

From: [redacted]
To: [redacted]
Date: 6/27/02 7:32PM
Subject: Re: TSA & Local LEO inquiry of PC for Detention of No Fly List individuals. b7C

Hi [redacted]

Not being a lawyer, I'm treading on common sense ground here, but I believe that "investigative detention" is the basis for the local LEO holding individuals until the FBI shows up, same as it is for non-terrorist criminal matters, such as potential Crime Aboard Aircraft violations. After you arrive, however, if there is nothing in NCIC, such as an INS status problem or any arrest warrant for the person and they want to leave, they can leave, unless you find something for which to arrest them. As a reminder, OGC also advises that the field use the 265 TURK classification for each interview conducted related to the lists.

(**A lot of LEO's don't seem to like using that surrogate authority, which is why we had all those deputation issues over the last couple of years.)

>>> [redacted] 6/27/02 12:40:36 PM >>>

TSA and local LEO are inquiring as to the PC for detaining individuals that have been identified on the No Fly or Selectee list with more than the name match. They are concerned about the legality of the detention. They need to know the PC for which they are detaining the individuals until the FBI shows up to interview the individual.

Thanks for your assistance

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[redacted]

b7C

CC: ARTHUR M. CUMMINGS; [redacted]

[redacted]

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HEREIN IS UNCLASSIFIED
DATE 8-6-03 BY uc60267 NLS/AG/CAL
CA# 03-1779

b7C

From: [Redacted]
To: Aviation Field 25
Date: 5/29/02 5:05:13 PM
Subject: New TSA Guidance-Selectee and No Fly Lists

[Redacted]

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b7E

[Redacted]

More to follow as I get additional information.

SSA [Redacted] (fax) b2
Civil Aviation Security Program, Room 11795 b7C
Domestic Terrorism Counterterrorism Planning Section
Counterterrorism Division

[Redacted]

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

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DMCRA

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DATE 8-6-03 BY UC60262
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[Redacted]

From: [Redacted]
Sent: b7C Wednesday, June 19, 2002 7:15 PM
To: [Redacted]
Cc: [Redacted]
Subject: Re: USA PATRIOT Act Sec. 1009?

[Redacted] boy, this is getting a bit complicated. Of course, I should have known that someone in the FBI was following the implementation requirements of various parts of all this legislation, and usually I will end up with aviation-related things like this, but not this time. So, not only is Congress wanting an update, but now DOJ is tracking it too. Just gets worse, doesn't it?

In response to your question, yes, I've developed a significant role in the watch list procedures and am privy, along with others, to various info sharing efforts regarding comparing passenger data and names of known/suspected terrorists, but that grew independently of any legislative mandate to study such things. From your description, it sounds like no one picked it up "officially". however, that hopefully will [Redacted]

[Redacted] Does anyone disagree with that assessment, based on my description of procedures as they are and how they are envisioned? b5

Thanks [Redacted] b7C b7C

>>> [Redacted] 6/19/02 9:55:49 AM >>>

[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) [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

[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???



Re: Overdue Patriot Act requir...

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b7C

From: [redacted]
 To: ARTHUR M. CUMMINGS; [redacted]
 Date: 7/6/02 3:30:58 PM
 Subject: "TSA" Lists

As you know, I have taken it upon myself since 10/23/01 to coordinate with the TSA to get the No Fly and Selectee lists to the Airport Agents because, in most cases, they are the ones responding to potential matches. I receive the lists [redacted]

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[redacted] all to make sure our agents have the info they need to do their jobs. And, still, the agents frequently come up a day late and a dollar short with the lists because TSA, not us, is managing them. If they are lists of terrorists, we should be managing them. We can read the ATSA legislation again to see who is responsible for what when it comes to managing security information and keeping lists.

I know everyone likes to say that we (and other agencies) provide the info and TSA does the lists, which would be OK if they were making it accessible and we weren't then going back out to the airport to interview people on the basis of the lists. The process is not working for us at all and there is no way to make it work if TSA or anyone but us is in charge. We did these lists just fine during PENTTBOM, gave the lists to TSA and they got them to the carriers.

I am spending far too much time processing the lists from the TSA in a way that can be used by the field agents, and this would be true if an IOS were doing it. I wait for TSA to send me the lists and I don't get all of them. There are all kinds of excuses from TSA about this. Bottom line, this is not working, I'm not here to be a list processor, and no changes have been made by TSA to make it easier. Therefore, we have to find a better and different way if we intend to provide the lists to our agents. I can no longer wait for the TSA to send me the lists and spend half a day processing what turn out to be old lists. I have other program initiatives which I have to address.

For as long as we have to process lists, I recommend that the FBI TWL Unit issue the lists and post them on the [redacted] and send them to the TSA so the TSA can forward them to their recipients, instead of the other way around. At least that way, WE would have the lists in advance of the carriers and airports and be prepared. Some reasons to go this way -

1. Other agencies are sending TSA communications about potential terrorists and, simultaneously to the FBI getting the info, TSA is putting them on a list without any coordination with the FBI TWL. In fact, the info may sit in an FBI substantive unit before it gets to the TWL.

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2. [redacted]

[redacted] Most agents do not get the lists from ground TSA or police personnel, in fact, we give those folks copies of the lists. It's only in the big cities where WE might get it from the TSA. Alternatives to the FBI agents having the list are for them to call the [redacted] every time they get a potential match, copying down the info, etc. They are already calling for substantive info, at least we could give them is what the police and air carriers have. We are placing ourselves in a position to rely on TSA to get us the lists, and it looks stupid for everyone.

Just fyi, I had to come in today (Sat) because the TSA [redacted] sent me the incorrect Selectee List on Wed and again on Friday, so I had to call the TSI Watch today to [redacted] me the correct list. [redacted] kept sending an older No Fly list labeled as the Selectee List, but I didn't notice until after I sent out and posted two wrong lists on the [redacted] and I got calls from the field and from [redacted]

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Unfortunately, the most current lists posted on the [redacted] where I could also try to access them, are No Fly [redacted] and Selectee [redacted] which are about 10 and 9 lists behind, respectively. In the meantime, TSA issued a new No Fly List [redacted] after I left at 7:30 pm last night, so they are supposedly sending me that as well as Selectee [redacted] I've been waiting 45 minutes already

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I just called TSI Watch and they told me that THEY don't know how to [redacted] me the lists, that when there is an update, they call [redacted] at home, even! [redacted]

I am now on the phone with [redacted] and she is trying to figure out which No Fly and Selectee lists they are on. She now says she only has No Fly [redacted] but not the most current Selectee list. She is calling a coworker [redacted] The

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TSI Watch guy doesn't have [redacted] but he will search for it. [redacted]

b7E

CC:

[redacted]

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From: [redacted]
To: [redacted]
Date: 9/28/02 8:09:25 PM
Subject: Re: TSA No Fly/Selectee List Issue

[redacted]

I can't remember to which issue you're referring, as you didn't include my original email in your response and I can't seem to find my outgoing message in any of my email folders - can you send me back the mail I sent you.

To answer your question in this mail about central records/Privacy Act/FOIA, they are good questions, and among the many that have yet to be answered. I myself don't upload the lists into ACS, so the information would not be contained AS A LIST in the FBI's Central Records System, but the information on each person that the FBI puts on the list should be somewhere in ACS.

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[redacted]
[redacted] in addition, I have all the lists I receive on the CTD shared drive.

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I've also noticed that at least one airport agent has uploaded some, if not all, of the lists, on his own initiative. I never thought to do that, but we certainly can, if ACS will accept Excel files. Trouble is, I don't have all the lists, as TSA doesn't get always send them to me and the lists are superceded by the next list anyway. If someone is interviewed because of being on a list, the interviewing agent's record would be in ACS.

The first step is to just get TSA's record of who originated which names on the lists and the document identification to determine whether or not we do have the originating document in ACS somewhere. We don't necessarily have to "raid" TSA files and walk away with documents. If we were a recipient, we have the document somewhere, you would just be getting a duplicate.

Perhaps I'm missing a larger point here. The lists can certainly be uploaded, but to which file? You may need to open one. That's what VGTOF was going to also accomplish, right? I'm not in the full loop on all these issues, but am happy to work with you on it.

>>> [redacted] 9/27/02 10:34:49 AM >>>

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[redacted]

This is a longer term issue, but one I think we should consider. Yesterday [redacted] and I met with [redacted] OGC Admin Law, to discuss Privacy Act issues concerning the proposed new and improved FBI Watchlist. I took the opportunity to also ask her about the TSA lists and the drop folders we have. I don't think there is much of an issue so long as the folders just contain FBI ACS derived information. However, if I go over to TSA and raid their files and place it in our files, I think there might be a Privacy Act issue unless all the information I obtain is also in the FBI's Central Record System.

The first question I have is whether the TSA's lists as you distribute them to the airport liaison personnel are uploaded or otherwise put into the FBI's Central Record system so the names are retrievable through FBI indices.

If that is not so, then I would propose writing an EC to FOIA people here at FBIHQ advising them of these files here in TWL. Perhaps I am worrying about an issue that does not exist. When you get time, lets discuss this.

CC:

[redacted]

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