
**KEEPING TERRORISTS OUT OF AMERICA
BY UNIFYING TERRORIST WATCH LISTS:**

*Ten Requirements for A Call for the Government to
Create an Effective
Terrorist Screening Center*

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Keeping Terrorists Out of America by Unifying Terrorist Watch Lists:

Ten Requirements for an Effective Terrorist Screening Center

Unifying Terrorist Watch Lists: Two Years of Unfulfilled Promises

The lack of an integrated terrorist watch list has long been described as a critical shortfall in homeland security and the war against Al Qaeda and other terrorist groups. Unfortunately, in the two years following September 11, 2001, the Bush Administration has failed to demonstrate effective leadership in developing a unified terrorist watch list system that can be used across agencies and by local law enforcement and border control officers.

Even before September 11, 2001, information on terrorist suspects was disorganized and poorly used. Two of the September 11 hijackers, Khalid al-Mihdhar and Nawaf al-Hazmi, should have been placed on watch lists on at least three occasions.¹ The effective use and dissemination of accurate watch lists information would likely have allowed authorities to prevent these two from boarding American Airlines flight 77, which was flown into the Pentagon. Effective use of this important tool could have curtailed the destruction witnessed by the entire world on that terrible day.

Promptly and fully implementing a robust, agile, and comprehensive terrorist screening capability is critical to our national security. The men and women on the front lines of border protection must have the ability to determine if the individual they are inspecting is a suspected terrorist. They must know this before the individual enters the country, and must be advised on what action to take. Officials at our embassies reviewing visa applications; customs and immigration inspectors at air, land, and sea ports of entry; and law enforcement officials patrolling our streets need prompt access to terrorist watch list information. Any time that our government is not able to provide this basic national security function is a time when America is at greater risk than it should be from the threat of global terrorism.

Following the September 11 attacks, President Bush gave the White House Office of Homeland Security (OHS) responsibility for overcoming interagency turf battles by coordinating all executive branch efforts to prepare for terrorist attacks.² Multiple terrorist watch lists were exactly the type of problem the OHS was meant to address,

¹ House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence. *Report of the Joint Inquiry into the Terrorist Attacks of September 11, 2001*. House Report 107-792 and Senate Report 107-351, December, 2002.

² Executive Order 13228, October 8, 2001.

since disparate agency cultures have historically impeded data integration and sharing.³ Yet nothing had been accomplished by July, 2002, when the Administration's *National Strategy for Homeland Security* pledged to "build and continually update a fully integrated, fully accessible terrorist watch list" and placed responsibility for watch list integration with the Federal Bureau of Investigation (FBI).⁴ The FBI soon transferred responsibility back to the White House, after which, the White House assigned the task to the new Department of Homeland Security (DHS).⁵

Despite the rhetoric, more than a year after September 11, 2001, no progress had been made on this project. The Congressional Joint Inquiry into the Terrorist Attacks of September 11, 2001, recommended that, "Congress and the Administration should ensure the full development of a national watch list center that will be responsible for coordinating and integrating all terrorist-related watch list systems."⁶ Yet, in April, 2003, the General Accounting Office (GAO) reported that the U.S. Government was still using 12 separate watch lists maintained by 9 different federal agencies, and recommended that these watch lists be integrated to provide a stronger homeland security tool.⁷ Despite these recommendations, at the second anniversary of the most devastating terrorist attack on U.S. soil, no significant action had been taken by the Bush Administration to remedy this glaring deficiency in our homeland security.

The Terrorist Screening Center: An Incomplete Answer

On September 16, 2003, the Administration announced its intention to create a Terrorist Screening Center (TSC) to address the watch list problem. According to the White House press releases, the TSC will "consolidate terrorist watch lists and provide 24/7 operational support for thousands of federal screeners across the country and around the world."⁸

Despite the announcement of TSC's creation on September 16, no substantive changes occurred at that time. The press release merely announced the intention to create another new entity, run by the FBI, charged with ownership of the watch list issue. *It was the fourth time that the Bush Administration changed its mind on which agency should be in charge of the watch lists.*

According to Administration plans, the TSC will be operational on December 1, 2003. Specifically, the Administration stated that the TSC will:

³ General Accounting Office. GAO-03-322. *Information Technology: Terrorist Watch Lists Should Be Consolidated to Better Promote Integrated and Sharing*. April, 2003.

⁴ Office of Homeland Security. *National Homeland Security Strategy*. P. 26. July, 2002.

⁵ General Accounting Office, GAO-03-322, April, 2003.

⁶ House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence, 2002.

⁷ General Accounting Office, GAO-03-322, April, 2003.

⁸ The White House. "New Terrorist Screening Center Established." September 16, 2003. <http://www.whitehouse.gov/news/releases/2003/09/20030916-8.html>.

- 1) create a unified watch list by integrating existing data and augmenting it with new data;
- 2) establish criteria for determining whether names would or would not be included on a unified watch list;
- 3) connect federal agencies and state and local law enforcement to the unified watch list database via the FBI's National Crime Information Center (NCIC); and
- 4) expand access to the unified watch list database by making the NCIC available to appropriate officials that currently do not have access to it.⁹

It remains unclear precisely what capabilities the TSC will have when it commences operations on December 1. It is highly likely, however, that the TSC will not be fully operational on that date, because many critical policy questions and procedures necessary for TSC's effective use of a unified watch list are likely to still be unresolved. For example, it is critical to establish business rules guiding the procedures for adding, removing, amending, accessing, and disseminating watch list information. It is our understanding that these rules have not yet been established.¹⁰ Additionally, we understand that the transfer of watch list information from key agencies has only very recently begun, making it unlikely that a comprehensive and unified watch list system will be in place before the first quarter of 2004.¹¹

Based on our study of this issue over the past year, the following list describes the basic capabilities that the TSC must have when it opens on December 1 in order to be considered fully operational and capable of providing genuine security to the United States. It is imperative that the Bush Administration explain which of the capabilities the TSC possesses – and which it does not possess – when the TSC first begins operations. For those capabilities it does not possess as of December 1, American citizens are entitled to a detailed and expedited timetable for when the White House will deliver on its promise. Specifically, the Administration needs to explain the work that still remains to be done, to set a firm deadline for completing this work, and to provide the TSC with any staff and resources necessary to achieve these goals.

Requirements for the Terrorist Screening Center and A Unified Terrorist Watch List System

1. **Comprehensive.** The TSC's unified watch list system must include, in a searchable and integrated database, all information possessed by the United States Government,

⁹ Joint briefing on the TSC for Congressional staff by the Homeland Security Council, DHS, FBI, Central Intelligence Agency (CIA), and Department of State, September 23, 2003

¹⁰ Joint briefing on the TSC for Congressional Staff, September 23, 2003.

¹¹ Joint briefing on the TSC for Congressional Staff, September 23, 2003. Also see Steven I. Cooper, Chief Information Officer, DHS, in testimony before the House Government Reform Committee, Subcommittee on Technology Information Policy, Intergovernmental Relations and the Census, Hearing on The IT Roadmap: An Overview of Homeland Security's Enterprise Architecture, October 8, 2003.

state and local governments, and available foreign sources concerning individuals suspected of involvement in terrorist activities.¹²

All federal agencies and the Terrorist Threat Integration Center must provide the TSC with all potentially relevant data, and the TSC should include all appropriate information in its database. Foreign governments, state and local governments and agencies, and other sources should be encouraged to provide to the TSC all appropriate information on persons suspected of involvement with terrorist activities.

2. **Accurate.** As new information becomes available, it must be automatically, rapidly, and accurately incorporated into the TSC's unified database.¹³

As U.S. Government agencies or other entities collect new information on individuals suspected of involvement in terrorist activities, that information must be transmitted to and incorporated rapidly by the TSC. This includes information on new records to be added to the unified database, additions or other changes to existing TSC records, and removal of TSC records from the database.

3. **Accessible.** The following groups must be able to request and receive information from the TSC's unified watch list database:¹⁴
 - All federal intelligence personnel;
 - All federal officials who screen people at land, sea, and air ports of entry;¹⁵
 - All federal, state and local law enforcement personnel;¹⁶
 - All federal officials that screen visa applications;¹⁷

¹² See William Parrish, Acting Assistant Secretary for Information Analysis and Infrastructure Protection, in testimony before the Senate Judiciary Committee, Subcommittee on Immigration and Border Security, hearings on Information Sharing and Visa Issuance, September 23, 2003; John Cohen, President and CEO of PSComm, LLC, Inc., in testimony before the House Government Reform Committee, Subcommittee on Technology Information Policy, Intergovernmental Relations and the Census, Hearing on National Security and Data Analysis, May 20, 2003.

¹³ See Jess T. Ford, Director of International Affairs and Trade, the General Accounting Office, in testimony before the Senate Judiciary Committee, Subcommittee on Immigration, Border Security, and Claims, Hearing on Post-9/11 Visa Issuance and information Sharing, July 15, 2003; Stewart Verdery, Assistant Secretary for Policy, Border and Transportation Security, DHS, in testimony before the Senate Foreign Relations Committee, Subcommittee on International Operations and Terrorism, Hearings on Visa Security and New Technology, October 23, 2003.

¹⁴ The White House, *Homeland Security Presidential Directive/HSPD-6, Subject: Integration and Use of Screening Information*, September 16, 2003.

¹⁵ See Ford testimony, July 15, 2003.

¹⁶ See George W. Foresman, Deputy Assistant to the Governor of the Commonwealth of Virginia, testimony before the House Select Committee on Homeland Security, Subcommittee on Intelligence and Counterterrorism, Hearing on Information Sharing, July 24, 2003.; Larry Mefford, Executive Assistant Director, Counterterrorism and Counterintelligence Division, FBI, in testimony before the House Judiciary Committee, Hearing on the Terrorist Threat Integration Center, July 22, 2003; Steven I. Cooper, Chief Information Officer, DHS, in testimony before the House Government Reform Committee, Hearing on Barriers to Information Sharing, May 8, 2003; Cohen, May 20, 2003.

¹⁷ Ford, July 15, 2003; Verdery, October 23, 2003.

- Authorized private-sector operators of critical infrastructure or organizers of large events;¹⁸
- Certain foreign governments that have entered into immigration agreements with the United States or that are engaged in the global war on terrorism as partners with the United States.

All officials that have a legitimate reason to analyze TSC information, verify the identities of suspected persons, screen for terrorist suspects, or provide access to potentially sensitive sites, facilities, or materials must be able to use TSC data.

4. **Timely.** Authorized officials must be able to receive accurate results in sufficient time to take any required action.¹⁹

All users of TSC data must be provided responses from the TSC in the timeframe needed to take action. For local law enforcement or border control officials, the result to a request for information may be needed in a matter of minutes. For officials reviewing visa applications or granting access to sensitive sites, facilities, or materials, responses may be needed in a timeframe of days or weeks.

5. **Tailored.** TSC personnel and systems must be able to provide varying levels of information, so that the amount and type of information shared is appropriate to the party making the request.²⁰

The TSC should be able to analyze and deliver information from the unified watch list database at varying levels of detail and confidentiality in a manner appropriate to and actionable by the party making the request. Consular officials reviewing visa applications, inspectors at our borders, and local law enforcement officers patrolling our streets will require different amounts and types of information to do their jobs. The TSC must be able to provide them with the information they need to make the specific decision that confronts them. The TSC may in some cases provide guidance rather than disclose actual database information. Information from the TSC must always be on a privileged basis and be carefully tailored to ensure the integrity of intelligence sources and methods, and to avoid compromising active investigations.

¹⁸ Foresman, July 24, 2003.

¹⁹ Parrish, September 23, 2003; Mefford, September 23, 2003; Cohen, May 2, 2003; Mark Forman, Administrator, Office of Electronic Government and Information Technology, Office of Management and Budget, in testimony before the House Government Reform Committee, Hearing on Barriers to Information Sharing, May 8, 2003.

²⁰ See James Kallstrom, Senior Advisor for Counterterrorism to the Governor of New York, in testimony before the House Select Committee on Homeland Security, Subcommittee on Intelligence and Counterterrorism, Hearing on Information Sharing, July 24, 2003; John O. Brennan, Director, Terrorist Threat Integration Center, in testimony before the House Judiciary Committee, Hearing on Terrorist Threat Integration Center, July 22, 2003.

6. **Secure.** Privacy must be protected by guaranteeing that individuals requesting information from the TSC are authorized to do so, and only obtain and use the information in a lawful manner.²¹

Controls must be in place to ensure that a person or entity requesting TSC data is authorized to do so. Once authorization is determined, TSC data – especially data regarding U.S. citizens – must only be available on a need-to-know basis and only to the extent necessary for the user to take appropriate action. The TSC must be structured to incorporate privacy and civil rights laws. Frequent and robust oversight must be conducted, both internally and externally to ensure TSC compliance.

7. **Controlled.** Clear rules must govern who gets placed on the unified terrorist watch list, and which federal officials can make changes to the watch list database.²²

Clear rules must establish the criteria by which names or other information can be added to the unified TSC watch list database. These rules must establish a threshold such that only information determined to be important, relevant, and accurate is included in the TSC database;²³ set any restrictions that should be placed on the use or dissemination of this information; and determine the extent, if any, to which individuals suspected of crimes other than terrorist activity should be included in the TSC. Rules must also dictate what officials and what entities are authorized to submit information and make additions to the watch list database.

8. **Correctable.** Clear procedures must be in place for removing individuals erroneously placed on the unified terrorist watch list.²⁴

The TSC must have procedures in place to remove or alter information in the unified watch list database. These systems must cover persons placed erroneously on the watch list, persons no longer believed to be appropriate for inclusion, and ways to distinguish between persons with similar names or other characteristics. The TSC must have a clear and publicized method for soliciting and handling appeals from persons that believe the TSC contains inappropriate information, or

²¹ Mefford, September 23, 2003; James Dempsey, Executive Director, Center for Democracy and Technology, in testimony before the House Judiciary Committee, Subcommittee on the Constitution, Hearing on the Impact of government Regulations on Individual Privacy, July 22, 2003; Cohen, May 20, 2003.

²² Brennan, September 23, 2003.

²³ See “Appendix: CTC Watchlisting Guidance – December 1999” in House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence, 2002.

²⁴ Numerous news articles cite cases of being mistakenly put on watch lists or being mistakenly detained as a result of confusion over names. For example, see Bob von Sternberg, “Regular Joe Turns Page on Mistaken Identity; Book Reveals Tip On Suspect Who Bears His Name,” *Minneapolis Star Tribune*, August 2, 2003; or “Two Muslim Clerics Detained in Florida to File Complaint with Foreign Affairs,” *The Canadian Press*, September 14, 2003. Also see Tom Ridge, Secretary, DHS, in testimony before the House Select Committee on Homeland Security, May 20, 2003.

requests to distinguish between included persons and those not suspected of involvement in terrorist activities who share the same name.

9. **Flexible.** The TSC's unified watch list system must be able to identify suspected terrorists who utilize known aliases or whose names have multiple spellings.

TSC systems must be able to automatically recognize and match multiple name variants, especially regarding translation of names to English from other languages. The TSC should have state-of-the-art search capabilities²⁵ that can highlight for TSC personnel database records that may be related, but not identical, to search terms.

10. **Supported.** The TSC must have a trained workforce,²⁶ adequate facilities and information technology, and stable and sufficient funding.

The TSC must have its own dedicated staff, facilities, and resources to manage a comprehensive watch list system and provide full operational support for all parties.²⁷ TSC personnel should have significant experience with the pre-existing watch list systems, the needs and operations of TSC customers, and the laws regarding privacy rights. The TSC should have a distinct and adequate line in the President's annual budget request.

The opening of the TSC on December 1 is the beginning, not the end, of the U.S. Government's effort to provide a robust, unified terrorist watch list system that truly enhances our national security. The Democrats on the Select Committee on Homeland Security will provide rigorous oversight to ensure that the Terrorist Screening Center is a powerful tool in the war against terror.

²⁵ See James J. Shinn and Jan M. Lodal, *Red-Teaming the Data Gap*, Council on Foreign Relations, April 20, 2002; Cohen, May 20, 2003.

²⁶ Foresman, July 24, 2003.

²⁷ Brennan, September 23, 2003.