

What's next for the PNR debate?

1. The proposed PNR “agreements”
2. My lawsuit against DHS
3. PNR-based “no-fly” decisions & human rights
4. PNR data in the global CRS cloud
(commercial use and access by other govt's)

200 years of U.S. experience with approval by the Senate of treaties signed by the President:

1. More than 100 signed treaties not approved.
2. 21+ treaties rejected by vote of the Senate.
3. 85+ treaties never brought to yes-or-no vote.
4. Some treaties were approved by the Senate 15+ years after being signed by the President.

The proposed EU-US “agreement” does not meet the EP's criteria:

1. Not a treaty. Cannot be enforced in US courts.
2. Does not recognize the fundamental right to freedom of movement (ICCPR, Article 12)
3. Does not prohibit data mining or profiling

The proposed EU-US “agreement” does not meet the EP's criteria:

4. No affect on “PNR data ... available from sources not covered by international agreements, such as Computer Reservation Systems [CRSs] located outside the EU.”
5. No independent review or judicial oversight.

“DHS applies fair information practice principles to its collection and use of PNR, including ... auditing and accountability, individual access, and redress. Moreover, the Department is firmly committed to transparency when it comes to informing our partners and the public about its mission, including how we use ... identifiable information such as PNR data.”

(DHS testimony to Congress, 5 Oct. 2011)

DHS's answer to my lawsuit:

1. Nobody has any right to see their PNR data.
PNR data is exempt from the U.S. Privacy Act.
2. How PNR data are retrieved is secret.
3. Which other government agencies or third parties received my PNR data is secret.
4. There are no access logs for PNR data.

There has been “not one single example of privacy being breached” by the US in its processing of PNR data. We “need to deal with what is real, not what is hypothetical”.

(testimony of U.S. Attorney General Holder to the LIBE Committee of the European Parliament, Brussels, 20 Sept. 2011)

Freedom of movement is a right:

1. International Covenant on Civil and Political Rights (ICCPR), Article 12
2. United Nations Human Rights Committee,
“General Comment No. 27 on Freedom of Movement under Article 12 of the ICCPR”

ICCPR, Article 12:

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement....
2. Everyone shall be free to leave any country, including his own....
3. No one shall be arbitrarily deprived of the right to enter his own country.

“The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.”

PNR-based “no-fly” decisions violate human rights of EU and US citizens:

1. EU->Mexico flights: Hernando Calvo Ospina (April 2009), Paul-Emile Dupret (Belgian citizen, advisor to GUE/NGL group in EP, August 2009)
2. US citizens: Jaber Ismael (April 2006), Gulet Mohamed (tortured in Kuwait, June 2011)

PNR-based “no-fly” decisions violate rights of travellers in other countries:

3. Canada->UK: Dawood Hepplewhite (UK citizen in Canada, Feb. 2011)
4. Germany->Canada: Mohammed Khan (Canadian citizen in Germany, March 2011)
5. UK->Canada: Moazzam Begg (UK citizen, former Guantanamo prisoner, May 2011)
6. DHS “advisors” at EU airports (Germany, etc.)

Questions for the Commission and Council about PNR data:

1. How many people have been prevented from traveling on the basis of PNR data?
2. How many of these no-fly orders have been reviewed by US, EU, or international courts?
3. Is there any procedure for judicial review of US no-fly orders?

Questions for the Commission and Council about PNR data:

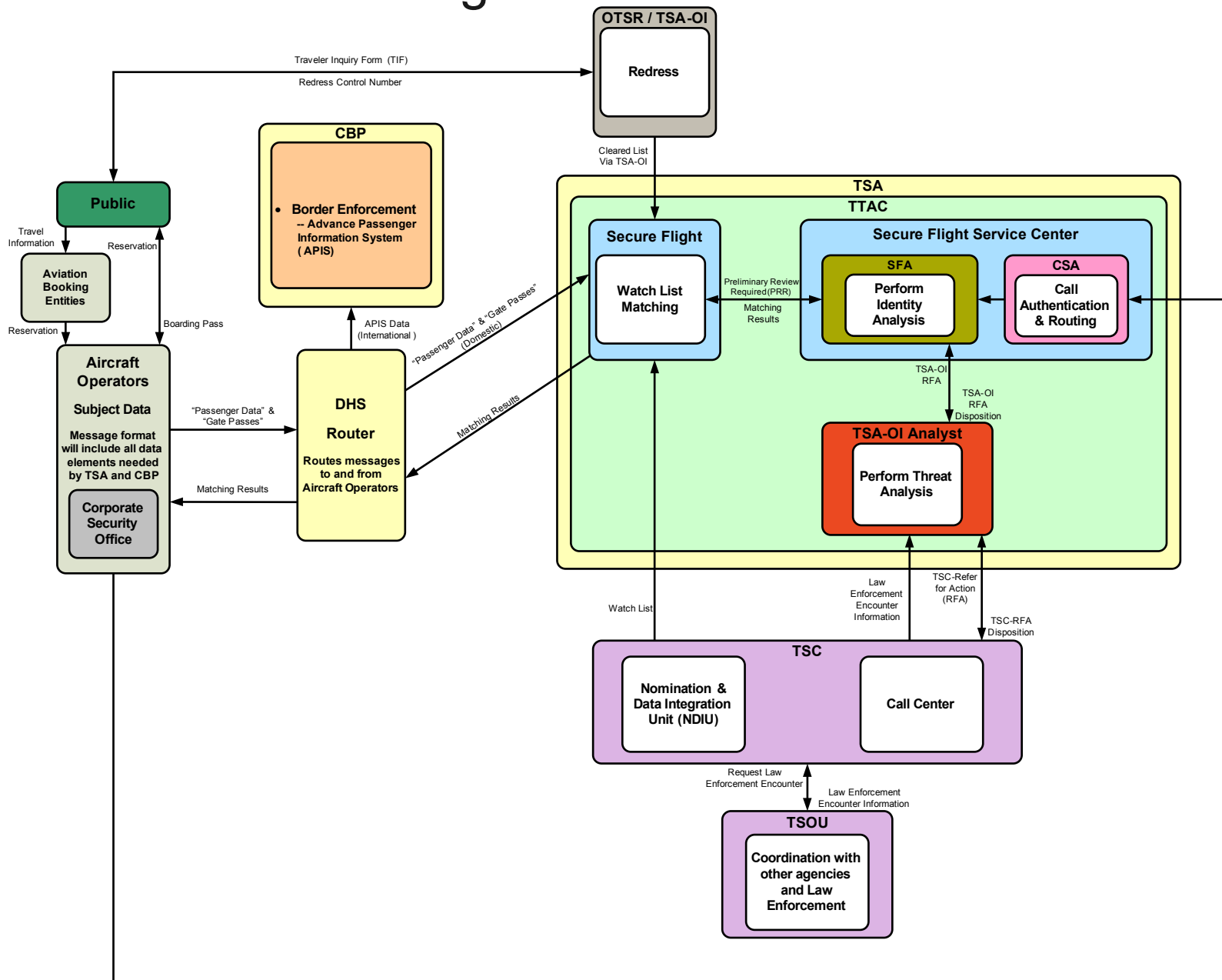
4. How many people prevented from flying have been convicted of terrorism? Other crimes?
5. How many people prevented from flying have never been convicted of any crime? Is there any judicial redress available to them for the violation of their right to freedom of movement?

Why does the US government want the PNR agreement?

“To protect U.S. industry partners from unreasonable lawsuits, as well as to reassure our allies, DHS has entered into these negotiations.”

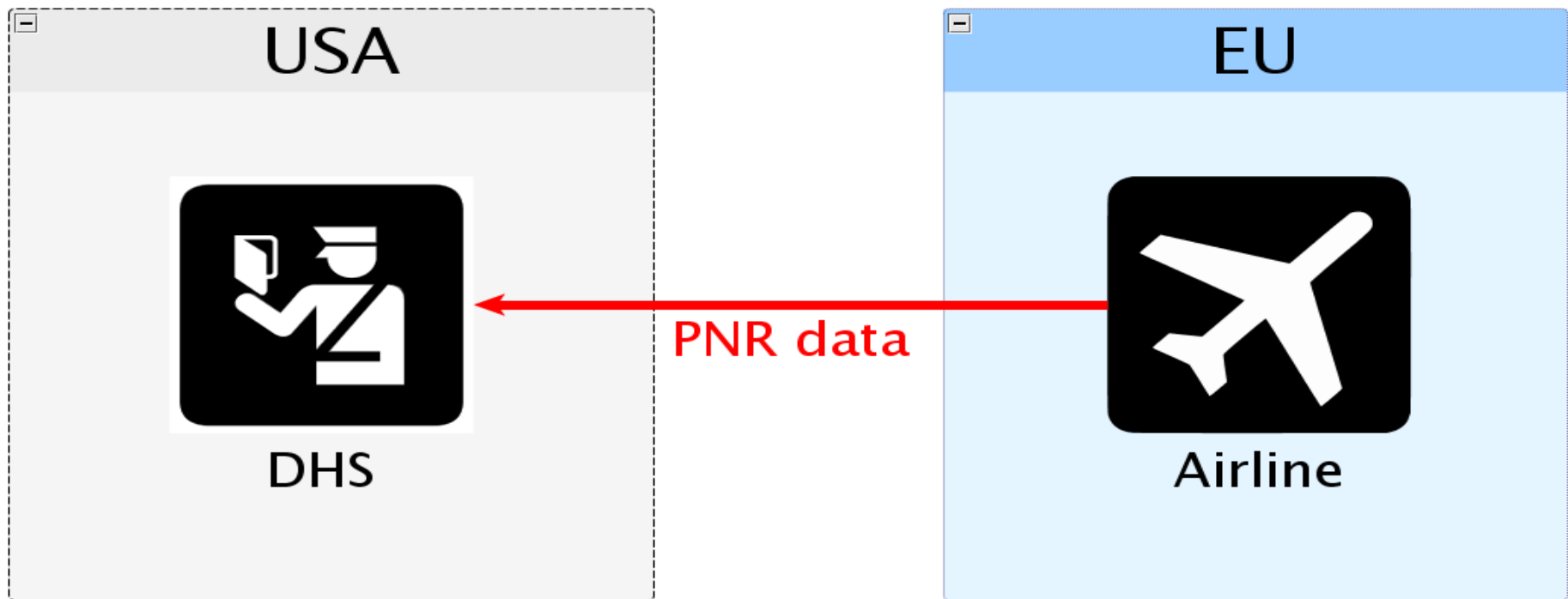
(DHS testimony to Congress, 5 Oct. 2011)

Secure Flight Business Model



PNR data in the CRS “cloud”: Cloud storage = risk.

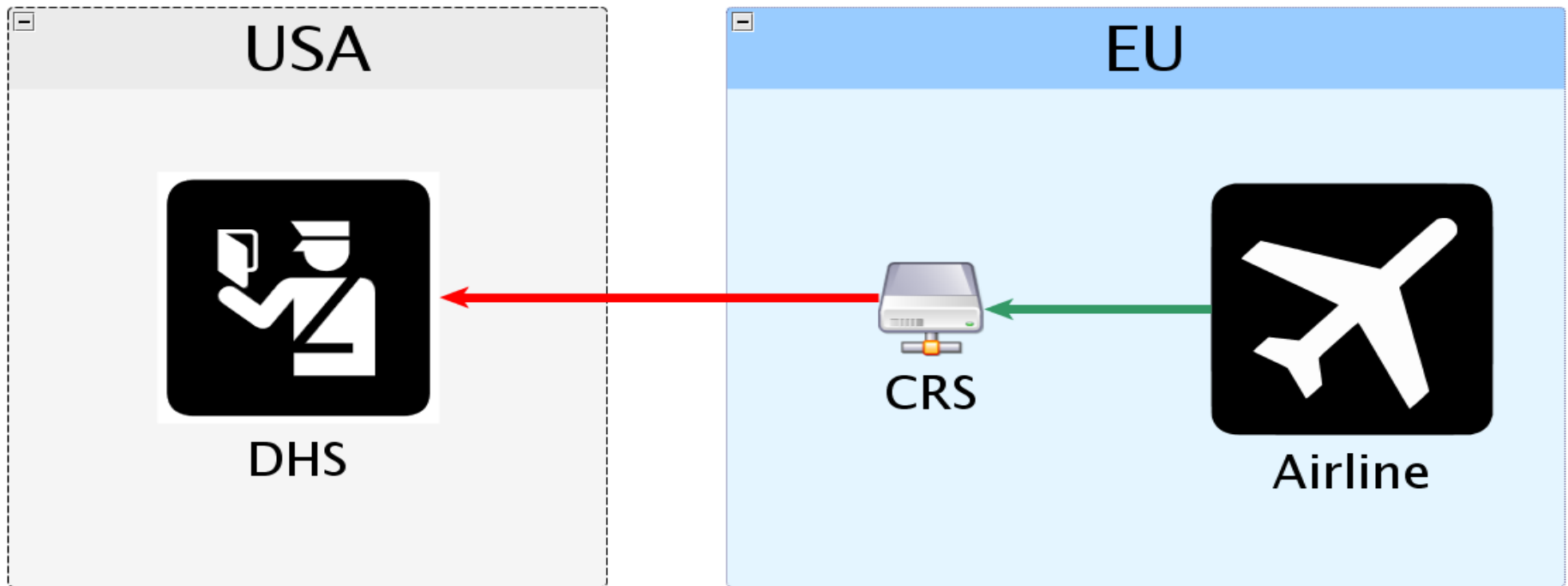
1. Risk of “leakage” of data, violation of privacy, and violation of human rights (e.g. freedom of movement) for travellers.
2. Financial risk for travel companies if they can't control or protect data they put in the cloud.



The PNR agreement covers transfers of PNR data from the EU to the DHS.

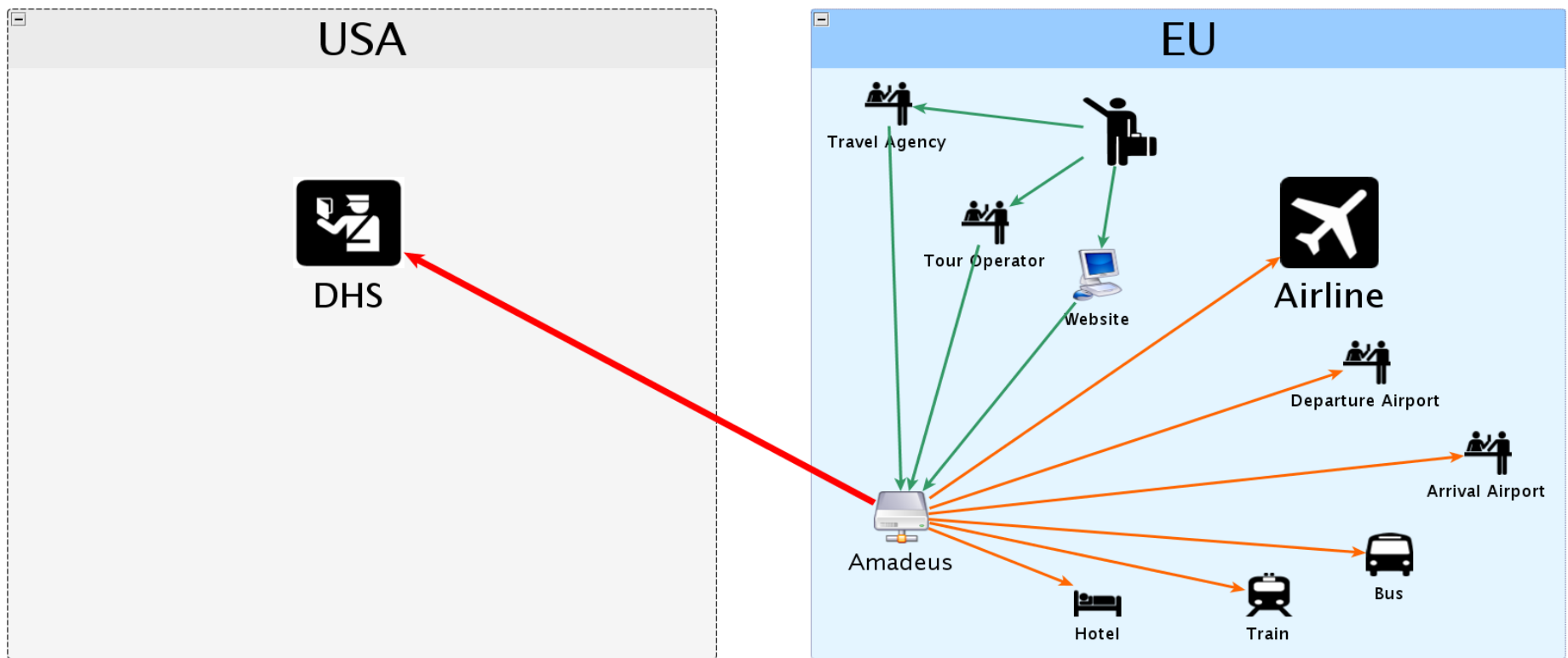
This seems simple. But is this the way it really works?

NO! (Sometimes, but very rarely.)



Most airlines don't host their own PNRs.

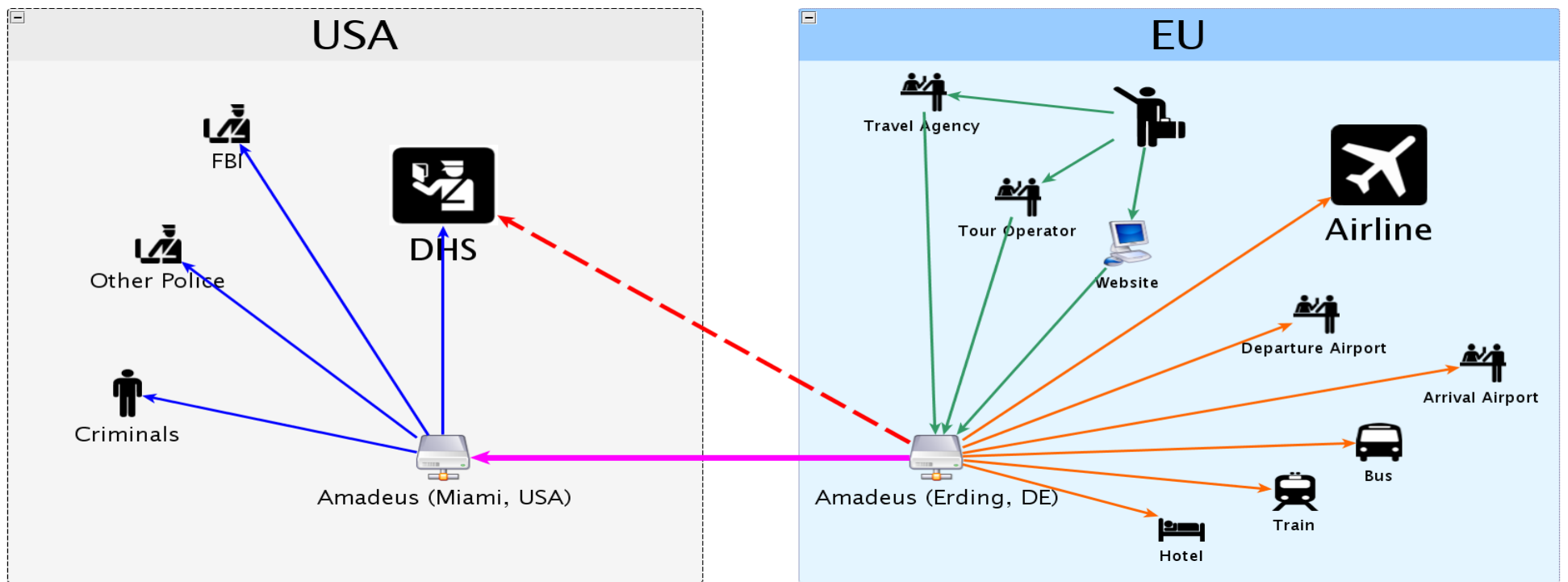
They outsource this to a third-party
“Computerized Reservation System” (CRS).



The master copy of the PNR is in the CRS. PNR data is entered through travel agencies, tour operators, and travel websites.

Airlines, other travel companies, and the DHS access the PNR data from the CRS.

The CRS, not the airline, sends the PNR data to DHS.

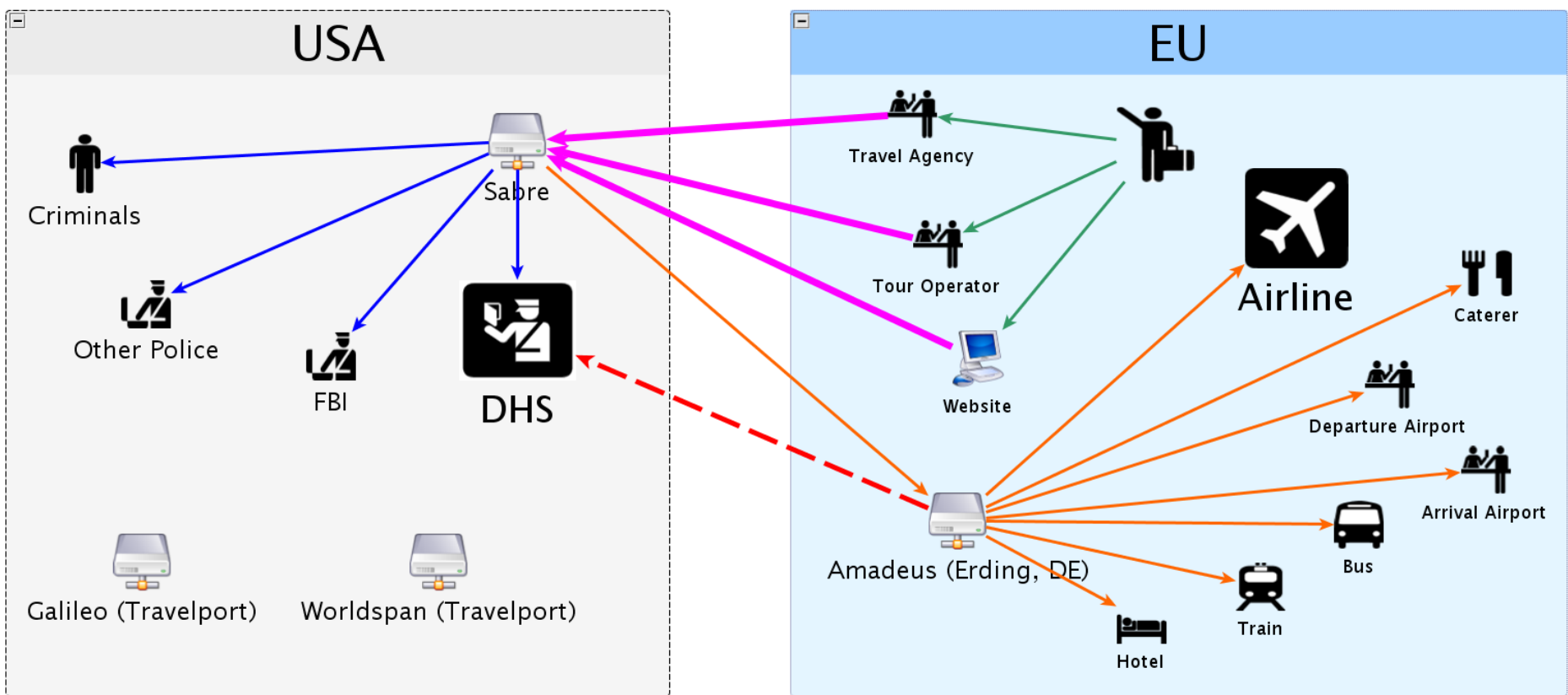


Amadeus, the major EU-based CRS, has offices in the USA with access to all Amadeus PNRs.

DHS and others in the USA can get access to EU PNRs through the Amadeus USA office.

DHS can order Amadeus USA to keep this secret from the Amadeus head office in the EU.

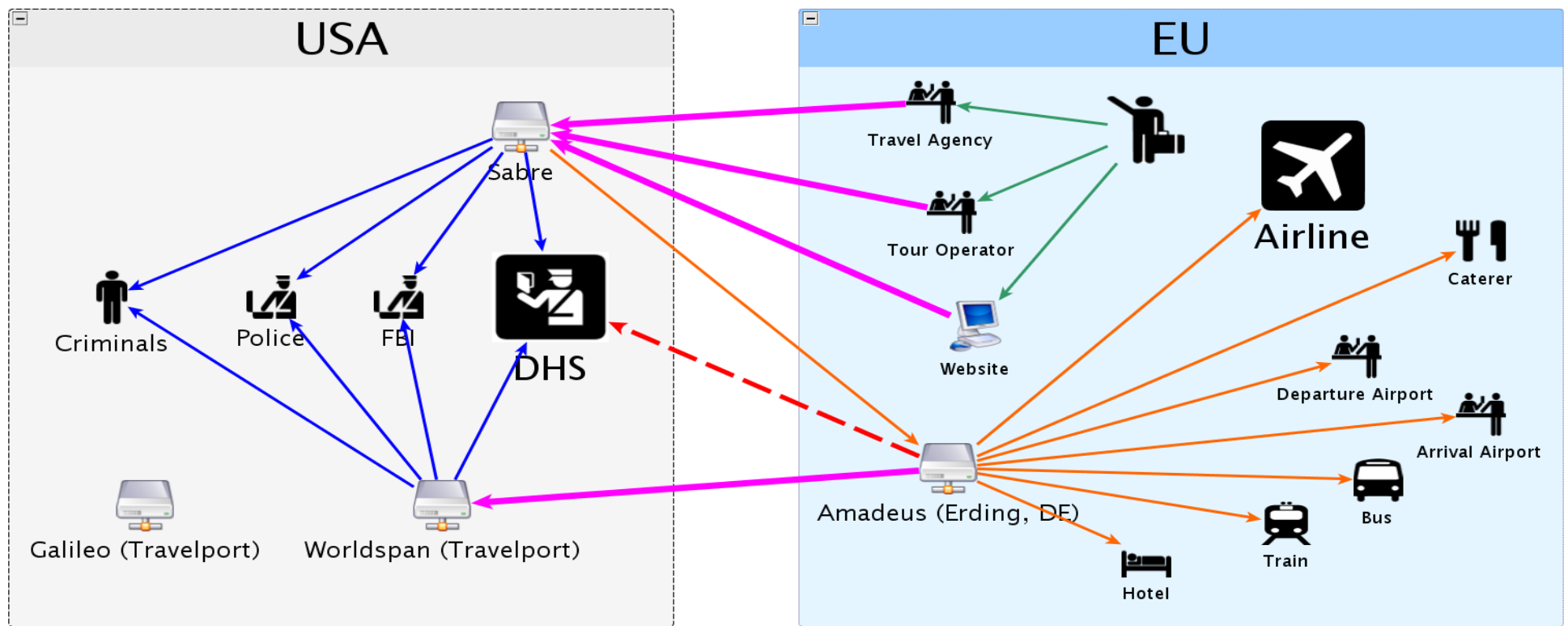
DHS relations with CRSs are not controlled by the agreement.



3 of the 4 major CRSs are based in the USA. Many, perhaps most, travel agencies, tour operators, and travel websites in the EU use CRSs based in the USA.

In this case all PNR data is sent to the USA before it gets to a CRS or airline in the EU – even for flights within the EU! The CRS is *not* just a message relay. In this example, the first PNR is created in Sabre. Then a second PNR is created also in Amadeus.

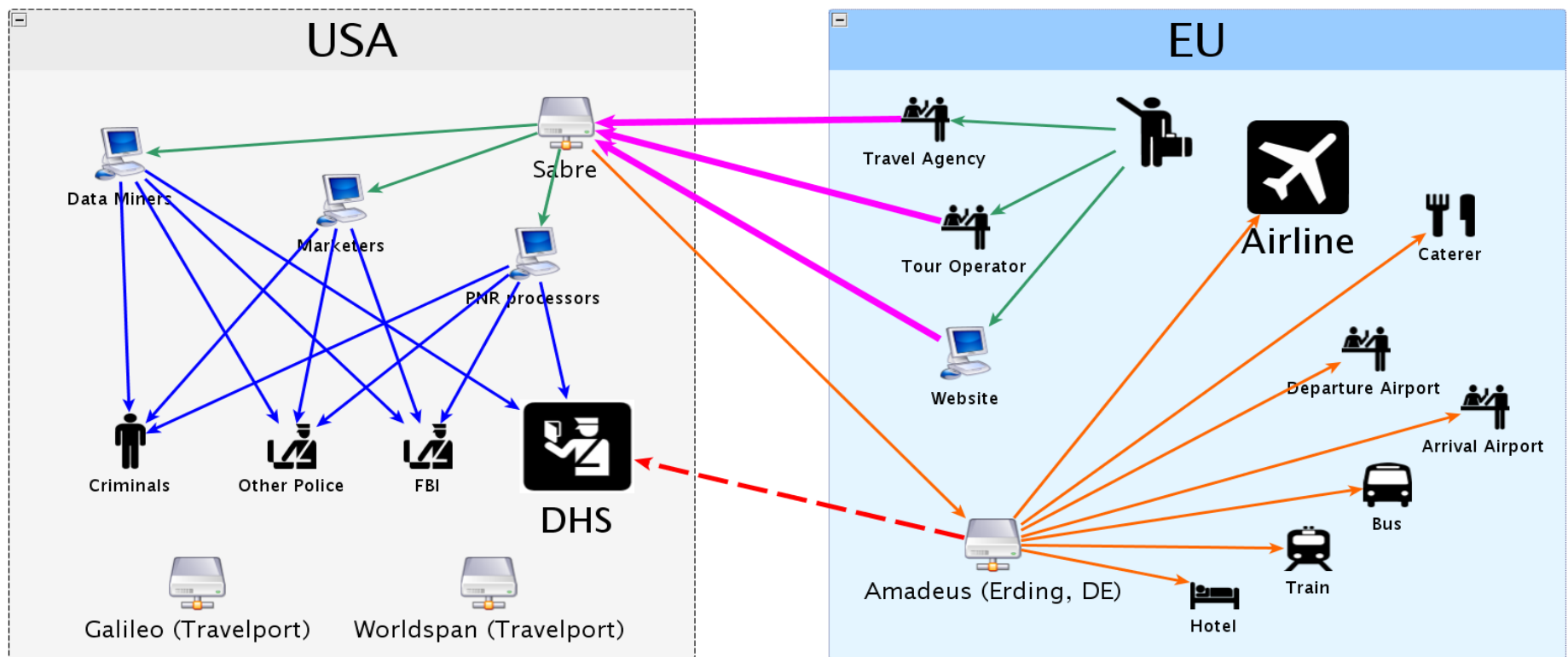
Once a CRS in the USA has a copy of a PNR, DHS or others can get it from the CRS. This is not controlled by the agreement, and can be kept secret from anyone in the EU.



Sometimes there are PNRs in many CRSs for the same booking. In this example, a travel agency that uses Sabre makes a booking for an Air France flight hosted in Amadeus. The flight has a codeshare with Delta, which is hosted in Worldspan. (If the flight were on Lufthansa, with a codeshare with United, there would be a PNR in Galileo.)

Anyone with access to Amadeus, Sabre, or Worldspan can access this booking. This can happen even for flights entirely within the EU, or to other places (not the USA).

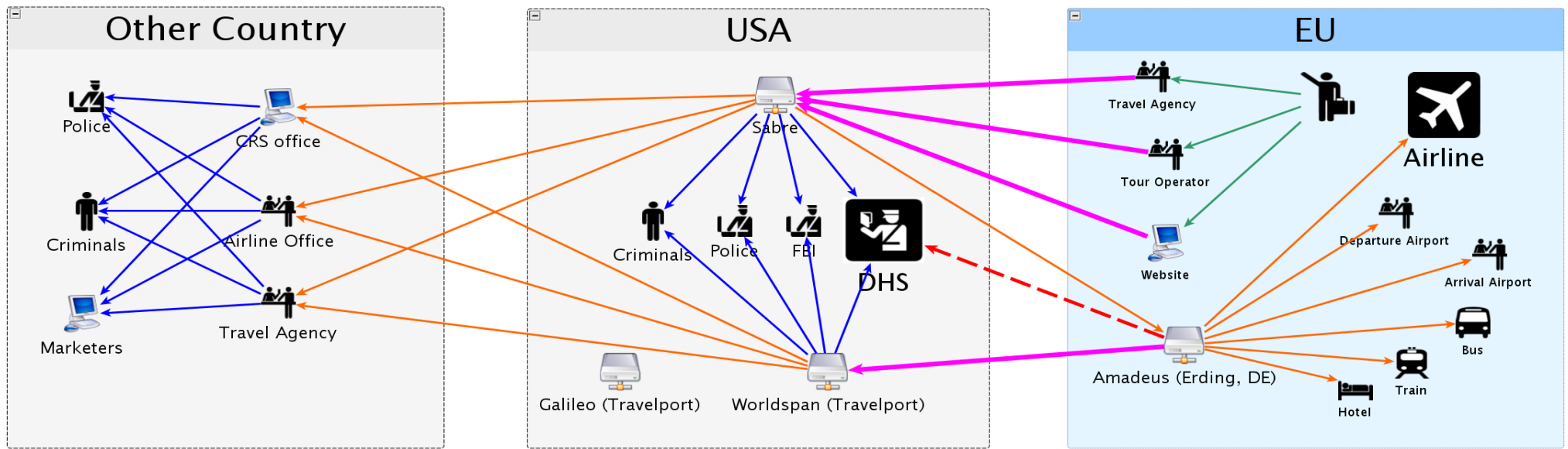
Access to Sabre, Worldspan, or Galileo is not controlled by the agreement.



There is no data protection law for CRSs or other companies in the USA. Once a CRS in the USA has PNR data, they can legally use, disclose, transfer, or sell that data freely, without notice or consent.

CRSs in the USA “share” data with data mining and marketing companies (e.g. Vistrion) and with PNR processing companies. The largest aggregated database of PNRs from all 4 major CRSs is held by “Amadeus Revenue Integrity”, a USA division of Amadeus.

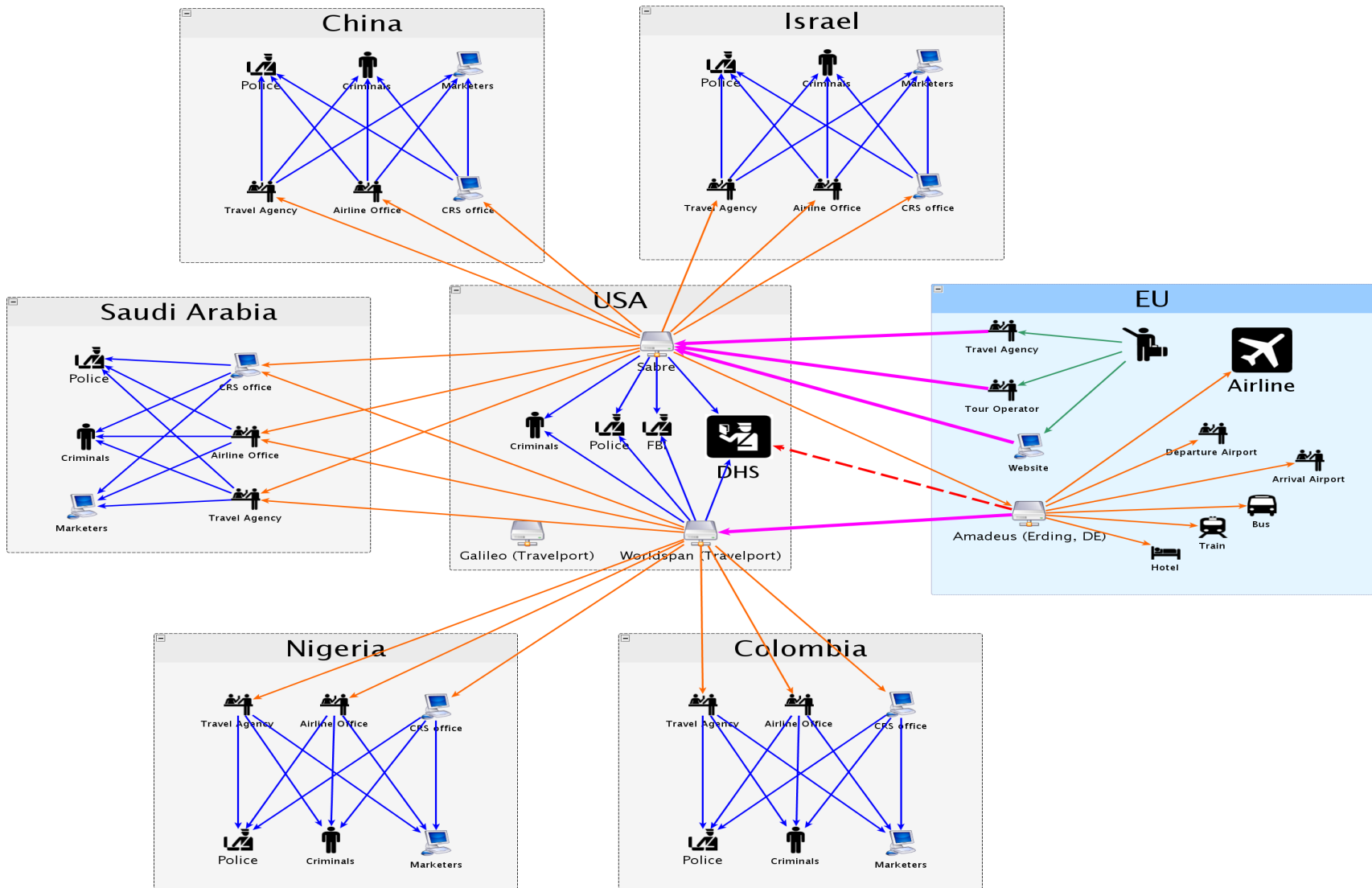
None of these third parties are controlled by the agreement.



There are no geographic or purpose controls on access to PNRs. Any airline office in the world can access all PNRs for that airline – even if they do not include any flights to or from that country.

Police can force a local travel agency, airline, or CRS office to retrieve PNR data, and to keep this secret from the head office.

CRSs do not keep logs of who accesses PNRs. Nobody knows who has accessed your PNR, or from what countries.



Where has *your* PNR data gone?

Does the airline know where your data is in the CRS cloud? No.

1. Each PNR has a change log (“history”) in the CRS, but no CRS keeps access logs.
2. My requests to KLM, Air France, & Lufthansa:
None of these airlines can say who accessed my PNR data, or from what countries.
3. Complaints to data protection authorities....

What's in a PNR?

1. Name, address, mobile phone number, passport number, credit card number, etc.
2. IP address
3. Where do you go? Who do you travel with?
Who do you sleep with in the hotel? 1 bed or 2?

62
*** ELECTRONIC TICKET ***

F 1.1 HASBROUCK/EDWARDMR

WW1ACWW 29AUG PMIME5

1 AC 761 A SA 9SEP YULSFO HK1 0830 1130 CABY

FONE-

1.WW1-H 1 415 824-8562

2.WW1-P 1 415 824-0214

3.WW1-A 1130 TREAT AVE./**/SAN FRANCISCO CA/94110 US

4.WW1-A AIRCANADA//HASBROUCK.ORG/MEMBER EMAIL

TKT-

1.1 K29AUGWW1WW 0142138066453

AP FAX-

1.1 SSRFQTVYYPN1 /UA00168716753

RMKS-

1.1 C/H IS EDWARD HASBROUCK/CA USER ENTERED CREDIT CARD/USD 248

.78/ALL PSGRWEB BOOKING/EMAIL TO C/H

2. MOP: CHARGE MY CREDIT CARD

3. PASSENGER REQUESTED I/R DELIVERY BY EMAIL TO AIRCANADA//HASBROUCK.ORG

4. TIDGERGJK1J4

5. BKIP 172.24.96.31 29AUG06 17:22

---HISTORY---

RCVD-INTERNET PNR GUEST

WW1 AC WW 1723Z/29AUG

WW1 GS WW IOIBM01 1723Z/29AUG

NO FLOWN SEGS

1 UA 900Q 25DEC SFOFRA HK1 213P 1015A** MOTU E 4
 2 UA8974Q 26DEC FRATXL HK1 1125A 1230P* TU E 4
 OPERATED BY DEUTSCHE LUFTHANSA AG
 3 OK 519M 01JAN TXLPRG HK1 710P 810P* MO E
 4 OK 648M 01JAN PRGLHR HK1 910P 1000P* MO E
 5 UA 955Q 07JAN LHRSEFO HK1 1005A 118P* SU E

DHS already has info about flights within Europe,
 and root access to the CRS.
 (The “OK” flights were on a separate ticket.)

1 . HASBROUCK/EDWARD MR (ADT)
2 AF 83 N 13JAN 2 SFOCDG B 1 I 1535 1125 1
3 AF 7183 L 14JAN 3 CDGZXR B 1 TN 1235 1412
4 AF 7186 L 20JAN 2 ZYRCDG HK1 1609 1746
5 AF 84 N 21JAN 3 CDGSFO HK1 2E 1015 1255
6 SEA RQST AF HK1 CDGSFO /41AN /P2/S4
7 SSR cccc AF HK1 /P2/S4
8 AP 1-4158240214
9 AP AF@HASBROUCK.ORG

This PNR from my file with DHS shows details of my journey by train between Paris and Brussels.



If you go to Cuba from Europe or Canada, and the U.S. government gets a record of your trip, will the U.S. later subject you to financial sanctions?



If you go to Yemen on your holiday,
will the U.S. treat you as a suspected terrorist?

16:07:17

(b)(6),(b)(7)(C)

IO25 INSPECTION REMARKS

12/15/2009

(b)(2)

(b)(2)

PAGE 1

+-----INSPECTION REMARKS-----+

PAX VERBALLY DECLARED FOOD. 1 APPLE WAS SEIZED. BREAD WAS INSPECTED AND RELEASED. NO CIVIL PENALTY ISSUED.

“No penalty issued.”

But my apple and bread are in
my permanent file with DHS.

16:07:39

(b)(6),(b)(7)(C)

IO25 INSPECTION REMARKS

12/15/2009

(b)(2)

(b)(2)

PAGE 1

+-----INSPECTION REMARKS-----+
PAX ARRIVED FROM ARGENTINA, AA 900, IN A LIVESTOCK SHOW. HIS SHOES WERE
CLEANED AND DISINFECTED FOR POSSIBLE CONTAMINATION.

DHS washed my shoes – and made a note
about it in my permanent dossier.

07:47:27
[REDACTED]

IO25 INSPECTION REMARKS

08/10/2007 [REDACTED]

PAGE 1

+----- I N S P E C T I O N R E M A R K S -----+
PAX WAS TRAVELING FOR ABOUT ONE MONTH. PAX ATTENDED COMPUTER CONFERENCE IN BERL
N AND THEN TRAVELED AROUND EUROPE AND ASIA TO VISIT FRIENDS. 100% BAGGAGE EXAM
EGATIVE. RESIDES [REDACTED] PAX IS SELF EMPLOYED
"ENTREPRENEUR" IN COMPUTER SOFTWARE BUSINESS.

You attended a computer conference in Berlin?
You claim to be a computer software
“entrepreneur”? That goes in your permanent file.

07:47:18

I025 INSPECTION REMARKS

08/10/2007

PAGE 1

+----- I N S P E C T I O N R E M A R K S -----+
PAX HAS MANY SMALL FLASHLIGHTS WITH POT LEAVES ON THEM. HE HAD A BOOK ENTITLED
DRUGS AND YOUR RIGHTS"

What book are you reading?
You read about drugs? About your rights?
That goes in your permanent file.

Broadening the PNR polemic

1. Privacy and data protection -> Human rights including the right to freedom of movement (ICCPR Article 12)
2. PNR storage and handling -> PNR use as the basis for “no-fly” decisions

Broadening the PNR polemic

3. US use of data -> global use of PNR
4. Government use of PNR data -> Government and commercial use of PNR data
5. DHS copies of PNR data -> PNR data in the global CRS cloud

What is to be done?

1. Reject the proposed EU agreements on PNR with Australia and the USA.
2. Don't follow the bad example of the USA.
Reject the proposed EU PNR directive.
3. Don't generalize this bad example to other sectors. Reject the proposed US-EU “framework agreement” on data transfers.

What is to be done?

4. Ask travel companies for your PNR data.

Complain to data protection authorities and the EC if there is no log of who has accessed your PNR data, or from what countries.

5. Bring PNR data into the debate about “cloud computing”. Test proposals for data stored in the cloud against the example of PNR data.

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The Identity Project:

<http://www.PapersPlease.org>