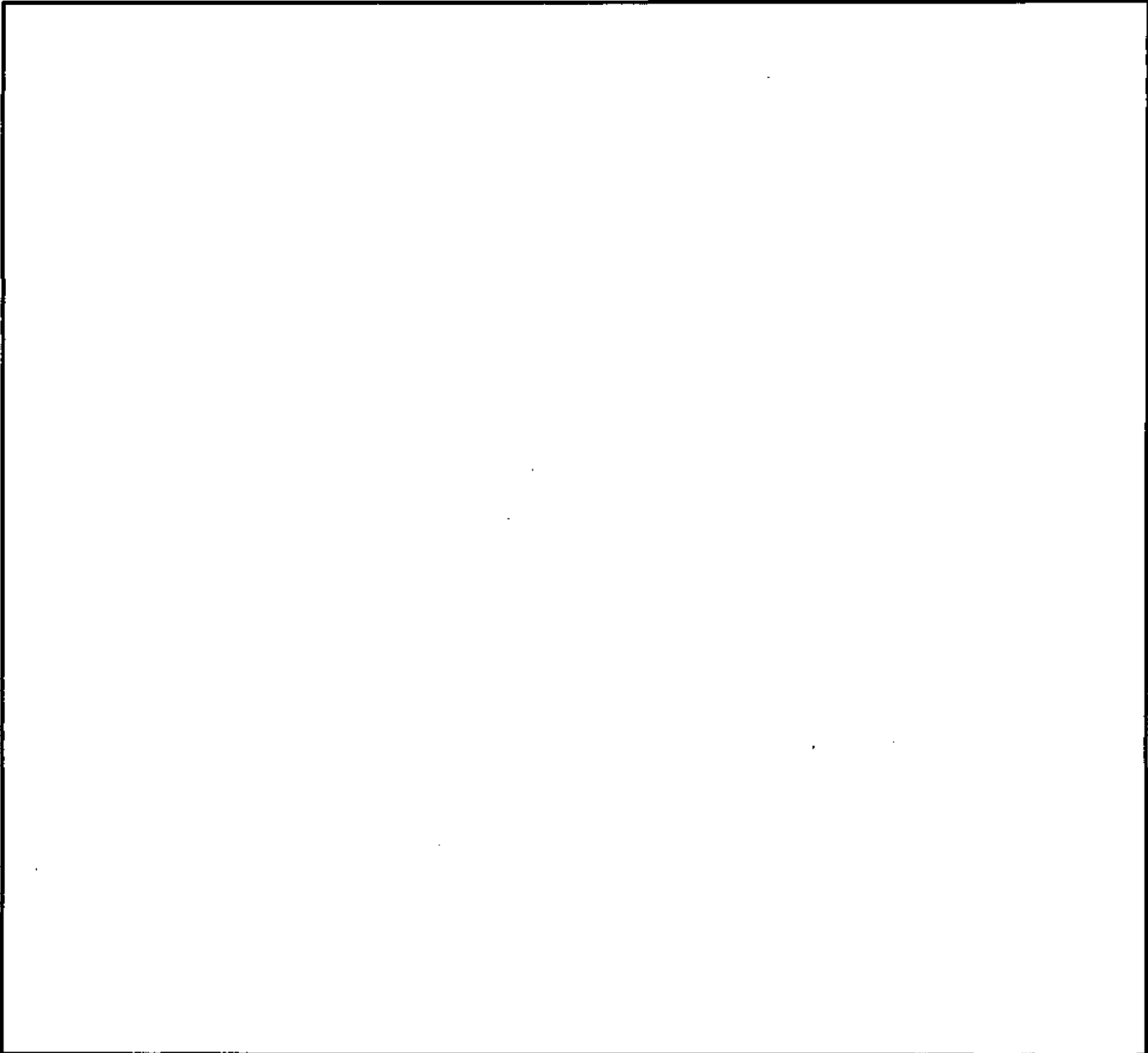
FBI Statutory Authority

The FBI's general enabling statute, 28 U.S.C. § 533, grants the agency the authority to investigate any violation of the criminal laws of the United States. As noted previously, 28 U.S.C. § 538 specifically empowers the FBI to investigate the primary crimes-aboard-aircraft violations in Title 49, which are set forth in Chapter 465, entitled: "Special Aircraft Jurisdiction of the United States." These include Section 46502, Aircraft piracy; Section 46504, Interference with flight crew members and attendants; Section 46505, Carrying a weapon or explosive on an aircraft; Section 46505 which lists a variety of common law crimes (e.g., murder, robbery) committed within the

To: Criminal Investigative From: Office of the General Counsel
Re: [REDACTED] 08/23/2002

b2 -3

for the TSA to serve as a "liaison" to law enforcement communities (Section 101(f)(5)); the use of information from other agencies to identify passengers who may be a threat to civil aviation and the requirement to notify appropriate law enforcement agencies upon identifying such an individual (Section 101(h)(3)); and the mandate to enter into memoranda of understanding with other agencies for information-sharing purposes (Section 101(h)(1)).





From the Desk Of:

Date: 04/09/03

[Redacted]

b7C -1

b6 -1

Supervisory Special Agent

TO:

[Redacted] Litigation *Rm 7997*

FROM:

[Redacted]

SUBJECT:

ACLU - No Fly/Selectee List Request

b7C -1

ENCLOSURES:

Copies of SSA [Redacted] Documentation re Above

b6 -1

[Redacted]

b7C -1

b6 -1

As promised, enclosed are photocopies of all records both myself and SSA [Redacted] had (filed) in our desks re the above. SSA [Redacted] retired on 1/03 and as you can see, kept many notes on this topic.

If you need anything else, please don't hesitate to email or call.

Please note that this information is law enforcement sensitive.

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CA# 03-1779

b2 -1

b7C -1

b6 -1

Civil Aviation Security Program
Special Events Management Unit, Room 11795
Domestic Terrorism Counterterrorism Planning Section
Counterterrorism Division, FBI Headquarters, Washington, DC 20535

[Redacted]

SUSSMAN-218

From: SIOC
To: TMU, TRANSPORT, Watch
Date: Tue, Apr 22, 2003 9:18 PM
Subject: 4/22/03 NewsEdge Article re ACLU seeks government data regarding secret "no-fly" list

ACLU seeks government data regarding secret "no-fly" list

SAN FRANCISCO (AP) The American Civil Liberties Union sued the FBI and other government agencies Tuesday on behalf of two peace activists detained at an airport because their names popped up on a secret "no-fly" list.

The women were among 339 travelers briefly detained and questioned at San Francisco International Airport during the past two years after their names were found in the database, the ACLU said, citing government documents. Those travelers ultimately were allowed to continue on their journeys.

"Thousands of passengers are likely being subjected to the same sort of treatment at airports across the country," said Jayashri Srikantiah, an ACLU attorney.

The database was created after the Sept. 11 terrorist attacks as a way to prevent potential terrorists from boarding planes. The Transportation Security Administration gets names from law enforcement officials and gives the lists to airlines to screen passengers.

The ACLU is asking a federal judge to demand that the TSA, FBI or the Justice Department disclose who is on the list, how they got on it and how they can get off it.

The plaintiffs, Rebecca Gordon and Janet Adams, publish the San Francisco-based War Times. They were stopped in August while checking in for a flight to Boston.

"It was very distressing," Gordon said. The two invoked the Freedom of Information Act to demand that authorities reveal why they were stopped. The TSA did not respond to their request and the FBI said no files on the two existed, the ACLU said.

An FBI spokesman on Tuesday referred inquiries to the TSA. TSA spokesman Niko Melendez said those on the no-fly list pose, or are suspected of posing, a threat to civil aviation and national security. He added that the agency does "not confirm the presence of a particular name of an individual on a list."

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SUSSMAN-219

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Section 552

Section 552a

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b7C -1

b6 -1

From: [redacted]
To: [redacted]
Date: 9/25/02 10:29:53 AM
Subject: Re: No Fly List Procedures

I am not aware of any change in procedures. I know [redacted] currently is working with TSA to establish protocols regarding FBI additions/deletions to TSA's No Fly and Selectee Lists. As far as TSA responding to airports regarding potential matches...that's a new one to me.

b7C -1

>>> [redacted] 09/18 3:40 PM >>>

b6 -1

To your knowledge, have the TSA and the FBI agreed to a change in response protocols for potential matches on the No Fly List, i.e. [redacted] I'm sure that if there had been such a major change in procedure, you would have let me know. I've seen no Security Directive to that effect and I can't imagine it. Anyway, I ask because I think SIOC may have inadvertently misadvised one field office to that effect, and that office has asked for clarification. As far as I know, and please correct me if I'm wrong, the process, in a nutshell, is still as follows:

b2 -4

FBI agents get contacted by the local police or air carrier to resolve potential list matches. [redacted]

b7E -1

[Large redacted block]

Is that still the procedure? Thanks. [redacted]

SSA [redacted] (fax)
Civil Aviation Security Program, Room 11795
Domestic Terrorism Counterterrorism Planning Section
Counterterrorism Division
[redacted]@leo.gov

b7C -1
b2 -1,2
b6 -1

CC: [redacted]

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CS# 03-1799

b7C -1

From: [redacted]
To: SIOC-CS
Date: 9/27/02 2:48:41 PM
Subject: TSA No Fly/Selectee List

b6 -1

Just a heads up to avoid unnecessary calls for air carriers who want us to check TSA's No Fly/Selectee Lists. The individuals here in the Watch List have been told to respond to FBI requests to check TSA's lists, but we have advised them not to provide information from TSA's lists to air carriers since the lists are not the FBI's lists. I will be discussing this with [redacted] in the near future, but for now air carriers should be directed to [redacted] Thanks

b2 -1

CC: [redacted]

b7C -1

b7C -1

b6 -1

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(b)(7)(D)

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(b)(7)(E)-1

(k)(3)

(b)(7)(F)

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From: [redacted]
To: [redacted]
Date: 7/18/02 8:06:11 AM
Subject: Re: TSA Legal Request re No Fly List

b7C -1

b6 -1

[redacted]

b7C -1,3

I got your voicemail this a.m., and I'm sorry you have to deal with [redacted] I can definitely see that he can be that way, but I think if you hang in there a little longer with him, and try to overlook it when he acts that way, you'll win in the end. b6 -1,3

You said on your message that you wanted to add to this, so I'll wait until you finish it. This is a great start.

Thanks again for all your hard work in dealing with all this. Nobody said this was going to be fun!! Hang in there.

b2 -4

[redacted]

b7C -1,3

>>> [redacted] 07/17/02 08:18PM >>>

b7E -1

OK, guys - I'm going to vent first. [redacted] TSA, is obnoxious and I think it's unwise for me to ever deal with him again. He seems to believe that he is entitled to an immediate response to his issue when the FBI has been waiting since Nov 2001 for resolution to our issues asking them [redacted] and to cooperate on crafting the Security Directives. They ignored [redacted] January letter, and have yet to act, based on discussions held at a meeting in early June to go over these issues again. Therefore, I don't know that we should be in any rush for him, but you have to keep letting him think you're working on "it" - same tactic they use with us. b6 -1,3

Now to the issue at hand - [redacted] says that you said [redacted] was working on "something". [redacted] says you told him you sent something for legal review because you weren't a lawyer. [redacted] doesn't think he's working on anything, and I'll be he doesn't know what [redacted] is referring to. [redacted] I sent you the ATSA section and I thought you were going to discuss or respond to [redacted] in some way. b7C -1,3
b6 -1,3

It appears that, because we don't yet appear to want to take control of a Threat to Aviation (aka No Fly) List itself (although that is my recommendation), we must ask the TSA to keep the list and control the initial process [redacted] is demanding a letter from the FBI answering these questions, thereby indemnifying the TSA and doing their legal work for them. If we do this letter, it will clarify the issues for all concerned, including the FBI. Therefore, I will write the main body of the letter and you can approve it. b7C -3
b6 -3

1. What does the FBI want the TSA to "do" relative to No Fly Lists and detaining passengers?

A. [redacted]

b2 -4

B. [redacted]

b7E -1

C. [redacted]

b5 -1

D. [redacted]

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[Redacted]

E. [Redacted]

F. [Redacted]

b2 -4

G. [Redacted]

b5 -1

b6 -1

b7C -1

H. [Redacted]

b7E -1

I. [Redacted]

2. What is the legal justification for what the FBI wants the TSA to do. [Redacted]

A. The legal burden requiring air carriers to identify passengers who may be a threat to aviation and for preventing them from boarding is on the TSA. The Aviation and Transportation Security Act (ATSA) of 2001, passed on November 19, 2001, mandates in Section 101, (a), §114 (h) entitled "Management of Security Information", that the Under Secretary of Transportation for Security shall:

(1) enter into memoranda of understanding with Federal agencies or other entities to share or otherwise cross-check as necessary data on individuals identified on Federal agency databases who may pose a risk to transportation or national security;

(2) establish procedures for notifying the Administrator of the Federal Aviation Administration, appropriate State and local law enforcement officials, and airport or airline security officers of the identity of individuals known to pose, or suspected of posing, a risk of air piracy or terrorism or a threat to airline or passenger safety;

(3) in consultation with other appropriate Federal agencies and air carriers, establish policies and procedures requiring air carriers--

(A) to use information from government agencies to identify individuals on passenger lists who may be a threat to civil aviation or national security; and

(B) if such an individual is identified, notify appropriate law enforcement agencies, prevent the individual from boarding an aircraft, or take other appropriate action with respect to that individual; and

(4) consider requiring passenger air carriers to share passenger lists with appropriate Federal agencies for the purpose of identifying individuals who may pose a threat to aviation safety or national security.

b2 -4

B. [Redacted]

b7E -1

b6 -1



b2 -4

b7E -1

The ATSA requires passenger information to be compared against databases (which are based on criminal evidence and intelligence) and identical passengers prevented from boarding planes. The FBI provides the intelligence on which TSA can fulfill this mandate. TSA must ultimately determine if the person is or is not the same, and if so or they are uncertain, they should call the FBI.



b2 -4

b7E -1



b7C -1

b6 -1

From: [redacted]
To: [redacted]
Date: 7/22/02 1:47:40 PM
Subject: Info for TSA Legal Request

[redacted] seems to believe that he is entitled to an immediate response to his issues, when the FBI has been waiting since Nov 2001 for resolution to our issues asking them for [redacted] and to cooperate on crafting the Security Directives. They ignored [redacted] January letter, and have yet to act, based on discussions held at a meeting in early June to go over these issues again. Therefore, I don't know that we should be in any rush for him, but you have to keep letting him think you're working on "it" - same tactic they use with us.

b2 -4
b7C -1, 3
b7E -1
b6 -1, 3

[redacted] is going to write the FBI a letter about what TSA wants to know from us about detaining passengers, etc. These are the points that I think need to be iterated, among any others we might add about how a person gets on the list in the first place.

[redacted]

b2 -4
b7E -1

1. What does the FBI want the TSA to "do" re a "No Fly" List?

A.

[redacted]

B.

[redacted]

C.

[redacted]

D.

[redacted]

b2 -4
b5 -1
b7E -1

E.

[redacted]

F.

[redacted]

G.

[redacted]

H.

[redacted]

I.

[redacted]

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SUSSMAN-227

b7C -1

b2 -4

b6 -1

b5 -1

b7E -1

2. What is the legal justification for what the FBI wants the TSA to do?

A. The legal justification for requiring air carriers to identify passengers on threat lists (including NCIC) and for preventing passengers from boarding until and if identified as a "match" may be found in the Aviation and Transportation Security Act (ATSA) of 2001, passed on November 19, 2001, mandates in Section 101, (a), §114 (h) entitled "Management of Security Information", that the Under Secretary of Transportation for Security shall:

(1) enter into memoranda of understanding with Federal agencies or other entities to share or otherwise cross-check as necessary data on individuals identified on Federal agency databases who may pose a risk to transportation or national security;

(2) establish procedures for notifying the Administrator of the Federal Aviation Administration, appropriate State and local law enforcement officials, and airport or airline security officers of the identity of individuals known to pose, or suspected of posing, a risk of air piracy or terrorism or a threat to airline or passenger safety;

(3) in consultation with other appropriate Federal agencies and air carriers, establish policies and procedures requiring air carriers--

(A) to use information from government agencies to identify individuals on passenger lists who may be a threat to civil aviation or national security; and

(B) if such an individual is identified, notify appropriate law enforcement agencies, prevent the individual from boarding an aircraft, or take other appropriate action with respect to that individual; and

(4) consider requiring passenger air carriers to share passenger lists with appropriate Federal agencies for the purpose of identifying individuals who may pose a threat to aviation safety or national security.

B. [Redacted]

b2 -4

b7E -1

C. [Redacted]

b5 -1

That's as far my legal brain will carry me, which may still not be far enough to properly address the issues. Thanks.

SSA [Redacted] (fax)
Civil Aviation Security Program, Room 11795
Domestic Terrorism Counterterrorism Planning Section
Counterterrorism Division

b2 -1, 2

b7C -1

b6 -1

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Section 552

Section 552a

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(b)(7)(C) - *1*

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(k)(2)

(b)(7)(E) - *1*

(k)(3)

(b)(7)(F)

(k)(4)

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(k)(5)

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From: [redacted]
To: ARTHUR M. CUMMINGS; [redacted]
Date: 5/28/02 1:43:30 PM
Subject: Issue: TSA and No Fly Lists

b7C -1
b6 -1

[redacted] Art,

[redacted]

b5 -1

Here's some background, if you have the patience to read it:

Since 10/2001, when the TSA No Fly and Selectee lists came into being (aftermath of the FBI Watchlist), I have been attempting to make the updated lists available to the field agents [redacted] on a timely basis, i.e., when they are issued, because TSA has made the agents responsible for responding to possible name matches. The agents need these lists in order to have background and ID info.

TSA issues these lists to the air carriers and the airport police [redacted]

b2 -4

[redacted]

b5 -1

b7E -1

TSA also fails (except on one occasion) to coordinate with us when they tell [redacted] (the FBI) or when they change the Security Directives concerning response which affects FBI offices. Despite my best efforts, the TSA just motors along and I and the agents are being whipped around the flagpole trying to do the right thing.

[redacted]

b2 -4

b7E -1

b5 -1

[redacted]

b5 -1

Example - today List 51 was issued; Lists 49 and 50 were issued on Friday. I believe I was here, but no mail from TSA, and I check every hour. I have raised this issue with people in TSA and here, and told the agents that getting the lists from me is now a luxury instead of a certainty.

I have tried to arrange a meeting with [redacted] TSA, but that has not worked out yet [redacted]

b7C -3

[redacted]

b5 -1

Again, please try to give me some time so we can meet and decide how we want to proceed.

b6 -3

Thanks [redacted]

SSA [redacted] (fax)
Civil Aviation Security Program, Room 11795
Domestic Terrorism Counterterrorism Planning Section
Counterterrorism Division

b7C -1

b2 -1,2

[redacted]@leo.gov

b6 -1

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(b)(3)

(b)(7)(C)

(k)(1)

(b)(7)(D) -1

(k)(2)

(b)(7)(E) -1

(k)(3)

(b)(7)(F)

(k)(4)

(b)(4)

(b)(8)

(k)(5)

(b)(5)

(b)(9)

(k)(6)

(b)(6)

(k)(7)

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Section 552

Section 552a

(b)(1)

(b)(7)(A)

(d)(5)

(b)(2)-4

(b)(7)(B)

(j)(2)

(b)(3)

(b)(7)(C)-1,3

(k)(1)

(b)(7)(D)

(k)(2)

(b)(7)(E)-1

(k)(3)

(b)(7)(F)

(k)(4)

(b)(4)

(b)(8)

(k)(5)

(b)(5)-1

(b)(9)

(k)(6)

(b)(6)-1,3

(k)(7)

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3

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Section 552

Section 552a

(b)(1)

(b)(7)(A)

(d)(5)

(b)(2)

(b)(7)(B)

(j)(2)

(b)(3)

(b)(7)(C)

(k)(1)

(b)(7)(D)

(k)(2)

(b)(7)(E)

(k)(3)

(b)(7)(F)

(k)(4)

(b)(4)

(b)(8)

(k)(5)

(b)(5)

(b)(9)

(k)(6)

(b)(6)

(k)(7)

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SUSMAW241-243

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From: [redacted]@faa.gov
Sent: Wednesday, October 02, 2002 2:57 PM
To: [redacted]@leo.gov
Subject: Re:RE: RE: RE: Fwd[2]:NEADS NOBLE EAGLE Conference 15 Oct 02

[redacted]
No problem with you or [redacted] coming over to review our holdings. [redacted]
[redacted] is the TSI Watchlist POC, but she was out yesterday with [redacted]
[redacted] who was on the hill testifying, so [redacted] may
have talked with [redacted] instead. [redacted] is on [redacted]
[redacted] is on [redacted] I'll be pleased to assist if you are
unable to reach either one [redacted] is out today but will be back tomorrow).

b7C -1,3
b2 -1
b6 -1,3

Reply Separator
Subject: RE: RE: RE: Fwd[2]:NEADS NOBLE EAGLE Conference 15 Oct 02
Author: [redacted]@leo.gov
Date: 10/2/2002 1:24 PM

b7C -1
b6 -1
b2 -1

Hi [redacted]

Yes, that would have been SSA [redacted] and he is assigned to the
FBI
Terrorist Watch List Unit. As [redacted] discovered and as [redacted] and I
mentioned to [redacted] months ago (and as I told you [redacted])

b7C -1
b2 -4
b7E -1
b6 -1

[redacted] I guess we're not asking in the right
manner, or too informally. I was the one who suggested that [redacted] try to
come over and see you all, and discuss our needs in person, as working
through [redacted] won't accomplish our purpose. I suggested that [redacted]
get
the [redacted] first, and then come back
here,
see what we can locate on our own here and if we can't find something,
ask
you for the justification document later.

Exactly who is it that we should deal with on a regular basis to
regarding
list content? List process?

Thank you.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 8-03 BY [redacted]
CA#03-1779

SUSSMAN-244

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Section 552

Section 552a

(b)(1)

(b)(7)(A)

(d)(5)

(b)(2)-4

(b)(7)(B)

(j)(2)

(b)(3) - 1

(b)(7)(C)

(k)(1)

Title 49, USC,

(b)(7)(D)

(k)(2)

Section 114 per TSA

(b)(7)(E)-1

(k)(3)

(b)(7)(F)

(k)(4)

(b)(4)

(b)(8)

(k)(5)

(b)(5)

(b)(9)

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