SWIFT, PNR, and more

European cooperation with USA dataveillance in the “war on terror”:
The state of play in the European Parliament
SWIFT = Society for Worldwide Interbank Financial Transfers

Belgian company with branch office in USA; handles electronic funds transfers worldwide

Extra-judicial US Dept. of Treasury access to SWIFT data through “Terrorist Finance Tracking Program” (TFTP) and SWIFT office in USA
European objections to US access to SWIFT data

- Secrecy: US access to SWIFT data was revealed after the fact by US newspapers in 2006 (act first, ask forgiveness later, rather than ask permission before acting)
- Intrusion into EU internal affairs (records kept by EU company about EU citizens transferring money between banks within the EU)
SWIFT/TFTP state of play

1. SWIFT/TFTP “agreement” between DHS and EU rejected by EP in Feb. 2010 (376-198 vote)

2. Agreement re-negotiated by EC

3. Revised proposal for agreement published last week (text at Statewatch.org and JanAlbrecht.eu; analysis at EDRI.org)

4. EP vote on new agreement maybe in July 2010?

5. In absence of any agreement, US must now go through normal judicial/police channels for access to SWIFT data.
PNR = Passenger Name Record (airline, etc., reservations)

“What’s in a PNR?”
http://hasbrouck.org/articles/PNR.html

Most airlines outsource hosting of PNR databased to 3rd-party Computerized Reservation Systems (CRS’s)
*** ELECTRONIC TICKET ***
F 1.1HASBROUCK/EDWARDMR
WW1ACWW 29AUG PMIME5
1 AC 761 A SA 9SEP YULSF0 HK1 0830 1130 CABY
FONE-
1. WW1-H 1 415 824 9562
2. WW1-P 1 415 824 0214
3. WW1-A 1130 TREAT AVE. /**/SAN FRANCISCO CA/94110 US
4. WW1-A AIRCANADA//HASBROUCK.ORG/MEMBER EMAIL
TKT-
1. K29AUGWW1WW 0142138066453
AP FAX-
1. SSRFQTVYYPN1 /UA00168716753
RMKS-
1. C/H IS EDWARD HASBROUCK/CA USER ENTERED CREDIT CARD/USD 248,.78/ALL PSGRWEB BOOKING/EMAIL TO C/H
2. MOP: CHARGE MY CREDIT CARD
3. PASSENGER REQUESTED I/R DELIVERY BY EMAIL TO AIRCANADA//HASBROUCK.ORG
4. TIDGERGJK1J4
5. BKIP 172.24.96.31 29AUG06 17:22

---HISTORY---
RCVD-INTERNET PNR GUEST
WW1 AC WW 1723Z/29AUG
WW1 GS WW I0IBM01 1723Z/29AUG
NO FLOWN SEGS
How does DHS use PNR data?

1. Airlines give DHS root access to CRS’s to pull PNR data. (CRS’s don’t keep access logs.)

2. DHS imports PNR data into CBP “Automated Targeting System” (ATS) database of lifetime travel history records.

3. ATS records are used as part of the basis for making real-time fly/no-fly decisions.
Secure Flight Business Model

Public
Aviation Booking Entities

Aircraft Operators
Subject Data
Message format will include all data elements needed by TSA and CBP

Corporate Security Office

DHS Router
Routes messages to and from Aircraft Operators

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

OTSR / TSA-OI
Redress

TSA
Secure Flight
Watch List Matching

Secure Flight Service Center

TSA-OI Analyst
Perform Threat Analysis

TTAC

SFA
Perform Identity Analysis

CSA
Call Authentication & Routing

TSA
- OI Analyst

TSOU
Coordination with other agencies and Law Enforcement

TSC
Nomination & Data Integration Unit (NDIU)

Call Center

TSC-RFA
Coordination with other agencies and Law Enforcement

Law Enforcement Encounter Information

TSC-Referral for Action (RFA)

Call Center Coordination with other agencies and Law Enforcement

Redress Control Number

Travel Information
Reservation
Boarding Pass

APIS Data (International)

"Passenger Data" & "Gate Passes"

Matching Results

TSA-OI RFA

TSA-OI RFA Disposition

Preliminary Review Required (PRR)

Matching Results

Law Enforcement Encounter Information

TSOU Coordination with other agencies and Law Enforcement
Where has your PNR data gone?

CFP 2010  Edward Hasbrouck  11
A short, oversimplified history of European policy on PNR data:

1. US demands extra-judicial access to PNR data
2. DHS (Stewart Baker) “agreement” with EU (1st agreement annulled on technical grounds; followed by 2nd agreement in 2007)
3. After Lisbon Treaty took effect in Dec. 2009, agreement no longer valid in EU without EP approval, but...
4. In absence of explicit rejection by EP or legal challenge in EU courts, DHS access has been allowed to continue. First lawsuit against US PNR access filed March 2010, pending in Belgian Constitutional Court.
5. Proposal for EP approval of previous agreement is pending.
EP debate on PNR data (to be continued)

EP resolution adopted April 2010:
- Expresses opinion of EP. Not a binding decision.
- Postpones yes or no decision on current proposal.
- EP thinks current proposal is unacceptable.
- Sets criteria for approval of a revised proposal.
- EC now renegotiating with DHS.
- EP delegation to Washington on PNR, June 29-July 2
- Revised agreement likely to be submitted to the EP for consideration in September 2010.
EU meta-debate on SWIFT, PNR, and more

- Proposal for an EU-US framework agreement on “data protection in the context of police and judicial cooperation” (which would apply to financial, travel, etc. data)

- MEP Jan Albrecht (German Green, member of LIBE Committee, JanAlbrecht.eu) appointed “rapporteur” in EP for this dossier
Timeline:

- September 2010: Negotiations begin between Council/EC and USA
- September 2010: EP LIBE Committee hearing w/ expert witnesses
- September 2010: EP LIBE Committee delegation trip to Washington
- Later in 2010, or 2011: Negotiations conclude, proposed agreement goes to EP and Council for ratification