

MEMORANDUM OF UNDERSTANDING

BETWEEN
TRANSPORT CANADA
AND THE
CANADIAN SECURITY INTELLIGENCE SERVICE

PASSENGER PROTECT PROGRAM

RECOGNIZING that the objective of the Passenger Protect program is to enhance aviation security;

RECOGNIZING that Transport Canada (TC) and the Canadian Security Intelligence Service (CSIS) have an interest in cooperating as it relates to transportation security;

RECOGNIZING that CSIS, under section 12 of the *Canadian Security Intelligence Service Act*, is required to collect, by investigation or otherwise, to the extent that is strictly necessary, information respecting activities that may on reasonable grounds be suspected of constituting threats to the security of Canada and, in relation thereto, shall report to and advise the Government of Canada;

RECOGNIZING that under subsection 19(2) of the *CSIS Act*, CSIS may disclose information obtained in the performance of its duties and functions where the information may be used for the purpose of the performance of its duties and functions under the *CSIS Act*;

RECOGNIZING that CSIS and TC may disclose personal information in accordance with subsection 8(2) of the *Privacy Act*;

RECOGNIZING that sections 4.76, 4.77, 4.81 and 4.82 of the *Aeronautics Act* provide specific authorities in matters of transportation security and, more specifically, threats to aviation security or to any aircraft or aerodrome or other aviation facility, or to the safety of the public, passengers or crew members; and

RECOGNIZING that TC may receive information from CSIS to allow the Minister of Transport, Infrastructure and Communities ("Minister") or an officer authorized by the Minister, to exercise his authority pursuant to section 4.76 or 4.77 of the *Aeronautics Act*.

NOW THEREFORE, TC and CSIS, collectively referred to herein as the parties and individually as a party, agree to work together to identify persons who may pose an immediate threat to aviation security, with the following terms and conditions:

1. DEFINITIONS

1.1 **Specified Persons List Advisory Group**, hereafter referred as the "**Advisory Group**", means the group formed by representatives of TC, the Royal Canadian Mounted Police (RCMP) and CSIS. The Advisory Group's mandate is to recommend persons to the Minister who may specify them pursuant to paragraph 4.81(1)(b) of the *Aeronautics Act*.

1.2 **Terms of Reference**, means the document found attached as Appendix "A" to this Memorandum of Understanding (MoU).

2. PURPOSE

2.1 This MoU establishes the terms and conditions for mutual cooperation with respect to the implementation of TC's Passenger Protect program (PPP).

3. REQUIREMENTS

3.1 The successful implementation of the PPP requires cooperation in each of the following areas:

a. When deemed appropriate by CSIS, the identification of persons who may pose an immediate threat to aviation security or to any aircraft or aerodrome or other aviation facility, or to the safety of the public, passengers or crew members, should they board an aircraft;

b. The sharing of relevant information on persons identified at sub-paragraph a. above with the Advisory Group for the purpose of specifying persons pursuant to paragraph 4.81(1)(b) of the *Aeronautics Act*;

c. The confirmation at 30-day intervals that the information shared pursuant to sub-paragraph a. above is still current and not dated; and

- d. The attendance at advisory group meetings of a senior CSIS official, for the purpose of providing advice on each specified person and the information related to that person.

4. IMPLEMENTATION

- 4.1 Representatives from TC and CSIS will meet periodically to discuss the workload generated by the PPP and review the accomplishments of the Program as well as other matters concerning passenger assessment programs in general.

5. DISSEMINATION AND PROTECTION OF INFORMATION

5.1 Information on individuals who may pose an immediate threat to aviation security will be requested from CSIS for the purpose of enabling the Minister to specify persons pursuant to paragraph 4.81(1)(b) of the *Aeronautics Act*. For the purpose of the potential exercise of the power of the Minister pursuant to section 4.76 and 4.77 of the *Aeronautics Act*, the information concerning persons specified on the PPP's Specified Persons List (SPL) will be kept accurate, and will be updated by the Advisory Group every 30 days or less, as stipulated under section 4.81 of the *Aeronautics Act*. Should a party become aware of an error concerning a specified person, the party will inform the other party as soon as possible so that the information can be corrected. Any correction will be discussed at the subsequent Advisory Group meeting.

5.2 The information provided by CSIS will be used as follows by TC:

- a. For the purpose of exercising TC's powers under sections 4.76, 4.77 and 4.81 of the *Aeronautics Act* and not for any other purposes;
- b. In accordance with the *Privacy Act*, the *Security of Information Act*, the *Identity Screening Regulations* made pursuant to the *Aeronautics Act*, Treasury Board's *Government Security Policy (GSP)*, Treasury Board's *Operational Security Standard for Physical Security*, and the conditions described herein;
- c. To provide to air carriers involved in the PPP with the name(s), date of birth and gender of persons who have been specified on the SPL. This information will be transmitted and stored within the confines of a secure informatics system in accordance with subsection b. above;
- d. To provide a reason to a person who has been issued an emergency direction further to being specified by the Minister in line with CSIS' caveats;
- e. To reconsider a decision to specify a person on the SPL. The information provided by CSIS will be used by TC's Office of Reconsideration and third party experts hired by TC to review a specified person's file.

5.3 TC will share information obtained under the PPP with CSIS in accordance with sections 4.81 and 4.82 of the *Aeronautics Act*. CSIS will use the information obtained under this MoU in accordance with its legislative authority.

5.4 The information provided by CSIS pertaining to individuals who may pose an immediate threat to aviation security should they board an aircraft will be contained in the Service's Personal Information Bank (PIB) number SIS PPU 070, which is currently being established.

5.5 The personal information provided by TC pertaining to specified persons will be contained in TC's PIB number DOT PPU 002, titled Passenger Protect program, which is currently being established.

5.6 No party will disclose any information shared under this MoU to third parties except:

- a. in accordance with applicable laws; or
- b. with the consent of the originator of the information, should the originator be legally authorized to do so.

5.7 All information deemed sensitive by the originating party will be appropriately classified and managed by said party in accordance with the *GSP*.

5.8 TC will store all information provided by CSIS in accordance with the *GSP*.

5.9 Subject to section 4.82 of the *Aeronautics Act*, whenever a match occurs to the SPL, TC will advise CSIS.

DISCLOSURE

6.1 The *Privacy Act* allows certain individuals to gain access to personal information a government institution is holding about them. The parties agree to consult the party from whom the personal information originated before giving access to the individual who is requesting it.

6.2 The parties acknowledge that the information provided by CSIS will be made available to the RCMP.

7. FUNDING

7.1 Each party will assume its own operating costs.

8. AMENDMENTS AND TERMINATION

8.1 This MoU may be amended with the written consent of all parties.

8.2 A party may terminate this MoU by providing a sixty (60) day written notice to the other party.

9. DISAGREEMENTS

9.1 Any disagreement regarding the interpretation or application of this MoU will be resolved by consultations between the parties.

10. NOTICE AND DESIGNATED OFFICERS

10.1 Any notices, questions or requests related to this MoU may be directed to the designated officers identified below. These officers are responsible for the coordination and management of this MoU.

For Transport Canada

Director General, Security and Emergency Preparedness
Place de Ville, Tower C
330 Sparks Street, 13th Floor
Ottawa, ON K1A 0N5

For Canadian Security Intelligence Services

Assistant Director Intelligence (ADI)
P.O. Box 9732, Postal Station "T"
Ottawa, Ontario K1G 4G4
Attn: Director General, Security Screening Branch

PROCESSED BY CSIS UNDER THE PROVISIONS OF THE PRIVACY ACT AND/OR ACCESS TO INFORMATION ACT.
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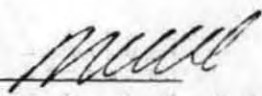
11. EFFECTIVE DATE

11.1 This MoU comes into effect upon signing by the parties.

12. SIGNATORIES

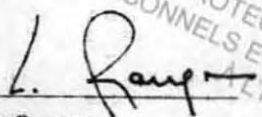
12.1 Signed on behalf of the Canadian Security Intelligence Service

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Jim Judd, Director Canadian Security Intelligence Service

DATE: June 24 2004

12.2 Signed on behalf of Transport Canada


Louis Ranger
Deputy Minister, Transport, Infrastructure and Communities

DATE: 11.06.2007

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Passenger Protect
Specified Persons List Advisory Group
Terms of Reference

Background

The objective of the Passenger Protect Program (PPP) is to enhance aviation security by preventing individuals who pose an immediate threat to aviation security from boarding aircraft departing to or from a designated¹ Canadian airport.

Section 4.81 1(b) of the *Aeronautics Act* requires air carriers to provide information, set out in the schedule to the *Aeronautics Act*, that is in their control concerning any particular person specified by the Minister or other officers of the Department, Transport Canada, working closely with the Royal Canadian Mounted Police (RCMP) and the Canadian Security Intelligence Service (CSIS), will compile a list of specified persons to be approved by the Minister of Transport, Infrastructure and Communities (hereafter "the Minister"). The individuals would be listed because they are considered to pose a threat to transportation security as defined in section 4.81(0.1) of the *Aeronautics Act*.

The list of specified persons will be shared with air carriers. Should an individual on the Specified Persons List (SPL) attempt to board an aircraft, he/she will be denied boarding if the Minister forms the opinion that this individual poses an immediate threat to aviation security if he or she was to board the plane. The Minister would, pursuant to section 4.76 of the *Aeronautics Act*, issue an emergency direction to the air carrier and to the individual preventing him or her from boarding a specified flight.

Mandate

The purpose of the Passenger Protect Advisory Group (hereafter referred to as "the Advisory Group") is to recommend persons it believes may pose an immediate threat to aviation security. The Advisory Group regularly reviews information on persons who, in the opinion of the Members, are known or suspected to pose an immediate threat to aviation security; or to any aircraft or aerodrome or other aviation facility, or to the safety of the public, passengers or crewmembers. The decision of the Minister or delegated officer to specify a person will be based on a reasonable suspicion that a specified individual would pose an immediate threat to aviation security should he or she board an aircraft.

Guidelines for listing specified individuals

The information supporting the designation of each specified person on the SPL must demonstrate that the individual may pose an immediate threat to aviation security, should

¹ Designated airports include those where Canadian Air Transport Security Authority (CATSA) passenger screening occurs.

he or she be permitted to board an aircraft. The Advisory Group may consider a host of relevant information to determine which individuals may pose a threat to aviation security including:

- An individual who is or has been involved in a terrorist group, and who it can reasonably be suspected, will endanger the security of any aircraft or aerodrome or the safety of the public, passengers or crew members;
- An individual who has been convicted of one or more serious and life-threatening crimes against aviation security; and
- An individual who has been convicted of one or more serious and life-threatening offences and who may attack or harm an air carrier, passengers or crew members.

The Advisory Group may recommend amendments to the guidelines set out for this purpose at any time.

Chair

The Director General, Security and Emergency Preparedness, Transport Canada or her designate, the Director of Intelligence, will chair the meetings of the Advisory Group.

Membership

In order to protect the privacy of individuals under consideration for listing on the SPL, the membership of the Advisory Group shall be kept to a minimum. The advisory group shall consist of the following voting Members:

- The Chair;
- A senior officer of the Canadian Security Intelligence Service (CSIS); and
- A senior officer of the Royal Canadian Mounted Police (RCMP).

The Chair may request advice from other Departments or Agencies as required. Other representatives from ICG, CSIS, and the RCMP, may attend in support of the voting Members. The Director of Intelligence will provide a note-taker as part of the Secretariat (see below).

In the event that a voting Member is unable to attend a meeting, a designated replacement may be sent in his or her place. Replacements must have the authority to speak on behalf of their Department or Agency. The Chair, through the Secretariat (see below) must be notified 24 hours in advance if a Member intends to send a replacement to an Advisory Group meeting.

All individuals attending Advisory Group meetings must hold a valid Top Secret security clearance.

Secretariat responsibilities

The Director, Intelligence, Transport Canada will provide a secretariat responsible for organizing and documenting Advisory Group meetings. One note-taker from the

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Intelligence Branch shall attend each Advisory Group meeting. The secretariat will be responsible for:

- Organizing and convening meetings.
- Liaising between Members and the Chair.
- Providing records of decision.
- Routing recommendations to the Minister. and
- Updating the SPL.

Frequency of Meetings

To ensure that the SPL is accurate and up to date, information supporting the listed individuals must be reviewed at least every 30 days.

The Advisory Group is required to meet face-to-face every 30 days or less if new information is to be reviewed to recommend the addition or removal of a name from the SPL. At such a time the list in its entirety would be reconfirmed in order to meet the requirement of reviewing the list every 30 days.

The chair, in consultation with the Members, shall appoint a regular day and time for Advisory Group meetings (i.e. the fourth Wednesday of every month). Unless otherwise advised, the Advisory Group shall meet every four weeks on the appointed day and time. Should no new information be available, the Members of the Advisory Group shall indicate so in writing (email) to the Secretariat at least five working days prior to the next regularly scheduled Advisory Group meeting. If neither the RCMP nor CSIS have any new information or new names to put forth, the list may be reconfirmed electronically via exchange of email

On occasion, the Chair, upon the recommendation of one or more Members, may convene an emergency meeting of the Advisory Group to consider emerging intelligence requiring an immediate recommendation to the Minister. All Members shall endeavor to provide appropriate representation to such emergency sessions.

Location of Meetings

Advisory Group meetings shall be convened in the Intelligence Boardroom of Transport Canada's headquarters at 330 Sparks Street, Ottawa. This room provides a secure environment for the discussion and storage of classified information up to the Top Secret level. Appropriate alternative locations and/or times must be agreed upon by voting Members at least five working days prior to the next scheduled Advisory Group meeting.

Process

Prior to each meeting, CSIS and the RCMP will complete a Data Sheet providing identifying information on an individual as well as all the information necessary to support the addition or removal of the individual's name from the SPL. The supporting

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information shall enable the Advisory Group to assess whether or not an individual may pose an immediate threat to aviation security should he or she be permitted to board an aircraft.

The agency bringing forth information may choose to provide the completed Data sheet to other Members of the Advisory Group in advance of the meeting. Complete Data Sheets containing classified information may be supplied to Members electronically.

If it is not provided beforehand, sufficient copies should be available during the meeting so that all Members can review the information.

During the meeting, proposed files will be discussed among the Members until the Chair decides to call a vote. One vote will be allocated to the representatives of CSIS, the RCMP and TC. The Chair will determine the recommendation to be made to the Minister. In cases where Members' opinions are divided and cannot be reconciled, the opposing sides will each prepare a short summary of their argument for/against the addition or removal of an individual to the SPL. Dissenting opinion(s) will be provided with the chair's recommendation to the Minister or his designate. The Minister or his designate will make the final decision.

In order to meet quorum for decision taking at Advisory Group meetings there must be a representative from CSIS and the RCMP present, in addition to the TC Chair.

Control of Information

Hard copy and electronic copies of the Data Sheets used to recommend names for the SPL will be stored in a secure facility at Transport Canada. In the event of Access to Information and Privacy Act requests, Transport Canada will not release 3rd party information, prior to consulting with the originating Department or Agency. As a matter of course, Transport Canada will neither confirm nor deny any assertion that a particular individual is on the SPL.

Agenda

An agenda will not normally be required for meetings. In special circumstances, the Chair may elect to revisit procedural issues in the course of a regularly scheduled meeting of the Advisory Group. In such cases, an agenda will be circulated to Members prior to the meeting. Members may propose agenda items to the Secretariat at least 24 hours prior to a meeting.

Reporting

The Record of Decision will be finalized prior to the adjournment of each Advisory Group meeting. Voting Members will be asked to sign the Record of Decision to document their participation, as well as agreement or dissent, with all the recommendations made to the Minister. Any discrepancies must be noted and corrections

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made before departing the meeting. Hard copies of the Record of Decision will be stored at TC. Electronic copies will made available to Members.

Approved by:


Debra Normoyle
Director General, Security and Emergency Preparedness
Transport Canada


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Date: 31/05/07

Date: 2007-05-31

Security Screening Branch

Canadian Security Intelligence Service


Superintendent Reg Trudel
Officer in Charge, National Security Criminal Operations Support Branch
Royal Canadian Mounted Police

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