The Terror Watch List Database’s Troubles Continue

CASE STUDY

In the aftermath of the 9-11 attacks, the FBI’s Terrorist Screening Center, or TSC, was established to consolidate information about suspected terrorists from multiple government agencies into a single list to enhance inter-agency communication. A database of suspected terrorists known as the terrorist watch list was created. Multiple U.S. government agencies had been maintaining separate lists and these agencies lacked a consistent process to share relevant information.

Records in the TSC database contain sensitive but unclassified information on terrorist identities, such as name and date of birth, that can be shared with other screening agencies. Classified information about the people in the watch list is maintained in other law enforcement and intelligence agency databases. Records for the watchlist database are provided by two sources: The National Counterterrorism Center (NCTC) managed by the Office of the Director of National Intelligence provides identifying information on individuals with ties to international terrorism. The FBI provides identifying information on individuals with ties to purely domestic terrorism.

These agencies collect and maintain terrorist information and nominate individuals for inclusion in the TSC’s consolidated watch list. They are required to follow strict procedures established by the head of the agency concerned and approved by the U.S. Attorney General. TSC staff must review each record submitted before it is added to the database. An individual will remain on the watch list until the respective department or agency that nominated that person to the list determines that the person should be removed from the list and deleted from the database.

The TSC watch list database is updated daily with new nominations, modifications to existing records, and deletions. Since its creation, the list has ballooned to 400,000 people, recorded as 1.1 million names and aliases, and is continuing to grow at a rate of 200,000 records each year. Information on the list is distributed to a wide range of government agency systems for use in efforts to deter or detect the movements of known or suspected terrorists.

Recipient agencies include the FBI, CIA, National Security Agency (NSA), Transportation Security Administration (TSA), Department of Homeland Security, State Department, Customs and Border Protection, Secret Service, U.S. Marshals Service, and the White House. Airlines use data supplied by the TSA system in their NoFly and Selectee lists for prescreening passengers, while the U.S. Customs and Border Protection system uses the watchlist data to help screen travelers entering the United States. The State Department system screens applicants for visas to enter the United States and U.S. residents applying for passports, while state and local law enforcement agencies use the FBI system to help with arrests, detentions, and other criminal justice activities. Each of these agencies receives the subset of data in the watch list that pertains to its specific mission.

When an individual makes an airline reservation, arrives at a U.S. port of entry, applies for a U.S. visa, or is stopped by state or local police within the United States, the frontline screening agency or airline conducts a name-based search of the individual against the records from the terrorist watch list database. When the computerized name-matching system generates a “hit” (a potential name match) against a watch list record, the airline or agency will review each potential match. Matches that are clearly positive or exact matches that are inconclusive (uncertain or difficult to verify) are referred to the applicable screening agency’s intelligence or operations center and to the TSC for closer examination. In turn, TSC checks its databases and other sources, including classified databases maintained by the NCTC and FBI to confirm whether the individual is a positive, negative, or inconclusive match to the watch list record. TSC creates a daily report summarizing all positive matches to the watch list and distributes them to numerous federal agencies.

The process of consolidating information from disparate agencies has been a slow and painstaking one, requiring the integration of at least 12 different databases. Two years after the process of integration took place, 10 of the 12 databases had been processed. The remaining two databases (the U.S. Immigration and Customs Enforcement’s Automatic Biometric Identification System and the FBI’s Integrated Automated Fingerprint Identification System) are both fingerprint databases. There is still more work to be done to optimize the list’s usefulness.

Reports from both the Government Accountability Office and the Office of the Inspector General assert
that the list contains inaccuracies and that government departmental policies for nomination and removal from the lists are not uniform. There has also been public outcry resulting from the size of the list and well-publicized incidents of obvious non-terrorists finding that they are included on the list.

Information about the process for inclusion on the list must necessarily be carefully protected if the list is to be effective against terrorists. The specific criteria for inclusion are not public knowledge. We do know, however, that government agencies populate their watch lists by performing wide sweeps of information gathered on travelers, using many misspellings and alternate variations of the names of suspected terrorists. This often leads to the inclusion of people who do not belong on watch lists, known as “false positives.” It also results in some people being listed multiple times under different spellings of their names.

While these selection criteria may be effective for tracking as many potential terrorists as possible, they also lead to many more erroneous entries on the list than if the process required more finely tuned information to add new entries. Notable examples of ‘false positives’ include Michael Hicks, an 8-year-old New Jersey Cub Scout who is continually stopped at the airport for additional screening and the late senator Ted Kennedy, who had been repeatedly delayed in the past because his name resembles an alias once used by a suspected terrorist. Like Kennedy, Hicks may have been added because his name is the same or similar to a different suspected terrorist.

These incidents call attention to the quality and accuracy of the data in the TSC consolidated terrorist watch list. In June 2005, a report by the Department of Justice’s Office of the Inspector General found inconsistent record counts, duplicate records, and records that lacked data fields or had unclear sources for their data. Although TSC subsequently enhanced its efforts to identify and correct incomplete or inaccurate watch list records, the Inspector General noted in September 2007 that TSC management of the watch list still showed some weaknesses.

Given the option between a list that tracks every potential terrorist at the cost of unnecessarily tracking some innocents, and a list that fails to track many terrorists in an effort to avoid tracking innocents, many would choose the list that tracked every terrorist despite the drawbacks. But to make matters worse for those already inconvenienced by wrongful inclusion on the list, there is currently no simple and quick redress process for innocents that hope to remove themselves from it.

The number of requests for removal from the watch list continues to mount, with over 24,000 requests recorded (about 2,000 each month) and only 54 percent of them resolved. The average time to process a request in 2008 was 40 days, which was not (and still is not) fast enough to keep pace with the number of requests for removal coming in. As a result, law-abiding travelers that inexplicably find themselves on the watch list are left with no easy way to remove themselves from it.

In February 2007, the Department of Homeland Security instituted its Traveler Redress Inquiry Program (TRIP) to help people that have been erroneously added to terrorist watch lists remove themselves and avoid extra screening and questioning. John Anderson’s mother claimed that despite her best efforts, she was unable to remove her son from the watch lists. Senator Kennedy reportedly was only able to remove himself from the list by personally bringing up the matter to Tom Ridge, then the Director of the Department of Homeland Security.

Security officials say that mistakes such as the one that led to Anderson and Kennedy’s inclusion on no-fly and consolidated watch lists occur due to the matching of imperfect data in airline reservation systems with imperfect data on the watch lists. Many airlines don’t include gender, middle name, or date of birth in their reservations records, which increases the likelihood of false matches.

One way to improve screening and help reduce the number of people erroneously marked for additional investigation would be to use a more sophisticated system involving more personal data about individuals on the list. The TSA is developing just such a system, called “Secure Flight,” but it has been continually delayed due to privacy concerns regarding the sensitivity and safety of the data it would collect. Other similar surveillance programs and watch lists, such as the NSA’s attempts to gather information about suspected terrorists, have drawn criticism for potential privacy violations.

Additionally, the watch list has drawn criticism because of its potential to promote racial profiling and discrimination. Some allege that they were included by virtue of their race and ethnic descent, such as David Fathi, an attorney for the ACLU of Iranian descent, and Asif Iqbal, a U.S. citizen of Pakistani decent with the same name as a Guantanamo detainee. Outspoken critics of U.S. foreign policy, such as some elected officials and
university professors, have also found themselves on the list.

A report released in May 2009 by Department of Justice Inspector General Glenn A. Fine found that the FBI had incorrectly kept nearly 24,000 people on its own watch list that supplies data to the terrorist watch list on the basis of outdated or irrelevant information. Examining nearly 69,000 referrals to the FBI list, the report found that 35 percent of those people remained on the list despite inadequate justification. Even more worrisome, the list did not contain the names of people who should have been listed because of their terrorist ties.

FBI officials claim that the bureau has made improvements, including better training, faster processing of referrals, and requiring field office supervisors to review watch-list nominations for accuracy and completeness. But this watch list and the others remain imperfect tools. In early 2008, it was revealed that 20 known terrorists were not correctly listed on the consolidated watch list. (Whether these individuals were able to enter the U.S. as a result is unclear.)

Umar Farouk Abdulmutallab, the Nigerian who unsuccessfully tried to detonate plastic explosives on the Northwest Airlines flight from Amsterdam to Detroit on Christmas Day 2009, had not made it onto the no-fly list. Although Abdulmutallab's father had reported concern over his son's radicalization to the U.S. State Department, the Department did not revoke Abdulmutallab's visa because his name was misspelled in the visa database, so he was allowed to enter the United States. Faisal Shahzad, the Times Square car bomber, was apprehended on May 3, 2010, only moments before his Emirates airline flight to Dubai and Pakistan was about to take off. The airline had failed to check a last-minute update to the no-fly list that had added Shahzad's name.


**CASE STUDY QUESTIONS**

1. What concepts in this chapter are illustrated in this case?
2. Why was the consolidated terror watch list created? What are the benefits of the list?
3. Describe some of the weaknesses of the watch list. What management, organization, and technology factors are responsible for these weaknesses?
4. How effective is the system of watch lists described in this case study? Explain your answer.
5. If you were responsible for the management of the TSC watch list database, what steps would you take to correct some of these weaknesses?
6. Do you believe that the terror watch list represents a significant threat to individuals' privacy or Constitutional rights? Why or why not?