Government Surveillance and Control of Travelers

The Brennan Center for Justice (NYU School of Law)

3 October 2012
Surveillance of Travel

vs.

Surveillance of Communications

1. Movements of people vs. movements of messages
2. CALEA vs. enforced modifications to travel IT systems ($2B+ since 9/11 in costs to travel industry)
3. Suspicionless dragnet capture & retention of data
4. Legality of communications vs. travel surveillance
5. How the government uses this data
Government Surveillance and Control of Travelers

1. ID requirements ("Papers, Please!")

2. ID-linked "Personal Travel History"

3. "Permission To Travel" control system (based on identity and ID-linked history)

4. Default is "NO"
Travel Dataveillance:

3 partially overlapping sets of data required by DHS for each air traveler (depending on whether flight is domestic or intl.)

1. "Advance Passenger Information System" (APIS) data
2. "Passenger Name Record" data
3. "Secure Flight Passenger Data"
Domestic vs. International: different names for systems and datasets, same essential content and functions

International Travel:
- "Advanced Passenger Information System" (APIS) data
- "Passenger Name Record" (PNR) data accessed & "ingested"
- CBP "Automated Targeting System (ATS)

Domestic US Travel:
- Secure Flight Passenger Data (SFPD)
- PNR data accessible to TSA but not usually "ingested"
- TSA "Secure Flight"
This is how the DHS thought it would work, but the reservations data ecosystem isn't structured like this.
Most airlines don’t host their own PNRs. They outsource this to a third-party “Computerized Reservation System” (CRS) or "Global Distribution System" (GDS).
Because most of the CRSs are based in the USA, data is routinely stored in the USA and accessible to the DHS from US companies even for journeys within other parts of the world.
The CRSs are the original globally-accessible "cloud".
Secure Flight Business Model

Public
- Border Enforcement — Advance Passenger Information System (APIS)

Aviation Booking Entities
- Message format will include all data elements needed by TSA and CBP

Aircraft Operators
- Subject Data
- Routes messages to and from Aircraft Operators

Corporate Security Office

DHS Router
- Matching Results

CBP
- Boarding Pass

TSA
- SFA
  - Perform Identity Analysis
- TSA-0I Analyst
  - Perform Threat Analysis

TTAC
- Secure Flight Service Center
  - CSOA
    - Call Authentication & Routing
  - TSA-0I
    - RFA
      - Request Law Enforcement Encounter Information

TSC
- Nomination & Data Integration Unit (NDIU)
  - TSC-RFA Disposition

TSOU
- Coordination with other agencies and Law Enforcement

NOMINATION & DATA INTEGRATION UNIT (NDIU)
- Request Law Enforcement Encounter Information

Secure Flight
- Watch List Matching
  - Matching Results
  - Passenger Data & "Gate Passes"

Travel Information
- Reservation

Authentication & Routing
- Redress Control Number
- Redress
ATS records include passengers on all flights that overfly US territory, even if they don't land in the US. What would happen if Cuba wanted the reservations of everyone who overflies Cuba?
Contents of ATS records

1. TECS index (international entry/exit log since 1992)
2. TECS detail page(s) including secondary inspection notes for each entry or exit
3. Complete copies of PNRs for all international air travel to, from, via, or overflying US territory
4. "Risk assessments" and rules used to generate them
5. Pointers to external databases (govt. & commercial)
My ATS file includes records of my international travel since 1992. The first SORN (Federal Register notice) of the existence of ATS was in 2006.
There can be a TECS detail page with free-text notes for each border crossing – even if nothing illegal or suspicious was found.
"No penalty issued."

But my apple and bread are in my permanent ATS file with CBP.
This ATS record contains APIS data for a train trip from New York to Montreal, obtained by CBP from Amtrak's reservation system.
This ATS record describes a crossing of the USA-Canada border by private car. Current ATS records include the license number of the vehicle, obtained from automated license plate readers.
CBP washed my shoes – and made a note about it in my permanent ATS dossier.
You attended a computer conference?
You claim to be a computer software
“entrepreneur”? That goes in your permanent file.
What book are you reading?
You read about drugs? About your rights?
That goes in your permanent file.
Guilt by association? The only contact information in this 2007 PNR from my ATS file is the home telephone number of a friend.
This PNR from my ATS file includes my timestamped IP address, so even a dynamic IP address could be identified.
This PNR from my ATS file with CBP includes the details of my travel by train between Paris and Brussels.
This PNR from my ATS file with CBP includes the details of my travel by bus between Strasbourg and Frankfurt.
<table>
<thead>
<tr>
<th>Flight</th>
<th>Date</th>
<th>Origin</th>
<th>Destination</th>
<th>Time</th>
<th>Time</th>
<th>Operator</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 UA 900Q</td>
<td>25 DEC</td>
<td>SFO</td>
<td>FRA</td>
<td>213P</td>
<td>1015A</td>
<td>MO/TU E 4</td>
</tr>
<tr>
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<td>26 DEC</td>
<td>FRAT</td>
<td>TXL</td>
<td>1125A</td>
<td>1230P</td>
<td>TU E 4</td>
</tr>
<tr>
<td>3 OK 519M</td>
<td>01 JAN</td>
<td>TXL</td>
<td>PRG</td>
<td>710P</td>
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<td>1005A</td>
<td>118P</td>
<td>SU E</td>
</tr>
</tbody>
</table>

The “OK” (Czech Air) flights were on a separate ticket, and did not connect to flights to or from the US. UA would not be able to see these flights in the CRS – only a CRS user with "root" access would be able to see them. OK does not fly to the US.
Other data in PNRs

- Hotel reservations (How many beds did you and your traveling companion ask for in your hotel room?)
- Special meals (Kosher? Halal?) and special service requests (medical conditions? physical disabilities?)
- Reservations and special service requests for tours, cruises, ground transport, and other travel services
- Billing codes (Which client did a lawyer bill this trip to?)
- Discount codes (What organization are you associated with? What convention are you attending?)
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The Identity Project:
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