



**Privacy Impact Assessment Update
for the**

**Watchlist Service
DHS/ALL-027(d)**

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Abstract

The Department of Homeland Security (DHS) receives a copy of the Terrorist Screening Database (TSDB), the U.S. Government's consolidated database maintained by the Department of Justice (DOJ) Federal Bureau of Investigation (FBI) Terrorist Screening Center (TSC), to facilitate DHS mission-related functions, such as counterterrorism, law enforcement, border security, and inspection activities. In July 2010, DHS launched an improved method of transmitting TSDB data from TSC to DHS through a service called the DHS Watchlist Service (WLS). WLS maintains a synchronized copy of the TSDB, which contains personally identifiable information (PII) and disseminates TSDB records it receives to authorized DHS Components. DHS is updating this Privacy Impact Assessment (PIA) because the TSDB is expanding to include additional national security threats beyond known or suspected terrorists.

Overview

Homeland Security Presidential Directive 6 (HSPD-6),¹ issued in September 2003, called for the establishment and use of a single consolidated terrorist watchlist to improve the identification, screening, and tracking of individuals known or suspected to be or have been engaged in conduct constituting, in preparation for, in aid of, or related to terrorism ("known or suspected terrorists," defined in HSPD-6) and their supporters. TSC maintains the authoritative terrorist watchlist and distributes current terrorist watchlist information from the TSDB to other government agencies, including DHS and its Components.²

Since its establishment in July 2010, WLS has allowed TSC and DHS to move away from a manual and cumbersome process of data transmission and management to a more privacy-protective, automated, and centralized process. WLS replaced multiple data feeds from TSC to DHS Components, and supports DHS's ability to more efficiently facilitate DHS mission-related functions such as counterterrorism, law enforcement, border security, and inspection activities.

WLS ensures that DHS has an authoritative, traceable, and reconcilable feed of the TSDB for use in the Department's mission. The objective of DHS WLS is to simplify and standardize the distribution of TSDB data to supported DHS systems via a centralized interface between TSC and DHS. DHS does not manipulate the data within the TSDB feed received by WLS. WLS sends data updates as received by the TSDB to DHS Components

¹ Homeland Security Presidential Directive 6 (HSPD-6) (Sept. 2003) *available at* <http://www.gpo.gov/fdsys/pkg/PPP-2003-book2/pdf/PPP-2003-book2-doc-pg1174.pdf>.

² The TSC maintains the TSDB to serve as the U.S. Government's consolidated watchlist for terrorism screening information, and has the final decision authority regarding watchlisting determinations.



that require bulk updates for internal processing. WLS ensures that each DHS Component receives only the formatted records from the TSDB that it is authorized to receive pursuant to the terms of information sharing agreements with FBI/TSC and as authorized by law and consistent with the Component's legal authorities and privacy compliance documentation. WLS is a system-to-system secure connection with no direct user interface.

Reason for the PIA Update

The President's *Strategy to Combat Transnational Organized Crime* directs the Executive Branch to establish comprehensive information sharing to aid in the identification of transnational organized crime (TOC) members and associates, deny them entry to the United States, and help capture those in the United States or partner countries.³ In support of this strategy's implementation, DHS is participating in a TSC-led pilot for a whole-of-Government approach to watchlisting for TOC actors, and will use WLS as the information sharing mechanism to transmit TOC data from TSC to DHS.⁴

DHS is updating this PIA because the TSDB expansion will change the nature of the information received by DHS via WLS. TSC is expanding the TSDB to now include individuals who may pose a threat to national security, consistent with Executive Order 12333 (or successor order) ("national security threats") and who do not otherwise satisfy the requirements for inclusion in the TSDB. These expanded categories do not include U.S. citizens or lawful permanent residents (U.S. persons). Specifically, DHS will now receive information regarding the following types of individuals via the WLS:

- a. Individuals who were officially detained during military operations, but not as enemy prisoners of war, and who have been identified as possibly posing a threat to national security, and who do not otherwise satisfy the requirements for inclusion in the TSDB ("military detainees"), consistent with Executive Order 12333 (or successor order) and the DOJ/FBI-019⁵; and
- b. Individuals who may pose a threat to national security because they are known or

³ STRATEGY TO COMBAT TRANSNATIONAL ORGANIZED CRIME: Addressing Converging Threats to National Security (July 2011), pp 18, 22, *available at* https://www.whitehouse.gov/sites/default/files/Strategy_to_Combat_Transnational_Organized_Crime_July_2011.pdf.

⁴ This pilot is intended to test whether the existing known and suspected terrorist watchlisting and screening architecture can be adapted in an efficient and cost-effective manner to manage and share information that may be used to screen against TOC actors. A status report that assesses the progress of the pilot, highlights significant successes and/or challenges, and provides recommendations concerning continuation of the pilot will be submitted to the Deputy Attorney General six months after commencement of the pilot.

⁵ JUSTICE/FBI-019 Terrorist Screening Records System (TSRS) (76 Fed. Reg. 77846, Dec. 14, 2011), *available at* <https://www.gpo.gov/fdsys/pkg/FR-2011-12-14/pdf/2011-32074.pdf>.



suspected to be or have been engaged in conduct constituting, in aid of, or related to transnational organized crime, thereby posing a possible threat to national security, and do not otherwise satisfy the requirements for inclusion in the TSDB (“transnational organized crime actors”), consistent with Executive Order 12333 (or successor order) (“national security threats”) and in support of the White House’s “Strategy to Combat Transnational Organized Crime” (July 19, 2011)⁶, and National Security Presidential Directive-59/Homeland Security Presidential Directive-24, “Biometrics for Identification and Screening to Enhance National Security” (June 5, 2008).⁷

DHS recently updated and reissued a Department-wide system of records titled “Department of Homeland Security/ALL-030 Use of the Terrorist Screening Database of Records.”⁸ One of the reasons for this update was to add the two types of individuals noted above and to clarify one existing category of individuals whose information is currently included in the TSDB: relatives, associates, or others closely connected with a known or suspected terrorist who are excludable from the United States based on these relationships by virtue of Section 212(a)(3)(B) of the Immigration and Nationality Act, as amended, and do not otherwise satisfy the requirements for inclusion in the TSDB.

DHS is also updating this PIA to provide notice that the analytical project for which Immigrations and Customs Enforcement (ICE) used the computer readable extract of TSDB data has concluded and that data is being archived at ICE. ICE maintained the TSDB data in its LeadTrac system, which was recently modernized.⁹ When the system was modernized, the TSDB data was extracted from the legacy system and not migrated to the new LeadTrac environment, due to the fact that the analytical project was completed. The current retention period approved by the National Archives and Records Administration (NARA) for data in the LeadTrac system is 75 years; however, ICE intends to request that NARA lower the retention period for this TSDB extract to 25 years.

⁶ STRATEGY TO COMBAT TRANSNATIONAL ORGANIZED CRIME: Addressing Converging Threats to National Security (July 2011), available at <https://www.whitehouse.gov/sites/default/files/microsites/2011-strategy-combat-transnational-organized-crime.pdf>.

⁷ Directive on Biometrics for Identification and Screening To Enhance National Security, National Security Presidential Directive/NSPD-59 and Homeland Security Presidential Directive/HSPD-24 (June 5, 2008), available at <https://www.gpo.gov/fdsys/pkg/PPP-2008-book1/pdf/PPP-2008-book1-doc-pg757.pdf>.

⁸ DHS/ALL-030 Use of the Terrorist Screening Database (TSDB) System of Records, 81 FR 3811 (Jan. 22, 2016).

⁹ See DHS/ICE/PIA-044 LeadTrac PIA (Oct. 30, 2015).



Privacy Impact Analysis

Authorities and Other Requirements

The President's *Strategy to Combat Transnational Organized Crime* directs the Executive Branch to establish comprehensive information sharing to aid in the identification of TOC members and associates, deny them entry to the United States, and help capture those in the United States or partner countries.¹⁰ In support of this strategy and to fully implement National Security Presidential Directive-59/Homeland Security Presidential Directive-24, "Biometrics for Identification and Screening to Enhance National Security" (June 5, 2008) and Attorney General Order (AGO) No. 3548-2015 (August 6, 2015), the information maintained and distributed by the TSC for watchlisting purposes is being expanded to include individuals who may pose a threat to national security, consistent with Executive Order 12333 ("national security threats").

Under the DHS "Mixed Systems Policy,"¹¹ DHS has updated the Use of the Terrorist Screening Database (TSDB) System of Records Notice (SORN)¹² to include this expanded population.

Characterization of the Information

There are no new privacy risks. The addition of the military detainees and TOC actors is an expansion of the TSDB (and therefore WLS) beyond its original stated purpose. These categories of records undergo a similar review process to the existing terrorist watchlist nomination review processes before being included in the TSDB.

For example, nominators are departments or agencies that have information to indicate that an individual is reasonably suspected of being involved with transnational organized crime and nominates that individual to TSC based upon information that originated with that department or agency and/or a third department or agency. TSC reviews the information before it is included in the TSDB as a TOC record.

In the event that a record does not meet minimum substantive derogatory or identifying criteria for watchlisting, the record will be immediately removed from TSC systems.

¹⁰ STRATEGY TO COMBAT TRANSNATIONAL ORGANIZED CRIME: Addressing Converging Threats to National Security (July 2011), pp 18, 22.

¹¹ DHS Privacy Policy Regarding Collection, Use, Retention, and Dissemination of Information on Non-U.S. Persons, DHS Privacy Policy Memoranda 2007-01 (July 7, 2009), available at https://www.dhs.gov/xlibrary/assets/privacy/privacy_policyguide_2007-1.pdf.

¹² DHS/ALL-030 Use of the Terrorist Screening Database (TSDB) System of Records, 81 FR 3811 (January 22, 2016).



Risks associated with implementation of WLS remain unchanged by the expansion of these types of individuals.

Uses of the Information

There are no new privacy risks. This expansion does not introduce any changes to how data is used, accessed or stored within WLS. WLS will continue as the mechanism to convey information maintained in TSC's systems to authorized DHS systems. Information added to TSC's systems on individuals known or suspected to be a threat to national security will be distinguished from individuals known or suspected to be or have been engaged in conduct constituting, in preparation for, in aid of, or related to terrorism ("known or suspected terrorists," defined in HSPD-6) and their supporters.

Information about individuals who are known or suspected to be or have been engaged in conduct constituting, in aid of, or related to transnational organized crime is intended for use in an interagency operational pilot to test the use of the TSC's existing watchlisting and vetting infrastructure for national security threats. Eligibility for inclusion as a TOC member is limited in scope to non-U.S. Persons associated with specified TOC organizations. Prior to any change to this scope, the pilot will be evaluated by the Deputy Attorney General and assessed in coordination with participating federal agencies.

Notice

There are no new privacy risks. DHS has provided notice through the DHS-wide system of records notice for WLS¹³ and through the publication of this PIA update.

Data Retention by the project

There are no new privacy risks. Although the information from the TSC will now include additional categories of individuals, the data will be retained per the same rules as existing categories.

Information Sharing

There are no new privacy risks. DHS will share encounter and auditing information consistent with the mechanisms established with the TSC pursuant to the WLS MOU. In instances in which TSDB information is incorporated into a DHS system, DHS shares the

¹³ DHS/ALL-030 Use of the Terrorist Screening Database (TSDB) System of Records, 81 FR 3811 (January 22, 2016).



information in accordance with the routine uses for DHS source system's SORN, as fully described in previous WLS PIA updates.

Redress

There are no new privacy risks. Redress procedures have not changed. The DHS Traveler Redress Inquiry Program (TRIP) provides redress for individuals who encounter screening-related travel difficulties.

Auditing and Accountability

There are no new privacy risks. Auditing and accountability measures have not changed.

As part of the transnational organized crime operational pilot, within six months of the start of the pilot, the pilot will be evaluated by participating agencies and the TSC, and the results will be reported to the Deputy Attorney General. Interagency pilot participants and the Deputy Attorney General will use this analysis to evaluate the pilot and determine appropriate future actions.

Responsible Official

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Approval Signature

Original signed copy on file with the DHS Privacy Office.

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