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United States Senate

COMMITTEE ON
GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

February 13, 2004

The Honorable Asa Hutchinson
Under Secretary for Border and Transportation Security
U.S. Department of Homeland Security
Washington, D.C. 20528

VIA FACSIMILE: (202) 772-9734

Dear Under Secretary Hutchinson:

On October 9, 2003, we wrote to Secretary of Defense Donald Rumsfeld regarding an Army contractor's acquisition of private passenger information from JetBlue Airways for a data mining research project. We remain concerned that the Army and its contractor, Torch Concepts, apparently acquired this information with no public notice and no attention to compliance with the Privacy Act. We are also concerned by what we have recently learned about the role that the Transportation Security Administration (TSA) may have played in this incident.

Press reports have indicated that TSA was involved in the transfer of millions of Passenger Name Records (PNR) to the Army contractor. Although the Department of Homeland Security (DHS) has indicated that TSA's role was limited, it has come to our attention that this may not have been the case. Army officials recently indicated to Committee staff that airlines were reluctant to provide PNR data to Torch Concepts without TSA's approval. It is our understanding that TSA did provide such approval in the form of a written request to JetBlue asking the airline to provide PNR data to Torch Concepts.

If our understanding is correct, it raises several privacy-related concerns. We support the development of effective new systems and technologies to protect homeland and national security. However, such systems must have appropriate safeguards to ensure the privacy of personal information and must be developed in an atmosphere of openness and public trust. If TSA's involvement in the JetBlue incident is greater than previously acknowledged, then TSA needs to fully disclose its actions and swiftly move to reassure the public that it will act with greater concern for privacy rights in the future. This is especially important given that, in order to test and implement the new Computer Assisted Passenger Prescreening System (CAPPS II), TSA will likely need to compel airlines to turn over PNR data. Americans, in turn, need to know that TSA will be forthright in how it handles information about them. That reassurance can only come following a complete public accounting of TSA's role in the JetBlue incident. Americans

want to be full partners with their government in the war against terrorism. If the government needs their private information to help wage that war, then they deserve to know how the government obtained and will be using that information.

Given our concerns, we are asking for documents and information that shed additional light on this incident. Please provide the Committee with copies of any written communications from TSA to JetBlue Airways related to the Army's research project conducted by Torch Concepts. If TSA did in fact ask JetBlue to provide PNR data to Torch Concepts, please provide an explanation of why TSA did this and why it has not previously disclosed this communication to the Congress. Thank you for your attention to this important matter.

Sincerely,



Susan M. Collins
Chairman



Joseph Lieberman
Ranking Member