

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

MICHAEL SUSSMAN,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF)
JUSTICE, UNITED STATES DEPARTMENT)
OF TRANSPORTATION, TRANSPORTATION)
SECURITY ADMINISTRATION, UNITED)
STATES POSTAL SERVICE, UNITED)
STATES SECRET SERVICE, and INTERNAL)
REVENUE SERVICE,

Defendants.

Civil Action No. 03-CV-3618(DRH)(ETB)

Exhibit A

From: [redacted]
To: Aviation-Field-30
Date: Wed, Dec 19, 2001 4:36 PM
Subject: FBI Response to FAA Name List - NEW PROCEDURES

b7C -1
b6 -1

Airport Agents - Please ensure that this message is forwarded to your supervisors, command post and any other personnel who might respond to name list matches at airports. The attached FAA documents have also been uploaded to [redacted]

There are two name lists for which the FBI may now have to respond, instead of one - the "No Fly" list (threats to aviation) and the "Selectee" list [redacted]. The names are the same and some additional ones from the previous FAA name lists, and they continue to originate from other agencies [redacted] from the FBI. However, there are new procedures to reduce unnecessary FBI response. The FBI and the FAA coordinated these procedures based on feedback from the field about the utility of FBI response to ticket counters to identify passengers when the lists now contain more identifying information.

b2 -4
b7E -1
b2 -4
b7E -1

[redacted]

NEW PROCEDURES - [redacted]

[redacted]

b2 -4
b7E -1

[redacted] Please read the attached FAA Security Directives (SD 108-01-20 and 108-01-21) for exact language.

[redacted]

b2 -4
b7E -1

I expect questions, so please ask. If something doesn't work as you expected, please let me know. I'll try to do an EC as soon as possible, but since the list and changes are "out", I wanted you to have them as soon as possible.

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

CC: [redacted]

b7C -1
b6 -1

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 9-5-03 BY UC60267NLS/AG/CAL
CA# 03-1779

~~XXXXXXXXXX~~

1500 Southwest 1st Avenue

The Honorable Earl Blumenauer
The Weatherly Building
516 S.E. Morrison Street
Suite 250
Portland, OR 97214

b7C -2

b6 -2

Dear Representative Blumenauer:

This letter is in response to your request for additional information concerning [redacted] and the policies and procedures surrounding the Transportation Security Administration's (TSA) watch list. Nationwide policies and procedures regarding the TSA watch list are established jointly by the FBI and TSA at the headquarters level. Your concerns have been forwarded to FBI Headquarters, Counterterrorism Division, and the Office of Public and Congressional Affairs.

Additionally, on August 12, 2002, this office contacted [redacted] and explained, in general terms, the procedures used by the TSA, FBI, and commercial air carriers upon discovery of a name list match.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 8-5-03 BY JLC60267 NLS/AG/CAL
CN# 03-1779

SUSSMAN-2

~~Subject: [redacted] [redacted]~~

The Honorable Earl Blumenauer
The Weatherly Building
516 S.E. Morrison Street
Bart Office Box 709
Portland, OR 97214

Dear Representative Blumenauer:

b6 -2
b7C -2

This letter is in response to your inquiry on behalf of [redacted]. [redacted] is not a listed person on the Transportation Security Administration's (TSA) watch list. However, the watch list does contain a person with the same last name. Therefore, commercial air carriers are required to check [redacted] identification against the known identification of the [redacted] listed on the TSA watch list. Unfortunately, commercial air carriers cannot confirm [redacted] true identity until such time as his identification is checked at the ticket counter.

b7C -2
b6 -2

Historically, TSA procedures have required that identification checks be performed by law enforcement officers. Recent changes to TSA procedures allow commercial air carriers to conduct these checks under certain circumstances. This procedure must be completed every time Mr. [redacted] and all others with the same last name, travel via commercial aviation.

b7C -2
b6 -2

While I fully appreciate Mr. [redacted] frustration, I am sure he can understand the importance of the enhanced security requirements.

Sincerely,

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 8-5-03 BY UC 60267 NLS/AG/CAL
CA# 03-1779 Charles Mathews, III

SUSSMAN-3

Memorandum

San Francisco Police Department

b6 -4



To:
Commanding Officer
Airport Bureau - Day Watch

b7C -4

APPROVED YES NO

From:
Airport Bureau - Day Watch

b7C -4

Date: Friday, May 24, 2002

b6 -4

Subject: Selectee and No Fly list Names

ISSUE

Airport Bureau police response to the Transportation Security Administration's air-carriers No Fly and Selectee names lists.

DISCUSSION

On Friday, May 24, 2002, I met with (T.S.A) and I spoke with (F.B.I.), regarding police procedures when dealing with individuals whose names have been entered on the Transportation Security Administration's NO-FLY and SELECTEE names lists and the air-carriers reservation data banks.

b7C -1, 3.

b6 -1, 3

b2 -4

b7E -1

b3 -1

b2 -4

b7E -1

b3 -1

This new change in procedure, will allow airport officers to minimize the amount of time required to initially detain individuals with names that names on federal NO-FLY or SELECTEE lists.

b2 -4

b7E -1

RECOMMENDATION

I recommend that this new change take place to reduce time spent by officers on-scene, when responding to names on federal NO-FLY and SELECTEE lists.

b3 -1

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 5-5-03 BY UC 60267 NLS/AG/CAL
CA# 03-1779

SUSSMAN-4



FBI FACSIMILE COVER SHEET



PRECEDENCE

- Immediate
- Priority
- Routine

CLASSIFICATION

- Top Secret
- Secret
- Confidential
- Sensitive
- Unclassified

Time Transmitted: _____

Sender's Initials: bsw

Number of Pages: 6

(including cover sheet)

To: ISA / FBI

Name of Office

Date: 7/18/02

Facsimile Number: _____

Attn: _____

From: FBIHQ, Domestic Terrorism Section, Rm 11795

Name of Office

Subject: 4th Amendment + Airport Searches

b2 -1

b7C -1,3

b6 -1,3

Special Handling Instructions: For info

Originator's Name: SSA _____

SSA

Telephone: _____

Originator's Facsimile Number: _____

Approved: [Signature]

Brief Description of Communication Faxed: _____

b2 -1

b7C -1

b6 -1

WARNING

Information attached to the cover sheet is U.S. Government Property. If you are not the intended recipient of this information, disclosure, reproduction, distribution, or use of this information is prohibited (18.U.S.C. § 641). Please notify the originator or the local FBI Office immediately to arrange for proper disposition.

ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 05-02 BY UC60267 NLS/AG-7

CA# 03-1779

AL

SUSSMAN-5

b2 -1
b6 -1
b7C -1

P. 02/06
Margaret Lead
DEL PASO
USAID

**APPLICATION OF THE FOURTH AMENDMENT
TO
AIRPORT SEARCHES**

Airplane hijacking or skyjacking escalated dramatically during and after the 1960s until its climax with the attacks on the World Trade Center buildings and the Pentagon. Consequently, airport security has always been a matter of very serious concern, and presently, it is a matter of paramount importance. Once the security of an airplane is compromised, it is very difficult to respond effectively to the problem. As was so dramatically illustrated by last year's tragic events, the potential for great and immediate harm to the passengers on the airplane and to the public at large is tremendous. Additionally, the hijackers are extremely difficult to detect, and in order to avoid the extreme danger hijackers can create, the hijacker must be detected before he boards the aircraft. The importance of airport/airplane security, the need to detect the hijacker, and the need to protect the public and the airline passengers have been recognized by the courts in considering how to analyze police conduct at airports under the Fourth Amendment.

In 1968, a Task Force was appointed to develop an on-the-ground hijacker detection system. This system was adopted by the FAA and continues to be employed today to provide security for all air travel. As its most prominent component, the system employs pre-flight screening through the use of notices to the public, identification checks, application of a hijacker profile, magnetometers, x-rays, interviews with selected passengers, and frisks or searches of certain suspicious passengers. The employment of these measures has been approved by the courts as reasonable; however, questions concerning the constitutionality of other searches and seizures at the airport continue to arise. This presentation and paper is designed to deal primarily with those issues.

The Fourth Amendment does not prohibit all warrantless searches and seizures; instead, it prohibits only unreasonable ones. The reasonableness of warrantless searches and seizures at airports or on airplanes will be determined, in part, by balancing the intrusion itself against the need for security at airports and the difficulty in ferreting out the hijacker from the throngs of members of the public in airports and boarding the airlines.

Because the courts have determined that airport screening procedures are searches, they must be justified under an exception to the warrant requirement. Five exceptions have been applied by the courts: (1) the border search exception; (2) a Terry stop and frisk; (3) the administrative search exception; (4) consent; (5) the critical zone theory.

Border Search Exception Because many airports have both international and domestic flights, different standards for searches or seizures may be applicable at the same airport, depending on whether the flights being serviced at domestic or international. For international flights, under the border search exception, routine searches of persons and their effects may be conducted under the same parameters as those searches are conducted at the international borders. Those seeking admission to or exit from the United States on an international flight will be subject to a routine inspection of his person and his belongings. Any non-routine search (e.g., strip searches) must be based on reasonable suspicion. For passengers on domestic flights, the border search exception cannot be used to justify the search of a person or his belongings.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 5-03 BY UC60267 NLS/AG/CAL
CA#03-1779

SUSSMAN-6

b2 -1

b6 -1

b7C -1

Terry Stop and Frisk: Application of this exception is discussed in further detail below.

Administrative Searches: Courts have justified the airport security screening procedures under the administrative search exception. The courts have held that when all passengers are subjected to security screening procedures in order to provide greater protection and security to the airport and departing aircraft, the routine screening procedures are considered administrative searches and not violative of the Fourth Amendment. When these screening procedures are used only on selected passengers, they fall outside the coverage of the administrative search exception. When these screening procedures are used improperly to detect the possession of contraband, the administrative search exception may not be used to justify the search.

Consent: Any search or seizure can be justified on the basis of a defendant's knowing and voluntary consent. Consent should be express, rather than implied. Agents should not rely entirely upon warnings airlines generally give to passengers that their luggage or person may be searched; the court's have been divided on the issue of whether these general warnings can constitute at least implied consent to search.

Critical Zone: The Fifth and Eleventh Circuits have held that airports are to be considered "critical zones" in which special Fourth Amendment considerations apply because they consider the airport the one channel through which all hijackers must pass before being in a position to commit their crime and the one point where airport security officials can marshal their resources to thwart airplane violence before the lives of an airplane's passengers are endangered. These courts, therefore, deem reasonable more intrusive security measures if specifically tailored to increase airport security and to detect hijackers.

The Stop of a Person in the Airport (prior to presenting himself for boarding): Ticket counter?

The Fourth Amendment applies to an airport stop only when a seizure occurs.

If there is no detention, there is no seizure, and the Fourth Amendment is not implicated.

A person has been seized only if, in view of all of the circumstances surrounding the incident, a reasonable person would have believed that he was not free to leave. Whether an airport encounter between the police and a suspect amounts to a seizure requires a review of all relevant circumstances, including psychological factors. If a reasonable person would feel free to disregard the police and to go about his business, the encounter is consensual.

Asking for an individual's airline ticket and his identification was permissible and will not be considered a seizure. Asking routine questions concerning the reason for and destination of travel does not implicate the Fourth Amendment. Generally, there is no seizure when a law enforcement agent merely approaches an individual at the airport, and after identifying himself, begins to ask routine questions related to the person's identification, travel plans, and ticket information. A non-threatening request to search will not convert the encounter into a seizure.

b2 -1
b6 -1
b7C -1



Factors considered in determining whether a seizure has occurred include: (1) location of the encounter; (2) physical contact with the person; (3) appearance and clothing of the officers; (4) number of the officers; (5) display or presence of weapons; (6) demeanor and tone of voice of the officers; (7) length of time in which documents are retained; (8) any advise of right to terminate the encounter or refuse consent; (9) information that the person was suspected of criminal activity; (10) the length of the encounter, among others.

When a narcotics officer identifies himself as such and advises the person that he is suspected of transporting narcotics, the courts will likely find that a seizure has occurred. If the officer retains the traveler's identification or travel documents, the encounter may be considered a seizure.

An investigative detention must be based on reasonable suspicion which must be based on factors that when viewed in their totality amount to reasonable and articulable suspicion that the person is engaged in criminal activity. A subsequent frisk of the person must be based on voluntary consent or reasonable suspicion that the individual might be armed.

(*)

pre-arrest
post-9/11?

An arrest must be based on probable cause. If a suspect is arrested and his luggage or personal items are removed with the suspect, those items may be searched only on the basis of consent or probable cause, with a warrant.

Air Terminal Security Screening

As set forth above, routine airport terminal-entry security screening has been approved by the courts as administrative searches because their purpose is to provide security and safety rather than to detect crime. In order for these procedures to continue to be justifiable as administrative searches, the emphasis of the search must continue to be for purposes of determining the presence of dangerous persons or articles rather than the presence of contraband or for other general law enforcement purposes.

Courts have held that the placement of items on the x-ray conveyer belt constitutes at least implied consent to a visual and limited hand search of the items if the x-ray examination is inconclusive. Absent consent or probable cause, the scope of the hand search must be limited to that which will reveal an object that could be used to effect a hijacking or endanger other passengers or members of the public entering the terminal. (Caveat: this does not extend to search for money or drugs seen on x-ray examination; although a search therefore may be based upon probable cause or consent).

Strip searches must be conducted only on reasonable suspicion.

Passengers Presenting Themselves for Boarding on the Aircraft

The Fifth and Eleventh Circuits have held that it is permissible to request a search of passenger presenting himself for boarding on an airplane. The officer may indicate that if the passenger refuses, he will not be permitted into the gateway or the airplane. If a passenger is

b2 -1
b6 -1
b7C -1

ticketed and presents himself for boarding on the airplane, he may be subjected to a search on mere or unsupported suspicion. Scope of search can be of sufficient scope to reveal any object or instrumentality that could reasonably have been used to effect an act of air piracy. Again, the search cannot be one designed merely to detect contraband.

Checked Luggage:

Passengers have a reasonable expectation of privacy in checked luggage. Generally, searches of checked luggage can be conducted on with consent or a warrant based on probable cause. Where, however, there is evidence that luggage contains explosives or some other item of a similarly dangerous nature, exigent circumstances may justify a warrantless search, but the search must be based on probable cause.

Checked luggage may be x-rayed. A subsequent search can be conducted to dispel suspicions of danger, but a general search for contraband cannot be conducted absent a warrant or consent.

Because a dog sniff of luggage is not considered a search, luggage may be subjected to a dog sniff without any suspicion whatsoever. However, if a dog alerts to the presence of contraband, the subsequent search may be conducted only with consent or a warrant. A dog's alert to the presence of explosives may provide probable cause for a warrantless search conducted under exigent circumstances. (A dog sniff of a person is a search and cannot be conducted)

If a person disavows ownership of luggage when presented with an opportunity to claim ownership of it, it will be considered abandoned and can then be searched.

A person's luggage can be seized for a reasonable period of time on the basis of reasonable suspicion. It should not prevent passenger's continuation of travel. Luggage can be seized on the basis of probable cause pending the issuance of a warrant to search; however, the agents should be actively taking steps toward obtaining the warrant.

Private v. Governmental Searches

Airport security measures were, in the past, largely employed by private security companies employed by the airlines or by airline employees themselves. Purely private searches are not subject to Fourth Amendment protections; therefore, where these searches or seizures were conducted entirely by airline personnel without governmental intrusion or prompting, the Fourth Amendment was not implicated. However, governmental agencies became increasingly involved in airline security, and most of the searches, even where conducted by airline employees or security personnel, were instigated by government agents or government agents participated in them. In those cases, the Fourth Amendment controlled the appropriateness of the conduct. As you know, the law now requires that airport security be provided by the government, and the Air Marshal program has been revived; consequently, a Fourth Amendment analysis will rarely be avoidable. Nevertheless, when airline employees are acting entirely independently, the courts will find that a private search was conducted, and that the Fourth



b2 -1

Amendment had no application (e.g., airline employees opening suitcases to determine ownership and then encountering contraband therein).

b6 -1

b7C -1

SUSSMAN-10

September 4, 2002

Mr. Michael D. Robinson
Associate Under Secretary
for Aviation Operations
Transportation Security Administration
400 Seventh Street, SW
Washington, DC 20590

Dear Mr. Robinson:

Thank you for your June 27th letter, enclosing a copy of TSA's Delegation Order concerning the placement of Federal Security Directors at all of the major airports nationwide. You asked that the Order be disseminated to each of the FBI's field offices having a need for the information.

Recognizing the FBI's investigative jurisdiction with respect to criminal violations set forth in Chapter 465 of Title 49, and all aviation-related criminal violations set forth in Title 18 of the U.S. Code, our field offices will be provided copies of TSA's Delegation Order dated June 14, 2002, along with the reminder that interagency cooperation and coordination are critically important to our respective missions and responsibilities as our agencies continue to discuss pertinent jurisdictional considerations.

Sincerely yours,

Robert S. Mueller, III
Director

1 - Mr. Ashley (5012) - Encs.
1 - Mr. D'Amuro (5829) - Encs.
1 - Mr. Wainstein (7427) - Encs.
1 - [redacted] (5096) - Encs.
1 - [redacted] (7326) - Encs.
1 - [redacted] (7176) - Encs.

b7C -1

b6 -1

b7C -1

b6 -1

62F-HQ-1077732

NOTE: Reply coordinated with Attorney-Advisor [redacted] Investigative Law Unit, OGC,
and Unit Chief [redacted] Major Theft/Transportation Crimes Unit, CID.

BHM

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED

DATE 9-5-03 BY UC60267 NLS/AG/CAL
CA# 03-1779

SUSSMAN-11

Authorities of the Federal Security Directors (FSDs)

1. Manage Aviation Security Resources. On a day-to-day basis, manage and provide operational guidance to the aviation security resources of the Transportation Security Administration (TSA) screeners, field agents, and law enforcement officers to which they are assigned.
2. Screen and Inspect Passengers, Property and Cargo.
 - A. Passenger Aircraft. In accordance with 49 U.S.C. § 114(e) and TSA regulations, policies and procedures, be responsible for the day-to-day Federal security screening operations for passenger air transportation and intrastate air transportation. In accordance with TSA regulations, policies and procedures, provide for the screening of all passengers and property, including United States mail, cargo, carry-on and checked baggage and other articles, that will be carried aboard a passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation, in accordance with 49 U.S.C. § 44901(a). In accordance with TSA regulations, policies and procedures, provides for search and detention of persons or property posing a suspected risk to safety and security, in accordance with 49 U.S.C. § 44903(b).
 - B. Checked Baggage. In accordance with 49 U.S.C. § 44901(c),(d), and (e) and TSA regulations, policies, and procedures, as explosive detection equipment becomes available, screen all checked baggage through such equipment. In those unusual circumstances where explosive detection equipment is not available, screen every piece of checked baggage through alternative means. In accordance with TSA regulations, policies and procedures, such alternative means may include one or more of the following:
 - (1) A bag-match program that ensures that no checked baggage is placed aboard an aircraft unless the passenger who checked the baggage is aboard the aircraft.
 - (2) Manual search.
 - (3) Search by canine explosive detection units in combination with other means.
 - (4) Other means or technology approved by the Under Secretary.
 - C. Cargo Aircraft. Provide for the screening and inspection of cargo that will be carried on all-cargo aircraft, in accordance with 49 U.S.C. § 44901(c) and TSA regulations, policies and procedures.
3. Assess and Counter Threats to Aviation.
 - A. Liaison Functions. Serve as a liaison for aviation security to the local intelligence and law enforcement communities. Receive, assess, distribute, and ensure utilization of intelligence and law enforcement information as appropriate.

- (1) Memoranda of Understanding Concerning Data. Enter into memoranda of understanding with local offices of Federal agencies and other local entities, such as state and local law enforcement, to share or otherwise cross-check, as necessary, data on individuals identified on Federal, State and Local agency databases who may pose a risk to transportation or national security.
 - (2) Notification Procedures Concerning Potential Threats. Establish procedures for notifying the Federal Aviation Administration (FAA), appropriate State and local law enforcement officials, and airport or aircraft operator security officers of the identity of individuals known to pose, or suspected of posing, a risk of air privacy or terrorism or a threat to aircraft operator or passenger safety, in accordance with 49 U.S.C. § 114(h).
 - (3) Identification of Individuals Posing a Threat. In consultation with other appropriate Federal state, and local agencies and air carriers, and upon notice that an individual may be a security threat, establish policies and procedures that require air carriers to notify appropriate law enforcement agencies of the individual's identity, prevent the individual from boarding an aircraft, or take other appropriate action with respect to that individual.
 - (4) Passenger Lists. On a case by case basis, and when warranted by specific security considerations, require passenger air carriers to share passenger lists with appropriate Federal, State, and Local agencies, for the purpose of identifying individuals who may pose a threat to aviation safety or national security.
- B. Security Countermeasures. Coordinate and implement security countermeasures with appropriate departments, local offices of federal agencies, state and local law enforcement agencies; airports, and air carriers. Work with the FAA with respect to any actions or activities that may affect aviation or aviation safety or air carrier operations, in accordance with 49 U.S.C. § 114(f)(13).
- C. Clear, close or secure airports and related facilities. If a particular security threat to a gate, a concourse, a terminal, an airport or related facilities cannot be addressed in a way adequate to ensure, to the extent feasible, the safety of passengers, crew, or other individuals, the affected facilities may be cleared, closed or otherwise secured. After a security action has been taken in accordance with 49 U.S.C. § 44905(b), provide feedback to the airport operator on the reasons for the security action.
- D. Cancel, delay, return, or divert flights. If a particular security threat to a flight or series of flights, including air piracy (as defined in 49 U.S.C. § 46502), cannot be addressed in a way adequate to ensure, to the extent feasible, the safety of passengers and crew, the flight or series of flights may be canceled, delayed, returned to an airport after

**Transportation Security Administration
(No Fly and Selectee Lists)**

The No Fly and Selectee Lists, both administered by TSA, often are confused with the TWL. Currently, the TWL staff is working with TSA to develop protocols to facilitate entry and/or removal of FBI subjects to/from the No Fly or Selectee Lists. It should be noted, TSA is the only agency which actually can make the entries or removals.

The No Fly List is used to prevent individuals from using commercial aviation who are deemed by TSA to be a threat to aviation, based on information provided by various sources (such as the FBI). If an individual is listed on the No Fly List, that individual will not be permitted to board any commercial aircraft within the U.S. until such time the individual is removed from the list by TSA.

b2 -4

b7E -1

[REDACTED]

It should be noted, the air carriers and/or local airport authorities are responsible for preventing a passenger on the No Fly List from boarding an aircraft, not the FBI.

The Selectee List consists of individuals who are [REDACTED]

b2 -4

b7E -1

These individuals are screened by airport authorities in accordance with TSA Security Directives. Following the screening procedures, these individuals can use commercial air transportation and should not be denied boarding. Again, the respective air carrier and/or local airport authorities will make the final determination regarding who boards an aircraft.

b2 -4

b7E -1

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 8-5-03 BY UCL0267 NLS/AG/CAL
CA# 03-1779

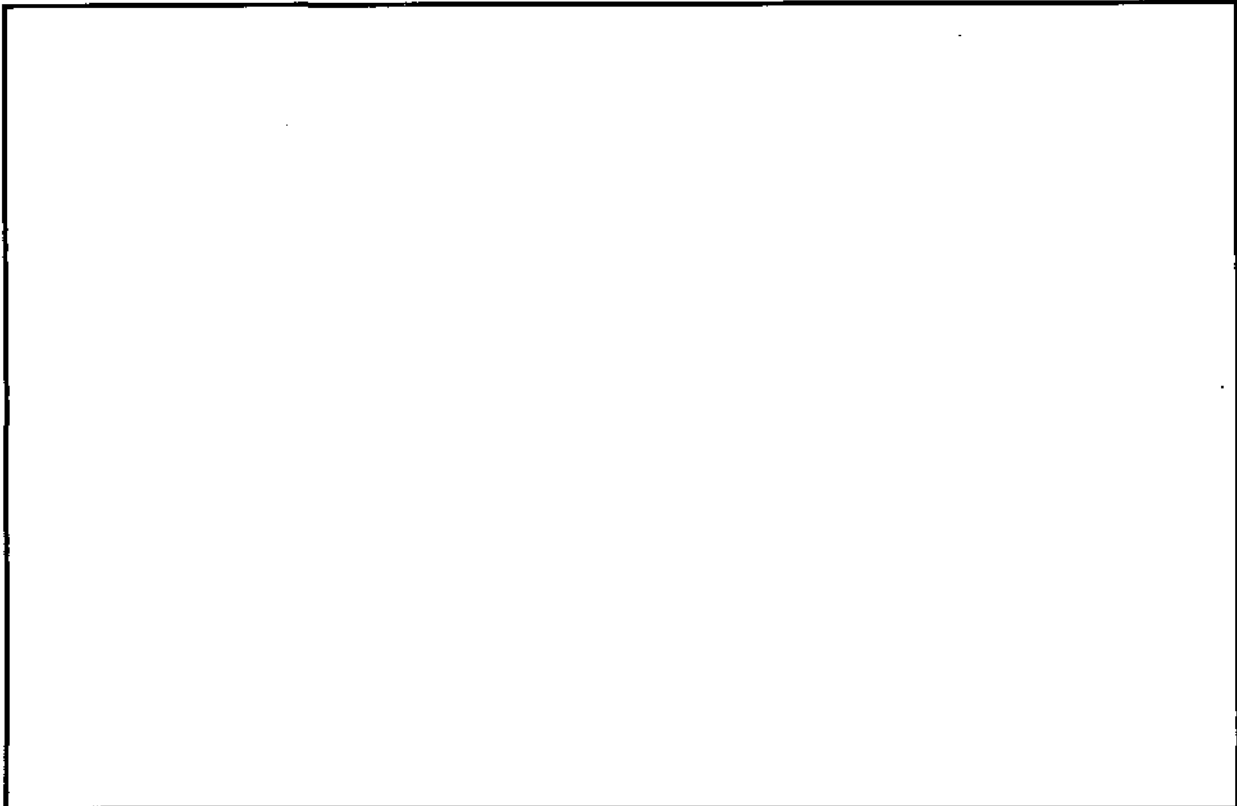
SUSSMAN-14

Notes and Guidance for NO FLY and SELECTEE lists
Prepared 3/25/2002 by SSA [redacted]

b7C -1

b6 -1

Administrative-General



b2 -4
b7E -1

Investigative

NO FLY list - Used to prevent persons from using commercial aviation who are deemed by the FAA to be a threat to aviation, based on information received from various sources. Airport police are to perform an initial ID check and will hopefully eliminate the person as a match. [redacted]

b2 -4

[redacted] Airport police will contact the FBI in questionable cases.

b7E -1

A few people have been removed from the list after the person convinced the FBI and the FBI determined [redacted] that they were not a threat to aviation. The passenger may not fly until the FAA removes their name from the list. The air carriers, not the FBI, prevent the passenger from boarding the flight. The person can travel by other means, but not commercial air. The FAA removes names from the list based on instructions from the submitting agency or a document [redacted]

b2 -4

b7E -1

[redacted] indicating that the person is not considered to be a threat to aviation.



b2 -4

b7E -1

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-03 BY UC60267 NLS/AG/CAL
CA#03-1779

SUSSMAN-15

b7C -1

b6 -1

[redacted]

b2 -4

SELECTEE List - These persons are [redacted]
[redacted]. Passengers determined to be the person on the list,
[redacted] to the air carrier for any
screening which the carrier needs to conduct in accordance with the TSA Security Directive prior
to flight boarding. These persons can use commercial air transportation - they need not be denied
boarding.

b7E -1

Responsibilities of FBI office in HQ city of air carrier [redacted]

[redacted]

b2 -4

b7E -1

Possible Match Passenger at the Ticket Counter: When a passenger with a possible name match
presents themselves at a ticket counter, the air carrier is supposed to first contact the airport LEO
for an initial ID check. [redacted]

b2 -4

b7E -1

[redacted]

[redacted]

b2 -4

b7E -1

[redacted]

Passengers who know their name is on a list requiring identification by the police can potentially
arrange with the airport police before they get to the airport that day to alert the police they have a
flight and when they plan on being at the airport. Thus, the police can be there or at least be nearby,
further reducing delays. [redacted]

b2 -4

[redacted]

b7E -1

XXXXXX
XXXXXX
XXXXXX

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)-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) - 1

(b)(9)

(k)(6)

(b)(6)

(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 _____

Page(s) withheld for the following reason(s): _____

- The following number is to be used for reference regarding these pages:

SUSSMAN-17

XXXXXXXXXXXXXXXXXXXX
X Deleted Page(s) X
X No Duplication Fee X
X for this page X
XXXXXXXXXXXXXXXXXXXX

XXXXXX
XXXXXX
XXXXXX

XXXXXX
XXXXXX
XXXXXX

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)-1

(b)(7)(C)-2

(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)-1

(b)(9)

(k)(6)

(b)(6)-2

(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 _____

_____ Page(s) withheld for the following reason(s): _____

The following number is to be used for reference regarding these pages:

3USSMAN-18

XXXXXXXXXXXXXXXXXXXX
X Deleted Page(s) X
X No Duplication Fee X
X for this page X
XXXXXXXXXXXXXXXXXXXX

XXXXXX
XXXXXX
XXXXXX

XXXXXX
XXXXXX
XXXXXX

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)

(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)

(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 _____

Page(s) withheld for the following reason(s): _____

The following number is to be used for reference regarding these pages:

SUSSMAN-19

XXXXXXXXXXXXXXXXXXXXX
X Deleted Page(s) X
X No Duplication Fee X
X for this page X
XXXXXXXXXXXXXXXXXXXXX

XXXXXX
XXXXXX
XXXXXX

b2 -1

b7C -1

b6 -1

January 22, 2003

From: [redacted] OGC/ILU, Ext [redacted]

b7C -1

To: [redacted]

b6 -1

b7C -3

Enclosed is your copy of a draft MOU I received from [redacted] a policy official in TSA. Not sure why he faxed it to me but, in any event, it addresses respective roles in providing input to and using the TSA's No-Fly and Selectee lists.

b6 -3

I am not sure who in CTD has this for action but it's got to be one of you three so here it is.

[redacted]

Anyway, if you need us on this any more, let me know

b5 -1, 2

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

SUSSMAN-24

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

MICHAEL SUSSMAN,)
)
)
 Plaintiff,)
)
)
 v.)
)
)
 UNITED STATES DEPARTMENT OF) Civil Action No. 03-CV-3618(DRH)(ETB)
 JUSTICE, UNITED STATES DEPARTMENT)
 OF TRANSPORTATION, TRANSPORTATION)
 SECURITY ADMINISTRATION, UNITED)
 STATES POSTAL SERVICE, UNITED)
 STATES SECRET SERVICE, and INTERNAL)
 REVENUE SERVICE,)
)
 Defendants.)
)

SUSSMAN PAGES 25-27
(See Fourth Declaration of David M. Hardy)

XXXXXX
XXXXXX
XXXXXX

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~~

(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~~

(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 _____

Page(s) withheld for the following reason(s): _____

- The following number is to be used for reference regarding these pages:

JUSSMAN-28

XXXXXXXXXXXXXXXXXXXX
 X Deleted Page(s) X
 X No Duplication Fee X
 X for this page X
 XXXXXXXXXXXXXXXXXXXX

XXXXXX
XXXXXX
XXXXXX

b7C -1

From:

[Redacted]

b6 -1

To:

ARTHUR M. CUMMINGS; [Redacted]

Date:

5/28/02 1:43:30 PM

b7C -1

Subject:

Issue: TSA and No Fly Lists

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.

b2 -4

b7E -1

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

[Redacted]

b2 -4

b5 -1

b7E -1

TSA also fails (except on one occasion) to coordinate with us when they tell the carriers whom to contact (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.

b2 -4

[Redacted]

b5 -1

b7E -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]

b5 -1

[Redacted]

b6 -3

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

b7C -3

Thanks [Redacted]

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

b2 -1,2

b7C -1

[Redacted]@leo.gov

b6 -1

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 8-6-03 BY UC60267 NLS/AG/CAL
CA# 03-1779

SUSSMAN-29

b7C -1

b6 -1

From: [redacted]
To: Aviation Field 25
Date: 5/29/02 5:06:13 PM
Subject: [redacted]

[redacted]

[redacted]

More to follow as I get additional information.

b2 -4

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

b2 -1,2

b7E -1

b7C -1

b6 -1

CC: ARTHUR M. CUMMINGS; Aviation-CIRG&Training; Avia...

634/6

DMCAA

495-1266

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 8-6-03 BY UC 60262 NLS/AG/CAL
CA# 03-1779

b7C -1

b6 -1

From:
To:
Date:
Subject:

[Redacted]

7/2/02 7:40PM
Re: No Fly and Selectee Lists

b7C -1

b6 -1

Thank you so much for the detailed legal opinion and support on the FBI's role in crafting security directives [Redacted]

b5 -1,2

We still need to address the legal, policy and procedural questions as a total picture, rather than piecemeal. [Redacted]

b5 -1,2

Re authority to hold No Fly passengers until the FBI arrives, [Redacted]

Wow, I can't imagine that. [Redacted]

b5 -1,2

for that evaluation. [Redacted]

b5 -1,2

If the FBI and the TSA cannot agree [Redacted]

b5 -1,2

Regards [Redacted]

b7C -1

b6 -1

>> [Redacted] 7/2/02 11:59:21 AM >>>

The specific statutory citation for the terrorist watch list [Redacted]

b5 -1,2

b7C -1

b6 -1

b5 -1,2

b5 -1,2

[Redacted]

b5 -1,2
b7C -1
b6 -1

[Redacted]

b5 -1,2

[Redacted]

b5 -1,2
b5 -1,2

My next move is to consult the [Redacted] in the DAG's office--about the issue of the legal basis for No-Fly decisions after I discuss this within OGC.

b7C -1

[Redacted] ext [Redacted]

b2 -1 b6 -1

>> [Redacted] 07/01/02 07:32PM >>>

b7C -1

b6 -1

When it rains, it pours. [Redacted]

b5 -1,2

[Redacted] I ask that [Redacted] DGC, go into additional legal citations from the USA PATRIOT ACT that might be pertinent, but 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:

b7C -1

b6 -1

(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.

b7C -1

b6 -1

Personally, I think that this about covers it, and hopefully, the FBI will be consulted on revisions to the TSA Security Directives to be more clear about who is to contact whom in what situation. [redacted]

[redacted] Perhaps they need to hear a definitive statement from the FBI on these matters.

b2 -4

I hope this helps.

b5 -1,2

b7E -1

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

b2 -1,2

b6 -1

[redacted]@eo.gov

b7C -1

>>> MARTIN J KING 6/27/02 5:05:03 PM >>>

b7C -1

SSA [redacted]

b6 -1

b7C -1

b6 -1

As CDC of the [redacted] I have been asked to obtain some information for the United States Attorney's Office, [redacted] concerning the legal authority under which the FAA/TSA promulgate the No Fly and Selectee lists. Personnel from the United States Attorney's Office were recently afforded a briefing regarding the No Fly and Selectee lists by SA [redacted] Airport Liaison Agent. Following this briefing, SA [redacted] received a request for additional information which has been forwarded to the CDC for handling.

b6 -1

b7C -1

My understanding is that the U.S. Attorney's Office would like some assistance in identifying the specific statutes/regulations/executive orders or any other enabling provisions which grant authority to the FAA and/or TSA to compile and disseminate the lists. There is no known agenda attached to the request other than further informing the understanding of appropriate personnel regarding the program.

b7C -1

b6 -1

I have read the "Notes and Guidance" which you prepared on 03/25/2002 and accordingly, I hope that you may be of some help in responding to the request from the United States Attorney's Office [redacted]

b2 -1

[redacted] If your Unit maintains responsive information, please forward same to my attention. I may be reached at [redacted]

b7C -1

b6 -1

CC: ARTHUR M. CLIMMINGS; [redacted]

[redacted]

b7C -1

b6 -1

From: [redacted]
To: [redacted]
Date: 7/6/02 3:44PM
Subject: Re: No Fly and Selectee Lists

b5 -1,2
b7C -1
b6 -1

[redacted] seeing as how I had time today, waiting for the TSA lists, I thought I would reply to you. I know this mail constitutes an ongoing discussion which really needs to be held in person, so people can offer their views.

- 1. Agree.
- 2. Agree

3 and 5. Still not clear on your distinction.

[redacted]

b5 -1,2

4.

[redacted]

b5 -1,2

>>> [redacted] 7/3/02 9:03:31 AM >>>

b7C -1
b6 -1

1. As far as I am concerned

[redacted]

b5 -1,2

2. You heard their counsel say he wants more, such as

[redacted]

b5 -1,2

3. But, what TSA is entitled to expect is a

[redacted]

b5 -1,2

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 8-6-03 BY UC60267 NLS/AG/CAL
CA# 03-1700

SUSSMAN-34

b7C -1

b6 -1

4. Maybe, at some point,

b5 -1,2

5. In the end, even though we are dealing with lists or groupings of people who are joined together by a

b5 -1,2

>>> 07/02/02 07:39PM >>>

b7C -1

b6 -1

Thank you so much for the detailed legal opinion and support on the FBI's role in crafting security directives

b5 -1,2

We still need to address the legal, policy and procedural questions as a total picture, rather than piecemeal

b5 -1,2

Re authority to hold No Fly passengers until the FBI arrives

Wow, I can't imagine that

b5 -1,2

for that evaluation.

b5 -1,2

If the FBI and the TSA cannot agree

b5 -1,2

Regards,

b7C -1

>>> 7/2/02 11:59:21 AM >>>

b6 -1

The specific statutory citation for the terrorist watch lis

b5 -1,2

b5 -1,2

b5 -1,2

b7C -1

b6 -1

b5 -1,2

b5 -1,2

b5 -1,2

My next move is to consult the [redacted] in the DAG's office--about the issue of the legal basis for No-Fly decisions after I discuss this within OGC.

b7C -1

b6 -1

b2 -1

>>> [redacted] 07/01/02 07:32PM >>>

When it rains, it pours. [redacted]

b5 -1,2

I ask that [redacted] OGC, go into additional legal citations from the USA PATRIOT ACT that might be pertinent, but 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:

b7C -1

b6 -1

(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

b7C -1

b6 -1

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.

Personally, I think that this about covers it, and hopefully, the FBI will be consulted on revisions to the TSA Security Directives to be more clear about who is to contact whom in what situation.

Perhaps they need to hear a definitive statement from the FBI on these matters.

b2 -4

I hope this helps.

b5 -1,2

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

b2 -1,2

b7E -1

b7C -1

b6 -1

b7C -1

>>> 6/27/02 5:05:03 PM >>>
SSA

b6 -1

b7C -1

As CDC of the I have been asked to obtain some information for the United States Attorney's Office concerning the legal authority under which the FAA/TSA promulgate the No Fly and Selectee lists. Personnel from the United States Attorney's Office were recently afforded a briefing regarding the No Fly and Selectee lists by SA Airport Liaison Agent. Following this briefing, SA received a request for additional information which has been forwarded to the CDC for handling.

b6 -1

b7C -1

b6 -1

My understanding is that the U.S. Attorney's Office would like some assistance in identifying the specific statutes/regulations/executive orders or any other enabling provisions which grant authority to the FAA and/or TSA to compile and disseminate the lists. There is no known agenda attached to the request other than further informing the understanding of appropriate personnel regarding the program.

b7C -1

b6 -1

I have read the "Notes and Guidance" which you prepared on 03/25/2002 and accordingly, I hope that you may be of some help in responding to the request from the United States Attorney's Office

b2 -1

If your Unit maintains responsive information, please forward same to my attention. I may be reached at

b7C -1

b6 -1

CC: ARTHUR M. CUMMINGS;
MARION Bowman

b7C -3

b7C -1

b6 -3

b6 -1

From:

[Redacted]

b7C -1

To:

ARTHUR M. CUMMINGS;

[Redacted]

b6 -1

Date:

7/18/02 6:39PM

b2 -4

Subject:

[Redacted]

b7E -1

[Redacted]

b2 -4

[Redacted]

b7D -1

b7E -1

Thank you.

From:

[Redacted]@state.gov

b7C -1,3,5

To:

[Redacted]

b7D -1

Cc:

[Redacted]

b6 -1,3,5

Subject: RE: TSA No Fly List

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

[Redacted]

b2 -4

b7C -5

[Redacted]

b7D -1

b7E -1

b6 -5

[Redacted]

b2 -4

[Redacted]

b7C 1,3,5

b7D -1

b7E -1

b6 -1,3,5

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED

DATE 8-1-03 BY UC60267NLS/AG/CAL SUSSMAN-38

CA#03-1900

b7C -1

b7E -1

b6 -1

Please advise who will attend this meeting. I may be reached at [redacted] Thanks.

b7C -1,3,5

----- 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

b7D -1

b2 -2

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 -2,5

b6 -2,5

[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

b7D -1

b2 -2

b6 -1,3,5

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.

b7C -2,5

b6 -2,5

b7D -1

[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]
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

b6 -1,3,5

b2 -2

[redacted]

b7C -1,2

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.

b6 -1,2

b7C -1

b7E -1

b6 -1

The problem is our Mr. [redacted] 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.

b7C -2

b7D -1

b6 -2

[redacted]

b7C -1,5

CC:

[redacted]

b6 -1,5

b7C -1,5

b7D -1

b6 -1,5

From: [redacted]

To: [redacted] (FBI) [redacted]@leo.gov>

b2 -2

Subject: RE: TSA No Fly List

Date: Tue, 18 Jun 2002 20:46:23 -0400

Hi [redacted]

b2 -4

[redacted]

b7D -1

1. [redacted]

b7E -1

[redacted]

2. [redacted]

b2 -4

[redacted]

b7D -1

3. [redacted]

b7E -1

[redacted]

4. [redacted]

b2 -4

[redacted]

b7D -1

b7E -1

b2 -4

[redacted]

b7D -1

b7E -1

[redacted]

b7C -5

[redacted]

b7C -5

b6 -5

[redacted]

b6 -5

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

b2 -2

To: [redacted]

b7C -1,5

References: [redacted]

b7D -1

Subject: Re: TSA No Fly List

Date: Tue, 18 Jun 2002 21:31:57 -0400

b6 -1,5

[redacted]

b2 -4

1. [redacted]

b7E -1

[redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 8-10-03 BY UC60267 NLS/AG/cac.
CA#03-1000
SUSSMAN-41

[Redacted]

b2 -4
b7E -1

2. [Redacted]

[Redacted]

b2 -4
b7E -1

3. [Redacted]

[Redacted]

b2 -4
b7E -1

[Redacted]

b7C -1

b6 -1

From: [Redacted]

To: [Redacted] (E-mail) [Redacted]@state.gov>

b2 -2

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

b7C -1, 3, 5

b7D -1

Subject: TSA No Fly List

b6 -1, 3, 5

Date: Tue, 18 Jun 2002 12:18:29 -0400

b2 -4

[Redacted]

b7C -5

[Redacted]

b7D -1

b7E -1

b6 -5

[Redacted]

b2 -4

b7C -5

[Redacted]

b7D -1

b7E -1

b6 -5

b7C -1

b6 -1

From: [Redacted]
To: [Redacted]
Date: 7/22/02 1:48PM
Subject: Info for TSA Legal Request

b2 -4

[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.

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.

b7C -3

b6 -3

[Redacted]

b2 -4

b7E -1

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

A. [Redacted]

b2 -4

b5 -1,2

B. [Redacted]

b7E -1

C. [Redacted]

b2 -4

D. [Redacted]

b5 -1,2

b7E -1

E. [Redacted]

b2 -4

F. [Redacted]

b5 -1,2

b7E -1

G. [Redacted]

b2 -4

H. [Redacted]

b5 -1,2

b7E -1

SUSSMAN-43

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 8-3-03 BY UC60267 NLS/AG/CSL
CA# 03-1779

b2 -4

b5 -1,2

b7C -1

b7E -1

b6 -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

b5 -1,2

b7E -1

(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.

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

b7C -1

b6 -1

b7C -1

b6 -1

From: [redacted]
To: [redacted]
Date: 7/23/02 10:16AM
Subject: No-Fly List

b7C -1

b6 -1

[redacted] et al: This is to confirm our understanding in OGC of yesterday's meeting. We all recognize the needs:

[redacted]
[redacted]

[redacted]

[redacted]
[redacted]

b5 -1

[redacted]
[redacted]

[redacted]

Obviously, CTD will have to address the last three of the four items listed above--although OGC will certainly help wherever we can. However, we can and should play an integral role in developing criteria. We can work on criteria in theory but we really need to learn the track record of experience so far.

b5 -1

To that end, you agreed to consult with the cognizant people in the TWL unit and other IT sources to assemble some of the actual [redacted]

b7C -3

b6 -3

Let me know if your understanding is different than what I have described and please let us know how you are progressing in finding out the actual criteria used so far.

Thanks [redacted] Ext [redacted]

CC: [redacted] CUMMINGS, ARTHUR M. [redacted] [redacted] [redacted]

b2 -1

b7C -1

b6 -1

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 8-3-03 BY UCL60267 NLS/AG/CAL
CA#03-1779

b7C -1

b6 -1

From: [redacted]
To: NO FLY INFO
Date: 8/5/02 7:45PM
Subject: List Criteria

Per our last meeting, I reviewed the existing [redacted]

[redacted]

[redacted]

[redacted]

b5 -1

b7E -1

b2 -4

CC: [redacted]

b7C -1

b6 -1

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 6-03 BY UC60267NLS/AG/CAL
CA# 03-1779

SUSSMAN-46

b2 -4, 5

b7C -1

From:

[Redacted]

b7E -1, 2

To:

Date:

8/5/02 6:52PM

b6 -1

Subject:

[Redacted] dissem of No Fly List

Hi

[Redacted]

This is probably a tricky question depending on to whom you wish to give it and why. If you have an FAA/TSA rep [Redacted] it might be best to discuss this with them and let me know what they say. I've been answering this question for other [Redacted] but each [Redacted] situation may be different.

b2 -4, 5

b7E -1, 2

I think it should be disseminable to liaison contacts responsible for aviation-security matters [Redacted]

[Redacted]

Hopefully, you can look at the purpose of the list, and go from there. Thanks for your question. If you run into problems or other questions, please let me know.

>>> [Redacted] 8/5/02 1:11:06 AM >>>

b2 -4

b7C -1

[Redacted]

Can we disseminate this list to [Redacted]

b7E -1

[Redacted]

b6 -1

>>> [Redacted] 08/01/02 05:58AM >>>

b2 -4, 5

I've received a couple of questions from [Redacted] about the lists, such as whether the names are in other databases, etc. I'll answer as I can and cc everyone, and then try to compile a comprehensive info sheet at some point. For example, [Redacted]

b7C -1

b7E -1, 2

[Redacted]

b6 -1

Please forward this mail as appropriate within your offices and to CP/Duty Agent. Thank you.

** Recipients of this mail have either been designated as Airport Liaison Agents or have duties and responsibilities which necessitate, or are enhanced by, awareness of Transportation Security Administration (TSA - formerly FAA) security information.

These lists and general guidance for FBI response to possible name matches on TSA lists may be found at [Redacted] on the [Redacted] and also on [Redacted]

b2 -4

b7E -1

[Redacted]

[Redacted]

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

b2 -1, 2

b7C -1

b6 -1

[Redacted]@leo.gov

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 9-6-03 BY UC60267 NLS/A6/COL
CA#03-1779
SUSSMAN-47

b2 -4,5

b7C -1

b7E -1,2

b6 -1

From: ARTHUR M. CUMMINGS
To: [redacted]
Date: 8/7/02 1:38PM
Subject: Re: [redacted] dissem of No Fly List

All, the No Fly and Selectee lists are controlled by the TSA and as such will be disseminated by that organization

b2 -4

b5 -1

b7E -1

[redacted]
[redacted] deas?

>>> [redacted] 08/05 6:52 PM >>> b7C -1

Hi [redacted] b6 -1

This is probably a tricky question depending on to whom you wish to give it and why. If you have an FAA/TSA rep [redacted] it might be best to discuss this with them and let me know what they say. I've been answering this question for other [redacted] but each [redacted] situation may be different.

b2 -4,5

b7E -1,2

I think it should be disseminable to [redacted] responsible for aviation-security matters [redacted]

[redacted]

Hopefully, you can look at the purpose of the list, and go from there. Thanks for your question. If you run into problems or other questions, please let me know.

>>> [redacted] 8/5/02 1:11:06 AM >>> b2 -4

[redacted] b7C -1

Can we disseminate this list to [redacted] b7E -1

[redacted] b6 -1

>> [redacted] 08/01/02 05:58AM >>>

I've received a couple of questions from [redacted] about the lists, such as whether the names are in other databases, etc. I'll answer as I can and cc everyone, and then try to compile a comprehensive info sheet at some point. For example

[redacted]

b2 -4,5

Please forward this mail as appropriate within your offices and to CP/Duty Agent. Thank you. b7C -1

** Recipients of this mail have either been designated as Airport Liaison Agents or have duties and responsibilities which necessitate, or are enhanced by, awareness of Transportation Security Administration (TSA - formerly FAA) security information. b7E -1,2
b6 -1

These lists and general guidance for FBI response to possible name matches on TSA lists may be found

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 8-6-03 BY UC60267 NLS/AG/CL
CA# 03-1779

SUSSMAN-48

at <http://30.5.100.249/opsupport/faasupport> on the [redacted] and also on [redacted]

[redacted]

[redacted]

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

b2 -1,2,4

b7C -1,3,5

b7E -1

b6 -1,3,5

CC:

[redacted]

[redacted]

SUSSMAN-49

XXXXXX
XXXXXX
XXXXXX

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, 2, 3, 5

(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) - 1, 2, 3, 5

(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 _____

Page(s) withheld for the following reason(s): _____

The following number is to be used for reference regarding these pages:

SUSSMAN - 50

XXXXXXXXXXXXXXXXXXXX
X Deleted Page(s) X
X No Duplication Fee X
X for this page X
XXXXXXXXXXXXXXXXXXXX

XXXXXX
XXXXXX
XXXXXX