

June 26, 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 fourteenth 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the redress that is available to individuals who believe that the ATS contains or utilizes inaccurate, incomplete or outdated information about them.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 46 pages of records responsive to your request. We have determined that 27 pages are releasable to you in full or with certain information withheld pursuant to Exemptions 2(low) and (high), 5, 6, and 7 of the FOIA, and 19 pages are withheld in their entirety pursuant to Exemptions 2(low) and (high), 5, 6, and 7 of the FOIA.

Enclosed are 27 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)(2), (b)(5), (b)(6), and (b)(7)(E).

Also enclosed are 8 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 19 pages of withheld information that comprise 8 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.

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 Chief Counsel, and Office of Information and 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

Sincer

patience as we proceed with your request.

ania T. Lockett

Associate Director, Disclosure & FOIA Operations

Enclosures: 35 pages

09/17/2004 12:25 AM

To: Low (b)(2), (b)(6)

CC:

Subject: APIS Info from RESMON

(b)(6

As the Immigration Security Initiative (ISI) gets bigger, we are going to have increasing demands for pre-flight information including b;(2), (b);(7)(E), (b);(5) Delib

(ФДФ), (ФДОДС), (Б)ДЭ) Бено .

I know it doesn't give us everyone's information in advance, but it does whittle down the list.

(b)(6)

Watch Commander National Targeting Center

Low (b)(2)

voice

ax bager 09/29/2004 05:07 PM

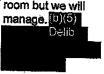
Low (b)(2), (b)(6)

CC:

Subject:

Re: ATS-P demo

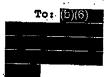
I have repeatedly asked BP for specific topics they want to discuss and this is the first time they said what they were interested in. This does not allow me enough time to get the right people in the room but we will manage. (D)(5)



Sent from my BlackBerry Wireless Handheld

From: (b)(6)

Sent: 09/29/2004 04:46 PM



Subject: RE: ATS-P demo

6)(2), (b)(7)(E), 巨(5) (b)(()

Also, if you have anyone available to attend, this would be helpful. (Although I realize we're all short due to HSPD and the Ottawa trip.) Otherwise, I'll grab some NTC people to help me wave the ATS banner.

Thanks, b)(6) Office of Field Operations Customs and Border Protection Low (b)(2) Forwarded by Low (b)(2), (b)(6) on 09/29/04 04:40 PM Low (b)(2), (b)(6) To: Subject: RE: ATS-P demo 09/29/04 02:16 PM We will be leaving around at 8:15 am tomorrow morning from the Ronald Reagan building to the NTC. The new Associate and Acting Associate Chiefs will be joining us to review ATS. The Assocaite Chiefs are: (b)(6) The Assistant Chiefs attending will be (b)(6) The main disucssion will focus on developing High (b)(2), (b)(7)(E), (b)(5) Delib Chief's main priorities, and the reason why the Associate Chief's will be attending the demonstration. Thank for your assistance. --Original Message-From: Sent: Monday, September 27, 2004 10:31 AM (b)(6) Subject: RE: ATS-P demo Sounds great. Please provide me with a list of attendees and what you would like to discuss outside of viewing an ATS-P demonstration. Thanks (b)(6)

ow (b)

To: Cc:

Subject: RE: ATS-P demo

Let's meet at 9:00 am at the NTC. I think we will only need 2 hours. Let's schedule from 9:00 - 11:00 am at the NTC.

Thanks,

-Original Message

From: Sent:

Friday, September 24, 2004 9:05 PM

To:

(b)(6)

Subject: RE: ATS-P demo

We have the Pennsylvania Room at the National Targeting Center booked for Thursday, Sept 30 from 0800-1200. Please advise what you are interested in discussing outside of viewing an ATS-P demonstration. Also, please advise as to what time you want to meet or if you will want to use the entire 4 hours. Thanks (b)(6) Low (b)(2), (b)(6)

Date: 09/23/2004 05:35PM

-ow(b)(2), (b)(6)

Subject: RE: ATS-P demo

Thursday morning is fine.

Thanks,

-Original Messa

From:

Sent: Thursday, September 23, 2004 3:12 PM

To: (b)(6)

Ce: (b)(6)

Subject:

RE: ATS-P demo

Wednesday is not a good day because of schedule conflicts. How about Thursday morning?

Office of Field Operations

Customs and Border Protection

Low (b)(2),

(b)(6)

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

Date: 09/23/2004 09:24AM

# ow (b)(2), (b)(6)

Subject: RE: ATS-P demo

Yes. The Chief or Deputy Chief of the Border Patrol may also attend (depending on their schedule).

Thanks, (b)(6)

-Original Message-

(b)(6) Sent:

Thursday, September 23, 2004 7:26 AM

Subject: Re: ATS-P demo

(a)(b)

lets shoot for Wednesday. (b)(c)

I am assuming you want to do this at the NTC in Reston? We will advise on the time. (b)(6)

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

Date: 09/22/2004 10:18AM

Subject: ATS-P demo

As per our conversation yesterday.

The Office of Border Patrol is interested in seeing a demonstration of ATS-P. Are you available to arrange a demonstration next week?

Thanks,

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

09/01/2004 10:56 AM

. To:

CC:

Subject

Request for Changes(?) to ATS-P

I got an "auto response" for my original message to (0)(0) Indicating he's out of town. The folks at the ATS Hotline suggested I should run this through (0)(6) in his absence, you(?)).

Thanks,

Honolulu PAU Supervisor low(b)(2)

Forward Header

Subject: Request for Changes(?) to ATS-P Author. Low (b)(2), (b)(6)

Date: 8/30/04 9:09 AM

(b)(6)

Low and High (5)(2), (6)(7)(E), (6)(5) Delib

included in ATS-P?

Could we get that field

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

Thanks for your time.

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

Subject: Re: Threshold Targeting for Passengers

# (b)(6)

We have not yet determined when a national rollout of threshold targeting will occur. NTS is hosting a conference this week at the NTC to discuss the current status of threshold targeting. After this conference, NTS will again look at when a national rollout will occur.

# 3)(d)

Office of Field Operations

National Targeting and Security

# Low (b)(2)

Please note new telephone number.

. Low (b)(2), (b)(

cc: Subject: Threshold Targeting for Passengers

To:

# (b)(6)

Director, Field
Operations, New
Orleans Field Office
asked me to find out if
a national
implementation date
has been set for ATS-P threshold targeting.
To the best of my
knowledge, the system
is only live in certain
ports at this time.
Please respond with
any information that
you may have
regarding this issue.

Thank you,

# (b)(6)

Border Security Coordinator

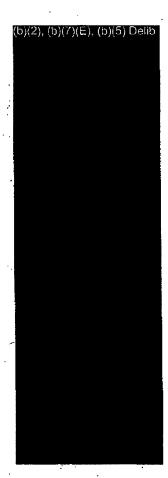
New Orleans Field Office 09/16/2004 08:54 AM

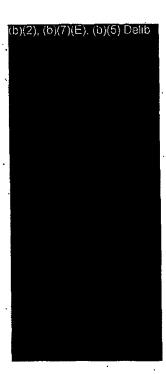
Subject: ATS-P Enhancements

commenced ATS-P Threshold Targeting on July 22, 2004 at the port of Chicago and are currently at 12 POE's. We developed the user requirements at the NTC rather quickly, knowing that some of the capability that OFO was seeking would take some development time on behalf of OIT. As you know, we will be visiting JFK tomorrow to see the Threshold Targeting process firsthand. Additionally, we are hosting a Threshold Targeting conference next week at the NTC to discuss lessons learned, current best practices, and ways to move forward.

We believe that after our visit to JFK, and after the threshold Targeting conference, we will have a much better handle on where we would like to go operationally with Threshold Targeting. Our understanding is that there are still a few areas of ATS-P Threshold Targeting, that were discussed in the initial group, that may be in development and ready for production relatively soon. Upon completion of our visit to JFK and the Threshold targeting conference, it would look really great for OIT and OFO, if we were able to advise the Commissioner that additional enhancements are coming on line in the next few weeks. I have identified below the areas that are in production and the areas that may currently be in development.

There may be additions, deletions, or alterations to the list below depending on the outcome of our visit to JFK and the recommendations from our Threshold Targeting conference.





02/09/2004 03:23 PM \_ow (b)(2), (b)(6) Subject: Re: ridge-creel 2/19-20 (b)(6) and I had a meeting with (b)(6) a (I can't remember his I discussed thin and I also discussed the ic this morning. This is we on a short turn around. (b)(2), (b)(7)(E), (b)(5) Delib (b)(2), (b)(7)(E), (b)(5) Delib (b)(2), (b)(7)(E), (b)(5) Delib, (b)(6) b)(5) Delib Any questions, please call me, Low (b)(2) Thanks, 02/09/2004 02:24 PM Low (b)(2), (b)(6) Subject: Re: ridge-creel 2/19-20

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

Thanks.

(b)(d)

(b)(6)

To: Low (b)(2), (b)(6)

cc:

Subject: Re: ridge-creel 2/19-20

(b)(6)

(b)(2), (b)(7)(E), (b)(5) Delib, (b)(6)

(b)(6)

----Forwarded by Low (b)(2), (b)(6)

on 02/03/2004 11:02AM -----

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

Date: 02/03/2004 10:25AM

Subject: Re: ridge-creel 2/19-20

All,

I'm attending this meeting, which is a follow-up to a meeting yesterday afternoon. As you can see, the focus is preparing the briefing book for Secretary Ridge for the "Ridge-Creel" meeting in Mexico Feb. 19. Per yesterday's meeting, the key IT topics they want to address for possible public announcements are:

(b)(5) Delib

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

Please get in touch with each other and your OFO counterparts to make sure we have a current and accurate status for these action items. Keep me in the loop via email as you progress with this. Thanks,

(b)(6)

(6)Acting Exec. Director, Software Development Division Low(b)(2)on 02/03/2004 10:17 AM ----- Forwarded by Low (b)(2), (b)(6) 02/03/2004 08:35 AM Low (b)(2), (b)(6)Subject: Re: ridge-creel 2/19-20 Thanks for identifying space. In advance of the meeting, we need to be thinking about how we (CBP) will be preparing three levels of papers: 1) Comprehensive one-pagers on each Action Item for the Commissioner (this ination by coordinators from OFO and OIT on some of will requir the issues (b)(5) Delib h Action Item for Ridge's Briefing Book (this should 2) Talking also be prepared by the coordinators from each office) 3) Joint Statement Paper that I will prepare in conjunction with (b)(6) of the Mexican Embassy based upon some of the information provide one-pagers. (6)(6)Office of International Affairs U.S. Customs and Border Protection Low(b)(2)

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

Subject: Re: ridge-creel 2/19-20

The Commissioner's situation room is fine.

(៦)(6)

02/03/2004 08:23 AM Low (b)(2), (b)(6)

cc:

Subject: Re: ridge-creel 2/19-20

A11:

to meet at 4:00 today to discuss the It looks as though we are s do you have a conference where we can (b)(6) above referenced meeting. meet? (b)(6)Office of International Affairs Customs and Border Protection Low(b)(2)(5)(6)02/ Low(b)(2), (b)(6)To: cc: Subject: Re: ridge-creel 2/19-20 That works too. ,02/02/04 04:38 PM To: Low (b)(2), (b)(6) cc: Subject: Re: ridge-creel 2/19-20 I could do it first thing in the morning meaning 9:00, though the roads are supposed to be nasty, so I'm not sure we could count on everyone being here. How about 4:00? (b)(6)02/0 Subject: Re: ridge-creel 2/19-20 i unfortunately have a meeting from 1-3 (b)(5) Delib after that would be ok, or first thing in the am. field operations ow (b)(2)(b)(6) 02/0 To: Low (b)(2), (b)(6) Subject: Re: ridge-creel 2/19-20 (b)(6) I discussed some of this with just after the meeting today. Why don't we all get together tomorrow to uss possible agenda items and any other

outstanding issues for this trip. Are you available at 1:45?

(b)(6)

02/02/2004 03:47 PM

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

cc:

Subject: ridge-creel 2/19-20

(b)(6)

i'm the ofo coordinator for the mx partnership plan and the ca shared border accord, i attended the meeting this afternoon, but was unable to remain behind to discuss this with you. if possible, tomorrow morning i would like to discuss the upcoming meeting with you - particularly,

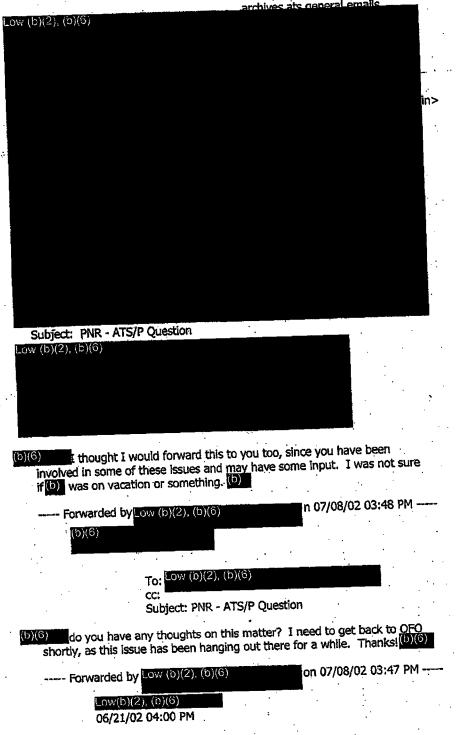
- who will attend with commissioner bonner

(b)(5) Delib

i will then coordinate the gathering of papers and keep the parties who need to know informed. thank you,

b)(6)

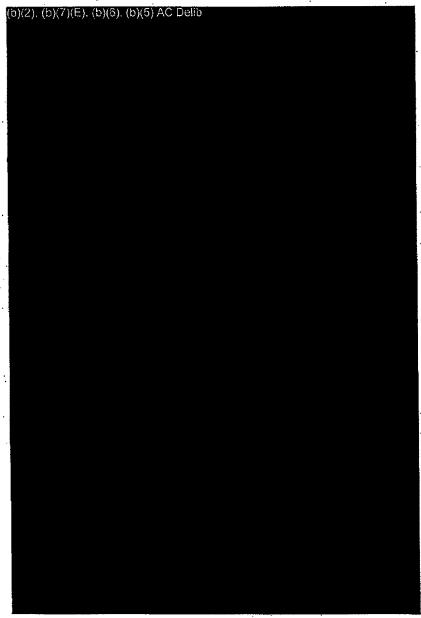
field operations \_ow(b)(2)



archives ats general emails To: Low (b)(2), (b)(6) Subject: PNR - ATS/P Question (b)(6), (b)(5) Delib AC person in your shop giving the advice is apparently no longer with you. Is there anyone I could speak with re this Issue?
(b)(5) Delib AC I'm Could you or someone else who could help me please give me a call next week? Thanks! (b)(6) on 06/21/02 03:57 PM ----- Forwarded by Low (b)(2), (b)(6) 06/10/02 05:01 PM Low (b)(2), (b)(6)cc: Subject: This is a message string dating back January 2000 that addresses the system of records question (b)(6) is from the Disclosure Lav is from the Disclosure Law Branch and her interpertations are below. ow (b)(2), (b)(6) - Forwarded by Low (b)(2), (b)(6) on 08/10/01 08:48 AM ----01/12/00 08:34 AM (b)(6)Subject: Re: ATS/P legal meeting minutes The meeting to discuss (b)(5) AC Dollo was held on 1/11/00. The following personnel were in attendance: (b)(6)- Disclosure Law Branch isclosure Law Branch Intelligence Division Page 73 003250 archives ats general emails

(b)(6) telligence Division
- Intelligence Division
IT (TECS)
T (ATS/P)

The meeting is summarized as follows:



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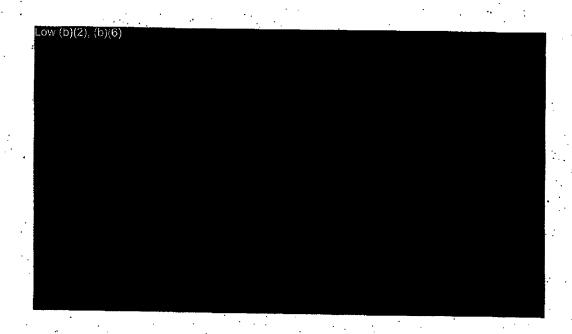
archives ats general emails

If there are any errors, omissions, or questions concerning the above, please contact me.

Reply Separator

Subject: ATS/P legal meeting Author: (D)(6) Date: 1/10/00 10:07 AM

This is to confirm our meeting tomorrow at 10am in the bridge conference area in RRB, room 7.4-C.



archives ats general emails

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

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

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

A little more information on the BSA data.

Just trying to keep you in the loop.

Low (\$)(2), (b)(6)

Page 165

# archives ats general emails DeliveredDate: 11/12/2003 03:45:31 PM Low (b)(2) High (b)(2), (b)(7)(E) High (b)(2), (b)(7)(E) Below are some examples of seizures and arrest CBP has made because of PNR. data. 3 pounds of heroin High (b)(2), (b)(7)(E) 889 grams of cocaine and 729 grams of cocaine h(b)(2), (b)(7)(E)

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504 grams of cocaine High (b)(2), (b)(7)(E)

archives ats general emails

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

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

I've also attached a presentation that was created by Galileo International, which is a global distribution service that handles PNR information for certain airlines.

I'm not sure how many examples you are interested in see, but if you would like more I can send them to you.

The best way for us to go through the examples would be to demo. ATS-P and our PNR targeting at the National Targeting Center or an airport PAU.

That said, I'll ask to provide a few illustrative but by no means exhaustive examples of some of the various data elements have been used for targeting purposes.

All of this is simply to say what I said earlier sign (5)(2), (5)(7)(5), (6)(5) Dem

As for the specific question you raise, I'll defer  $tq^{(b)(6)}$  specific analysis.

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

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

(b)(2), (b)(7)(E), (b)(5) Delib, (b)(6)

We can offer many examples of how these various fields have contributed to important security or law enforcement action.

Attached is the list of data elements that has been prioritized by CBP. I talked tq(b)(6) and sent this list to him for TSA's review.

The following attachments have been removed:

'Galileo 9-11 Presentation 11-7-03.ppt'

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

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archives ats general emails ow (b)(2) DeliveredDate: 02/05/2004 04:33:58 PM on 02/05/04 04:33 PM ---- Forwarded by Low (b)(2), (b)(6) 02/05/04 04:31 PM Subject: Re: ATS and TECS It is not quite as straight forward as you would like. There is no SORN for ATS and ATS is not referenced in the TECS SORN. ATS is not a transactional system and does not really have any data of its own. ATS gets most of its data from other places, including TECS (e.g. seizure data, crossing data, I-94, subjects; stc...). The TECS SORN covers all of the record sources currently used by ATS; the TECS SORN says it is used by Customs Officers and officers from other federal agencies. It also says 'routine use' of the data includes passenger processing. Given all of that...(5)(3). (4)(5) (1)(3)(4)(5)

We propagate the TECS data to a lot of places. (a)(5)(Della AC) (b)(5) Delib Hope this helps

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archives ats general emails

02/05/04 03:27 PM

Subject: ATS and TECS

Thanks for returning my call the other day. I just had a question. I was speaking to regarding PNR relative to the EU negotiations and the topic of system of record came up.

such information?

Do you have any

Thanks - (b)(6)

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

Subject: PostedDate: 02/23/2004 03:08:51 PM Low (b)(2), (b)(6)

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Office of Chief	Counsel					
	and Border Protection	. 7 .				
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Low (b)(2), (b)(6)

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