

**THE SECRETARY OF STATE
THE ATTORNEY GENERAL
THE SECRETARY OF HOMELAND SECURITY
THE DIRECTOR OF CENTRAL INTELLIGENCE**

**MEMORANDUM OF UNDERSTANDING
ON THE INTEGRATION AND USE OF SCREENING INFORMATION
TO PROTECT AGAINST TERRORISM**

(1) This memorandum represents the consensus view of the Secretary of State, the Attorney General, the Secretary of Homeland Security, and the Director of Central Intelligence regarding the implementation of Homeland Security Presidential Directive-6 (HSPD-6), dated September 16, 2003, entitled "Integration and Use of Screening Information to Protect Against Terrorism." (U)

(2) Consistent with the President's direction, the Parties to this Memorandum will develop and maintain, to the extent permitted by law, the most thorough, accurate, and current information possible about individuals known or appropriately suspected to be or have been involved in activities constituting, in preparation for, in aid of, or related to terrorism ("Terrorist Information"), and will, as described in this Memorandum:

- (a) use that information to support screening processes at all appropriate opportunities;
- (b) make accessible appropriate information to State, local, territorial, and tribal authorities to support their screening processes and otherwise enable them to identify, or assist in identifying, such individuals;
- (c) host mechanisms, to the extent permitted by law, to support appropriate private sector screening processes that have a substantial bearing on homeland security;
- (d) host mechanisms, to the extent permitted by law, to support appropriate foreign government screening processes that have a substantial bearing on homeland security;
- (e) provide or make accessible appropriate information to foreign governments cooperating with the United States in the war on terrorists of global reach; and
- (f) ensure that these activities are carried out in a manner consistent with the Constitution and applicable laws. (U)

Terrorist Screening Center

- (3) To implement the President's directive, the Attorney General, acting through the Director of the FBI, and in coordination with the Secretary of State, the Secretary of Homeland Security, and the Director of Central Intelligence, will establish the Terrorist Screening Center to consolidate the Government's approach to terrorism screening and provide for the appropriate and lawful use of Terrorist Information, in screening processes. (U)
- (4) The Terrorist Screening Center will:
- (a) maintain a consolidated terrorist screening database that is a continuously updated, sensitive but unclassified subset of the Terrorist Information possessed by the TTIC, and the Purely Domestic Terrorism Information (i.e., information about U.S. persons that has been determined to be purely domestic terrorism information with no link to foreign intelligence, counterintelligence, or international terrorism) possessed by the FBI;
 - (b) determine, for each entry in the consolidated terrorist screening database, which supported screening processes shall query that entry, as described in paragraphs (15) through (24);
 - (c) ensure, consistent with applicable law, that appropriate information possessed by State, local, territorial, and tribal governments, which is available to the Federal government, is considered in determinations made by the Terrorist Screening Center;
 - (d) host mechanisms to support appropriate screening processes; and
 - (e) provide continual operational support to assist in the identification of persons screened and, when an individual known or appropriately suspected to be involved in activities constituting, in preparation for, in aid of, or related to terrorism, has been identified through a screening process, facilitate, to the extent permitted by law, appropriate and lawful actions to be taken by appropriate departments and agencies. (U)
- (5) The Terrorist Screening Center will be headed by a senior U.S. Government official (the Director of the Terrorist Screening Center), who will report to the Attorney General through the Director of the FBI. The Director of the Terrorist Screening Center will be appointed by the Attorney General, in consultation with the Secretary of Homeland Security, the Secretary of State, the Director of the FBI, and the Director of Central Intelligence. The Principal Deputy Director of the Terrorist Screening Center will be a senior official from the Department of Homeland Security. (U)
- (6) The Terrorist Screening Center will be staffed with assignees and other officials from the Department of State, the Department of Justice, the Department of Homeland Security, and other Federal departments and agencies that the Terrorist Screening Center supports. The Director of Central Intelligence, acting in his capacity as statutory head of the Intelligence Community, may

also determine that assignees of other appropriate agencies, within the Intelligence Community, will be made available to perform appropriate duties at the Terrorist Screening Center. (U)

(7) Personnel assigned to the Terrorist Screening Center will have appropriate access to the TTIC database and any relevant intelligence information necessary to perform the Terrorist Screening Center's functions. To the extent required by law, the Parties to this Memorandum may jointly determine the circumstances under which personnel from the Intelligence Community, assigned to the Terrorist Screening Center in accordance with paragraph (6), may participate in the functions of the Terrorist Screening Center relating to U.S. persons. (U)

(8) The Director of the Terrorist Screening Center will establish necessary procedures and safeguards to ensure the Terrorist Screening Center's functions are carried out in a manner consistent with the Constitution and applicable laws, including, but not limited to, procedures to:

- (a) address the repeated misidentification of persons in any U.S. Government screening process;
- (b) regularly review information, and to promptly adjust or delete erroneous or outdated information; and
- (c) protect personal privacy. (U)

(9) Consistent with the President's directive, the Secretary of State, in consultation with the Secretary of Homeland Security, the Attorney General, and the Director of Central Intelligence, and working with the Director of the Terrorist Screening Center, not later than 180 days from today, will recommend to the President through the Assistant to the President for Homeland Security and the Assistant to the President for National Security Affairs, a proposal for cooperating with certain foreign governments (beginning with those countries for which the United States has waived visa requirements) to establish appropriate access to terrorist screening information of the participating governments, in a manner consistent with each government's laws, and to provide operational support to the participating governments. (U)

Terrorist Threat Integration Center (TTIC) Identities Database

(10) The TTIC database will include, to the extent permitted by law, all information the U.S. government possesses related to the identities of individuals known or appropriately suspected to be or have been involved in activities constituting, in preparation for, in aid of, or related to terrorism, with the exception of Purely Domestic Terrorism Information. (U)

(11) As directed by the President, and to the extent permitted by law, Federal departments and agencies will provide to the TTIC on an ongoing basis all relevant Terrorist Information in their possession, custody, or control, with the exception of Purely Domestic Terrorism Information, which will instead be provided directly to the FBI. Departments and agencies will continue to

provide new or updated information, and adjust or retract information as needed, in as near to real-time as possible. To this end, the Parties to this Memorandum will automate, to the maximum extent possible while providing for necessary review, their processes and mechanisms for securely sharing this information, including, but not limited to, the following:

(a) The Secretary of State, the Attorney General, the Secretary of Homeland Security, and the Director of Central Intelligence, in coordination with other relevant department and agency heads, not later than 180 days from today, will jointly recommend to the President through the Assistant to the President for Homeland Security, in consultation with the Assistant to the President for National Security Affairs, improvements, if any, to the existing cable-based system of sharing terrorism-related information with other departments and agencies.

(b) The Attorney General will ensure that the FBI's information technology modernization programs incorporate automated means of sharing appropriate information with the TTIC and other departments and agencies, while providing for necessary review, in near real-time. (U)

(12) The TTIC identities database, and the FBI's database containing Purely Domestic Terrorism Information, will incorporate, to the extent permitted by law, available biometric data, including data on persons who even if otherwise unidentified are known or appropriately suspected to be or have been involved in activities constituting, in preparation for, in aid of, or related to terrorism. The databases will have the capability of periodically incorporating advancements in biometric technology. (U)

Relationship of the TTIC and FBI Databases to the Terrorist Screening Center Terrorist Screening Database

(13) The TTIC identities database will serve, with the exception described in paragraph (10), as the single source for the Terrorist Screening Center terrorist screening database. The Director of the FBI will serve as the source for the Terrorist Screening Center terrorist screening database with regard to Purely Domestic Terrorism Information. The Terrorist Screening Center terrorist screening database will be a continuously updated, sensitive but unclassified subset of the Terrorist Information possessed by the TTIC, and the Purely Domestic Terrorism Information possessed by the FBI. (U)

Terrorist Screening Center Terrorist Screening Database

(14) The Director of the TTIC, the Director of the Terrorist Screening Center, and the heads of Federal departments and agencies, or their designees, may nominate persons for inclusion in the terrorist screening database, with notification, as appropriate, to the Director of the TTIC and/or the Director of the FBI. (U)

(15) The Terrorist Screening Center will determine, according to criteria established jointly with the entity responsible for each supported screening process, which supported screening processes will query that entry in the consolidated terrorist screening database. The Terrorist Screening Center will make these determinations based on criteria and procedures developed in coordination with the Parties to this Memorandum and in consultation with the heads of appropriate Federal departments and agencies, based on factors including, but not limited to, the following:

- (a) the nature of the person's association with terrorism;
- (b) the quality of the data, including credibility, reliability, and extent of corroboration;
- (c) the extent of uniquely identifying data;
- (d) the authority or authorities under which the data was obtained, and any restrictions on how it may be shared or used;
- (e) the authority or authorities of the screening entity;
- (f) the circumstances, including changes in the Homeland Security Alert Level, under which screening will occur; and
- (g) the action the screening entity will take if a person is identified as a person in the terrorist screening database. (U)

(16) The Director of the Terrorist Screening Center, in coordination with the Parties to this Memorandum and in consultation with the heads of appropriate Federal departments and agencies, will establish procedures to review the continued inclusion of a person in the terrorist screening database, and to review the inclusion of that person in particular screening processes as described in paragraph (15) above, whenever new information about that person is developed. (U)

(17) Except upon written direction from the President, determinations to include U.S. persons in the terrorist screening database based solely on information concerning the domestic activities of such persons will be made as appropriate by the Secretary of State, the Attorney General, and the Secretary of Homeland Security, or their designees. (U)

(18) The Attorney General, acting through the Director of the Terrorist Screening Center, will review each nomination and determine whether to include that person in those records that can be queried by law enforcement authorities through the NCIC database; for aliens, the Attorney General will do so in consultation with the Secretary of Homeland Security, acting through the Secretary of Homeland Security's representative assigned to the Terrorist Screening Center. (U)

(19) The Secretary of Homeland Security, acting through his representative assigned to the Terrorist Screening Center, will review each nomination and determine whether to include that person in those records that can be queried by, or made accessible by appropriate means, to other State, local, territorial, and tribal officials for homeland security purposes, including, but not limited to, screening persons when they apply for driver's licenses or other forms of identification. (U)

(20) The Secretary of Homeland Security, acting through his representative assigned to the Terrorist Screening Center, will review each nomination and determine whether to include that person in those records that will be subject to queries submitted by appropriate private sector critical infrastructure operators or organizers of large events. The Secretary of Homeland Security, in consultation with the other Parties to this Memorandum, and working with the Director of the Terrorist Screening Center, will establish necessary guidelines and criteria to:

(a) govern the mechanisms by which private sector entities can submit such queries; and

(b) initiate appropriate law enforcement or other governmental action, if any, when a person submitted for query by a private sector entity is identified as a person in the terrorist screening database. (U)

(21) The Secretary of State in consultation with the Attorney General, the Secretary of Homeland Security, and the Director of Central Intelligence, acting through their representatives assigned to the Terrorist Screening Center, will review each nomination and determine whether to include that person in those records that can be queried by, or made accessible by appropriate means to, foreign governments cooperating with the United States in the war on terrorists of global reach. (U)

{Paragraphs (22) – (24) are classified and therefore redacted}

(25) The terrorist screening database will be accessible to screening processes on a real-time basis. Screening processes will only be able to access those records that have been identified and approved for such screening, as described in paragraphs (15) through (24) above. The Director of the Terrorist Screening Center will strictly limit, to the maximum extent possible, the need to provide U.S. Government terrorist screening data in list form to supported entities. (U)

Additional Implementation Provisions

(26) Per the President's direction, and consistent with guidelines developed by the Attorney General in coordination with the other Parties to this Memorandum, the heads of Federal departments and agencies will conduct screening using the Terrorist Screening Center database at all appropriate opportunities, and shall report to the Attorney General not later than 90 days

from today the screening opportunities at which such screening shall and shall not be conducted. (U)

(27) The Attorney General and the Secretary of Homeland Security will conduct a review of the organization, structure and progress of the Terrorist Screening Center at an appropriate time, and report to the President through the Assistant to the President for Homeland Security. The report will include a recommendation on whether any modifications to the Terrorist Screening Center should be made. (U)

(28) To the extent permitted by law, the Director of the TTIC will promptly assume responsibility for the functions and personnel of the Department of State's TIPOFF counterterrorist program, less those components devoted to providing operational support to TIPOFF users and will ensure that all terrorist identity information contained within the TIPOFF database is fully integrated into the TTIC database. The functionality of the TIPOFF program, whereby consular officials receive near real-time feedback to hits to TIPOFF entries, will be maintained or improved upon. A separate Annex to this Memorandum will be promptly agreed to regarding the modalities of TIPOFF relocation to the TTIC, and the specific responsibilities of each party. (U)

(29) Beginning with the standup of the Terrorist Screening Center, Federal departments and agencies will discontinue or transfer to the Terrorist Screening Center, to the extent permitted by law and with appropriate consultation with the Congress, those operations that are duplicative of the Terrorist Screening Center's mission to provide continuous operational support to users of the terrorist screening database, including but not limited to:

(a) those components of the Department of State's TIPOFF counterterrorist program devoted to providing operational support to TIPOFF users (with the exception of a small element that will remain at the Department of State to facilitate intelligence support to the Bureau of Consular Affairs);

(b) the FBI's Watchlist Unit; and

(c) the Transportation Security Agency's No-Fly and Selectee list program. (U)

(30) Consistent with HSPD-6 and other presidential directives, this Memorandum does not alter existing authorities or responsibilities of the heads of Federal departments and agencies to carry out operational activities or provide or receive information. (U)

(31) To the extent that existing notices are not sufficient, the Parties to this Memorandum, which will provide information to the TTIC, the FBI, and/or the Terrorist Screening Center under HSPD-6 and this Memorandum, will publish in the Federal Register, prior to the standup of the Terrorist Screening Center, "routine use" notices under the Privacy Act sufficient to indicate that such information will be provided. (U)

(32) This Memorandum of Understanding is effective from the date of signature by all Parties. Any Party may submit, through the Assistant to the President for Homeland Security, written requests for revisions, amendments, modifications, annexes and supplementary understanding to this Memorandum at any time. Such changes shall become effective upon the date of approval by all Parties. The Parties shall review this Memorandum not later than one year from its effective date. (U)

Colin L. Powell
Secretary of State

September 16, 2003

John Ashcroft
Attorney General

September 16, 2003

Thomas J. Ridge
Secretary of Homeland Security

September 16, 2003

George J. Tenet
Director of Central Intelligence

September 16, 2003



Nartha
United States Department of State

Principal Deputy Assistant Secretary
for Consular Affairs

Washington, D.C. 20520

January 22, 2004

Mr. Robert Peterson
OIG/ISP/AIG
US Department of State
Washington, D.C.

Dear Mr. Peterson:

This letter is in response to your request for direct access to the Consular Consolidated Database (CCD) on the part of the Office of the Inspector General (OIG). As you know, Section 222(f) of the Immigration and Nationality Act, as amended, reads in part:

The records of the Department of State and of diplomatic and consular offices of the United States pertaining to the issuance or refusal of visas or permits to enter the United States shall be considered confidential and shall be used only for the formulation, amendment, administration, or enforcement of the immigration, nationality, and other laws of the United States.

We are prepared to give the OIG direct access to the CCD, recognizing that the information contained in the database is of direct relevance to the work of the OIG. Such access is fully consistent with the exception to the confidentiality provisions of section 222(f) for the use of visa records for the administration or enforcement of U.S. laws.

To ensure the handling and protection of visa data in a manner consistent with the requirements of section 222(f), INA the Bureau of Consular Affairs will:

1. Undertake to train all OIG personnel who will have direct access to the CCD on the use of the database and the handling and protection of visa data. This will be done by CA/VO/I in close coordination with designated OIG points of contact able to act as systems compliance officers; and

2. Designate CA/VO/I or other VO representative as a point of contact to consider requests by OIG for authority to share visa information, if necessary and appropriate, outside the OIG or with another US government entity.

In turn, we would ask that OIG agree to limit access to the CCD to personnel who have a need to know to carry out their duties under applicable law, and require all personnel to be appropriately trained and briefed on the handling and protection of visa data prior to access. In order to facilitate training, we would ask that the OIG regularly update CA/VO/I or other VO designee on the arrival or departure of any third agency detail personnel whose duties require access to VO's data. The OIG would also agree not to further disseminate visa information outside of the OIG except as permitted under INA Section 222(f), and with the consent of CA/VO/I or other VO designee; and to designate systems compliance officers to:

- a. act as certifying officers for OIG requests for CCD accounts and passwords; and
- b. carry out the requirements outlined in this letter with regard to the disclosure and use of information and training for employees with access to relevant visa data.

Attached for your information is a narrative and chart, "Reports and Users" that provides the details of the information that will be directly available to OIG users. We look forward to working with you on this project.

We will contact your staff to make the final arrangements for OIG access to the CCD. The point of contact in CA will be Martha Sardinas, Staff Director, Information Management and Liaison, Visa Service (CA/VO/I).

Sincerely,



Daniel B. Smith

Withheld pursuant to exemption

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of the Freedom of Information and Privacy Act