



Homeland Security

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Assessments
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KEYNOTE SPEAKER

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MR. HAWLEY: Thank you.

Well, good morning. It's a great pleasure to be here, and I'm learning that in the protocol of introductions that "earlier" refers to anything that's more than 20 years ago. So I figured that out.

This is a great turnout. It's wonderful to see the focus and attention on privacy and operationalizing it, because I think all of us in a conversational sense support privacy, support all sorts of things, but when you really get down to it how does it work in the operational elements of our business, and for those of us in Homeland Security that is a very great deal of our business.

So I wanted to give you a little bit of my personal reflections on privacy. Maureen mentioned "partner" and I feel the same thing with the Department in the privacy world, that we have a common objective, we have common issues,

DHS Privacy Office: Official Workshop Series

June 15, 2006 Official Transcript

challenges, and work together to get common solutions. So I think that is the only model that works. I'm delighted that we have that relationship with the Department and I hope it's mutually reinforcing.

Usually when I do kind of a review of TSA I always start off with Secretary Chertoff's second stage review that he completed about a year ago now, where he talks about risk-based decision-making, how do we allocate our resources and our efforts on the basis of risk, understanding what's the risk out there and then going after the real risk, as opposed to more formulaic expressions.

I usually talk about what the risk model is and how we look at it at TSA and how we look at the transportation network and then some form of discussion about various programs. Today I'd like to talk a little bit about Secure Flight.

But before doing that, there is a foundation behind all of this, underneath all of this that really calls out for more explicit discussion, not just here but everywhere. It's the foundation of the Constitution and in this particular topic area privacy. When you look at 9-11 and consider, as I think about basically every day, what does that mean, why the reaction that it engendered in all of us, I think a large part of it has to do with that it was an attack on us, not just an attack on the United States, not just an attack in the United States, but it was an attack on us.

I think that there is a personal connection on the part of most Americans and many around the world with the events of 9-11. Many of us knew people involved with it personally. Many of us flew on some or all of those flights. It's a very personal attack on a way of life. It's very, very personal. I think it draws people -- it drew people into the solution.

I think maybe we've gotten away that, but underneath I think there is a great deal of personal involvement in 9-11 or, more broadly, in terrorist activities.

When we step back -- and this was before I even thought about joining the government in this role. After 9-11 I was thinking a lot, what's the long-term

DHS Privacy Office: Official Workshop Series

June 15, 2006 Official Transcript

thing here? It occurred to me that President Bush, his legacy in 50 years or 100 years, whatever it is, people are going to remember I think two things. One is the attacks of 9-11 and all that came from that; and secondly, what we did about it, what we did about it. Did we sacrifice our major values, our way of life, in an effort to combat what happened on 9-11? Or did we remember where we came from, what our roots are, what our Constitution requires, who we are as a people, and that ultimately was protected even as we moved forward with combating our terrorist threat?

I was particularly interested when Secretary Chertoff named -- I mean, when President Bush named Secretary Chertoff to this role, given his judicial background. He is a brilliant lawyer. He's a brilliant person, but a brilliant lawyer, clearly dialed into the very difficult constitutional issues related to the war on terrorism. That was one of the things that attracted me to this Department, was Secretary Chertoff's grounding in these issues and understanding the complexity of the terrorist issues and indeed the importance and complexity of many of the legal and constitutional issues.

When I came to Washington for this job, in my confirmation hearing -- I had two confirmation hearings. In both of my opening statements I made the comment that I believe that security issues -- TSA programs should be built on a foundation of privacy, built from a privacy basis up. Figure out what is our privacy basis and then how do we accomplish the objectives of the program within or on top of that foundation, versus we are in a big hurry to fight these terrorists, we've got to get this done, get it done and then, oh yeah, we've got to make sure it passes muster with the privacy people.

That is how I viewed it then. It is how I view it now, and I really view it now based on a lot of the experience I've had since coming to TSA. I think Secure Flight has been an incredible learning experience for me and I think for our Department, the Department and TSA. It really has brought the rubber to the road on a critical mission and hitting smack into critical privacy issues, and how have we dealt with that? What have we learned? I would suggest that we've learned a lot, and I'll talk about that in a minute.

DHS Privacy Office: Official Workshop Series

June 15, 2006 Official Transcript

Security versus privacy, the great balancing act. It is a great balancing act that I totally reject. I do not think that the way to think about it is balancing one versus the other. I will use an analogy: security versus efficiency. Yes, we can secure flights in America, we can make 100 percent sure they're safe: Ground them, don't let them fly. Then you're 100 percent safe. So we can't stop the planes flying. We have to balance.

So the answer there is the same thing, which is it's not security or efficiency; it's security and efficiency. They're the same thing. If you have an efficient system -- put it the other way: You can't have a secure system that's not an efficient system. You can't have it be able to really know what your security situation is if it's all cluttered up and convoluted and you can't figure it out.

Security and efficiency are parts of the same puzzle. They're not separate ends of the spectrum. They go together.

Exactly the same thing on privacy and security. You can't have security unless there is a clear privacy element, not only from a legal point of view, I think from an operational point of view, and even from just the simple fact that, no matter how good a security measure it is, if you have a fault built into the system somewhere regarding privacy you may get through whatever it is you need to get through to get the program up and running, but some day, somehow, whether you knew it or not going in, there will be a fault. There will be a human error, there will be a software error, there will be something happens that brings this fault out, and it will stop your program cold.

So the more important the security program, the more vulnerable your entire security is if you have a security problem. I think frankly Secure Flight has had a lot of issues that gives it an unfair characterization of privacy problems, but ones that will be there until we can build a foundation that says this thing is going to be built so that there will not be a privacy issue because we have built it structurally in a way that we're very confident of that.

This is really important because Secure Flight is about watch list matching and terrorists on aircraft. In a larger sense, the better way that we can understand how to not let terrorists on airplanes, not let them become pilots, not

DHS Privacy Office: Official Workshop Series

June 15, 2006 Official Transcript

let them in the door in various insider capacities, has a lot to do with the sophistication of our law enforcement and our intelligence activities, which are getting better and better and better.

I have seen a change in the last year in the sophistication and the accuracy and the value of these lists as they get more and more -- the more general and I would say erroneous inclusions on terrorist watch lists, they are being cleaned out and the value of it continues to grow, which means that it's even more important that we assure on the privacy side.

There was a hearing yesterday in the House Homeland Security Subcommittee on Intelligence that was largely related to Secure Flight and intelligence and the whole how do you do watch list matching, what is the watch list, who's on it, what's going on with Secure Flight. Tom Frank, who is a reporter with USA Today, had an article about it today and picked out a particular comment I'd made in a previous briefing that was referring to the schedule: When are you going to have it out? When is it going to be out? When is it going to be out?

I've said -- I said on February 12th at the hearing where we talked about Secure Flight that we are rebaselining it, that we are not going to roll it out on a schedule that puts the schedule ahead of the stability and the integrity of the program. I used the analogy that in that kind of environment if you're just driving to the schedule, then you're looking at the clock, not the scoreboard, and that we have to make sure that we're going to get to the point that we want to get with a privacy foundation, as opposed to, yes, we met the deadline, here's the press release.

Hitting on a couple things Maureen said, on the international, I think this is a partnership and we look at a partnership with our colleagues abroad, a partnership with our partners in the private sector. Private sector organizations have very strict, well defined privacy policies and privacy rules. Clearly our international partners do as well.

As we move forward in our various programs, it's obvious that for a security system to work and be sustainable we need to have our global partners

DHS Privacy Office: Official Workshop Series

June 15, 2006 Official Transcript

an active participant, an enthusiastic, vigorous participant; the same thing with our private sector folks. We do not have the money or the resources within the Federal Government to have this be the feds are going to take care of this problem. It's got to be an effort that extends around the globe, private sector and public sector.

Again, these privacy issues are fundamental to what we consider to be ourselves, our way of life, whatever the fundamentals are, when you boil it all down to what is the way that the person relates to the government, how is that relationship? Maybe that is part of the definition of what our way of life is, and it all wraps up into privacy.

So we can have the greatest Secure Flight program in the world, but if we don't have participation around the world by other partners it is markedly less than if we can get others to adopt the same approach and help us help each other by identifying folks who could be a threat.

So it's -- when we talk about operational necessity, at TSA clearly within Secure Flight it's an obvious thing, has to be there. Also in our checkpoint -- everything you do when you come to the checkpoint. What is it that we can do to assess security? Behavior observation, a tremendously promising additional layer of security.

Everybody knows there are limitations to any one piece of technology in finding explosives or explosive components, and if you have another layer that is separate from the machinery that can look at the actual behavior of an individual that might tip you off, that's very valuable. Again, the same thing. You can't roll that program out, especially as important as it may be for us, unless we are absolutely certain that we have it buttoned up from the constitutional, civil rights point of view.

That's something that we -- we are looking at rolling that program out, but we're going to do it on the basis of making sure that it's buttoned up and that we are able to continue to use it.

DHS Privacy Office: Official Workshop Series

June 15, 2006 Official Transcript

So those are a couple of examples. I just close with a thing on where we are with Secure Flight. Secure Flight is an important program at TSA. It's an important program for the Department and overall for the government-wide effort on this. Our ability to use the intel, both from the intelligence community and law enforcement, to help in this effort depends on the integrity of those lists and our ability to use those lists.

We are doing our so-called rebaselining of the program and I expect we'll take -- and I'll just ask the guys in the third row. I won't ask the guys in the third row, but they would know, and I'll take an estimate, that say for another month or so we'll be involved in the effort to make sure of our foundation, that we are documented, that we have all the bases covered there, and then it will become a matter of watch list matching against minimalist passenger information.

There will not be commercial data used in Secure Flight for -- period. I guess I'll just say that. There will not be commercial data used in Secure Flight. It'll be watch list matching, period. There has been a lot of confusion about that and I think that's part of why we've taken this long course that we have.

But you have to use information, you have to use intelligence, if we are going to stop terrorists. More important, if we are going to beat terrorism we have to do it in a way where our constitutional -- the fabric of our country and the fabric of who we are is well protected.

So I applaud all of you for taking your time to come and figure out the latest on how we operational privacy in our work. It's something that I'm thrilled to see have good representation from TSA here, and I wish you well and to the extent to which you want to have any further discussion with me I'd be pleased to entertain that.

So, big closing. Thank you.