



Homeland Security

March 14, 2008

Mr. David L. Sobel
Electronic Frontier Foundation
1875 Connecticut Avenue, N.W.
Suite 650
Washington, DC 20009

Re: DHS/OS/PRIV 07-160/Sobel request

Dear Mr. Sobel:

This is the eleventh partial release to your Freedom of Information Act (FOIA) requests to the Department of Homeland Security (DHS), dated November 7, 2006 and December 6, 2006, requesting DHS records concerning the Automated Targeting System (ATS). These two requests were aggregated to simplify processing. The following is a consolidated list of records requested:

1. All Privacy Impact Assessments prepared for the ATS system or any predecessor system that served the same function but bore a different name.
2. A Memorandum of Understanding executed on or about March 9, 2005 between Customs and Border Protection (CBP) and the Canada Border Services Agency to facilitate the Automated Exchange of Lookouts and the Exchange of Advance Passenger Information.
3. All records, including Privacy Act notices, which discuss or describe the use of personally-identifiable information by the CBP (or its predecessors) for purposes of screening air and sea travelers.
4. All System of Records Notices (SORNs) that discuss or describe targeting, screening, or assigning "risk assessments" of U.S. citizens by CBP or its predecessors.
5. All records that discuss or describe the redress that is available to individuals who believe that the ATS contains or utilizes inaccurate, incomplete or outdated information about them.
6. All records that discuss or describe the potential consequences that individuals might experience as a result of the agency's use of the ATS, including but not limited to arrest, physical searches, surveillance, denial of the opportunity to travel, and loss of employment opportunities.
7. All records that discuss or identify the number of individuals who have been arrested as a result of screening by the ATS and the offenses for which they were charged.
8. All complaints received from individuals concerning actions taken by the agency as a result of ATS "risk assessments" or other information contained in the ATS, and the agency's response to those complaints.
9. All records that discuss or describe Section 514 of the Department of Homeland Security Appropriations Act, 2007, P.L. 109-295 (H.R. 5441) and its prohibition against the development or testing of "algorithms assigning risk to passengers whose names are not on Government watch lists."
10. All records that address any of the following issues:
 - a. Whether a system of due process exists whereby aviation passengers determined to pose a threat are either delayed or prohibited from boarding their scheduled flights may appeal such decision and correct erroneous information contained in the ATS;

- b. Whether the underlying error rate of the government and private databases that will be used in the ATS to assign a risk level to an individual will not produce a large number of false positives that will result in a significant number of individuals being treated mistakenly or security resources being diverted;
- c. Whether the agency has stress-tested and demonstrated the efficacy and accuracy of all search tools in the ATS and has demonstrated that the ATS can make an accurate predictive assessment of those individuals who may constitute a threat;
- d. Whether the Secretary of Homeland Security has established an internal oversight board to monitor the manner in which the ATS is being developed and prepared;
- e. Whether the agency has built in sufficient operational safeguards to reduce the opportunities for abuse;
- f. Whether substantial security measures are in place to protect the ATS from unauthorized access by hackers or other intruders;
- g. Whether the agency has adopted policies establishing effective oversight of the use and operation of the system;
- h. Whether there are no specific privacy concerns with the technological architecture of the system;
- i. Whether the agency has, pursuant to the requirements of section 44903(i)(2)(A) of Title 49, United States Code, modified the ATS with respect to intrastate transportation to accommodate states with unique air transportation needs and passengers who might otherwise regularly trigger a high risk status; and
- j. Whether appropriate life-cycle estimates, expenditure and program plans exist.

A search directed to CBP has produced an additional 123 pages of records responsive to your request. We have determined that 9 pages are releasable to you in full or with certain information withheld pursuant to Exemptions 1, 2 (low) and (high), 4, 5, 6 and 7 of the FOIA, and 114 pages are withheld in their entirety pursuant to Exemptions 2 (high), 5, 6 and 7E of the FOIA.

Enclosed are 9 pages of releasable information. The withheld information, consists of names or initials, deliberative material, legal opinions, law enforcement information, and homeland security information. I am withholding this information pursuant to Exemptions 2, 5, 6, and 7E of the FOIA, 5 U.S.C. §§ 552 (b)(1), (b)(2), (b)(5), (b)(6), and (b)(7)(E).

Also enclosed are 21 blank sheets with several numbers that represent withheld documents. Each number corresponds to a page of withheld information and has the appropriate exemptions that apply to that document. In this instance, there are 114 pages of withheld information that comprise 21 documents.

Exemption 2(low) exempts from disclosure records that are related to internal matters of a relatively trivial nature, such as internal administrative tracking. Exemption 2(high) protects information disclosure of which would risk the circumvention of a statute or agency regulation. Included within such information may be operating rules, guidelines, manuals of procedures for examiners or adjudicators, and homeland security information.

FOIA Exemption 4 protects trade secrets and commercial or financial information obtained from a person that is privileged or confidential. The courts have held that this subsection protects (a) confidential commercial information, the disclosure of which is likely to cause substantial harm to the competitive position of the person who submitted the information and (b) information that was voluntarily submitted to the government if it is the kind of information that the provider would not customarily make available to the public. I reviewed the responsive documents, and I determined that portions are exempt from disclosure under subsection (b)(4) of the FOIA and must be withheld in order to protect the submitter's proprietary interests.

Exemption 5 protects from disclosure those inter- or intra-agency documents that are normally privileged in the civil discovery context. The deliberative process privilege protects the integrity of the deliberative or decision-making processes within the agency by exempting from mandatory disclosure opinions, conclusions, and recommendations included within inter-agency or intra-agency memoranda or letters. The release of this internal information would discourage the expression of candid opinions and inhibit the free and frank exchange of information among agency personnel. The attorney-client privilege protects confidential communications between an attorney and his client relating to a legal matter for which the client has sought professional advice. It applies to facts divulged by a client to his attorney, and encompasses any opinions given by an attorney to his client based upon, and thus reflecting, those facts, as well as communications between attorneys that reflect client-supplied information.

Exemption 6 exempts from disclosure records the release of which would cause a clearly unwarranted invasion of personal privacy.

Exemption 7E protects records compiled for law enforcement purposes, the release of which would disclose techniques and/or procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law.

As stated in the February 1, 2008 Status Report for the litigation which encompasses this FOIA request, we are continuing to process your request with regard to documents located at the following CBP Offices: Office of Field Operations, National Targeting and Security; Office of the Chief Counsel; and Office of Information Technology. If you have any questions regarding this matter, please refer to **DHS/OS/PRIV 07-160/Sobel request**. This office can be reached at 866-431-0486. Thank you for your patience as we proceed with your request.

Sincerely,



Vanya T. Lockett
Associate Director, Disclosure & FOIA Operations

Enclosures: 30 pages

Airlines Accessible via ATS-P and Resmon

All flights with a U.S. nexus for the following airlines operate between the U.S. and the EU:

Aer Lingus
Air France
Alitalia
Austrian
British Airways
British Midland
Czech Airlines
Finnair
Iberia
KLM
LTU International
LOT Polish
Lufthansa
Malev Hungarian
Martinair
Olympic Airlines
SAS
TAP Air Portugal
Virgin Atlantic

Some flights for the following airlines operate between the U.S. and the EU:

Air India
Air New Zealand
Air Tahiti
American
Biman Bangladesh
Continental
Delta
Emirates Airline
Kuwait Airlines
Malaysia
Northwest
Pakistani
Singapore
USAir
United
Uzbekistan

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Airline Passenger Name Record (PNR) Data

All airlines provide the following information in the PNR:

Passenger Names ¹	All names are listed if known Group PNRs may not list any names Names are in fixed length fields of about 30 characters Listed as : LastName/FirstNameTitle to a max length
Itinerary ¹	Includes: Airline & Flight number Departure date Departure Location Arrival Location Status (Confirmed, standby, etc) Scheduled Departure Time Scheduled Arrival Time
PNR Locator Code	6 alpha/numeric characters

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In addition to the above information airlines may or may not have the following information in a PNR as indicated:

Airline Reservation System	AA Sabre	US Sabre	TACA Sabre	UA Apollo	NW Pars	KL ⁴ Pars	DL Pars	CO Shares	CM Shares	AV Babs ³
Received from ¹	High (b)(2), (b)(7)(E) LE, (b)(4)									
Phone numbers ¹										
Ticketing Data ^{1,2}										
Electronic Ticket Indicator										
Address										
Form of Payment										
Frequent Flyer Id										
Frequent Flyer Data										
Travel Agency										
Travel Status (revenue, standby, etc)										
Identifiers for free tickets										
Ticket Number										
Seat Number										
APIS Information										
Baggage Data										
Upgrades										
OSI/SSR										
PNR created date										
Employee info										

Notes:

Key: Y-can be provided, N-not provided, O-occasionally provided, Blank-unknown

The airlines are: AA-American, US-US Airways, TACA-Taca Group consisting of Taca, Nica, Aviateca, and Nica, UA-United, NW-Northwest, KL-KLM, DL-Delta, CO-Continental, CM-COPA, AV-Avianca

The information in the above matrix is what has been observed by Customs, and is not provided by the airlines. Most PNR data is optional; the only required data seems to be a name and an itinerary line

¹ Most airlines require the following info to book a ticket: Name, Itinerary, Phone Number, Ticketing Data, Received from; however, this does not seem to apply to employee tickets.

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²Ticketing information refers to when a ticket must be paid for, and does not necessarily include ticket number
High (b)(2), (b)(7)(E) LE, (b)(4)

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PNR Data Elements

1. OSI information
2. SSI/SSR information
3. General remarks
4. All travel itinerary for specific PNR
5. Split/Divided PNR information
6. Travel agency
7. Travel agent
8. Ticket number
9. Date of ticket issuance
10. Ticketing field information
11. Date of reservation
12. Date(s) of intended travel
13. All forms of payment information
14. Contact telephone numbers
15. Received from information
16. All historical changes to the PNR
17. Address
18. Billing address
19. PNR record locator code
20. Bag tag numbers
21. Seat number
22. Name
23. Other names on PNR
24. Number of travelers on PNR
25. Frequent flyer information
26. No show history
27. Travel status of passenger
28. Any collected APIS information
29. Email address
30. Code share PNR information
31. Seat information

32. *Go show information**

33. *ATFQ fields*
34. *One-way tickets*
35. **Voluntary/involuntary upgrades**
36. **Identifiers for free tickets**
37. **Number of bags**
38. **Number of bags on each segment**

High (b)(2), (b)(5) Delib, (b)(7)(E)

Low (b)(2), (b)(6)

Subject: Re: PNR Data Elements

(b)(6)

High (b)(2), (b)(7)(E)

High (b)(2), (b)(7)(E)

High (b)(2), (b)(7)(E)

High (b)(2), (b)(6), (b)(7)(E)

=====
Low (b)(2), (b)(6)

Subject: PNR Data Elements

(b)(6)

High (b)(2), (b)(7)(E)

High (b)(2), (b)(7)(E)

(b)(6)

Could you show us (specifically (b)(6) how to identify them on the PNR and for each reservation system?

(b)(6), (b)(5) Delib

(b)(7)(E) LE

High (b)(2), Low (b) process of putting together a standard PNR message framework
(2), (b)(7)(E) and we appreciate any guidance you can give us.

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Thanks,

(b)(6)

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Automated Targeting System

U.S. Customs Service Inspectors have responsibility in the import environment to identify cargo that may contain narcotics, and in the export environment, for enforcing Treasury, Commerce, and State Department regulations that pertain to air safety, export control, and the protection of intellectual property rights. In both environments, however, the number of passengers and shipments produces far more data than Inspectors can manually review.

Customs has developed the Automated Targeting System (ATS), a trade data evaluation system of four software applications that help Customs Inspectors in the field exercise their law enforcement responsibilities. The system electronically reviews and prioritizes all data for passengers, exports, imports and issues of trade compliance, smuggling, and terrorism, identifying passengers and cargo most likely to violate trade or drug laws or pose a threat to National security.

After receiving data from various mainframe systems, such as the Automated Commercial System (ACS), Automated Export System (AES), and Treasury Enforcement Communication System (TECS), ATS incorporates this data into High (b)(2), (b)(7)(E) [REDACTED]. ATS then examines the data, which includes electronically filed documents such as bills, entries, and entry summaries for imports, and shippers' export declarations and transportation bookings and bills for exports. It identifies subsets of shipments that are of interest based upon criteria that Inspectors have established. These criteria are encoded in rule-based systems and applied to all shipments on a real-time basis.

This data is stored on web servers in databases that Inspectors and other ATS users can query. High (b)(2), (b)(7)(E) [REDACTED]

ATS/AntiTerrorism

The export-targeting module of ATS, AntiTerrorism (ATS/AT), automatically reviews electronically filed export documentation filed through the Automated Export System (AES), searching for Inspector-defined criteria that could indicate a high-risk shipment. It then ranks the shipments based on degree of suspicion for Inspector review and possible examination.

ATS/AT supports the congressionally mandated mission assigned to Customs to develop a system capable of targeting high-risk outbound shipments aboard passenger aircraft. Customs focused on developing an improved methodology for analyzing and targeting cargo likely to contain terrorist and aviation safety and security threats to passenger aircraft. The system is available at air, land, and sea ports of entry.

ATS/Narcotics

ATS/Narcotics (ATS/N) is the import target module of ATS. A rule-based expert system like ATS/AT, ATS/N assists Inspectors and other users in identifying imports that pose a high risk for narcotics and other contraband. It is a decision support tool that helps users simultaneously review manifest and entry information on all shipments entering their ports. By allowing users to focus on higher risk shipments, ATS/N lets them review and analyze more data than otherwise possible.

ATS/Narcotics receives information from the Automated Commercial System (ACS), and this information is then evaluated using hundreds of Inspector-defined rules (criteria). High (b)(2), (b)(7)(E) [REDACTED]
LE [REDACTED]

ATS/Passenger

ATS/Passenger (ATS/P) was designed to replace the [redacted] High (b)(2), (b)(7)(E) [redacted] of the Combined Agency Border Intelligence Network (CABINET). ATS/P enables users to target individuals for possible involvement in all types of international crime, including narcotics trafficking and money laundering.

ATS/P provides the capability to review and analyze international passengers that have arrived at or departed from U.S. airports. All of the passenger information is stored and available for analysis [redacted]

[redacted]. Functions include a consistent user interface, integrated [redacted]

[redacted] High (b)(2), (b)(7)(E) [redacted]

For users with appropriate access, ATS/P also includes the Passenger Data Analysis program, which helps collect and analyze data on Customs' personal search activities. Another utility, ResMon, allows Inspectors to easily find and identify high-risk passengers by linking to the reservations systems of several major airlines (this will be expanded to include all airlines).

ATS/Trend Analysis and Analytical Selectivity Program

The Trend Analysis and Analytical Selectivity Program (TAP) module of the Automated Targeting System improves Customs' ability to examine, locate, and target for action violations of United States laws, treaties, quotas, and policies regarding international trade.

ATS/TAP offers trend analysis and targeting components. The trend analysis function summarizes historical statistics that provide the "big picture" of trade activity for commodities, importers, manufacturers, shippers, nations, and filers. High (b)(2), (b)(7)(E) LE [redacted]

[redacted] The resulting findings allow users to perform research in the trend analysis component and detect other areas of noncompliance. The trend analysis component lets users identify anomalous trade activity in aggregate.

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