IN BRIEF

Airline Passenger Screening
in the United States – Update

BACKGROUND

In March 2003, in response to the terrorist attacks of 11 September 2001, the U.S. Transportation Security Administration (TSA) started to develop a screening system to determine which passengers should be afforded additional scrutiny prior to boarding an aircraft. The computer-assisted passenger pre-screening system (CAPPS II) was to replace the existing CAPPS, which was administered by airlines. (For information about CAPPS II, see the companion Library of Parliament publication entitled *Airline Passenger Screening in the United States and Canada – Developments Since September 2001*.)[1]

CAPPS II faced intense public opposition. The risk of "mission creep," whereby the list of individuals targeted by the system expanded, was of major concern to civil libertarians, privacy activists and legal experts. The potential for errors in databases and the absence of a process for redress were also cited as fatal weaknesses of CAPPS II. The U.S. Congress imposed a requirement that the TSA address several issues, including data accuracy and lack of redress, before the system could be implemented. CAPPS II was ultimately abandoned in July 2004 and replaced with Secure Flight, which is currently under development.

SECURE FLIGHT – CAPPS II'S SUCCESSOR

Secure Flight is a modified version of the CAPPS II proposal and was introduced by the TSA in response to input from Congress, the public, privacy and civil liberties groups, airline passengers and the airline industry and international partners. Under Secure Flight, the TSA will compare Passenger Name Record (PNR) data on domestic passengers to a list of known or suspected terrorists in the interagency Terrorist Screening Center (TSC) database. PNR data on passengers travelling to or from the United States will continue to be compared against the TSC database by U.S. Customs and Border Protection through the Advanced Passenger Information System, which was put in place in October 2002.

DIFFERENCES BETWEEN CAPPS II AND SECURE FLIGHT

At this time, key differences between CAPPS II and Secure Flight appear to include the following:

- CAPPS II would have relied on classified algorithms to assess the likelihood of an individual's being a terrorist threat, whereas Secure Flight is supposed to check passenger data against terrorist databases maintained by the TSC, the FBI and the intelligence community.

- CAPPS II would have screened PNR data for general law enforcement purposes in addition to searching for terrorists, whereas Secure Flight is intended to focus on identifying known or suspected terrorists.

- CAPPS II would have run PNR data through commercial databases to verify an individual's identity, whereas Secure Flight proposes to first test the effectiveness of verifying individuals' identities against commercial databases before committing to the practice.

- CAPPS II had not established a process by which individuals could correct the information about themselves in the system, whereas the TSA plans

to establish an appeal process for travellers who believe that they have been unfairly or incorrectly selected for additional screening under Secure Flight.

- CAPPS II would have screened all passengers to, from and within the United States, whereas Secure Flight should cover only domestic passengers.

Domestic airlines were expected to transmit one month's worth of passenger records to the TSA in October for system testing in November. Deployment of Secure Flight is scheduled for early 2005.

AIRLINE PASSENGER SCREENING IN CANADA

The *Public Safety Act, 2002* added a new section 4.82 to the *Aeronautics Act*. It provides that the Commissioner of the RCMP, the Director of CSIS and other designated persons are authorized to use passenger information for purposes of:

- transportation security;
- national security investigations relating to terrorism;
- situations of immediate threat to life or safety of a person;
- enforcement of Canada-wide arrest warrants for offences punishable by five years or more of imprisonment; and
- certain arrest warrants under the *Immigration and Refugee Protection Act* and the *Extradition Act*.

Public Safety and Emergency Preparedness Canada, which oversees the RCMP, has not yet set a date for the roll-out of the new airline passenger screening program. An implementation plan, which will be submitted to Cabinet and require its approval, is reportedly under development.

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(1)   Allison Padova, *Airline Passenger Screening in the United States and Canada – Developments Since September 2001*, PRB 04-30E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, July 2004.