



Homeland Security

Privacy Office

November 16, 2007

Ms. Marcia Hofmann
Electronic Frontier Foundation
454 Shotwell Street
San Francisco, CA 94110

Re: DHS/OS/PRIV 07-90/Hofmann request

Dear Ms. Hofmann:

This is our thirteenth partial release to your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS), dated October 20, 2006, for DHS records concerning Passenger Name Records (PNR) from May 30, 2006 to the present including:

1. Emails, letters, reports or other correspondence from DHS officials to European Union officials concerning the transfer and use of passenger data from air carriers to the US for prescreening purposes;
2. Emails, letters, statements, memoranda or other correspondence from DHS officials to U.S. government officials or employees interpreting or providing guidance on how to interpret the undertakings;
3. Records describing how passenger data transferred to the U.S. under the temporary agreement is to be retained, secured, used, disclosed to other entities, or combined with information from other sources; and
4. Complaints received from EU citizens or official entities concerning DHS acquisition, maintenance and use of passenger data from EU citizens.

In our December 15, 2006 letter, we advised you that we had determined multiple DHS components or offices may contain records responsive to your request. The DHS Office of the Executive Secretariat (ES), the DHS Office of Policy (PLCY), the DHS Privacy Office (PRIV), the DHS Office of Operations Coordination (OPS), the DHS Office of Intelligence and Analysis (OI&A), the DHS Office of the General Counsel (OGC), the Transportation Security Administration (TSA), and U.S. Customs and Border Protection (CBP) were queried for records responsive to your request. In our July 27, 2007 letter, we advised you that we expanded our search to include U.S. Immigration and Customs Enforcement (ICE).

Continued searches of the DHS components produced an additional 33 documents, consisting of 79 pages, responsive to your request. I have determined that 1 document, consisting of 1 page, is releasable in its entirety, 18 documents, consisting of 48 pages, are releasable in part; and 14 documents, consisting of 30 pages, are withholdable in their entirety. The releasable information is enclosed. The withheld information, which will be noted on the *Vaughn* index when

completed, consists of names, telephone numbers, email addresses, deliberative material, legal opinions, law enforcement information, and homeland security information. I am withholding this information pursuant to Exemptions 2, 5, and 6 of the FOIA, 5 USC §§ 552 (b)(2), (b)(5), and (b)(6).

FOIA Exemption 2(low) exempts from disclosure records that are related to internal matters of a relatively trivial nature, such as internal administrative tracking.

FOIA 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.

FOIA Exemption 6 exempts from disclosure records the release of which would cause a clearly unwarranted invasion of personal privacy. Weighed against the privacy interest of the individuals is the lack of public interest in the release of their personal information and the fact that the release adds no information about agency activities, which is the core purpose of the FOIA.

Our office continues to process your request. If you have any questions regarding this matter, please refer to **DHS/OS/PRIV 07-90/Hofmann request**. The DHS Privacy Office can be reached at 703-235-0790 or 1-866-431-0486. Thank you for your patience as we proceed with your request.

Sincerely,



Vania T. Lockett
Associate Director, Disclosure & FOIA Operations

Enclosures: 49 pages

U.S. DEPARTMENT OF HOMELAND SECURITY
Bureau of Customs and Border Protection

**INFORMATION SYSTEMS SECURITY ADMINISTRATION
NON-CBP USER CERTIFICATION
For Government Employees Only**

When filling out manually, please type or print.

Authorized Access to the Bureau of Customs and Border Protection Records

I, _____, certify that the user named below has
(Agency Security Officer)
successfully completed a National Agency Check and written Inquires (NACI) or Background
Investigation (BI) which meets the standards and criteria set forth in the 5 CFR, Chapter 736-13.
Further, I certify that there is currently no internal investigation, or prior investigation with our agency,
for which said user has not been cleared, the allegation of which would call into question the user's
integrity or character in such a way as to make the sharing of sensitive law enforcement information
with the user inappropriate.

USER INFORMATION

Name:	Title:
Social Security Number:	Date of Birth (mm/dd/yyyy):
Work Location:	Phone Number:
Supervisor's Name:	Phone Number:
Agency:	Agency Headquarters Location:

CERTIFICATION(s)

NACI Certification (LAN Access)	<input type="checkbox"/> YES <input type="checkbox"/> NO	Date Completed:
BI Certification (LAN/Mainframe Access)	<input type="checkbox"/> YES <input type="checkbox"/> NO	Date Completed:

AGENCY SECURITY OFFICER

Name:	Title:
Location:	Phone Number:
Signature: X	Date:

Fax completed form and request for system access to the Information Systems Security Branch at (703) 921-6395.

CBP Form 7300 (12/03)

①

From: Sales, Nathan
Sent: Monday, October 16, 2006 4:10 PM
To: Jacksta, Bob M; Kraninger, Kathleen

b6

Scardaville, Michael;
Subject: PNR Implementation Plan

Team,

We are going schedule another status call for the PNR implementation plan. As discussed last week, we can do this call over the phone rather than in person; no need for folks to sit in traffic for 30 minutes here and then 30 more minutes back. Before this call takes place, I will circulate several documents to this group: (1) an updated version of the implementation chart; (2) the draft letters to and from CBP requesting access to PNR; and (3) a short description of what the new PNR agreement actually provides. Given the confused faces at last week's meeting, I suspect this latter document will be particularly welcome.

Please note that this call is not the same one [b6] circulated earlier today. [b6] call is for the IT group (task #3 on the implementation chart); my sense is that only the designated members of the IT group will need to participate in that call. Again, their names are:

- CBP;
- ICE;
- I&A;
- TSA;

[b6 b2]

Note also that the following tasks will need to be accomplished by this Friday, the two-week mark after the go-ahead was given:

- Components will send the letters to CBP requesting access to PNR data.
- CBP will revise its rules and field guidance regarding access to the PNR database to reflect that personnel from across DHS now will have access. Such guidance should instruct individuals seeking direct access to contact CBP's central POC.
- Notice of the new PNR uses will be published in the Federal Register.
- The IT group will determine whether users from other components are able to access PNR data with a web-based interface, or whether access to an intranet is needed.
- CBP will send the components replies that grant access to PNR data. These replies will specify that all personnel will be subject to the same policies and procedures that govern CBP personnel access to PNR (including disciplinary policies for improper uses of PNR data). CBP will attach copies of the guidelines and policies it maintains with respect to PNR access.
- CBP will establish accounts and passwords for new users from other components.

Best,
NAS

Nathan A. Sales
Deputy Assistant Secretary for Policy Development
Department of Homeland Security

[b2]

()

Page 2 of 2

[b 6]

From: Sales, Nathan [b 2]
Sent: Tuesday, October 17, 2006 7:23 PM
To: Scardaville, Michael; [b 6] Sales, Nathan; [b 6]
Subject: RE: PNR - very rough draft of checklist

Mike, thanks for staying up late in Brussles to share your thoughts with us. Quick reactions below. I agree with much of this, but have a few qualifications.

(1) I think we need to keep in mind what [

b5

put some of Mike's proposed changes on hold for the time being and address them in the context of the CBP field guidance.] I think we can

(2) I don't think it's necessary to spell out the restrictions that apply to CBP. CBP already knows what it has to do, and the audience for this document is other components and agencies.

(3) Agree on the [

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(4)] it's an important issue, but I don't think we need to resolve it here.

(5) Agree on the need for a record of all requests.

(6) Agree that we should say other [

b5

]

Best,
NAS

Nathan A. Sales
Deputy Assistant Secretary for Policy Development Department of Homeland Security
[b 2]

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

From: Scardaville, Michael [mailto:[b 2]]
Sent: Tuesday, October 17, 2006 6:36 PM
To: [b 6] Sales, Nathan; Scardaville, Michael; [b 6]
Subject: Re: PNR - very rough draft of checklist

All,

I don't think this or the draft letter from the requesting component covers [b 5]
] the business center is closed (its after midnight here) so I will summarize the highlights below:

CBP use - [

b5

]

Ice and DHS use - [

b5

]

Other DHS entities - first we need to note

[

b5

Mike

Sent from my BlackBerry Wireless Handheld

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

From: [b6 b2]
To: Sales, Nathan [b6 b2] Scardaville,
Michael [b6 b2]
Sent: Tue Oct 17 16:23:20 2006
Subject: RE: PNR - very rough draft of checklist

This has quick cbp edits, and I incorporated [b6] comment 7 into the text, but probably want a thorough scrub on this all around before going forward - [b6]

[b6]
Senior Counsel
Department of Homeland Security
Office of the General Counsel
[Washington, D.C. 20528

b2

Fax:]

This communication, along with any attachments, is covered by federal and state law governing electronic communications and may contain confidential and legally privileged information. If the reader of this message is not the intended recipient, you are hereby

notified that any dissemination, distribution, use or copying of this message is strictly prohibited. if you have received this in error, please reply immediately to the sender and delete the message. Thank you.

From: Sales, Nathan [mailto: [b 2]]
Sent: Tuesday, October 17, 2006 1:44 PM
To: [b 6] Scardaville, Michael; [b 6]]
Subject: RE: PNR - very rough draft of checklist

Here are my edits, [b 6] I think this is pretty close. As we discussed on the phone, the majority of my comments are line edits, but there are two bigger-ticket items as well.

Best,

NAS

Nathan A. Sales

Deputy Assistant Secretary for Policy Development

Department of Homeland Security

[b 2]]

From: [b 6 b 2]]
Sent: Tuesday, October 17, 2006 12:06 PM
To: Scardaville, Michael; [b 6]]
Cc: Sales, Nathan
Subject: PNR - very rough draft of checklist

All [

b5

] [b 6]

[b 6]]

Senior Counsel

Department of Homeland Security

Office of the General Counsel

[b 6] Washington, D.C. 20528

[
Fax: . b2 J

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[b6]

From: Sales, Nathan [b2]
Sent: Tuesday, October 17, 2006 6:50 PM
To: [b6] Scardaville, Michael [b6]
Subject: RE: PNR - very rough draft of checklist

Attachments: PNR checklist for components ('0 17 2006 version 2).doc



PNR checklist for components (...)

New version attached. I accepted all the earlier edits and made a few cosmetic changes. Also, a few of [b6] comments are still embedded in the text. I'll take a look at Mike's comments below in a moment.

Nathan A. Sales
Deputy Assistant Secretary for Policy Development Department of Homeland Security
[b2]

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

From: Scardaville, Michael [mailto:[b2]]
Sent: Tuesday, October 17, 2006 6:36 PM
To: [b6] Sales, Nathan; Scardaville, Michael [b6]
Subject: Re: PNR - very rough draft of checklist

All,

I don't think this or the draft letter from the requesting component [b5]
[b5] The business center is closed its after midnight here, so
will summarize the highlights
below:

BBP use - [b5]

Fire and DHS use - [b5]

b5

Other DHS entities - first we need to note



b5

5
b5
5
Mike

Sent from my BlackBerry Wireless Handheld

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

From: [b6 b2]
To: Sales, Nathan [b6 b2] Scardaville,
Michael [b6 b2]
Sent: Tue Oct 17 16:23:20 2006
Subject: RE: PNR - very rough draft of checklist

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[b6]

Senior Counsel

Department of Homeland Security

Office of the General Counsel

[Washington, D.C. 20528

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From: Sales, Nathan [mailto:[b6 b2]]
Sent: Tuesday, October 17, 2006 1:44 PM
To: [b6] Scardaville, Michael; [b6]
Subject: RE: PNR - very rough draft of checklist]

Here are my edits, [b6] I think this is pretty close. As we discussed on the phone, the majority of my comments are line edits, but there are two bigger-ticket items as well.

Best,

NAS

Nathan A. Sales

Deputy Assistant Secretary for Policy Development

Department of Homeland Security

[b2]

From: [b6 b2]
Sent: Tuesday, October 17, 2006 12:06 PM
To: Scardaville, Michael; [b6]
Cc: Sales, Nathan
Subject: PNR - very rough draft of checklist

[

b5

] [b6]

[b6]

Senior Counsel

Department of Homeland Security

Office of the General Counsel

[Washington, D.C. 20528

b2

Fax:]

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[b 6]

From: Sales, Nathan [b 2]
Sent: Tuesday, October 17, 2006 6:26 PM
To: [b 6]
Cc: Scardaville, Michael; [b 2]
Subject: RE: PNR - very rough draft of checklist

[b 6] I'm going to look at [b 6] version of the memo, which I guess is the current version. As for the appendix - [b 5]

Nathan A. Sales
Deputy Assistant Secretary for Policy Development
Department of Homeland Security
[b 2]

From: [b 6] [b 2]
Sent: Tuesday, October 17, 2006 2:14 PM
To: Sales, Nathan
Cc: Scardaville, Michael; [b 6]
Subject: RE: PNR - very rough draft of checklist

Nathan - pretty much accepted all your edits (except where there's a comment noting otherwise) and made other changes and conforming edits as discussed. Did I miss anything? Pls. let me know if I should ship to CBP - thx, [b 6]

[b 6]
Senior Counsel
Department of Homeland Security
Office of the General Counsel
Washington, D.C. 20528
[b 2]

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From: Sales, Nathan [mailto:[b 2]]
Sent: Tuesday, October 17, 2006 1:44 PM
To: [b 6] Scardaville, Michael; [b 6]
Subject: RE: PNR - very rough draft of checklist

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Best,
NAS

Nathan A. Sales
Deputy Assistant Secretary for Policy Development

(5)

Department of Homeland Security

[b2]

From: [b6 b2]

Sent: Tuesday, October 17, 2006 12:06 PM

To: Scardaville, Michael; [b6]

Cc: Sales, Nathan

Subject: PNR - very rough draft of checklist

[

b5

] [b6]

[b6]

Senior Counsel

Department of Homeland Security

Office of the General Counsel

Washington, D.C. 20528

[b2]

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[b6]

From: Sales, Nathan
Sent: Tuesday, October 17, 2006 6:03 PM
To: Jacksta, Bob M; Kraninger, Kathleen;

b6

Scardaville, Michael;
Subject: RE: PNR Implementation Plan
Attachments: Draft PNR approval from CBP (10.17.2006).doc; Draft PNR request from components (10.17.2006).doc; PNR implementation chart (10.16.2006).doc

As promised, here are the updated implementation chart and the draft letters. We are still working to finalize the summary of the PNR agreement; I hope to be able to provide it to you soon.

Best,
NAS

Nathan A. Sales
Deputy Assistant Secretary for Policy Development
Department of Homeland Security
[b2]

From: Sales, Nathan
Sent: Monday, October 16, 2006 4:10 PM
To: Jacksta, Bob M; Kraninger, Kathleen;

b6

Scardaville, Michael;
Subject: PNR Implementation Plan

Team.

We are going schedule another status call for the PNR implementation plan. As discussed last week, we can do this call over the phone rather than in person, no need for folks to sit in traffic for 30 minutes here and then 30 more minutes back. Before this call takes place, I will circulate several documents to this group: (1) an updated version of the implementation chart; (2) the draft letters to and from CBP requesting access to PNR; and (3) a short description of what the new PNR agreement actually provides. Given the confused faces at last week's meeting, I suspect this latter document will be particularly welcome

Please note that this call is not the same one [b6] circulated earlier today [b6] call is for the IT group (task #3 on the implementation chart); my sense is that only the designated members of the IT group will need to participate in that call. Again, their names are

- CBP: [
- ICE: [
- I&A: [
- TSA: [

b6 b2

]

Note also that the following tasks will need to be accomplished by this Friday, the two week mark after the go-ahead was given

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- CBP will establish accounts and passwords for new users from other components.

Best,
NAS

Nathan A. Sales
Deputy Assistant Secretary for Policy Development
Department of Homeland Security

[b 2]

[b6]

From: Scardaville, Michael
Sent: Tuesday, October 24, 2006 12:50 PM
To: [b6]
Subject: RE: PNR - very rough draft of checklist

Attachments: PNR checklist for components (10/17/2006) clean ([b6] comments)-mseds.doc



PNR checklist for components (...
My thoughts attached.

Mike

[b2]

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

From: [b6]
Sent: Tuesday, October 24, 2006 11:29 AM
To: Scardaville, Michael
Subject: Fw: PNR - very rough draft of checklist

Mike - know you looked at this before, but did you have additional comments now that this is just the brief summary and we're doing additional, more in-depth documents? Also looking for comments from cbp and po. [b6]

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

From: [b6]
To: 'Sales, Nathan' [b2 b6]
Scardaville, Michael
Sent: Tue Oct 17 16:23:20 2006
Subject: RE: PNR - very rough draft of checklist

This has picked up cbp edits, and I incorporated [b6] comment 7 into the text, but probably want a thorough scrub on this all around before going forward. [b6]

[b6]

Senior Counsel
Department of Homeland Security
Office of the General Counsel
Washington, D.C. 20524

b2

Fax []

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prohibited. if you have received this in error, please reply immediately to the sender and delete the message. Thank you.

From: Sales, Nathan [b2]
Sent: Tuesday, October 17, 2006 1:44 PM
To: [b6] Scardaville, Michael; [b6]
Subject: RE: PNR - very rough draft of checklist

Here are my edits, [b6] I think this is pretty close. As we discussed on the phone, the majority of my comments are line edits, but there are two bigger-ticket items as well.

Best,

NAS

Nathan A. Sales

Deputy Assistant Secretary for Policy Development

Department of Homeland Security

[b2]

From: [b6] b2]
Sent: Tuesday, October 17, 2006 12:06 PM
To: Scardaville, Michael; [b6]
Cc: Sales, Nathan
Subject: PNR - very rough draft of checklist

All - []

b5

] [b6]

[b6]

Senior Counsel

Department of Homeland Security

Office of the General Counsel

[b2] Washington, D.C. 20528

<

Fax: . 62. >

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[b6]

From: Scardaville, Michael
Sent: Tuesday, October 24, 2006 11:30 AM
To: [b6]
Subject: RE: PNR - very rough draft of checklist

Thanks. I'll send you some comments shortly.

Mike

[b2]

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

From: [b6]
Sent: Tuesday, October 24, 2006 11:29 AM
To: Scardaville, Michael
Subject: Fw: PNR - very rough draft of checklist

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

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To: 'Sales, Nathan' [b2 b6]
Scardaville, Michael []
Sent: Tue Oct 17 16:23:20 2006
Subject: RE: PNR - very rough draft of checklist

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[b6]

Senior Counsel

Department of Homeland Security

Office of the General Counsel

[Washington, D.C. 20528

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From: Sales, Nathan [b2]
Sent: Tuesday, October 17, 2006 1:44 PM
To: [b6]; Scardaville, Michael; [b6]

Subject: RE: PNR - very rough draft of checklist

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Best,

NAS

Nathan A. Sales

Deputy Assistant Secretary for Policy Development

Department of Homeland Security

(b2)

From: (b6 b2)
Sent: Tuesday, October 17, 2006 12:06 PM
To: Scardaville, Michael: (b6)
Cc: Sales, Nathan
Subject: PNR - very rough draft of checklist

All - (

b5

) (b6)

Senior Counsel

Department of Homeland Security

Office of the General Counsel

(Washington, D.C. 20528

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[b 6]

From: Scardaville, Michael [b 2]
Sent: Wednesday, October 18, 2006 12:51 PM
To: [b 6]
Subject: Re: CBP field guidance

FYI, the field guidance must expressly state that the [b 5]

Sent from my BlackBerry Wireless Handheld

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

From: [b 6] [b 2]
To: Scardaville, Michael [b 2]
Sent: Wed Oct 18 11:11:45 2006
Subject: FW: CBP field guidance

Are you back then? [b 6]

[b 6]

Senior Counsel

Department of Homeland Security

Office of the General Counsel

[Washington, D.C. 20528

b2

Fax: []

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From: Sales, Nathan
Sent: Wednesday, October 18, 2006 11:06 AM
To: Scardaville, Michael; [b 6]
Cc: [b 6]
Subject: CBP field guidance
Importance: High

Mike and [b 6]

[66] and I just spoke, and we think it would be worthwhile for y'all to sit down (in person or on the phone) to hammer out exactly what [

b5

you find an hour on Friday to make this happen? (I'd join in but I'll be on travel in Boston.)] Can the three of

Thanks much,

NAS

Nathan A. Sales

Deputy Assistant Secretary for Policy Development

Department of Homeland Security

[b2]

[b6]

From: Sales, Nathan [b2]
Sent: Tuesday, October 17, 2006 2:17 PM
To: [b6] ; Sales, Nathan
Cc: Scardaville, Michael; [b6]
Subject: RE: PNR - very rough draft of checklist

Yeah, let's ship to CBP for their comments. I'm on my way to a mtg but will be able to review this new version at 4:30.

Nathan A. Sales
Deputy Assistant Secretary for Policy Development
Department of Homeland Security
[b2]

From: [b2 b6]
Sent: Tuesday, October 17, 2006 2:14 PM
To: Sales, Nathan
Cc: Scardaville, Michael; [b6]
Subject: RE: PNR - very rough draft of checklist

Nathan - pretty much accepted all your edits (except where there's a comment noting otherwise) and made other changes and conforming edits as discussed. Did I miss anything? Pls. let me know if I should ship to CBP - thx,
[b6]

[b6]
Senior Counsel
Department of Homeland Security
Office of the General Counsel
Washington, D.C. 20528
[b2]

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Nathan A. Sales
Deputy Assistant Secretary for Policy Development
Department of Homeland Security
[b2]

[b2]

(12)

From: [b2 b6]
Sent: Tuesday, October 17, 2006 12:06 PM
To: Scardaville, Michael; [b6]
Cc: Sales, Nathan
Subject: PNR - very rough draft of checklist

[b5]

[b6]
Senior Counsel
Department of Homeland Security
Office of the General Counsel
Washington, D.C. 20528
[b2]

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[b2]

[b6]

From: Scardaville, Michael [b2]
Sent: Tuesday, October 17, 2006 2:22 PM
To: Sales, Nathan; [b6]
Cc: Scardaville, Michael; [b6]
Subject: Re: PNR - very rough draft of checklist

All,

I'm having trouble viewing attachments but will try to review asap.

Mike

Sent from my BlackBerry Wireless Handheld

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

From: Sales, Nathan < [b2] >
To: [b6] [b2] Sales, Nathan [b2]
Cc: Scardaville, Michael [b2] [b6]
Sent: Tue Oct 17 14:16:47 2006
Subject: RE: PNR - very rough draft of checklist

Yeah, let's ship to CBP for their comments. I'm on my way to a mtg but will be able to review this new version at 4:30.

Nathan A. Sales

Deputy Assistant Secretary for Policy Development

Department of Homeland Security

[b2]

From: [b2] [b6]
Sent: Tuesday, October 17, 2006 2:14 PM
To: Sales, Nathan
Cc: Scardaville, Michael; [b6]
Subject: RE: PNR - very rough draft of checklist

Nathan - pretty much accepted all your edits (except where there's a comment noting otherwise) and made other changes and conforming edits as discussed. Did I miss anything? Pls. let me know if I should ship to CBP - thx, [b6]

[b6]

Senior Counsel

Department of Homeland Security

Office of the General Counsel

Washington, D.C. 20528

[b2]

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From: Sales, Nathan (mailto:[b2])
Sent: Tuesday, October 17, 2006 1:44 PM
To: [b6] Scardaville, Michael; [b6]
Subject: RE: PNR - very rough draft of checklist

Here are my edits, [b6] . think this is pretty close. As we discussed on the phone, the majority of my comments are line edits, but there are two bigger-ticket items as well.

Best,

NAS

Nathan A. Sales

Deputy Assistant Secretary for Policy Development

Department of Homeland Security

[b2]

From: [b6] b2
Sent: Tuesday, October 17, 2006 12:06 PM
To: Scardaville, Michael; [b6]
Cc: Sales, Nathan
Subject: PNR - very rough draft of checklist

[b5]

[b6]

Senior Counsel

Department of Homeland Security

Office of the General Counsel

Washington, D.C. 20528

[b2]

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[b6]

From: Scardaville, Michael [b2]
Sent: Tuesday, October 17, 2006 2:21 PM
To: [b6]
Subject: Re: PNR - very rough draft of checklist

What do you mean by ship to cbp?

Sent from my BlackBerry Wireless Handheld

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

From: [b6] [b2]
To: Sales, Nathan [b2]
Cc: Scardaville, Michael [b2] [b6]
Sent: Tue Oct 17 14:14:10 2006
Subject: RE: PNR - very rough draft of checklist

Nathan - pretty much accepted all your edits (except where there's a comment noting otherwise) and made other changes and conforming edits as discussed. Did I miss anything? Pls. let me know if I should ship to CBP - thx, [b6]

[b6]

Senior Counsel
Department of Homeland Security
Office of the General Counsel

Washington, D.C. 20528

[b2]

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Sent: Tuesday, October 17, 2006 1:44 PM
To: [b6] Scardaville, Michael; [b6]
Subject: RE: PNR - very rough draft of checklist

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(14)

Best,

NAS

Nathan A. Sales

Deputy Assistant Secretary for Policy Development

Department of Homeland Security

[b2]

From: [b6 b2]
Sent: Tuesday, October 17, 2006 12:06 PM
To: Scardaville, Michael; [b6]
Cc: Sales, Nathan
Subject: PNR - very rough draft of checklist

[b5]

[b6]

Senior Counsel

Department of Homeland Security

Office of the General Counsel

Washington, D.C. 20528

[b2]

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[b6]

From: [b6 b2]
Sent: Monday, October 16, 2006 8:48 PM
To: [b6]
Subject: Re: PNR Implementation Plan

Well, add the letter to the list-- [

b5 b6]

[I can't seem to find them, but will keep looking.]

[b6]
Office of Chief Counsel (Enforcement)
US Customs and Border Protection

[b2]

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

From: [b6 b2]
Sent: 10/16/2006 08:39 PM
To: [b6 b2]
Subject: Re: PNR Implementation Plan

Oh, forgot, sorry - [b2 (low)] Well, then nathan will have to wait - I'm still not completely sure what he wants and I'm certainly not going to shoot it out without your input, and anyway I'm just not going to chisel it out on stone tablets [b6]

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

From: [b2 b6]
To: [b2 b6]
Sent: Mon Oct 16 20:32:07 2006
Subject: Re: PNR Implementation Plan

No-- [b2 low]

[b6]
Office of Chief Counsel (Enforcement)
US Customs and Border Protection

[b2]

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

From: [b2 b6]
Sent: 10/16/2006 07:20 PM
To: [b2 b6]
Subject: Fw: PNR Implementation Plan

Can you help me with this tomorrow since you actually have a computer? [b6]

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

From: Sales, Nathan
To: [b6]
Sent: Mon Oct 16 19:15:53 2006
Subject: RE: PNR Implementation Plan

Yes, I think that's the right approach. We obviously need a detailed account of what the

agreement means. But we also need a simple list of rules and requirements to give to the components; that's what the components are likely to find most helpful.

Can we aim to have the checklist done by noon tomorrow? I'd like to circulate it a day in advance of the Wednesday AM call. I'd also like to circulate the lengthier description, but the checklist is the priority.

Thanks,
NAS

Nathan A. Sales
Deputy Assistant Secretary for Policy Development Department of Homeland Security

[b2]

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

From: [b6]
Sent: Monday, October 16, 2006 7:07 PM
To: Sales, Nathan
Subject: Re: PNR Implementation Plan

Nathan - just realized that we probably had a disconnect about the memo that says what the PNR agreement as a whole means. Mike and I had discussed two documents - the very detailed explanation that I sent you and, extrapolated from that, a much simpler checklist of who gets what how. I've unfortunately not yet been able to prepare the latter

[b5] I've had ongoing computer problems that inexplicably take the IT folks nearly a full working day to resolve each time they occur.

Please let me know if the checklist model is what you had in mind and I will see if we can produce it between me and cbp. Thanks, [b6]

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

From: Sales, Nathan
To: Jacksta, Bob M; Kraninger, Kathleen;

[b6]

Sent: Mon Oct 16 16:10:01 2006
Subject: PNR Implementation Plan

Team,

We are going schedule another status call for the PNR implementation plan. As discussed last week, we can do this call over the phone rather than in person; no need for folks to sit in traffic for 30 minutes here and then 30 more minutes back. Before this call takes place, I will circulate several documents to this group: (1) an updated version of the implementation chart; (2) the draft letters to and from CBP requesting access to PNR; and (3) a short description of what the new PNR agreement actually provides. Given the confused faces at last week's meeting, I suspect this latter document will be particularly welcome.

Please note that this call is not the same one [b6] circulated earlier today. [b6] call is for the IT group (task #3 on the implementation chart); my sense is that only the designated members of the IT group will need to participate in that call. Again, their names are:

CBP: [b6 b2]

. ICE;
. I&A;
. TSA;

b6 b2

]

Note also that the following tasks will need to be accomplished by this Friday, the two-week mark after the go-ahead was given:

- * Components will send the letters to CBP requesting access to PNR data.
- * CBP will revise its rules and field guidance regarding access to the PNR database to reflect that personnel from across DHS now will have access. Such guidance should instruct individuals seeking direct access to contact CBP's central POC.
- * Notice of the new PNR uses will be published in the Federal Register.
- * The IT group will determine whether users from other components are able to access PNR data with a web-based interface, or whether access to an intranet is needed.
- * CBP will send the components replies that grant access to PNR data. These replies will specify that all personnel will be subject to the same policies and procedures that govern CBP personnel access to PNR (including disciplinary policies for improper uses of PNR data). CBP will attach copies of the guidelines and policies it maintains with respect to PNR access.
- * CBP will establish accounts and passwords for new users from other components.

Best,

NAS

Nathan A. Sales

Deputy Assistant Secretary for Policy Development

Department of Homeland Security

[b2]

[b6]

From: [b6 b2]
Sent: Monday, October 16, 2006 8:30 PM
To: [b6]
Subject: Re: PNR Implementation Plan

[b6] was going to send them, but I'm not sure she did. I am going to review them quickly now-will try to find on bberry and send them to you.

[b6]
Office of Chief Counsel (Enforcement)
US Customs and Border Protection

[b2]

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

From: [b6 b2]
Sent: 10/16/2006 05:39 PM
To: [b6 b2]
Subject: Fw: PNR Implementation Plan

Did you send nathan the letters already? Can I see them? I have the feeling I'm supposed to be doing the what-the-agreement-and-letter-mean memo, but I gave up and went home because I have no computer - [b6]

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

From: Sales, Nathan
To: Jacksta, Bob M; Kraninger, Kathleen;

[

b6

]

; Scardaville, Michael;
Sent: Mon Oct 16 16:10:01 2006
Subject: PNR Implementation Plan

Team,

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ICE;
I&A;
TSA;

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Best,

NAS

Nathan A. Sales

Deputy Assistant Secretary for Policy Development

Department of Homeland Security

[b2]

[b6]

From: Sales, Nathan
Sent: Monday, October 16, 2006 7:37 PM
To: [b6]
Subject: RE: PNR Implementation Plan

[b6] I have a few questions about [b5] Can we discuss in the AM?

Nathan A. Sales
Deputy Assistant Secretary for Policy Development Department of Homeland Security
[b2]

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

From: Sales, Nathan
Sent: Monday, October 16, 2006 7:16 PM
To: [b6]
Subject: RE: PNR Implementation Plan

Yes, I think that's the right approach. We obviously need a detailed account of what the agreement means. But we also need a simple list of rules and requirements to give to the components; that's what the components are likely to find most helpful.

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Thanks,
NAS

Nathan A. Sales
Deputy Assistant Secretary for Policy Development Department of Homeland Security
[b2]

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

From: [b6]
Sent: Monday, October 16, 2006 7:07 PM
To: Sales, Nathan
Subject: Re: PNR Implementation Plan

Nathan - just realized that we probably had a disconnect about the memo that says what the PNR agreement as a whole means. Mike and I had discussed two documents - the very detailed explanation that I sent you and, extrapolated from that, a much simpler checklist of who gets what how. I've unfortunately not yet been able to prepare the latter

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Please let me know if the checklist model is what you had in mind and I will see if we can produce it between me and cbp. Thanks. [b6]

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

From: Sales, Nathan
To: Jacksta, Bob M; Kraninger, Kathleen;

[

b6

]

Scardaville, Michael;

Sent: Mon Oct 16 16:10:01 2006

17'

Subject: PNR Implementation Plan

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- CBP;
 - ICE;
 - I&A;
 - TSA;
- [b6 b2]

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- * CBP will establish accounts and passwords for new users from other components.

Best,

NAS

Nathan A. Sales
Deputy Assistant Secretary for Policy Development
Department of Homeland Security

[62]

] b6

From: Sales, Nathan
Sent: Sunday, April 29, 2007 9:40 PM
To: Baker, Stewart
Subject: Re: PNR briefing

Okay. I kept the memo to the bare minimum on the theory that we'd cover the details orally, but I can put in some more details. As far as DHS sharing goes, PNR is being shared with ICE and I&A right now. We're in the final stages of drafting documents to make PNR available to TSA. /As for FBI, we've approached them a number of times, but frankly (and surprisingly) they don't seem terribly interested.

Sent from my BlackBerry Wireless Handheld

----- Original Message -----
From: Baker, Stewart
To: Sales, Nathan
Sent: Sun Apr 29 21:33:54 2007
Subject: RE: PNR briefing

Well, I didn't get back, and this memo, of course, is pretty sparse. [

From: Sales, Nathan
Sent: Friday, April 27, 2007 6:14 PM
To: Baker, Stewart
Subject: PNR briefing

Stewart,

You mentioned that you wanted to spend a few more minutes discussing next week's PNR brief with the Secretary. I'm attaching a draft briefing paper; it would be great if you could give me your thoughts after you get back to the NAC. In other news, I&A is preparing a classified annex that discusses current sharing arrangements. I can give you an update after you get back to the office.

Thanks,

[NAS

Nathan A. Sales
Deputy Assistant Secretary for Policy Development
Department of Homeland Security

[b2]

] b6

From: Sciara, Nicolle]
Sent: Saturday, September 30, 2006 1:24 PM
To: Agen, Jarrod; Baker, Stewart; Rosenzweig, Paul; Scardaville, Michael; Isles, Adam; Knocke, William R;]
Subject: RE: PNR PAG] b6

There are a couple of key points that were discussed earlier – I'm not sure whether they need to be explicitly stated or just have ready for questions.

- We are not seeking an additional data elements – this is the same data that was permitted to be shared under the previous agreement.
- We have agreed to work towards a "push" system, which is considered less of a privacy concern than the current "pull" model.
- [b5]
- The issue for the US comes down to the need to break stovepipes among counterterrorism and law enforcement agencies.

You might also want to be ready to explain that the European Court did not invalidate the substantive terms of the agreement relating to collection or treatment of the data. Rather, the Court ruling went to the authority of the European Commission to enter into the agreement.

Nicolle Sciara Rippeon]
 Acting Chief of Staff
 DHS Assistant Secretary for Policy]

] b2

From: Agen, Jarrod]
Sent: Saturday, September 30, 2006 12:03 PM
To: Sciara, Nicolle; Baker, Stewart; Rosenzweig, Paul; Scardaville, Michael; Isles, Adam; Knocke, William R;]
Subject: PNR PAG] b6

Attached and pasted below is latest my latest PAG on PNR. It has been revised in the event we do not reach agreement. Let me know if you have any edits, there are other q/a's that we can continue to add. Do you have official word that negotiations have been called off?

TALKING POINTS

- [b5]
- Every nation has a legal and moral obligation to protect its borders, as it has a right to verify who it is admitting into the country. This department will simply not relinquish that sovereign right, and we will use every legal authority at our disposal, including valuable PNR data, to secure our homeland.
- We continue to be interested in reaching a PNR-related understanding with our European allies.

Here in the United States and in Europe, we all have to be smart and thorough in scrutinizing people seeking to come into our country – including those who may not be on watchlists but could mean to do us harm.

- This is really about a question of timing. Much of the PNR information could be gathered from travelers when they arrive in the United States, or DHS could impose predeparture visa requirements soliciting this information, but this would seriously impede travel; the only way we can avoid such a scenario is to ask for the information electronically in advance of travel.
- We look forward to reaching an understanding on this issue with our European allies, with whom we have a great relationship on a number of other security-related matters, and indeed to an international approach on PNR analysis.

QUESTION AND ANSWERS

Q: What is PNR and what is it used for?

A: Passenger Name Record (PNR) is the generic name given to records created by aircraft operators and can include a range of elements such as date of ticket reservation, date and place of ticket issue, payment details, passenger/travel agent contact details and travel itinerary. This is data that can be obtained from a passenger during an interview with US Customs and Border Protection officers upon arrival in the United States.

Per the Aviation Transportation Security Act (ATSA) DHS collects PNR information on travelers aboard flights bound for and departing from the U.S. Our current agreement with the EU reflects this U.S. statutory requirement, which strengthens aviation and border security, while also facilitating legitimate travel.

CBP uses PNR along with other information to conduct a risk assessment of each passenger in order to identify those that may pose a threat of terrorism. Access to this information is a foundational element of DHS's layered strategy for aviation and border security and also facilitates legitimate travel.

Q: Will the lack of agreement interrupt air travel between US and Europe?

A: The appropriate security information will continue to be exchanged through our relations with air carriers and European nations individually. Even though a new agreement has not been reached, planes will continue to fly uninterrupted and our national security will not be impeded.

Q: Why was no agreement reached? What is DHS demanding in the new PNR agreement?

A: Every nation has a legal and moral obligation to protect its borders, as it has a right to verify who it is admitting into the country. This department will simply not relinquish that sovereign right, and we will use every legal authority at our disposal. Limits should not be placed on the sharing of PNR data by U.S. Customs and Border Protection with other elements of the U.S. government; particularly including DHS, the Department of Justice, and their component agencies; for the investigation, analysis, and prevention of terrorism and other crimes.

Q: Who does DHS receive PNR data on?

A: DHS receives PNR data for all passengers flying to the United States

Q: How long does DHS want to store PNR data for?

A: We would like to store PNR data for as long as it has potential relevance for law enforcement and terrorism prevention purposes. Because we know terror attacks can be in the planning stages for several years, we want store the info for longer than the current 3.5 year agreement.

Q: When does DHS begin collecting PNR data? Do you want to get it earlier?

A: We begin collecting PNR data up to 72 hours before flights for preliminary targeting. We would like to be permitted access to PNR outside of the 72 hour mark when there is an indication that early access could assist in responding to a threat to a flight or set of flights bound for the United States.

Q: With there be further negotiations?

A: We look forward to reaching an understanding on this issue with our European allies, with whom we have a great relationship on a number of other security-related matters, and indeed to an international approach on PNR analysis.

Q. What is the difference between Advance Passenger Information System (APIS) and Passenger Name Record (PNR) data?

A: APIS data refers to passenger information that is collected from government-issued identity documents accepted for international travel. APIS data is most commonly collected from passports and much of this information is resident in the Machine Readable Zone. APIS data comprises data elements such as Full Name, Date of Birth, Travel Document Number, Country of Issuance, etc.

PNR is the generic name given to records created by aircraft operators or their authorized agents for each journey booked on behalf of any passenger. The data is used by operators for their own commercial and operational purposes. PNR data comprises a range of elements such as date of ticket reservation, date and place of ticket issue, passenger/travel agent contact details and travel itinerary.

Q: Did the European Court of Justice rule that US data privacy protection is inadequate?

A: The Court did not rule against the availability of PNR data, it did not determine that privacy was violated, nor did it take a view on the content of the agreement. Rather, the court found that the European Council relied upon an inapplicable legal authority for entering into the agreement.

Q: How will the PNR agreement affect the Pre-departure APIS Notice of Proposed Rulemaking?

A: The Pre-departure APIS NPRM is not a new data collection-only a proposed timing change for APIS information already being collected under the APIS Final Rule Published on April 7, 2005. APIS is merely an automated vehicle for the collection of information from government-issued identity documents accepted for international travel. Essentially, APIS is the same as a border officer swiping or visually examining a passport presented by a traveler. The Pre-departure APIS NPRM does not contain any PNR related requirements. Thus, this rulemaking is not affected by the EU's recent PNR ruling.

From: Isles, Adam
Sent: Saturday, September 30, 2006 1:27 PM
To: Sciarra, Nicole; AGEN, JARROD; Baker, Stewart; Rosenzweig, Paul; Scardaville, Michael; Isles, Adam; Knocke, William R;
Subject: RE: PNR PAG

Thanks – I'm concerned about the third point

Adam Isles
 Counselor to the Secretary
 U.S. Department of Homeland Security

From: Sciarra, Nicole
Sent: Saturday, September 30, 2006 1:24 PM
To: AGEN, JARROD; Baker, Stewart; Rosenzweig, Paul; Scardaville, Michael; Isles, Adam; Knocke, William R;
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Nicolle Sciarra Rippeon
 Acting Chief of Staff
 DHS Assistant Secretary for Policy

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A: The appropriate security information will continue to be exchanged through our relations with air carriers and European nations individually. Even though a new agreement has not been reached, planes will continue to fly uninterrupted and our national security will not be impeded.

Q: Why is no agreement reached? What is DHS demanding in the new PNR agreement?

A: Every nation has a legal and moral obligation to protect its borders, as it has a right to verify who it is admitting to the country. This department will simply not relinquish that sovereign right, and we will use every legal authority at our disposal. Limits should not be placed on the sharing of PNR data by U.S. Customs and Border Protection with other elements of the U.S. government; particularly including DHS, the Department of Justice, and their component agencies; for the investigation, analysis, and prevention of terrorism and other crimes.

Q: Why does DHS receive PNR data on?

A: DHS receives PNR data for all passengers flying to the United States

Q: How long does DHS want to store PNR data for?

A: We would like to store PNR data for as long as it has potential relevance for law enforcement and terrorism prevention purposes. Because we know terror attacks can be in the planning stages for several years, we want to store the info for longer than the current 3.5 year agreement.

Q: When does DHS begin collecting PNR data? Do you want to get it earlier?

A: We are collecting PNR data up to 72 hours before flights for preliminary targeting. We would like to have limited access to PNR outside of the 72 hour mark when there is an indication that early access is necessary to assist in responding to a threat to a flight or set of flights bound for the United States.

Q: Why are there no further negotiations?

A: We are working forward to reaching an understanding on this issue with our European allies, with whom we have a long relationship on a number of other security-related matters, and indeed to an international approach to PNR analysis.

Q: What is the difference between Advance Passenger Information System (APIS) and Passenger Name Record (PNR) data?

A: APIS refers to passenger information that is collected from government-issued identity documents accepted for international travel. APIS data is most commonly collected from passports and much of the information is resident in the Machine Readable Zone. APIS data comprises data elements such as name, Date of Birth, Travel Document Number, Country of Issuance, etc.

PNR is a unique name given to records created by aircraft operators or their authorized agents for each journey booked on behalf of any passenger. The data is used by operators for their own commercial and operational purposes. PNR data comprises a range of elements such as date of ticket reservation, date of ticket issue, passenger/travel agent contact details and travel itinerary.

Q: Did the European Court of Justice rule that US data privacy protection is inadequate?

A: The court did not rule against the availability of PNR data, it did not determine that privacy was violated and it did not take a view on the content of the agreement. Rather, the court found that the European Council relied upon an inapplicable legal authority for entering into the agreement.

Q: How will the PNR agreement affect the Pre-departure APIS Notice of Proposed Rulemaking?

A: The Pre-departure APIS NPRM is not a new data collection-only a proposed timing change for APIS data already being collected under the APIS Final Rule Published on April 7, 2005. APIS is a computerized vehicle for the collection of information from government-issued identity documents accepted for international travel. Essentially, APIS is the same as a border officer swiping or scanning a passport presented by a traveler. The Pre-departure APIS NPRM does not contain any new requirements. Thus, this rulemaking is not affected by the EU's recent PNR ruling.

] b6

From: Scardaville, Michael]
Sent: Saturday, September 30, 2006 1:40 PM
To: Agen, Jarrod; Sciarra, Nicolle; Baker, Stewart; Rosenzweig, Paul; C b2]
Knocke, William R; C b6]
Subject: Re: PNR PAG]

Correct

On the first bullet, I'd replace what you have after the hyphen with something like, "The total number of data elements remains constant at 34."

Sent from my BlackBerry Wireless Handheld

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

From: Agen, Jarrod
To: Sciarra, Nicolle; Baker, Stewart; Rosenzweig, Paul; Scardaville, Michael; 'Isles, Adam'; C b2]
Knocke, William R; C b6]
C b6 b2]
Sent: Saturday 30 13:35:37 2006
Subject: PNR PAG]

Thanks, I'll adjust the PAG. But, I'll need a couple of sentences that explain "push" vs "pull" systems.

Do you think that air carriers are feeding us info rather than us delving into carrier records for it?

From: Sciarra, Nicolle]
Sent: Saturday, September 30, 2006 1:24 PM
To: Agen, Jarrod; Baker, Stewart; Rosenzweig, Paul; Scardaville, Michael; 'Isles, Adam';]
Knocke, William R; C b6]
Subject: PNR PAG]

There are a couple of key points that were discussed earlier - I'm not sure whether they need to be explicitly stated or just have ready for questions.

- We are not seeking an additional data elements - this is the same data that was permitted to be shared under the previous agreement.
- We have agreed to work towards a "push" system, which is considered less of a privacy concern than the current "pull" model.

- C b5]
- The issue for the US comes down to the need to break stovepipes among counterterrorism and law enforcement agencies.

You might want to be ready to explain that the European Court did not invalidate the

substantive terms of the agreement relating to collection or treatment of the data. Rather, the court ruling went to the authority of the European Commission to enter into the agreement.

Nicolas Rippeon,
Acting Chief of Staff
DHS Assistant Secretary for Policy

b2

From: Ag... arrod
Sent: Sunday, September 30, 2006 12:03 PM
To: Nicolas Rippeon; Baker, Stewart; Rosenzweig, Paul; Scardaville, Michael; Isles, Adam; bk
Knocke, ... am R;
Subject: PAG

Attached pasted below is latest my latest PAG on PNR. It has been revised in the event we do not reach agreement. Let me know if you have any edits, there are other q/a's that we continue to add. Do you have official word that negotiations have been called off?

TALKING IS

[b5]

* Every nation has a legal and moral obligation to protect its borders, as it has a right to deny entry to anyone who it is admitting into the country. This department will simply not relinquish its sovereign right, and we will use every legal authority at our disposal, including available PNR data, to secure our homeland.

* We continue to be interested in reaching a PNR-related understanding with our European partners. Here in the United States and in Europe, we all have to be smart and thorough in scrutinizing people seeking to come into our country - including those who may not be on watchlists but could mean to do us harm.

* We are really about a question of timing. Much of the PNR information could be gathered from travelers when they arrive in the United States, or DHS could impose predeparture visa requirements soliciting this information, but this would seriously impede the only way we can avoid such a scenario is to ask for the information electronically in advance of travel.

* : forward to reaching an understanding on this issue with our European allies, with w have a great relationship on a number of other security-related matters, and indeed international approach on PNR analysis.

QUESTIONS AND ANSWERS

Q: What is PNR and what is it used for?

A: Passenger Name Record (PNR) is the generic name given to records created by aircraft operators. It can include a range of elements such as date of ticket reservation, date and place of ticket issue, payment details, passenger/travel agent contact details and travel itinerary. This is data that can be obtained from a passenger during an interview with US Customs and Border Protection officers upon arrival in the United States.

Per the Aviation Transportation Security Act (ATSA) DHS collects PNR information on travel on board flights bound for and departing from the U.S. Our current agreement with the EU meets this U.S. statutory requirement, which strengthens aviation and border security while also facilitating legitimate travel.

CBP uses PNR along with other information to conduct a risk assessment of each passenger in order to identify those that may pose a threat of terrorism. Access to this information is a foundational element of DHS's layered strategy for aviation and border security which also facilitates legitimate travel.

Q: Will the lack of agreement interrupt air travel between US and Europe?

A: The exchange of appropriate security information will continue to be exchanged through our relationships with air carriers and European nations individually. Even though a new agreement has not been reached, planes will continue to fly uninterrupted and our national security will not be impeded.

Q: Will any agreement be reached? What is DHS demanding in the new PNR agreement?

A: Every nation has a legal and moral obligation to protect its borders, as it has a right to vet those it is admitting into the country. This department will simply not relinquish that sovereign right, and we will use every legal authority at our disposal. Limitations will not be placed on the sharing of PNR data by U.S. Customs and Border Protection with other elements of the U.S. government; particularly including DHS, the Department of Justice, and their component agencies; for the investigation, analysis, and prevention of terrorism and other crimes.

Q: Will DHS receive PNR data on?

A: DHS will receive PNR data for all passengers flying to the United States

Q: How long does DHS want to store PNR data for?

A: We would like to store PNR data for as long as it has potential relevance for law enforcement and terrorism prevention purposes. Because we know terror attacks can be in

the past several stages for several years, we want store the info for longer than the current 3.5 year retention period.

Q: When will DHS begin collecting PNR data? Do you want to get it earlier?

A: We are currently collecting PNR data up to 72 hours before flights for preliminary targeting. We would like to be permitted access to PNR outside of the 72 hour mark when there is an indication that early access could assist in responding to a threat to a flight or set of flights originating from the United States.

Q: Will there be further negotiations?

A: We are working forward to reaching an understanding on this issue with our European allies, with whom we have a great relationship on a number of other security-related matters, and intend to take an international approach on PNR analysis.

Q: What is the difference between Advance Passenger Information System (APIS) and Passenger Name Record (PNR) data?

A: APIS refers to passenger information that is collected from government-issued identification documents accepted for international travel. APIS data is most commonly collected from passports and much of this information is resident in the Machine Readable Zone. It comprises data elements such as Full Name, Date of Birth, Travel Document Number, and Date of Issuance, etc.

PNR is a generic name given to records created by aircraft operators or their authorized agents for each journey booked on behalf of any passenger. The data is used by operators for both commercial and operational purposes. PNR data comprises a range of elements such as ticket reservation, date and place of ticket issue, passenger/travel agent contact information, and travel itinerary.

Q: Did the European Court of Justice rule that US data privacy protection is inadequate?

A: The court did not rule against the availability of PNR data, it did not determine that privacy was violated, nor did it take a view on the content of the agreement. Rather, the court ruled that the European Council relied upon an inapplicable legal authority for entering into the agreement.

Q: How will the PNR agreement affect the Pre-departure APIS Notice of Proposed Rulemaking?

A: The Pre-departure APIS NPRM is not a new data collection--only a proposed timing change for information already being collected under the APIS Final Rule Published on April 7, 2008. It is merely an automated vehicle for the collection of information from government-issued identity documents accepted for international travel. Essentially, APIS is the process of a border officer swiping or visually examining a passport presented by a traveler. Pre-departure APIS NPRM does not contain any PNR related requirements. Thus, the rulemaking is not affected by the EU's recent PNR ruling.