SSI for Rail and Mass Transit Stakeholders

As of May 2022
Objectives

This briefing will focus on the following topics:

- The differences between Classified National Security Information and Sensitive Security Information (SSI)
- Which portions of the SSI Federal Regulation apply to Rail and Mass Transit
- The proper means of marking and protecting SSI
Brief History of SSI

- SSI was developed pre-9/11
- Created in response to hijackings in the early 1970s

The *Air Transportation Security Act of 1974*:

- Required the Federal Aviation Administration (FAA) to establish a regulation for sharing sensitive information with airlines and airports
- The FAA published the first SSI regulation in the Federal Register in 1976

After 9/11, SSI applies to all modes of transportation.
Where SSI Fits

All information held by the Federal government falls into two categories:

- **Classified National Security Information**
  - (Confidential, Secret, Top Secret)
  
or

- **Unclassified**
  - (SSI, For Official Use Only (FOUO), Public Information, etc.)
Classified Information

Information whose “unauthorized disclosure could reasonably be expected to cause identifiable or describable damage to the national security”*

Example:
A U.S. Special Operations team conducts a raid, driven by intelligence, overseas. The identity of the “source” of data and the information he or she provided would both be classified.

Unclassified Information Falls into Two Categories

- **Sensitive But Unclassified (SBU)**
  A broad category that includes a Federally regulated means of protecting information such as SSI and unregulated means of protecting information such as FOUO

- **Public Information**
  All other information
Sensitive Security Information

Information obtained or developed which, if released publicly, would be detrimental to transportation security.

Examples:

- Rail Operator’s Security Plan
- Mass Transit Operator’s Security Plan
- Security Directives marked as SSI issued to Rail
- Baseline Assessment for Security Enhancement (BASE) conducted by TSA
Information not protected by regulation that could adversely affect a Federal program if publicly released without authorization.

*Example:*

Federal building security plans

*Source: DHS Management Directive 11042.1*
FOUO and SSI are categories of Sensitive But Unclassified information, but:

- SSI is based on U.S. law and protected by a Federal regulation; FOUO is not
- SSI protects information related to transportation security; FOUO has no subject matter limitations
- Unauthorized SSI disclosure may result in a civil penalty; FOUO breaches cannot
What Are the Differences? (cont.)

- In litigation, SSI has stronger protection from court-ordered production requests while documents marked only as FOUO have little or no protection.
- SSI is protected from public release under a Freedom of Information Act (FOIA) request; FOUO may be either protected or released under FOIA.
- Documents that contain SSI must be marked as SSI – not as FOUO. When information is pulled from reports marked FOUO and SSI, the new report must be marked as SSI – Not FOUO/SSI.
Focus on the SSI Federal Regulation
(49 CFR Part 1520)
Sensitive Security Information

Another way of thinking about SSI is would this information assist an adversary who is planning an attack against a transportation system?

- How *useful* would the information be to terrorists?
- How *detailed* is it?
- Has DHS *officially released* it in the past?
- Is it *obvious*?
- Is it still *current*?
In order for information to be SSI, the information must be related to transportation security, its release must be detrimental, and it must fall under the one of the 16 categories of SSI defined by the Federal Regulation (49 CFR Part 1520.5(b)).

This training will discuss only the relevant categories related to Rail and Mass Transit.
16 SSI Categories

(1) **Security Programs, security plans, and contingency plans** – Any security plan or security contingency plan issued, established, required, received or approved by DHS or DOT...

Examples of records protected under this category:

- Security plan for Rail Operator
- Security plan for Mass Transit Operator
16 SSI Categories (cont.)

(2) **Security Directives** – Any Security Directive or order issued by TSA

Examples of records protected under this category:

TSA recently issued a Security Directive (SD) to the Rail Industry. This particular SD was NOT marked as SSI. This was very deliberate. On the whole, SDs are usually marked as SSI.
16 SSI Categories (cont.)

(5) **Vulnerability Assessments** – Any vulnerability assessments directed, created, held, funded or approved by DHS/DOT for any mode of transportation

**Examples of records protected under this category:**

- Vulnerability assessment created by Rail companies and shared with TSA
- Baseline Assessment for Security Enhancement (BASE) conducted by TSA
16 SSI Categories (cont.)

(6) **Security Inspection or Investigative Information** - Reports of inspections or investigations that could reveal a security vulnerability

**Examples of records protected under this category:**

Raw data and reports generated related to the transfer of rail hazmat cars between rail companies
16 SSI Categories (cont.)

(7) **Threat Information** – Information held by the government concerning threats to any mode of transportation, including cyber

Examples of records protected under this category:

TSA Intelligence Products marked as SSI. Note: DHS/TSA Intelligence Products are not always marked as SSI. This is very deliberate on our part.
16 SSI Categories (cont.)

(8) **Security measures** – Specific details of transportation security measures including:

(i) Security measures or protocols recommended by the Federal government

*Note: Can include system cybersecurity measures*

(10) **Security Training Materials** – Records created or obtained for purposes of training personnel
16 SSI Categories (cont.)

(11) (i) Identifying information of certain transportation security personnel – List of names or other identifying information that identify persons as –
(A) Having unescorted access to a secure area of a rail secure area

(12) Critical Transportation Infrastructure Asset Information – Any list identifying systems or assets, whether physical or virtual, so vital to surface transportation that the incapacity or destruction of such assets would have a debilitating impact on transportation security if the list is
(i) Prepared by DHS or DOT; or
(ii) Prepared by as State or Local government and submitted to DHS or DOT
16 SSI Categories (cont.)

(15) **Research and Development** – Research results that were approved, accepted, funded, recommended or directed by DHS/DOT

(16) **Other Information** – The TSA Administrator (or their designee) can determine information to be SSI that is not otherwise defined in 1520.5(b)(1) – (15) (*rarely used*)
Common Information Related to Rail or Mass Transit that is SSI*

- Rail Operators Security Programs
- Mass Transit Security Programs
- TSA Security Directives (SDs) marked as SSI
- Vulnerability Assessments of systems or facilities
- Raw data and reports related to the transfer of hazmat rail cars
- Baseline Assessment for Security Enhancement (BASE) conducted by TSA
- Reports of inspections or investigations that could reveal a security vulnerability
- TSA Security Action Items
- TSA Security Guidelines and Annexes
- TSA Intelligence Products marked as SSI

* List not all-inclusive
What information is NOT SSI

- Safety information is not SSI
- Fire Evacuation Plans are not SSI
- Construction plans are not SSI
- Training materials for employees on safety measures are not SSI
- Safety inspections of infrastructure are not SSI
According to the SSI Federal Regulation, covered persons may access SSI. This includes airport and airline officials, maritime operators, rail, mass transit and pipeline operators, Federal employees, among others.
Persons with a ‘Need To Know’

Covered persons have a need to know SSI if access to information is necessary for the performance of, training for, or managing of personnel’s official duties. DHS or DOT may limit access to specific SSI to certain employees or covered persons.

Example:

A Mass Transit Operator does not need access to the flying schedules of Federal Air Marshals.
Requests from the Media for SSI

Under the SSI Federal Regulation, members of the news media are not covered persons and do not have a “need to know” SSI.
SSI Federal Regulation Outlines Procedures for Marking and Handling SSI
Everyone is Responsible for Protecting SSI!!

Personnel who works in aviation whether they are airport employees, airline employees, rail and mass transit operators, Federal employees or contractors are responsible for properly marking, handling, protecting, storing, and destroying SSI per the SSI Federal Regulation (49 CFR Part 1520).
Each page of the SSI record must include an SSI header and footer.

Even if there is only one sentence containing SSI in a 50-page document, every page must have an SSI header and footer.
The SSI footer informs the viewer that the record must be protected from unauthorized disclosure.

No modification of the SSI Footer is authorized.

“WARNING: This record contains Sensitive Security Information that is controlled under 49 CFR parts 15 and 1520. No part of this record may be disclosed to persons without a “need to know,” as defined in 49 CFR parts 15 and 1520, except with the written permission of the Administrator of the Transportation Security Administration or the Secretary of Transportation. Unauthorized release may result in civil penalty or other action. For U.S. government agencies, public disclosure is governed by 5 U.S.C. 552 and 49 CFR parts 15 and 1520.”
Who Can Mark Records as SSI?

Stakeholders are permitted to mark information as SSI as long as they believe the record meets specific criteria under the SSI Federal Regulation:

- It is related to transportation security (not safety);
- Its release would be detrimental to transportation security (i.e., an adversary could use the information to plan an attack against the transportation system); and
- It falls under one of the 16 SSI Categories that are listed in the slides above.
Who Can Mark Records as SSI? (cont.)

It is important to remember that SSI is information which should be marked and protected in all forms of communication. This includes emails, Word documents, presentations, training, etc.
Storing SSI: Lock it Up!!!!

When not actually working with an SSI record (lunch break, end of the day, etc.), store the SSI record in a locked desk drawer or in a locked room to prevent unauthorized access by persons who do not have a “need to know.”

ALL RECIPIENTS OF SSI ARE MANDATED TO LOCK IT UP!!!
Protecting Electronic Data

- The SSI Regulation instructs: 
  "Take reasonable steps to safeguard SSI in that person’s possession or control from unauthorized disclosure.”

- Safeguarding methods may include:
  - logging off from or locking unattended computers,
  - applying encryption, and/or
  - physically restricting access to electronic devices such as USB flash drives or other portable devices.

* 49 CFR §1520.9(a)(1)
Posting SSI: Never Post SSI on the Internet
Duty to Report Unauthorized Disclosure of SSI

The SSI Federal Regulation states “when a covered person becomes aware that SSI has been released to unauthorized persons, the covered person must promptly inform TSA…” *

• This usually involves lost paper copies of SSI or SSI available on the Internet.

• Stakeholders may contact their TSA point of contact or the TSA SSI Program office at SSI@tsa.dhs.gov.

* 49 CFR §1520.9(c)
Destruction of SSI

“A covered person must destroy SSI completely to preclude recognition or reconstruction of the information when the covered person no longer needs the SSI to carry out transportation security measures.”

In other words, throwing SSI in a garbage can or recycling bin violates the SSI Federal Regulation.

* 49 CFR § 1520.19(b)(1)
Discussing SSI in Public Areas is Inappropriate

Personnel must be very careful when discussing SSI in public areas.

You never know who is listening and not everyone has a “need to know” the information.

Remember: Adversaries do not care how they receive SSI as long as they get the information they need to plan an attack.
Consequences of Unauthorized Disclosure of SSI

- **Lost money** – TSA can impose a civil penalty with amounts into the tens of thousands of dollars per offense against covered persons and companies
- **Lost jobs** – for Federal employees, appropriate personnel action up to termination
- **Lost contract** – TSA can decide whether to end a contract with a Federal vendor whose employees did not properly protect the SSI entrusted to their care
“Best Practices” for Non-DHS Employees to Protect SSI
Best Practices for Non-DHS Personnel

DHS stakeholders (i.e., regulated entities) and other covered parties are mandated under the SSI regulation to take “reasonable steps” to prevent unauthorized disclosure of SSI.

The next set of slides describes “Best Practices” that stakeholders may use in handling and protecting SSI.

These “Best Practices” are based on policies and procedures developed for DHS personnel to protect SSI.
Best Practices – SSI Cover Sheet

The SSI Cover sheet is NOT required by the SSI Federal Regulation but it is recommended to place everyone on notice they are dealing with SSI and can be added as needed.
Best Practices – Sharing SSI in E-mail

SSI information transmitted by e-mail should be encrypted or sent in a separate password-protected record and not in the body of an e-mail. Passwords should be sent separately, and should:

• Have eight-character minimum length
• Have at least one upper-case and one lower-case letter
• Contain at least one number
• Contain at least one symbol (e.g., *#$%?!)  
• Not be a word in the dictionary or a portion of the file name
Best Practices – Managing Sensitive Data in Webinars

Taking the following steps will help minimize the risk of unauthorized disclosure of SSI.

- Verify that all attendees of the meeting are covered persons with a “need to know” the SSI to be presented.
- Manage policies to ensure only members from your organization or desired group can attend.
- Enable “waiting room” features to see and vet attendees before granting them access.
- Lock the event once all intended attendees have joined.
Best Practices – Managing Sensitive Data in Webinars (cont.)

- Ensure that you (the host) can manually admit and remove attendees
- Be mindful of how (and to whom) you disseminate invitation links
- Consider sensitivity of data before exposing it via screen share or uploading it during video conferences
- Do not discuss information that you would not discuss over regular telephone lines
Best Practices - No SSI on Personally Owned Electronic Devices

SSI should not be stored, sent to, or printed to personal devices including home, public, or personal:

- Computers or tablets
- Fax machines
- Printer or copy machines
- Smart phones
- Thumb drives, external drives, disks
- Email accounts
Best Practices – Closing the Gaps

☑ Change default password to strong, complex passwords for your router and Wi-Fi network
☑ At a minimum, ensure your router is configured to use WPA2 or WPA3 wireless encryption
☑ Avoid using public hotspots and networks
☑ Only use secure video conferencing tools approved by your organization
☑ Use official company email when sending SSI
☑ Ensure that any virtual assistants (e.g., Alexa) will not pick up your conversations
Best Practices – Closing the Gaps (cont.)

Remember, while conducting business, be conscious of your surroundings:

• Do not work in locations where your computer screen may be visible to others

• Take measures to prevent eavesdropping, especially when discussing SSI
Best Practices - Traveling with SSI

- Laptops containing SSI should be kept with you to the maximum extent possible
- Avoid transporting laptops containing SSI in checked baggage
- Laptops containing SSI and any SSI paperwork should be kept locked and out of sight (e.g., trunk) when unattended in vehicles
- In hotel rooms, use room safes for laptops containing SSI and any SSI paperwork
Best Practices – Destruction of SSI

The most common methods used to destroy SSI material include:

• Cross-cut shredders
• Contract with a shredding company
• Any method approved for the destruction of classified national security information
Frequently-Asked Questions
Q: How Do We Handle Requests for SSI Information?

A: Requests for SSI fall into two categories:

- Sharing SSI
- Releasing SSI
Sharing SSI

To share SSI is to provide a record that contains SSI to another covered person. The record is marked as SSI and remains SSI.

The covered person with a “need to know” is now obligated by the SSI Federal Regulation to protect the SSI record entrusted to their care.
Releasing Records

Prior to releasing records containing SSI to persons who are not authorized to access SSI under the SSI Federal Regulation, the SSI language must be removed/redacted by the TSA SSI Program office. The redacted record may be released to the general public.

The redacted record should have the SSI header and SSI footer removed or crossed out.
SSI Redactions

• SSI Records that are produced due to Freedom of Information Act (FOIA) requests, court-order production requests, or other requests are reviewed by the TSA SSI Program office.

• TSA then produces a redacted copy of the record with all of the SSI removed.
Q: How Do We Get SSI Redacted before a Record is Released?

• The SSI Federal Regulation states that
  – “Except as otherwise provided in this section… records containing SSI are not available for public inspection or copying, nor does TSA… release such records to persons without a need to know.” *
  – “(I)f a record contains both SSI and information that is not SSI, TSA…may disclose the record with the SSI redacted…” *

• TSA addresses these requirements by providing an official SSI Review process through its SSI Program office.

* 49 CFR §§ 1520.15(a) and 1520.15(b)
Processing Record Requests

• Similar to Federal Freedom of Information Act (FOIA), many state and local laws (e.g., “Sunshine” laws) provide citizens the right to access government records.

• While laws providing exemptions vary by state, 49 CFR § 1520.9(a)(3) requires that covered persons “Refer requests by other persons for SSI to TSA.”

• This requirement for referral includes requests for access to SSI made under State, local, tribal or territorial public information and related laws.

• SSI falls under the SSI Federal Regulation, which preempts conflicting State, local, tribal and territorial law.
Processing Record Requests (cont.)

- Requests for TSA’s own records made through State Open Records requests must be referred to TSA FOIA (FOIA@tsa.dhs.gov).

- Requests for records belonging to the state or airport authority should be submitted for full SSI Review to the SSI Program office.

- While the SSI Program office will attempt to work within the law’s time constraints, it is not always possible. Interim responses may be made to the requestor indicating the need for SSI Review.

- Requests may be submitted to TSA Field Counsel or to the SSI Program office directly at SSI@tsa.dhs.gov.
Q: If we mark a Record as SSI, does that mean it’s always SSI?

• All covered persons are permitted to mark information they believe is SSI, but it is possible it was over-marked.

• The TSA Administrator is authorized to determine whether information pertaining to transportation security constitutes SSI. That authority is delegated from the Administrator to the Chief of the SSI Program.

• Using this authority, the SSI Program office determines what information is designated as SSI or not SSI within a record. The SSI Program office is the final arbiter and authorized to make SSI determinations on both Federal records and records produced by stakeholders.

• If necessary, the SSI Program office will provided redacted versions (i.e., all of the SSI blacked out) for public consumption.
Q: Who Do We Contact for Additional Assistance?

• Additional SSI resources are posted to https://www.tsa.gov/for-industry/sensitive-security-information

• Questions may be directed to your TSA Policy, Plans and Engagement (PPE) representative at TSA-Surface@tsa.dhs.gov

• The SSI Program office is also available to answer questions about SSI and receive SSI Review Requests through its SSI Inbox at SSI@tsa.dhs.gov.
Safely Sharing Information

SSI Program Office
Security and Administrative Services
Enterprise Support
Transportation Security Administration
6595 Springfield Center Drive, MS-31
Springfield, VA 20598-6031

E-Mail: SSI@tsa.dhs.gov