



The National Counterterrorism Center

Overview of NCTC's Data Access as Authorized by the 2012 Attorney General Guidelines

Background The National Counterterrorism Center (NCTC) is the primary organization in the United States Government for analyzing and integrating all intelligence possessed or acquired by the United States Government pertaining to terrorism and counterterrorism (National Security Act of 1947, as amended). In order to perform this statutory mission, NCTC, like other intelligence community elements, is required by law and Executive Order to have guidelines approved by the Attorney General and the Director of National Intelligence (DNI) relating to its handling of information about United States persons.¹

In the aftermath of the December 25, 2009 attempted terrorist attack against a Detroit-bound flight, NCTC recognized that it needed to retain replicated datasets for longer periods to identify previously unknown relationships to terrorism information, which might become evident only after time-consuming correlation with other datasets, or with the discovery of new information at later points in time. Consequently, in March 2012, the Attorney General, DNI, and Director of NCTC signed updated *Guidelines for Access, Retention, Use, and Dissemination by the National Counterterrorism Center and Other Agencies of Information in Datasets Containing Non-Terrorism Information*, frequently referred to as NCTC's "2012 Attorney General Guidelines." These Guidelines are critical to helping NCTC carry out its mission under the National Security Act of 1947, while protecting information about United States persons.

Under these updated Guidelines, as well as under the 2008 Guidelines they replaced, NCTC uses three "tracks" to access federal agency datasets. Under Track 1, NCTC analysts are given account-based access to a relevant federal agency dataset, which permits NCTC analysts to log directly in to that data provider's system. Under Track 2, NCTC provides its query terms to a federal agency for that federal agency to perform the search and return responsive information. Under Track 3, a federal agency dataset is replicated, in whole or in part, into NCTC's systems so that NCTC can use its analytic tools to assess the data within the dataset in order to identify terrorism information. Track 3 can only be used if NCTC determines, in coordination with the federal agency data provider, that NCTC's authorized mission purposes cannot be effectively accomplished through the other tracks. Moreover, replication of a dataset under Track 3 is always accompanied by additional safeguards and requirements, as described in the 2012 Attorney General Guidelines, explicitly designed to protect the privacy and civil liberties of the US persons information contained within the data.

Prerequisites for Dataset Access In order for NCTC to access a dataset under NCTC's 2012 Attorney General Guidelines, NCTC must first satisfy a number of prerequisite criteria, including the following:

- The dataset must be identified by NCTC, in coordination with the data provider, as a dataset that is "reasonably believed to contain terrorism information;"
- In order to replicate and access a dataset through Track 3, the Director of NCTC, in coordination with the data provider, **must further find** that the dataset is "likely to contain significant terrorism information" and that NCTC's purposes "cannot effectively be served through Tracks 1 or 2;"
- The data must have already been lawfully collected and maintained by another federal agency. In other words, NCTC's 2012 Attorney General Guidelines do not provide authority for NCTC, or any other government agency, to initiate a new data collection, or to acquire data directly from state, local, tribal, or private sector; and
- Such access must be permitted by existing laws and regulations, including: privacy laws, Privacy Act System of Records Notices (SORNs), executive orders, and international obligations.

¹As defined in Executive Order 12333, a United States person means "a United States citizen, an alien known by the intelligence element concerned to be a permanent resident alien, an unincorporated association substantially composed of United States citizens or permanent resident aliens, or a corporation incorporated in the United States, except for a corporation directed and controlled by a foreign government or governments."

Datasets Accessible Under the 2012 Guidelines
(as of March 2014)

In order to facilitate a better understanding of the types of data that NCTC uses in fulfilling its counterterrorism mission, below is a complete list of all of the categories of datasets that NCTC accesses under its 2008 and 2012 Attorney General Guidelines. NCTC permanently retains only information reasonably believed to be terrorism information, removing all data not identified as terrorism information at the end of the applicable temporary retention and assessment period. While NCTC now accesses some of the datasets that fall into the below categories under its revised 2012 Attorney General Guidelines (which directs an assessment of the appropriate retention period and track of access for each individual dataset, as well as the application of safeguards), NCTC is still in the process of renegotiating other agreements, in which case those datasets are still being accessed under NCTC’s 2008 Guidelines.

The descriptions of the data accesses in this paper reflect NCTC’s consideration of a number of factors, including the desire for greater transparency, the need to protect information in order to maintain the effectiveness of counterterrorism activities, and coordination with federal agencies that share the data with NCTC, which have their own considerations and operational needs to address. For example, providing specific details on all datasets accessed by NCTC could potentially compromise the intelligence and law enforcement value in the data by providing terrorists with a “roadmap” for evading detection.

Dataset Category	Dataset Contents	Dataset Use by NCTC
International travel-related datasets already in the possession of other federal agencies.	Records created and submitted under applicable laws and regulations relating to an individual’s travel-related events, such as the crossing of international borders, and documents utilized in the conduct of travel.	NCTC utilizes travel-related data to support analysis of threat reporting and leads, with a particular focus on the U.S. entries and exits of known or suspected terrorists to identify their locations, travel frequencies, modes of travel, and possible associates.
Immigration benefits-related datasets already in the possession of other federal agencies.	Records created and submitted under applicable laws and regulations relating to an individual’s application to the federal government for legal status within the country (to include family members).	NCTC utilizes immigration benefits data to provide screening support to federal agencies in adjudication of applications for legal status within the US, and to identify known or suspected terrorists, and their associates, who may be attempting to exploit the immigration process.
Financial-related datasets already in the possession of other federal agencies.	Records created and submitted to the Federal government under applicable laws and regulations meeting certain federally mandated reporting thresholds, such as data pertaining to suspect financial transactions.	NCTC utilizes financial-related data to identify sources of funding for, and movements of money in support of, terrorism, and to identify the use of monetary transactions and bank accounts in furtherance of ongoing terrorism threats, planning, and operations.