



U.S. Department of Justice

Federal Bureau of Investigation  
Washington, D.C. 20535

NOV 20 2003

MR JAYASHRI/ACLU SRIKANTIAH  
ACLU  
FOUNDATION OF NORTHERN CALIFORNIA  
SUITE 460  
1663 MISSION STREET  
SAN FRANCISCO, CA 94103

Subject: NO FLY LIST

FOIPA No. 0971462- 001

Dear Requester:

The enclosed documents were reviewed under the Freedom of Information/Privacy Acts (FOIPA), Title 5, United States Code, Section 552/552a. Deletions have been made to protect information which is exempt from disclosure, with the appropriate exemptions noted on the page next to the excision. In addition, a deleted page information sheet was inserted in the file to indicate where pages were withheld entirely. The exemptions used to withhold information are marked below and explained on the enclosed Form OPCA-16a:

Section 552		Section 552a
<input checked="" type="checkbox"/> (b)(1)		<input type="checkbox"/> (d)(5)
<input checked="" type="checkbox"/> (b)(2)	<input type="checkbox"/> (b)(7)(A)	<input type="checkbox"/> (j)(2)
<input checked="" type="checkbox"/> (b)(3)	<input type="checkbox"/> (b)(7)(B)	<input type="checkbox"/> (k)(1)
<u>49 U.S.C., § 114 per TSA</u>	<input checked="" type="checkbox"/> (b)(7)(C)	<input type="checkbox"/> (k)(2)
_____	<input checked="" type="checkbox"/> (b)(7)(D)	<input type="checkbox"/> (k)(3)
_____	<input checked="" type="checkbox"/> (b)(7)(E)	<input type="checkbox"/> (k)(4)
<input type="checkbox"/> (b)(4)	<input type="checkbox"/> (b)(7)(F)	<input type="checkbox"/> (k)(5)
<input checked="" type="checkbox"/> (b)(5)	<input type="checkbox"/> (b)(8)	<input type="checkbox"/> (k)(6)
<input checked="" type="checkbox"/> (b)(6)	<input type="checkbox"/> (b)(9)	<input type="checkbox"/> (k)(7)

325 page(s) were reviewed and 94 page(s) are being released.

Document(s) were located which originated with, or contained information concerning other Government agency(ies) [OGA]. This information has been:

- referred to the OGA for review and direct response to you.
- referred to the OGA for consultation. The FBI will correspond with you regarding this information when the consultation is finished.

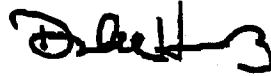
You have the right to appeal any denials in this release. Appeals should be directed in writing to the Co-Director, Office of Information and Privacy, U.S. Department of Justice, Flag Building, Suite 570, Washington, D.C. 20530-0001 within sixty days from receipt of this letter. The envelope and the letter should be clearly marked "Freedom of Information Appeal" or "Information Appeal." Please cite the FOIPA number assigned to your request so that it may be easily identified.

The enclosed material is from the main investigative file(s) in which the subject(s) of your request was the focus of the investigation. Our search located additional references, in files relating to other

individuals, or matters, which may or may not be about your subject(s). Our experience has shown, when ident, references usually contain information similar to the information processed in the main file(s). Because of our significant backlog, we have given priority to processing only the main investigative file(s). If you want the references, you must submit a separate request for them in writing, and they will be reviewed at a later date, as time and resources permit.

☐ See additional information which follows.

Sincerely yours,



David M. Hardy  
Section Chief,  
Record/Information  
Dissemination Section  
Records Management Division

Enclosure(s)

This is in further response to your Freedom of Information Act (FOIA) request to FBI Headquarters (FBIHQ) and the San Francisco Field Office (SFFO) for information concerning "watch lists" and/or "no fly lists."

Enclosed are documents located at FBIHQ and SFFO that have been determined to be responsive to your request. These documents have now been processed pursuant to the provisions of the FOIA and all releasable information is enclosed with this letter.

In addition, several other third-party government agencies have been contacted for consultation with regard to third -agency-originated information contained in these documents, and several documents originating with third-party agencies have been referred for direct response to you. In particular, the FBI consulted with TSA regarding forty eight (48) pages of documents. TSA has advised that portions of their information are exempt from disclosure pursuant to 5 U.S.C. §§ 552 (b)(2), (b)(3), (b)(5), (b)(6), and (b)(7)(C). Should you desire to appeal the TSA excisions, you may write directly to:

Patricia M. Riep-Dice  
Associate Director  
Freedom of Information and Privacy Act Division  
Transportation Security Administration  
Department of Homeland Security  
701 South 12th Street, West Tower, 10th Floor  
Arlington, VA 22202

The FBI has also referred TSA-originated documents to TSA for direct response. These documents consist of TSA Security Directives, as well as "no fly lists" and "selectee lists" which are appended to and are a part of TSA Security Directives.

Moreover, twenty five (25) pages of documents have been referred to the Department of State (DOS) for direct response to you. The FBI is in the process of consulting with DOS with regard to fourteen (14) pages of documents. You will be advised of the results of these consultations with DOS upon completion, which the FBI anticipates will be completed in the next several days.

Finally, an additional five (5) pages of documents have been referred to the Executive Office for United States Attorneys (EOUSA) for direct response to you, and an additional eleven (11) pages of documents have been referred for consultation to other government agencies. You will be advised of the results of these consultations upon completion.

b7C

(Rev. 08-28-2000)

## FEDERAL BUREAU OF INVESTIGATION

To: Criminal Investigative From: Office of the General Counsel  
Re: [REDACTED] 08/23/2002

b2

to transportation security.

Chapter 449 of Title 49, entitled "Security," addresses all aspects of aviation security, including: screening passengers and cargo; receiving and evaluating threats to aviation; research and development of modern security systems and facilities; and regulation of security of foreign carriers and foreign airports that serve passengers bound for the U.S.

In addition, ATSA grants the Under Secretary permissive (as opposed to mandatory) authority to designate federal law enforcement officers (LEOs) and empowers these LEOs to exercise standard law enforcement powers when engaged in "official duties of the Administration as required to fulfill the responsibilities under [ATSA]." These powers include authority to carry firearms, make arrests without warrant for any federal offense committed in their presence or for which they have probable cause, and seek and execute federal warrants for arrest or search and seizure of evidence. ATSA also requires the Under Secretary to provide guidelines by which to exercise these law enforcement powers in consultation with the Attorney General. The proposed guidelines have been submitted to the Department of Justice for review.

Finally, ATSA continues the Federal Air Marshal (FAM) program (formerly part of the Federal Aviation Administration) by authorizing the TSA to deploy FAMs aboard aircraft for what are clearly reactive law enforcement functions.

#### FBI Statutory Authority

The FBI's general enabling statute, 28 U.S.C. § 533, grants the agency the authority to investigate any violation of the criminal laws of the United States. As noted previously, 28 U.S.C. § 538 specifically empowers the FBI to investigate the primary crimes-aboard-aircraft violations in Title 49, which are set forth in Chapter 465, entitled: "Special Aircraft Jurisdiction of the United States." These include Section 46502, Aircraft piracy; Section 46504, Interference with flight crew members and attendants; Section 46505, Carrying a weapon or explosive on an aircraft; Section 46505 which lists a variety of common law crimes (e.g., murder, robbery) committed within the special aircraft jurisdiction of the United States<sup>3</sup>; and Section 46507, False information and threats. Finally, 28 U.S.C. § 538 also grants the FBI specific investigative jurisdiction for the offense listed at 49 U.S.C. § 46314, Entering aircraft or airport area in violation of security requirements.

The FBI's general investigative authority also includes the aviation-related

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<sup>3</sup> The special aircraft jurisdiction of the United States is defined in 18 U.S.C. § 7 (5) as any aircraft belonging in whole or in part to the United States or any citizen or corporation thereof while such aircraft is in flight over U.S. territory or over the high seas.

b7C

(Rev. 08-28-2000)

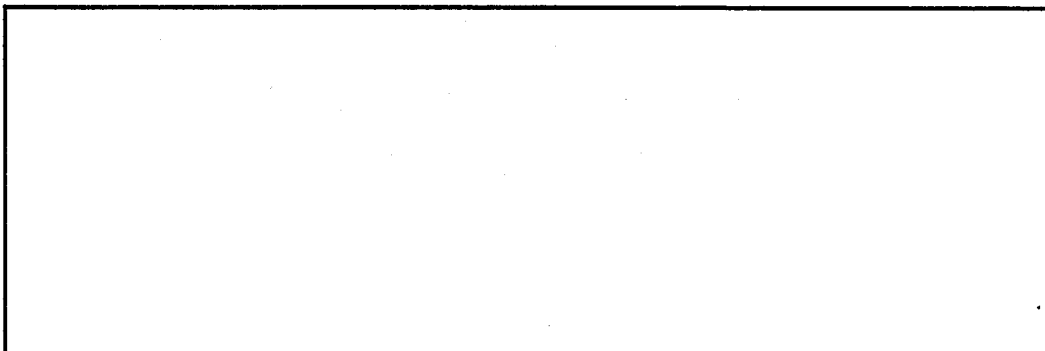
FEDERAL BUREAU OF INVESTIGATION

To: Criminal Investigative From: Office of the General Counsel

Re: [redacted] 08/23/2002

b2

authority for any offense for which a LEO is granted the power to arrest, then virtually every federal LEO would have investigative jurisdiction over every federal felony.<sup>5</sup>



b5

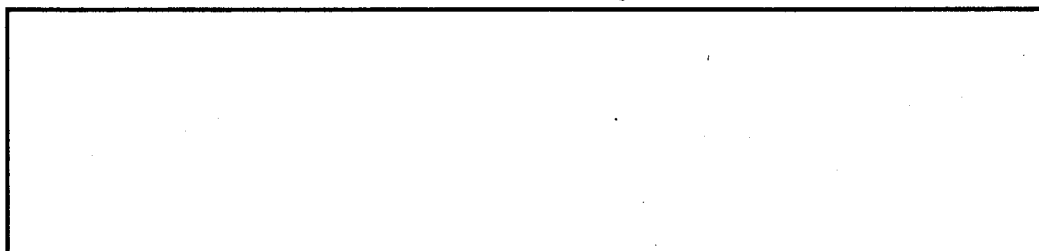
Federal Air Marshals

The Federal Air Marshal (FAM) program is also part of the TSA's statutory authority. FAMs, however, are primarily a reactive and a deterrent force whose members are LEOs and are armed and placed on selected flights to react to in-flight incidents of air piracy and other violent acts that threaten the integrity of the flight and the lives of those aboard.



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Analysis



the lawful ability to react promptly and respond appropriately to a report of emergent criminal activity without concern for jurisdictional distinctions or civil liability.

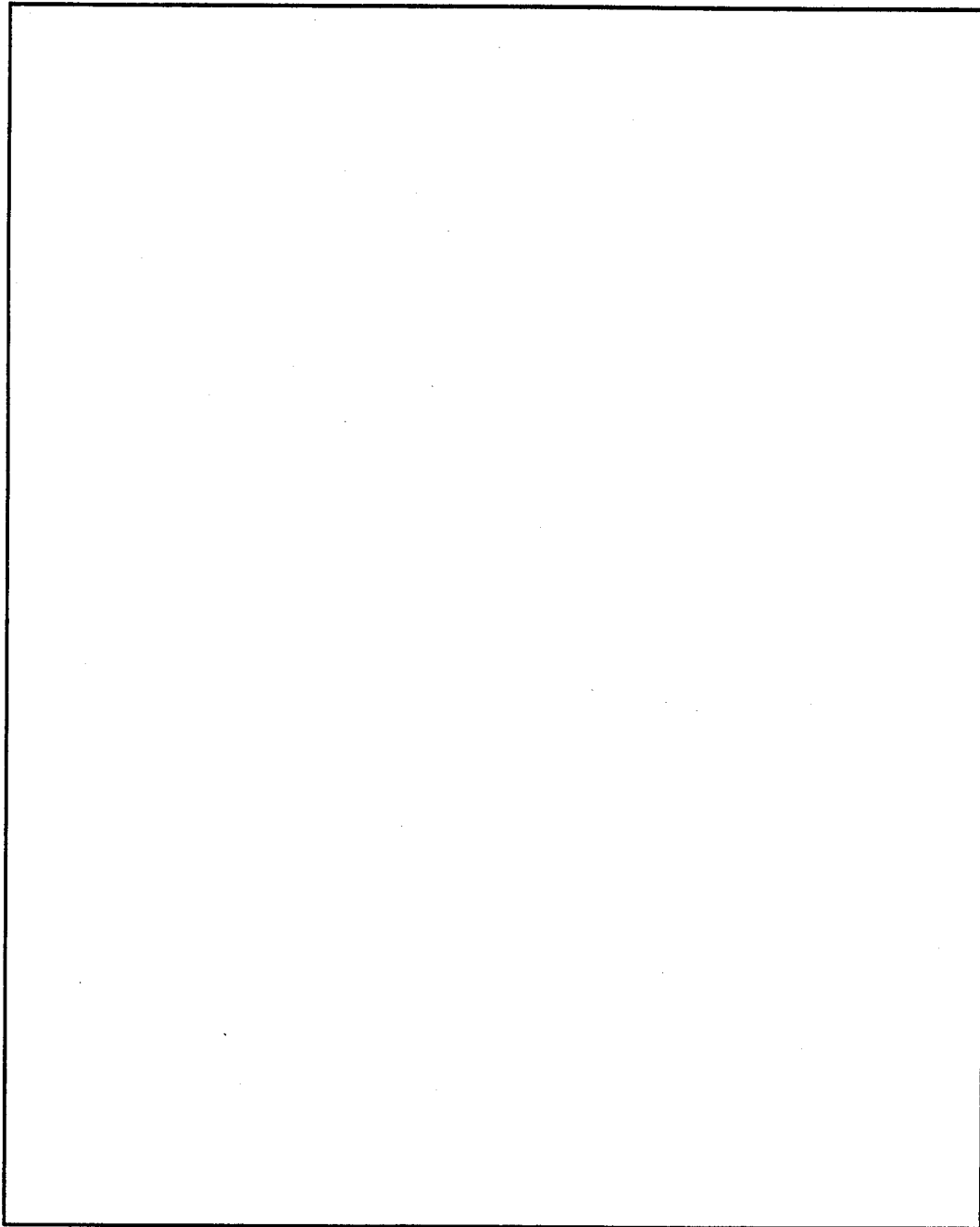
b7C

Re: Criminal Investigative From: Office of the General Counsel

b2

Re: [Redacted] 08/23/2002

FEDERAL BUREAU OF INVESTIGATION



b5



MR JAYASHRI/ACLU SRIKANTIAH
ACLU
FOUNDATION OF NORTHERN CALIFORNIA
SUITE 460
1663 MISSION STREET
SAN FRANCISCO, CA 94103

Subject: NO FLY LIST

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Table with 3 columns: Section 552, Section 552a, and checkboxes. Rows include exemptions like (b)(1), (b)(2), (b)(3), (b)(4), (b)(5), (b)(6), (b)(7)(A-F), (b)(8-9), (d)(5), (j)(2), (k)(1-7).

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FBI00007

FEDERAL BUREAU OF INVESTIGATION  
FOIPA  
DELETED PAGE INFORMATION SHEET

Serial Description ~ COVER SHEET

12/19/2001

Total Deleted Page(s) ~ 3  
Page 3 ~ b7C  
Page 4 ~ b7C  
Page 5 ~ b2, b3, b7C, b7D

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X Deleted Page(s) X  
X No Duplication Fee X  
X for this Page X  
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b7C

From: [redacted]  
To: Aviation-Field-30  
Date: Wed, Dec 19, 2001 4:36 PM  
Subject: FBI Response to FAA Name List - NEW PROCEDURES

b2  
b7E

Airport Agents - Please ensure that this message is forwarded to your supervisors, command post and any other personnel who might respond to name list matches at airports [redacted]

[redacted]

[Large redacted area]

b2  
b7E

I expect questions, so please ask. If something doesn't work as you expected, please let me know. I'll try to do an EC as soon as possible, but since the list and changes are "out", I wanted you to have them as soon as possible.

SSA [redacted] (fax)  
Civil Aviation Security Program, Room 11795  
Domestic Terrorism Counterterrorism Planning Section  
Counterterrorism Division

b2  
b7C

[redacted]

CC: [redacted]

b7C

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 9-5-03 BY UC60267NLS/AG/CAL  
CA# 03-1779

FEDERAL BUREAU OF INVESTIGATION  
FOIPA  
DELETED PAGE INFORMATION SHEET

Serial Description ~ COVER SHEET

07/18/2002

Total Deleted Page(s) ~ 53

Page 3 ~ Referral/Direct  
Page 4 ~ Referral/Direct  
Page 5 ~ Referral/Direct  
Page 6 ~ Referral/Direct  
Page 7 ~ Referral/Direct  
Page 11 ~ b2, b7E  
Page 12 ~ b2, b7C, b7E  
Page 13 ~ b2, b7C, b7E  
Page 14 ~ b2, b3, b7C, b7E  
Page 15 ~ b1, b2, b6, b7C, b7E  
Page 16 ~ b1, b2, b7C, b7E  
Page 17 ~ b2, b3, b7C, b7E  
Page 18 ~ b2, b7C, b7E  
Page 19 ~ b2, b5, b7E  
Page 20 ~ b2, b5, b7E  
Page 22 ~ b2 per TSA, b3 per TSA, b5 per TSA  
Page 23 ~ b3 per TSA, b5 per TSA  
Page 24 ~ b5 per TSA  
Page 25 ~ b5, b7C  
Page 28 ~ b5, b7C  
Page 29 ~ b5, b7C  
Page 30 ~ b5, b7C  
Page 31 ~ b5, b7C  
Page 32 ~ b5, b7C  
Page 33 ~ b5, b7C, b7E  
Page 34 ~ b2, b5, b7C  
Page 35 ~ b2, b5, b7C, b7D, Referral/Consult  
Page 36 ~ b2, b5, b7C, b7D, b7E, Referral/Consult  
Page 37 ~ b2, b5, b7C, b7D, b7E  
Page 38 ~ b2, b7C, b7D  
Page 39 ~ b2, b7C, b7D  
Page 40 ~ b2, b5, b7C, b7D, b7E  
Page 41 ~ b2, b5, b7C, b7E  
Page 42 ~ b5, b7C  
Page 43 ~ b2, b5, b7C, b7E  
Page 44 ~ b2, b5, b7C  
Page 45 ~ b2, b5, b7C  
Page 46 ~ b5, b7C  
Page 47 ~ b2, b5, b7C, b7D, b7E, Referral/Consult  
Page 48 ~ b1, b2, b5, b7C, b7D, b7E  
Page 49 ~ b2, b5, b7C, b7E  
Page 50 ~ b1, b5, b7C, b7D, Referral/Consult  
Page 51 ~ Referral/Direct  
Page 52 ~ Referral/Direct

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Page 53 ~ Referral/Direct  
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Page 56 ~ Referral/Direct  
Page 57 ~ Referral/Direct  
Page 58 ~ b2, b7C, b7E  
Page 59 ~ b2, b7C, b7E  
Page 60 ~ b2, b5, b7C, b7E  
Page 61 ~ b2, b5, b7C, b7E

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# FBI FACSIMILE COVER SHEET



### PRECEDENCE

- Immediate
- Priority
- Routine

### CLASSIFICATION

- Top Secret
- Secret
- Confidential
- Sensitive
- Unclassified

Time Transmitted: \_\_\_\_\_

Sender's Initials: bsw

Number of Pages: 6  
(including cover sheet)

To: \_\_\_\_\_

TSA / FBI

Date: \_\_\_\_\_

7/18/02

Facsimile Number: \_\_\_\_\_

Attn: \_\_\_\_\_

From: FBIHQ, Domestic Terrorism Section, Rm 11795  
Name of Office

b2

b7C

Subject: 4<sup>th</sup> Amendment + Airport Searches

Special Handling Instructions: For info

Originator's Name: SSA \_\_\_\_\_

Telephone: \_\_\_\_\_

Originator's Facsimile Number: \_\_\_\_\_

Approved: bsw

b2

b7C

Brief Description of Communication Faxed: \_\_\_\_\_

### WARNING

Information attached to the cover sheet is U.S. Government Property. If you are not the intended recipient of this information, disclosure, reproduction, distribution, or use of this information is prohibited (18.U.S.C. § 641). Please notify the originator or the local FBI Office immediately to arrange for proper disposition.

ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 03-02 BY UC60267 NLS/AG-7  
CA# 03-1779 GL

September 4, 2002

Mr. Michael D. Robinson  
Associate Under Secretary  
for Aviation Operations  
Transportation Security Administration  
400 Seventh Street, SW  
Washington, DC 20590

Dear Mr. Robinson:

Thank you for your June 27th letter, enclosing a copy of TSA's Delegation Order concerning the placement of Federal Security Directors at all of the major airports nationwide. You asked that the Order be disseminated to each of the FBI's field offices having a need for the information.

Recognizing the FBI's investigative jurisdiction with respect to criminal violations set forth in Chapter 465 of Title 49, and all aviation-related criminal violations set forth in Title 18 of the U.S. Code, our field offices will be provided copies of TSA's Delegation Order dated June 14, 2002, along with the reminder that interagency cooperation and coordination are critically important to our respective missions and responsibilities as our agencies continue to discuss pertinent jurisdictional considerations.

Sincerely yours,

Robert S. Mueller, III  
Director

- 1 - Mr. Ashley (5012) - Encs.
- 1 - Mr. D'Amuro (5829) - Encs.
- 1 - Mr. Wainstein (7427) - Encs.
- 1 - [redacted] (5096) - Encs.
- 1 - [redacted] (7326) - Encs.
- 1 - [redacted] (7176) - Encs.

b7C

62F-HQ-1077732

NOTE: Reply coordinated with Attorney-Advisor [redacted] Investigative Law Unit, OGC,  
and Unit Chief [redacted] Major Theft/Transportation Crimes Unit, CID.

BHM

ALL INFORMATION CONTAINED  
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DATE 9-5-03 BY UC60267 NLS/AG/CAL  
CA# 03-1779

FBI00013

Authorities of the Federal Security Directors (FSDs)

1. Manage Aviation Security Resources. On a day-to-day basis, manage and provide operational guidance to the aviation security resources of the Transportation Security Administration (TSA) screeners, field agents, and law enforcement officers to which they are assigned.
2. Screen and Inspect Passengers, Property and Cargo.
  - A. Passenger Aircraft. In accordance with 49 U.S.C. § 114(e) and TSA regulations, policies and procedures, be responsible for the day-to-day Federal security screening operations for passenger air transportation and intrastate air transportation. In accordance with TSA regulations, policies and procedures, provide for the screening of all passengers and property, including United States mail, cargo, carry-on and checked baggage and other articles, that will be carried aboard a passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation, in accordance with 49 U.S.C. § 44901(a). In accordance with TSA regulations, policies and procedures, provides for search and detention of persons or property posing a suspected risk to safety and security, in accordance with 49 U.S.C. § 44903(b).
  - B. Checked Baggage. In accordance with 49 U.S.C. § 44901(c),(d), and (e) and TSA regulations, policies, and procedures, as explosive detection equipment becomes available, screen all checked baggage through such equipment. In those unusual circumstances where explosive detection equipment is not available, screen every piece of checked baggage through alternative means. In accordance with TSA regulations, policies and procedures, such alternative means may include one or more of the following:
  - C. Cargo Aircraft. Provide for the screening and inspection of cargo that will be carried on all-cargo aircraft, in accordance with 49 U.S.C. § 44901(?) and TSA regulations, policies and procedures.
3. Assess and Counter Threats to Aviation.
  - A. Liaison Functions. Serve as a liaison for aviation security to the local intelligence and law enforcement communities. Receive, assess, distribute, and ensure utilization of intelligence and law enforcement information as appropriate.

b2 per TSA  
b3 per TSA

- (1) Memoranda of Understanding Concerning Data. Enter into memoranda of understanding with local offices of Federal agencies and other local entities, such as state and local law enforcement, to share or otherwise cross-check, as necessary, data on individuals identified on Federal, State and Local agency databases who may pose a risk to transportation or national security.
  - (2) Notification Procedures Concerning Potential Threats. Establish procedures for notifying the Federal Aviation Administration (FAA), appropriate State and local law enforcement officials, and airport or aircraft operator security officers of the identity of individuals known to pose, or suspected of posing, a risk of air privacy or terrorism or a threat to aircraft operator or passenger safety, in accordance with 49 U.S.C. § 114(h).
  - (3) Identification of Individuals Posing a Threat. In consultation with other appropriate Federal state, and local agencies and air carriers, and upon notice that an individual may be a security threat, establish policies and procedures that require air carriers to notify appropriate law enforcement agencies of the individual's identity, prevent the individual from boarding an aircraft, or take other appropriate action with respect to that individual.
  - (4) Passenger Lists. On a case by case basis, and when warranted by specific security considerations, require passenger air carriers to share passenger lists with appropriate Federal, State, and Local agencies, for the purpose of identifying individuals who may pose a threat to aviation safety or national security.
- B. Security Countermeasures. Coordinate and implement security countermeasures with appropriate departments, local offices of federal agencies, state and local law enforcement agencies; airports; and air carriers. Work with the FAA with respect to any actions or activities that may affect aviation or aviation safety or air carrier operations, in accordance with 49 U.S.C. § 114(f)(13).
- C. Clear, close or secure airports and related facilities. If a particular security threat to a gate, a concourse, a terminal, an airport or related facilities cannot be addressed in a way adequate to ensure, to the extent feasible, the safety of passengers, crew, or other individuals, the affected facilities may be cleared, closed or otherwise secured. After a security action has been taken in accordance with 49 U.S.C. § 44905(b), provide feedback to the airport operator on the reasons for the security action.
- D. Cancel, delay, return, or divert flights. If a particular security threat to a flight or series of flights, including air piracy (as defined in 49 U.S.C. § 46502), cannot be addressed in a way adequate to ensure, to the extent feasible, the safety of passengers and crew, the flight or series of flights may be canceled, delayed, returned to an airport after

January 22, 2003

From: [redacted] OGC/ILU, Ext [redacted] b7C

To: [redacted] b7C

Enclosed is your copy of a draft MOU I received from [redacted] a policy official in TSA. Not sure why he faxed it to me but, in any event, it addresses respective roles in providing input to and using the TSA's No-Fly and Selectee lists.

I am not sure who in CTD has this for action but it's got to be one of you three so here it is.

[redacted] b5  
Anyway, if you need us on this any more, let me know

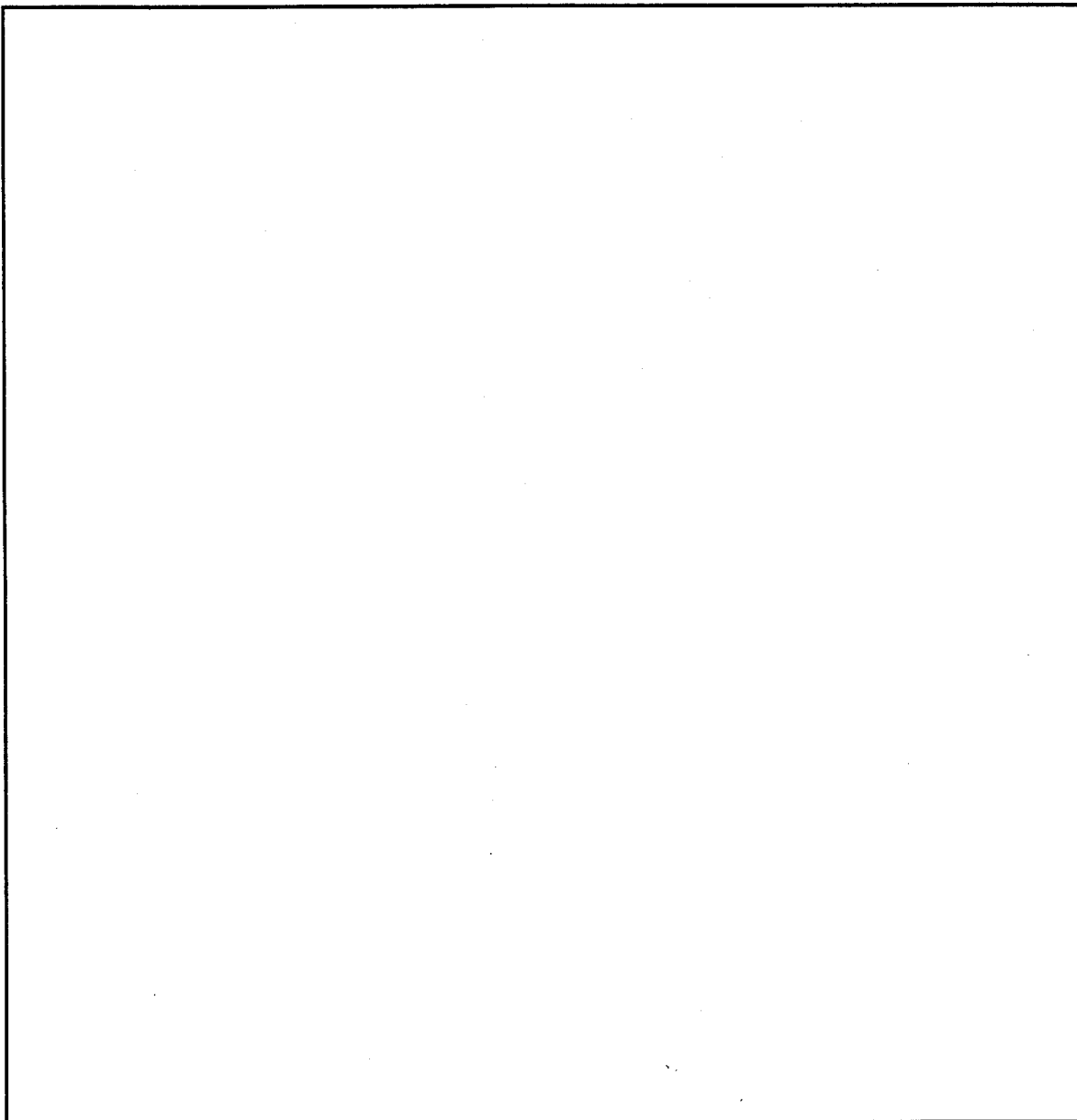
ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 8-6-03 BY UC 60267 NLS/AG/CAL  
CA# 03-1779



b7C

From: [redacted]  
To: [redacted]  
Date: 5/28/02 1:43:30 PM  
Subject: Issue: TSA and No Fly Lists

[redacted] and Art,



b2  
b5  
b7C  
b7E

Thanks [redacted]

SSA [redacted] (fax)  
Civil Aviation Security Program, Room 11795  
Domestic Terrorism Counterterrorism Planning Section  
Counterterrorism Division

b2  
b7C

[redacted]

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DATE 8-6-03 BY UC60267 NLS/AG/CAL  
CA# 03-1779

b7C

From: [redacted] Referral/Consult  
To: Aviation Field 26  
Date: 5/29/02 8:05:13 PM  
Subject: [redacted]

[redacted]

[redacted]

b2  
b7E

More to follow as I get additional information.

SSA [redacted] (fax)  
Civil Aviation Security Program, Room 11795  
Domestic Terrorism Counterterrorism Planning Section  
Counterterrorism Division

b2  
b7C

[redacted]

CC: [redacted] Aviation-CIRG&Training; Avia...

b7C

b7C

[redacted]

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 06-03 BY UC60267  
CA# 03-1779

NLS/AG/col

From: [redacted]  
To: [redacted]  
Date: 9/30/02 8:01PM  
Subject: Re: No-Fly Question

b7C

H [redacted]

I didn't see this article so thanks for sending. The TSA maintains the No Fly List, but the content is generated by FBI, CIA and probably other intel entities. I'll read the article in depth tomorrow.

[redacted]

>>> [redacted] 9/30/02 9:47:51 AM >>>  
[redacted]

Re the attached article. Who does "maintain" or is "responsible" for the no-fly list?

No-Fly Blacklist Snares Political Activists

The San Francisco Chronicle

By Alan Gathright

September 28, 2002

SAN FRANCISCO, CA -- A federal "No Fly" list, intended to keep terrorists from boarding planes, is snaring peace activists at San Francisco International and other U. S. airports, triggering complaints that civil liberties are being trampled.

And while several federal agencies acknowledge that they contribute names to the congressionally mandated list, none of them, when contacted by The Chronicle, could or would say which agency is responsible for managing the list. One detainment forced a group of 20 Wisconsin anti-war activists to miss their flight, delaying their trip to meet with congressional representatives by a day. That case and others are raising questions about the criteria federal authorities use to place people on the list -- and whether people who exercise their constitutional right to dissent are being lumped together with terrorists. "What's scariest to me is that there could be this gross interruption of civil rights and nobody is really in charge," said Sarah Backus, an organizer of the Wisconsin group. "That's really 1984-ish."

Federal law enforcement officials deny targeting dissidents. They suggested that the activists were stopped not because their names are on the list, but because their names resemble those of suspected criminals or terrorists. Congress mandated the list as part of last year's Aviation and Transportation Security Act, after two Sept. 11 hijackers on a federal "watch list" used their real names to board the jetliner that crashed into the Pentagon. The alerts about the two men, however, were not relayed to the airlines. The detaining of activists has stirred concern among members of Congress and civil liberties advocates. They want to know what safeguards exist to prevent innocent people from being branded "a threat to civil aviation or national security."

NO ACCOUNTABILITY

And they are troubled by the bureaucratic nightmare that people stumble into as they go from one government agency to another in a maddening search to find out who is the official keeper of the no-fly list. "The problem is that this list has no public accountability: People don't know why their names are put on or how to get their names off," said Jayashri Srikantiah, an attorney with the American Civil Liberties Union of Northern California. "We have heard complaints from people who triggered the list a first time and then were cleared by security to fly. But when they fly again, their name is triggered again."

Several federal agencies -- including the CIA, FBI, INS and State Department -- contribute names to the list. But no one at those agencies could say who is responsible for managing the list or who can remove names of people who have been cleared by authorities. Transportation Security Administration spokesman David Steigman initially said his agency did not have a no-fly list, but after conferring with colleagues, modified his response: His agency does not contribute to the no-fly list, he said, but simply relays names collected by other federal agencies to airlines and airports. "We are just a funnel," he said, estimating that fewer than 1,000 names are on the list. "TSA has access to it. We do not maintain it." He couldn't say who does.

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Oden said a National Guardsman grabbed her arm when she tried to help a security screener searching her bags with a stuck zipper. The middle-aged woman, who said she was conservatively dressed and wore no anti-war buttons, said the guardsman seemed to know her activist background. "He started spouting this pro-war nonsense: 'Don't you understand that we have to get them before they get us? Don't you understand what happened on Sept. 11?' Airport officials said at the time that Oden was barred from boarding because she was uncooperative with security procedures, which she denies.

Instead, Oden pointed out that the American Airlines ticket clerk -- who marked her boarding pass with an "S" -- had acknowledged she wasn't picked by random. "You were going to be searched no matter what. Your name was checked on the list," he said, according to Oden. "The only reason I could come up with is that the FBI is reactivating their old anti-war activists' files," said Oden, who protested the Vietnam War as a young office worker in Washington, D.C. "It is intimidation. It's just like years ago when the FBI built a file about me and they called my landlord and my co-workers: . . . They did that with everyone in the anti-war movement." A

**TOOL FOR TERROR**

In his testimony before Congress, Mueller described the watch list as an necessary tool for tracking individuals who had not committed a crime but were suspected of terrorist links. "It is critically important," he said, "that we have state and locals (police) identify a person has been stopped, not necessarily detained, but get us the information that the person has been stopped at a particular place." None of this makes the peace activists feel any safer -- about flying or about their right to disagree with their government.

"It's probably bad for (airport) security," said Sister Virgine. "Stopping us took a lot of staff away from checking out what else was going on in that airport." Ultimately, she said, "To not have dissent in a country like this would be an attack on one of our most precious freedoms. This is the essence of being an American citizen -- the right to dissent."

CC:  
PROCESS



TERRORIST WATCH LIST Unit; TSA LIST

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To: Criminal Investigative From: Office of the General Counsel  
Re: [redacted] 08/23/2002

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Precedence: ROUTINE

Date: 08/23/2002

To: Criminal Investigative

Attn: VCMOS

Counter Terrorism

Attn: DT/CPS  
SC Tom Carey  
SEMU

SSA [redacted]

ITOS-III  
SC Andrew Arena

SC Charles Frahm

From: Office of the General Counsel  
Investigative Law Unit

Contact: [redacted] ext [redacted]

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Approved By: Steele Charles M

Drafted By: [redacted]

Case ID # [redacted] (Pending)

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Title: CRIMES INVOLVING CIVIL AVIATION;  
FBI INVESTIGATIVE JURISDICTION

Synopsis: To provide a legal opinion from the Office of the General Counsel (OGC) concerning [redacted]

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Administrative: This document is a privileged FBI attorney communication and may not be disseminated outside the FBI without OGC approval. Also, to read the footnotes in this document, it may be required to download and print the document in WordPerfect.

Details: [redacted]

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Re: [redacted] 08/23/2002

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The TSA was created by the Aviation and Transportation Security Act of 2001 (ATSA) following the September 11, 2001 terrorist attacks and the resultant conclusion that security at the Nation's airports needed to be improved. ATSA amends various sections of Title 49 of the United States Code to assign responsibility to the TSA to provide security for civil aviation and to conduct airport screening operations.

[redacted]

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**TSA Statutory Authority**

ATSA created the TSA as an entity within the Department of Transportation and designated an Under Secretary of Transportation for Security as the responsible official in charge of the new agency.<sup>2</sup> The Under Secretary's statutory responsibilities that most pertain to the issue at hand include:

- (1) Carrying out the provisions in Chapter 449 of Title 49 of the U.S. Code, relating to civil aviation security, and related research and development activities;
- (2) Airport screening operations; and
- (3) Receiving, assessing, and distributing intelligence information related

[redacted]

<sup>2</sup>At this writing, TSA is likely to become part of the proposed Department of Homeland Security when legislation to that effect is passed by the Congress and signed by the President. [redacted]

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to transportation security.

Chapter 449 of Title 49, entitled "Security," addresses all aspects of aviation security, including: screening passengers and cargo; receiving and evaluating threats to aviation; research and development of modern security systems and facilities; and regulation of security of foreign carriers and foreign airports that serve passengers bound for the U.S.

In addition, ATSA grants the Under Secretary permissive (as opposed to mandatory) authority to designate federal law enforcement officers (LEOs) and empowers these LEOs to exercise standard law enforcement powers when engaged in "official duties of the Administration as required to fulfill the responsibilities under [ATSA]." These powers include authority to carry firearms, make arrests without warrant for any federal offense committed in their presence or for which they have probable cause, and seek and execute federal warrants for arrest or search and seizure of evidence. ATSA also requires the Under Secretary to provide guidelines by which to exercise these law enforcement powers in consultation with the Attorney General. The proposed guidelines have been submitted to the Department of Justice for review.

Finally, ATSA continues the Federal Air Marshal (FAM) program (formerly part of the Federal Aviation Administration) by authorizing the TSA to deploy FAMs aboard aircraft for what are clearly reactive law enforcement functions.

#### FBI Statutory Authority

The FBI's general enabling statute, 28 U.S.C. § 533, grants the agency the authority to investigate any violation of the criminal laws of the United States. As noted previously, 28 U.S.C. § 538 specifically empowers the FBI to investigate the primary crimes-aboard-aircraft violations in Title 49, which are set forth in Chapter 465, entitled: "Special Aircraft Jurisdiction of the United States." These include Section 46502, Aircraft piracy; Section 46504, Interference with flight crew members and attendants; Section 46505, Carrying a weapon or explosive on an aircraft; Section 46505 which lists a variety of common law crimes (e.g., murder, robbery) committed within the special aircraft jurisdiction of the United States<sup>3</sup>; and Section 46507, False information and threats. Finally, 28 U.S.C. § 538 also grants the FBI specific investigative jurisdiction for the offense listed at 49 U.S.C. § 46314, Entering aircraft or airport area in violation of security requirements.

The FBI's general investigative authority also includes the aviation-related

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<sup>3</sup> The special aircraft jurisdiction of the United States is defined in 18 U.S.C. § 7 (5) as any aircraft belonging in whole or in part to the United States or any citizen or corporation thereof while such aircraft is in flight over U.S. territory or over the high seas.

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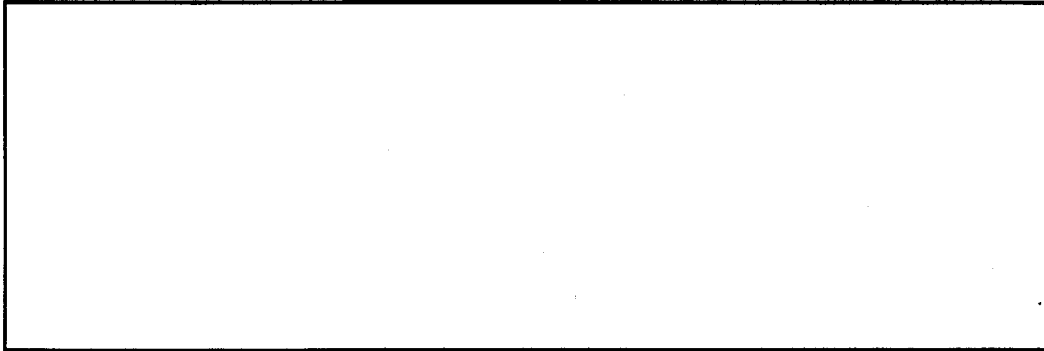
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To: Criminal Investigative From: Office of the General Counsel

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authority for any offense for which a LEO is granted the power to arrest, then virtually every federal LEO would have investigative jurisdiction over every federal felony.<sup>5</sup>



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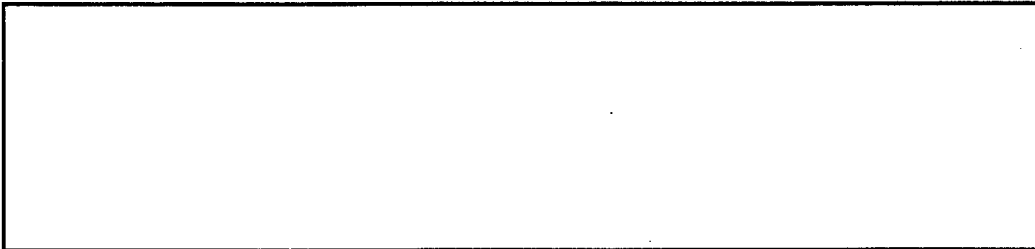
Federal Air Marshals

The Federal Air Marshal (FAM) program is also part of the TSA's statutory authority. FAMs, however, are primarily a reactive and a deterrent force whose members are LEOs and are armed and placed on selected flights to react to in-flight incidents of air piracy and other violent acts that threaten the integrity of the flight and the lives of those aboard.



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Analysis



the lawful ability to react promptly and respond appropriately to a report of emergent criminal activity without concern for jurisdictional distinctions or civil liability.

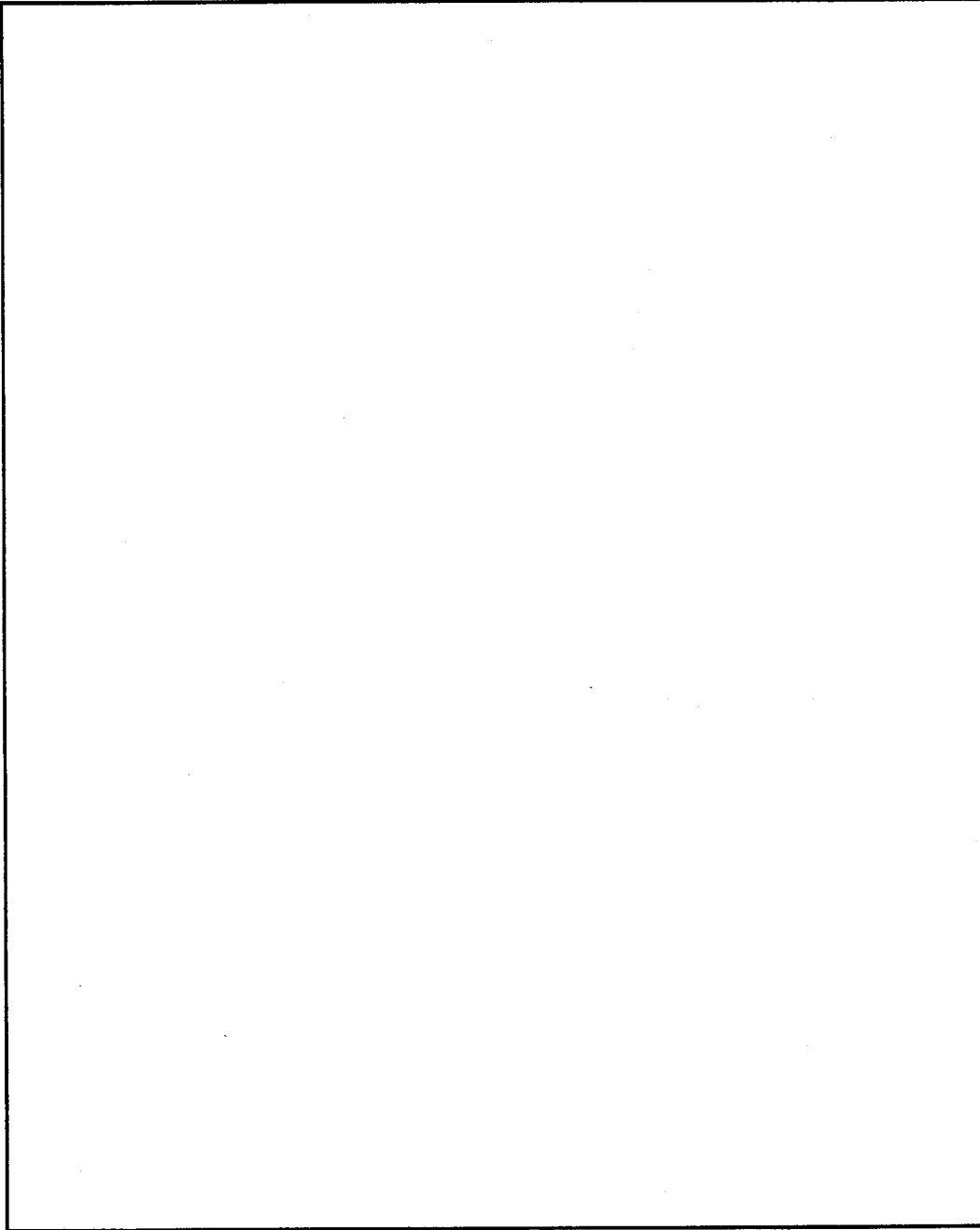
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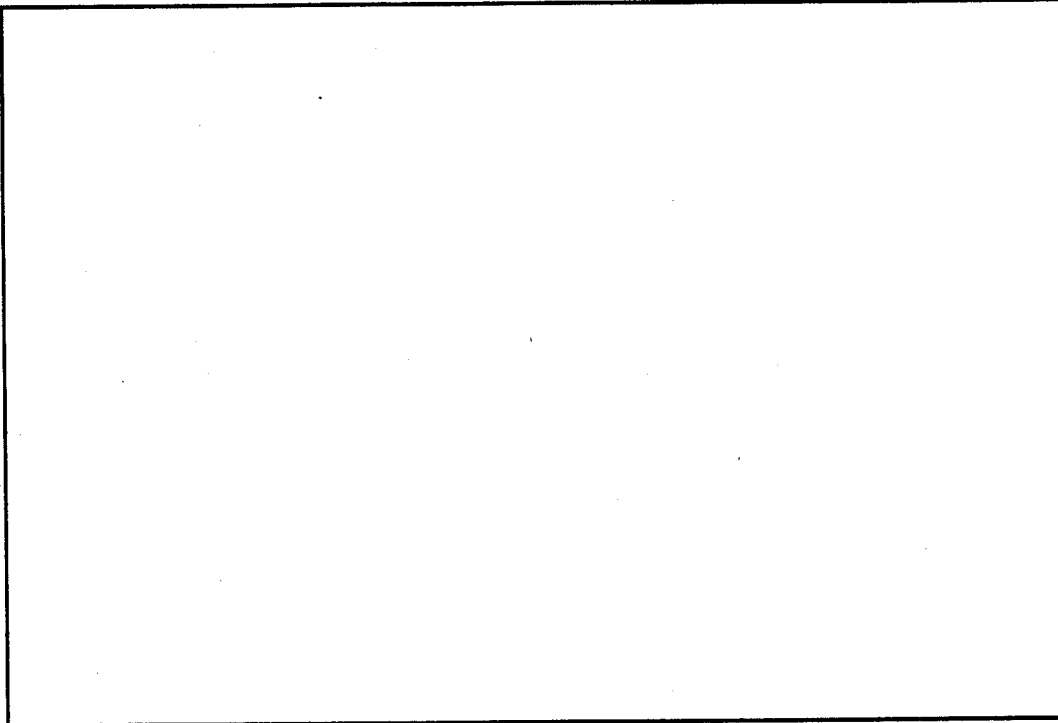
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OGC is available to assist in these efforts and in any other capacity to resolve jurisdictional issues with the TSA. Point of contact at OGC is Assistant General Counsel [redacted] Investigative Law Unit, at [redacted]

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April 22, 2003

PAGE ONE

# Why a 'No Fly List' Aimed At Terrorists Delays Others

SPECIAL PAGE

For continuing coverage, see War on  
Terror<sup>2</sup>.

By ANN DAVIS  
Staff Reporter of THE WALL STREET JOURNAL

JUNEAU, Alaska -- There are about 300 people world-wide the U.S. considers so dangerous to civil aviation it has them on a "No Fly List."

Larry Musarra, retired Coast Guard commander and father of three, isn't one of them. A pilot and avid outdoorsman, he is a local hero for his daring helicopter rescues of stranded fishermen and mountaineers. He now runs a visitor center overlooking Juneau's spectacular Mendenhall Glacier.

But Alaska Airlines' computers haven't figured that out. Its reservations system, designed by travel-software giant Sabre Holdings Corp., flags Mr. Musarra whenever he checks in, which is about once a month, when he visits a developmentally-disabled son in Oregon. At the ticket counter, Mr. Musarra has often watched the color drain from agents' faces as they read a warning that he might be on the terrorist watch list. After a criminal-background check, he eventually gets to fly but faces extra luggage and body searches.

The No Fly List, quietly introduced after the Sept. 11 terror attacks, is designed to keep suspected violent types off airliners. It includes terrorism suspects thought to pose an imminent danger to flights. Some people who present a general threat to air safety because of violent behavior also make the list. The new Transportation Security Agency, or TSA, compiles names from intelligence and law enforcement and sends the No Fly List to airlines. Their job is to see that nobody on the list gets aboard.

### NAME GAME

حاج محمد عثمان عبد الرقيب

Renderings of an Arabic name using the Roman alphabet vary by country -- a challenge for airlines as they apply the No Fly List

Haji Mohamed Uthman Abd Al Ragib  
Iraq

Muhamad Usman Abdel Raqeeb  
Syria, Lebanon, Jordan

Haj Mohd Othman Abdul Rajeeb  
Kuwait, Bahrain, Qatar, Saudi Arabia, Oman,  
Yemen, United Arab Emirates

Hag Muhammad Osman Abdurra' ib  
Egypt, Sudan

Haj Imhemed Otmene Abderaqqib  
Libya, Tunisia, Morocco, Algeria, Mauritania

Source: Language Analysis Systems

It sounds simple, but it's proving tricky to execute. Many entries on the list lack details that could make it easy to know if a traveler is really the person named. And the TSA gives airlines little guidance on just when a passenger's name is close enough to one on the list to warrant flagging the person for a law-enforcement check.

The result is that carriers are checking the No Fly List a multitude of ways and coming up with vexing numbers of "false positives" -- innocent passengers subjected again and again to law-enforcement reviews. The flagging of some fliers who were political activists has even led to suspicions the government was grilling them because of their views.

These inconveniences may seem like a small price to pay if the system improves security. But the Federal Bureau of Investigation, which contributes to the No

Fly List, says the list has helped catch very few terrorism suspects. While that might simply be because the terrorists haven't tried to fly lately, linguistics experts say that if they did -- and

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particularly if they had Arabic names -- it's far from certain that current methods would flag them.

One reason: In checking passengers against the No Fly List, some airlines use techniques that were designed decades ago, and for an entirely different task: to let agents find passenger records quickly without having a full name or a name's precise spelling.

These "name matching" systems also help airlines spot abusive bookings, in which travelers reserve a bunch of flights under slightly varying names. The idea is to cast a wide net. But when applied to a watch list, they have the perverse effect of flagging numerous travelers whose names are merely similar to one of those on the list.

One name-matching technique that airlines have used, called Soundex, dates back more than 100 years, to when it was invented to analyze names from the 1890 census. In its simplest form, it takes a name, strips out vowels and assigns codes to somewhat-similar-sounding consonants, such as "c" and "z."

The result can be bizarre. Hencke and Hamza, for example, have the same code, H520. If there's a Hamza on the No Fly List, a traveler named Hencke could be pulled aside for a background check before being allowed to board.

A 40-year-old method designed specifically for airlines does something similar, stripping names down to consonants and pulling up names that have the same consonants in the same order. A third technique sometimes used by airlines hunts for matches based on the first few letters of surnames.

Hence Mr. Musarra's troubles in Juneau. In an algorithm used by Sabre, whose software runs Alaska Airlines' reservations system and many others, "Musarra" appears to pop up as a match for any name starting with "Mus." A fair number of names from the Mideast and Central Asia begin that way, including at least one on the No Fly List.



Larry Musarra

Exactly what techniques airlines and firms such as Sabre use to check passengers against the list is impossible to know. They won't identify their formulas, and the government doesn't want them to. But some current and former industry executives say most airlines -- while making periodic refinements, including since Sept. 11 -- still use roughly the same name-matching tools as they have for decades.

Why not just match names precisely, and question only people whose names exactly fit an entry on the No Fly List? That wouldn't do, either. Many people's names have a number of variations, such as William or Bill. Many are spelled either with a middle initial or without one. And non-Western names can be rendered in the Roman alphabet in a host of ways.

A name written as "Haj Imhemed Otmene Abdera'iqib" in Algeria might be "Hajj Mohamed Uthman Abd al Ragib" in Iraq, and as "Hag Muhammad Osman Abdurra'ib" in Sudan, according to Language Analysis Systems Inc., a Herndon, Va., company that does name-analysis work for many federal agencies.

One wanted terrorism suspect, Adnan G. El Shukrijumah, uses five aliases. The six names can be translated a total of more than 500 ways, says Language Analysis Systems. The firm adds that foreign words can also be mistaken for first or last names, such as "Effendi," which is an honorific for "Sir" or "Mister" in some Mideastern languages.

Another quirk of airlines' systems is that groups that purchase their tickets together end up in a single travel record. If one member triggers a hit on the watch list, computers lock up on them all.

A year ago in Milwaukee, *Midwest Express* pulled aside 19 members of a group called Peace Action Wisconsin headed to Washington for a "teach-in" about U.S. military involvement in Colombia. The group, which included a nun and a grandmother, had to wait for sheriff's deputies to run immigration and FBI background checks, according to records of the incident. The delay caused them to miss their event.

Four months later in San Francisco, Jan Adams and Rebecca Gordon, co-founders of an antiwar newsletter called *War Times*, were pulled aside for police questioning when they arrived at the ATA Airlines counter. An FBI search turned up nothing, and the women, both in their fifties, were allowed to fly.

In both cases, the groups were told they had matched the No Fly List. But these incidents and others fed the notion among activists that the government was targeting them. "When is a nun considered too dangerous to get on board a plane? When she's a peace activist," said one of numerous critiques, this one in the newspaper *Socialist Worker*.

But three months after the Milwaukee incident, a report by the county sheriff's office said the incident was due to use of Soundex in *Midwest Express's* reservations system, which uses Sabre software. A security official for the airline says that a group member with the last name of "Laden" might have helped trip up the group.

As for Jan Adams in San Francisco, she was one of a number of Adamses with the first initial J who were stopped last year. They included 23-year-old Jarrett Adams on June 5, 55-year-old John Adams and his wife on June 16, and 34-year-old John Christian Adams, who complained to the TSA last July.

The apparent trigger: A Joseph Adams on the No Fly List, whose entry gives little data besides a birth date. Officials at ATA, the airline Ms. Adams flew, and some other carriers say they are frustrated that the watch list doesn't have better data to eliminate mismatches.



**David Nelson**

One needn't be an activist to get caught in this web. Last April, two San Francisco airport police officers cornered David L. Nelson, a 56-year-old bank executive, as he checked in at Alaska Airlines. "They had hands on their guns. They asked was I an American citizen and who am I," Mr. Nelson says. After a half-hour of questions and database checks, they cleared him. He says his son, named David C. Nelson, also has been stopped as a No Fly List match.

At Oakland International Airport, Police Sgt. Larry Krupp says he has cleared so many innocent "David Nelsons" to board that one of them now buys him coffee. There is a name very similar to theirs on the No Fly List.

For every check, Sgt. Krupp must thumb through an 86-page, nonalphabetized list of names. "The vast majority of times we go there, they're not even on the list," he says. Sgt. Krupp says he has had only one true match, a man he describes as an Afghan drug dealer.

Newer methods exist, which take into account names' cultural origins in order to come up with more-relevant name variations. Some government agencies are starting to use them. But travel consultants say hard-pressed airlines have been reluctant to spend money to improve a screening function they believe should be done by the government -- and that the TSA has said it eventually will assume. Airlines would rather leave it to the government to rule a passenger in or out. No Fly List entries can include subjective notations like "is sickly with asthma, uses a lot of hand gestures," as one did on a recent copy of the list reviewed by The Wall Street Journal.

A wide variety of reservations systems have their genesis in the Sabre system, which International Business Machines Corp. designed for American Airlines in the 1960s. IBM later built similar systems for other airlines.

Lightning fast in basic reservations chores, the mainframe-based systems are less well suited for other tasks, such as clearing a frequent traveler to fly once and for all. In most airline systems, the No Fly checks are set up in such a way that the computer treats each passenger as a brand new name, even if he or she has flown recently and was cleared in another flight record.

The TSA is considering a way to put fliers who've repeatedly been mistakenly flagged on a "Fly List." But even if this proved technically feasible, security officials at airlines and the TSA would still have the challenge of making sure they weren't vulnerable to letting a dangerous person of the same name slip through.

Records obtained in a Freedom of Information Act suit brought by the Electronic Privacy Information Center show that the TSA has received complaints from mistakenly flagged customers of all major carriers, which use a variety of software to process passengers.

One reservation system used by several airlines, Shares, uses "the same type of [name] matching that has gone on for 10 to 15 years -- actually longer," says Michael Hulley, an executive of Shares owner Electronic Data Systems Corp. He will identify only one method Shares uses: matching the first few letters of a name.

Another competitor of Sabre, Galileo, says it looks for exact matches on names or strings of letters. But Galileo officials try to spot No Fly List matches in advance of a flight and pre-clear passengers who clearly aren't the person on the list, says Chuck Barnhart, an official of Galileo.

Sabre won't disclose its current name-matching methods, but a spokeswoman, Kathryn Hayden, says: "Algorithms are not static -- they change, they are updated." Sabre says different airlines can use its software in different ways. "It's up to each airline to determine how they implement the government requirements for the No Fly Lists," Ms. Hayden says.

One carrier that uses Sabre software, Alaska Airlines, has more than its share of false No Fly List matches, judging by the records obtained by the Electronic Privacy Information Center. Of 34 complaints to the TSA where the airline was identified, 11 cited Alaska. Ms. Hayden says such anecdotal evidence doesn't prove Sabre's software "causes a greater number of false hits."

Barbara and Dennis Musante, a California couple, took their complaint up the Alaska Airlines chain of command after being delayed twice. Ms. Musante says an airline supervisor finally told her the first four letters of their last name matched a suspect, though they themselves weren't on the list. The TSA confirmed they weren't. In a letter, the TSA added that the "benefits of such measures far outweigh the inconvenience."

Mr. Musarra, the Alaska man who has faced many delays, has tried everything he can think of to clear his name once and for all. He got Sen. Ted Stevens to contact the FBI. He told local TSA people of how their boss in Washington, retired Admiral James Loy, once honored him for his work on an oil-spill cleanup exercise.

For his monthly flights, Mr. Musarra has developed a routine: Try to check via the Internet the night before the flight; get rejected. Arrive at the airport hours early, go to the self-serve kiosk; get rejected again. Go to the counter, wait while an agent calls a supervisor, wait more while officials take his I.D. to a back room to phone security officials.

Invariably cleared, he boards, but the clearance lasts just through the end of his round trip. Often he is bringing his son Tim home for a visit. Tim Musarra, 12, also sets off No Fly List alarms.

A college-age son, Aren, has the same problems, Mr. Musarra says.

Then there's Mr. Musarra's adopted son, Jonathan Paul Sung Ho Musarra, 15. A high-school wrestler, "Sungie" is the reason his teammates have to get up at 3 or 4 a.m. for morning flights to their meets. Because they buy group tickets, the 20-plus wrestlers, chaperones and coaches show up on the computer screen as No Fly List hits.

A spokesman for Alaska Airlines, Lou Cancelmi, says, "All of these false positive issues concern us greatly. We're absolutely committed to working toward mitigating all of them to the maximum extent possible." Recently, the airline began having employees scrutinize alarms generated by its computers in advance of flights, in hopes of clearing misflagged passengers.

That seemed to help Mr. Musarra on his last flight. The computer still flagged him; he found himself unable to check in via the Web. An error message told him he needed manual assistance. But when he got to the airport this time, Mr. Musarra received a boarding pass without the security review.

The TSA has been trying to get the message to airlines that they should focus on matches of full names, not just the last name, says James R. Owen, a TSA official in Juneau. Longer term, the agency is working on an advanced passenger pre-screening system known by the acronym of CAPPS II.

It will scour not only watch lists such as No Fly but also criminal records, credit-card transactions and identifiers such as address and date of birth to detect suspicious patterns. The TSA envisions it as "dramatically reducing" the number of people flagged. Privacy and civil-liberties advocates fear just the opposite -- that the increased ways to attract suspicion will result in even more passengers being wrongly tagged.

Write to Ann Davis at [ann.davis@wsj.com](mailto:ann.davis@wsj.com)<sup>1</sup>

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Article 2

### The no fly list

Matthew Rothschild  
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PEACE ACTION  
MILWAUKEE

Alla Kate, sixteen, a high school student in Milwaukee, wanted to go to Washington, D.C., for the protests Saturday, April 20. She was looking forward to demonstrating against the School of the Americas and learning how to lobby against U.S. aid for Colombia.

She had an airplane ticket for a 6:55 P.M. flight out of Milwaukee on Friday, April 19, and she got to the airport two hours ahead of time. But she didn't make it onto the Midwest Express flight.

Neither did many other Wisconsin activists who were supposed to be on board. Milwaukee County sheriff's deputies pulled aside and questioned twenty of the thirty-seven members of the Peace Action Milwaukee group-including a priest and a nun. The travelers were not cleared in time for takeoff and had to leave the next morning, missing many of the events.

What tripped them up was a computerized "No Fly Watch List" the federal government now supplies to all the airlines. The existence of this No Fly list was confirmed by members of the Milwaukee County Sheriff's Department, the FBI, the U.S. Marshals, Midwest Express, the New York Port Authority, and the Department of Transportation. The airlines today are required to cross-check their passenger lists against this No Fly list.

"The name or names of people in that group came up on a watch list that is provided through the federal government and is provided for everyone who flies," says Sergeant Chuck Coughlin of the Milwaukee sheriff's department. "The computer checks for exact matches, similar spellings, and aliases."

The list "came from Washington," says Special Agent Darry Babler, the FBI's media rep in Milwaukee. "It's been in place several months, and it's distributed to all airports. It's the responsibility of those who have security duties at the airport to check that list against passenger manifests. When someone's name turns up on the Watch List, the sheriff or the Marshals do an investigation, and we're notified."

Babler says there actually were two No Fly lists. "The initial one had a number of names on it-people who might have had involvements in the hijackings, aliases or people involved, or people who might have had contact with, or knowledge of, Uem. Subsequently, another Watch List was put out." Babler says he can't comment about why a particular name may appear on the new list.

Who puts the list together?

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A spokesperson for the FBI in Washington, Steve Berry, would not comment at all on the issue of the No Fly list. He referred all questions to the Transportation Security Administration (TSA), a new wing of the Department of Transportation.

"It's something that's produced by the TSA," says Steve Coleman, a spokesperson for the New York Port Authority.

The TSA was established by the Aviation and Transportation Security Act, which President Bush signed into law on November 19. Media coverage focused on federalizing the security personnel at airports. But other aspects of the law received little scrutiny. This law establishes a new position, the Under Secretary of Transportation for Security, and puts that person in charge of airline security. Today, the Under Secretary of Transportation for Security is John W. Magaw, who previously served as director of the Secret Service and director of the Bureau of Alcohol, Tobacco, and Firearms.

In his current post, Magaw has tremendous discretion. Under "emergency procedures," the law says. "If the Under Secretary determines that a regulation or security directive must be issued immediately in order to protect transportation security, the Under Secretary shall issue the regulation or security directive without providing notice or an opportunity for comment and without prior approval of the Secretary."

As part of his regular duties, the Under Secretary is empowered by the law to "establish policies and procedures requiring air carriers to use information from government agencies to identify individuals on passenger lists who may be a threat to civil aviation and, if such an individual is identified, to notify appropriate law enforcement agencies and prohibit the individual from boarding an aircraft."

The TSA has taken that power and run with it. In testimony before Congress on January 23, Magaw said that "computers will screen passengers," and "the new security system will be robust and redundant."

Dennis Kucinich, Democrat of Ohio, is outraged about the treatment of the Milwaukee activists. "Databases are being organized, including the names of totally innocent individuals who are being subject to question based on their political views. In a democracy, that is not acceptable," he says. Kucinich, the ranking Democrat on a national security subcommittee, vows to investigate. "I take this very seriously," he says.

Senator Russ Feingold, Democrat of Wisconsin, also is concerned. "I plan to ask FBI Director Robert Mueller about the creation and implementation of the so-called No Fly lists," Feingold says. "It is important that security measures do not unduly infringe on our civil liberties."

In the case of the Milwaukee activists, about five or six individuals came up on the watch list," Sergeant Coughlin says. "Although it was time-consuming, and although they were flight-delayed, the system actually worked."

Don't tell Dianne Henke that.

A volunteer with Peace Action, Henke is the person who organized the trip. "We were very upset," she says. "Here we were, going out to lobby, to use our democratic rights, to talk to our legislators, to use our freedom of speech and dissent, and then we're being detained and not told why. We were taking young people and telling them if you use means that are nonviolent and peaceful, your message will be heard. But the fact that we were hampered, that we were detained, was just a totally different message."

Henke doesn't blame the sheriff's deputies. "They were very sympathetic to us, but they just weren't getting the answers they wanted from the other end of the telephone," she says.

It was never made clear to her exactly why they were being detained.

"We were getting all these different stories from the deputies. One possibility was that a UWM [University of Wisconsin-Milwaukee] student had a name Jarah Laden, that was similar to a terrorist's name [Usama bin Laden]. Then another story was that someone had a foreign name that was changed to make it sound more American, Alia Kate, who used to be Alia Torabian. Her father was Persian or Iranian. I've known her all my life," says Henke, who looks up Kate's number in an old Montessori phone book.

"I was one of the first people in our group to try to check in," says Kate. "When I went up to get my boarding pass, the lady said there were some problems. She said her computer locked up and she had to wait for someone else. And I found out that the someone else was one of the sheriff's deputies on duty. And

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the sheriff's deputy came and told me I had to grab my bags and follow her for further questioning.

"I was a little scared. I was a little confused. I didn't know what it was about. I was alone and was taken to a building nearby. They sat me down in a chair, and I just waited for fifteen or twenty minutes. They had my driver's license. They asked me what my phone number was and address was. I heard them making phone calls, reading off some stuff on my license. Then they asked me what my nationality was.

"I said I'm half Persian and Italian and German.

"They asked who was Persian, my mother or my father.

"I said, my father, my biological father. I don't even know him.

"They also asked me if I was a U.S. citizen.

"I told them I was

"They asked me if I was from around here.

"I said yes."

Through one of the sheriff's deputies said "it was just a routine procedure," Kate says they gave her several different explanations for what was happening. "They said it might have to do with increased security in the Washington, D.C., area, or it might have to do with Indonesian terrorists," she recalls.

She says there may have been an element of racial profiling involved, too. "I guess we're looking for Hispanic names," one of the deputies said, according to Kate. She suspects they thought her first name was Hispanic, and she says that two others detained early on, Manuel Sanchez and Isabella Hornung, may have been selected for their names. The sheriff's department denies a deputy made that comment about Hispanics. "That did not happen," says Deputy Inspector Sherry Weber. "I believe the deputies didn't really say any of this stuff."

Finally, they walked Kate back to the ticket counter, but the computer froze up again, so Kate and Sanchez and Hornung were told to go sit down and wait for the deputies to deliver their boarding passes.

"They gave us our boarding passes, which had a bold-faced S with little asterisks on both sides, circled with an ink marker," Kate says. "This meant that when we went to the gate our carry-on bags would have to be hand-searched and they'd have to wand us."

But the deputies took so much time going through the whole group that not everyone was ready to go by 6:55.

Midwest express held the flight for as long as it could but then left, almost empty, without most of the activists.

"I was shocked," Kate says. "I couldn't believe what was happening, that they could detain us long enough for us to miss our flight in an apparent attempt to keep us in Milwaukee. It was sort of McCarthy-- style. The way they have the names appearing on a list and targeting certain people, dissenters especially. I felt my rights had been violated."

Jacob Ladin, with the unfortunate last name, says he's flown two other times since September 11 and never had trouble. And by the time he started to check in, other members of the group were already being detained. So he doesn't believe his name tripped the trigger, though he says he "would have stayed behind" if he thought it would have been a problem. He believes "our whole group was being categorized as a threat."

Glister Virgine Lawinger of the Racine Dominicans was also detained. "When I went through the line, the lady at the ticket counter said, 'I'm sorry, you have to wait a minute,' and then the sheriff's deputy came and took me and some others to an office," she says. "All they asked us at that point was our birthplace and said these were just routine checks. They said our names were flagged. That's the real strange thing: what caused the computer to flag those names? I did feel it was profiling a particular group without a basis."

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...that caused the airport to they made ... a peace group. The abuse of power was so obvious."

Sister Virgine says she's upset about "losing an entire day of intense education on the issue of Colombia." And she says her "right to dissent" was infringed upon.

Father Bill Brennan of St. Patrick's Church in Milwaukee also missed his flight. "No one was charged with a crime or threat of a crime," he says. "No one was advised of his or her civil rights. My personal reaction is fear of the arbitrary use of power this incident reveals. Someone in Washington has the power to inspect a passenger list drawn up in Wisconsin, discover the motive of our flight (namely, a peace protest against what goes on at Fort Denning, Georgia, particularly as it affects Colombia), decide who might possibly be subversives, and stop our takeoff."

Sarah Backus, a coordinator for SOA [School of the Americas] Watch Wisconsin, says she was told by one of the sheriff's deputies: "You're probably being stopped because you are a peace group and you're protesting against your country."

Backus later asked the sheriff, David Clarke, about this, and he denied this was the reason for the detentions, she says.

"I sympathize with those people," says Weber. "I'm sure they believe they were singled out. I truly do not believe they were."

Backus also went to the Midwest Express ticket desk to find out what was going on. "The names are in the computer, and the names came up, she says she was told.

Lisa Bailey, a spokesperson for Midwest Express, says, "As the group checked in, one of the passengers showed up on this list. At that point, the airline got the TSA rep and Milwaukee County sheriffs. The TSA made the decision that since this was a group, we should rescreen all of them." Midwest Express either found hotels for those who missed their flights or provided transportation home.

Bailey says that screening the names against the list is standard operating procedure. "Everyone who travels is now cleared through this list."

Specifics about the list remain tightly guarded.

"The list is a compilation from intelligence agencies and is shared with the airlines," says Paul Turk, a spokesperson for the TSA. "But as to how you get on it, or how it's maintained, or who maintains it, I can't help you with that."

Turk adds that he doesn't know how large the list is, "and if I did, I couldn't tell you."

Matthew Rothschild is Editor of the Progressive.

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Article 2

### Retired Coast Guard commander finds himself on FBI list



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JUNEAU (AP) - Larry Musarra's trouble with the FBI began in late June, when the retired Coast Guard lieutenant commander, his wife Unne and their 12-year-old son Tim checked in at the Juneau Airport.

They were on their way to Portland, Ore., where Tim, who is disabled, would attend a special school.

At the Alaska Airlines electronic check-in kiosk, Musarra typed in his confirmation code and the machine displayed a message asking him to see an attendant.

At the counter, Musarra and his family waited while the customer service representative clicked on a keyboard. The clerk became puzzled and said she couldn't get a boarding pass either. She called her supervisor. They called Seattle. Finally, 30 minutes later, the supervisor explained.

"She said, 'We are having trouble clearing your name. Actually, we can't clear your name. You are on an FBI list,'" Musarra said.

Musarra, 47, is a father of three who works for the U.S. Forest Service at the Mendenhall Glacier Visitor Center. He is white, of Italian and Irish ancestry, and was born in New Jersey. He has lived in and flown out of Juneau for seven years. Because of his work with the Coast Guard and the Forest Service, he has had more federal background checks than he can remember.

For a reason Alaska Airlines, the FBI, the Federal Aviation Administration, and the newly created Transportation Safety Administration cannot or will not say, Musarra's name, which is Sicilian of Arabic origin, is on a list of suspects who pose a potential threat to airline security. And, at this point, there is no way for his name to be removed.

"I'm not the type of person who makes a fuss, but I am this all-American boy, and here I'm targeted as terrorist. It is just kind of funny," he said. "I'm telling it's the name. My name sounds Arabic."

On the way to Portland, the Musarra family was given an exhaustive screening with metal detector wands, their shoes were X-rayed, their belts removed and their bags searched before they were allowed on the plane. On the way back, the check in clearance took so long, an airline agent had to hand-write Larry and Unne Musarra's boarding pass and escort them on the aircraft, minutes before take off. Their seats already had been filled with standby passengers who then had to get off the plane.

"Everyone has been really nice," said Linne Musarra. "But if you are traveling with children who have special needs, this circumstance produces tremendous anxiety."

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Musarra heard from other relatives with the same last name who had similar experiences. Since June, his brother has had his bags searched every time he flies. An uncle, traveling with a 91-year-old relative in a wheelchair, was searched and told he, too, was on the FBI list. When his uncle called the FBI, he was told no list existed, Musarra said.

Musarra called the local field office of the FBI, where an agent found his name on a list, and said there was no way to have it removed. She told him the best thing to do was to call the airline ahead of the time when he is going to fly, to prepare them for the complications, he said.

Juneau FBI Agent Mary Beth Kepner confirmed she had a conversation with Musarra, but directed all calls about the nature of the list to the FBI office in Anchorage.

Eric Gonzalez, FBI special agent in Anchorage, said the list airlines use was controlled by the Transportation Safety Administration, a new homeland security organization formed by the Bush administration since Sept. 11. Alaska Airlines spokesman Jack Evans agreed the airline gets the lists from the TSA, and said the airline is mandated to use the list in the passenger-screening process. Evans and Gonzalez said they did not know a way to remove Musarra's name from the list.

From there, the origin of the list and the reason Musarra is on it are unclear, and mired in a world of federal, interdepartmental "information sharing" that has caused confusion since the inception of the TSA earlier this year.

Dave Steigman, spokesman for the TSA, said revealing any of the reasons a name may end up on the list could jeopardize national security. He denied the TSA had a list containing many spellings of Arab or Arab-sounding names.

"The TSA does not profile by ethnicity, ethnic origin, race or religion," Steigman said, and then directed all inquiries about the list to the Federal Aviation Administration or back to the FBI.

Tommy Dome, a TSA employee, answered the phone at the FAA office in Anchorage.

**Republican controlled Congress.**

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## THE NO-FLY LIST

### Is a federal agency systematically harassing travelers their political beliefs?

By Dave Lindorff

If anything is different after 9/11, it's air travel, as passengers endure long lines and extra security checks at airports. For some passengers and would-be passengers, though, air travel has become something much more harrowing, as the Transportation Security Administration targets political activists for harassment.



For months, the TSA, a federal agency established a year ago to protect the nation's transportation system from terrorism, had a blacklist of people to be singled out by security staff for special inspection and quest. But in mid-November, in an interview with this reporter, spokesman David Steigman acknowledged that the government has "a list of about 1,000 people" who are deemed "threats to aviation" and not allowed on airplanes under any circumstances.

Steigman added that the TSA itself has no guidelines defining who is put on the list, but rather relies on names provided by other federal agencies, such as the FBI, Secret Service or INS. The TSA also has no procedures for people to clear their names and get off the list.

It appears, however, that this is only part of the story. Most of those who have been singled out for special interrogation and searches of their luggage and their persons, at least those who have made the public with their experiences, clearly are not "threats to aviation." Indeed, many have been

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## CULTURE

advocates of nonviolence.

Consider the experience of John Dear, a 43-year-old Jesuit priest, member of the Catholic group Pax Christi and former executive director of the Fellowship of Reconciliation, an inter global peace organization. "I fly just about every week," Dear says. "Since 9/11, I've been taken aside at the boarding gate every single time and searched and questioned."

He describes one particularly disturbing experience. "I got to the Southwest Airlines gate at San Jose airport, on my way to Los Angeles, but as soon as the attendant saw my boarding pass he shouted, "You can't be here. You have to be searched!"

"Everyone's jaws dropped, and all the passengers backed away from me," he recalls. The flight delayed while Dear was taken aside and minutely searched, with more than 100 passengers looking on nervously.

Others, like the Green Party's Nancy Oden, have reported being detained by armed soldiers, like Green Party leader Doug Stuber, questioned by Secret Service agents, sometimes at such length that they missed their flights. In most cases, they ultimately were permitted to fly to their destinations.

Asked if such people are considered "threats to aviation," Steigman said no. He speculated that they might have gotten on the list because they committed federal felonies. Some do have records. In Dear's case, he went to jail for ceremonially whacking an F-15 jet with a hammer in an act of civil disobedience.

But none of the people whose cases *In These Times* has examined had any history of violence that would suggest they might be a threat to airline safety. Indeed many, like Dear, are ardent pacifists. What they seem to share is opposition to the Bush administration's war policies and its attacks on civil liberties.

So what is going on here?

Asked if the TSA has a second list, one not of the "threats to aviation" who would never be allowed to get on a plane, but rather of political activists who are to be singled out for intense scrutiny and interrogation, Steigman said, "I don't know. I'll have to look into that."

A day later, he came back with a curiously candid, if rather alarming, answer. "I checked with the security people," he said, "and they said there is no second list." Then, after a pause, he added, "That could mean one of two things: Either there is no second list, or there is a list, and they're not going to talk about it for security reasons."

Some of those who have been stopped for special scrutiny by TSA agents in recent months have been specifically told that their names were "on a list." Last spring, Virgine Lawinger, a 74-year-old nun and a member of Peace Action, was stopped at the Milwaukee airport along with some other members of the group on their way to Washington to lobby the Wisconsin congressional delegation against military aid to Colombia. She says they were told at the time by local sheriffs

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deputies and Midwest Express ticketing personnel that one or several of them were "on a list that the TSA had instructed airport security to keep the group off the plane.

Lawinger, with the help of the local ACLU, filed a Freedom of Information request with the early October, seeking to learn why she had been barred from her flight. A month later, word came back that the TSA had a file on her, though all the pages were withheld except for a copy of a clipping from the local paper reporting on her experience at the airport. It isn't known what other information in Lawinger's TSA file contains information predating the airport incident

Barbara Olshansky, assistant legal director of the Center for Constitutional Rights (CCR) in New York, reports that she has been stopped and searched every time she has flown since 9/11. On three of those occasions, she was forced to pull down her pants in view of other travelers. On those times, when she demanded to know why she was being singled out, the airline agent at the gate threatened to bar her from the plane if she raised a fuss and added brusquely, "The con spit you out. I don't know why, and I don't have time to talk to you about it."

While few would object to the TSA's maintaining a properly compiled list of genuine "threat to aviation" or preventing such people from boarding planes, it would appear that such a "no-fly list" is not the one leading to all the harassment of political activists, who, after all, usually do get

Nancy Chang, a senior litigation attorney at the CCR, who also has been singled out for search and questioning at the airport, says the government is "leveraging legitimate air safety concerns into a program that targets law-abiding Americans for questioning and detention based on their political viewpoints."

Father Dear agrees. "I think what they are doing is harassing people who are opposing the government by publicly speaking out against administration policy," he says.

One hint that this may be what is going on was provided to the Green Party's Stuber. When Secret Service agents called in by the TSA security guards arrived at Raleigh-Durham Airport to interrogate (and run a retina scan on) him, he says they came armed with a loose-leaf binder which they left open near him as he was being questioned. On an open page, he claims he was able to discern a long list of progressive political organizations. Among those he was able to make out clearly on the list: the Green Party, Greenpeace, Earth First! and Amnesty International. Six days after the interrogation in October, Stuber, an art dealer, says he has been unable to get onto a plane.

Confirmation of a TSA travel blacklist is particularly troubling to civil-liberties advocates, because the names of people to be subjected to extra security investigation are being made available to private companies. Airline computers at airport boarding gates are flagging people. These lists are not being closely held within the national security or law-enforcement files, but are apparently being widely dispersed.

In fact, this seems to be the new privatization approach of the administration when it comes to Homeland Security. The *Wall Street Journal* reported that the FBI made its list of people with even remote links to terrorism—having associated, perhaps inadvertently, with a terror suspect for example—available to a wide range of private companies, from banks and rental-car companies to casinos.

Says CCR's Olshansky: "It's bad enough when the federal government has lists like this with guidelines on how they're compiled or how to use them. But when these lists are then given private sector, there are even less controls over how they are used or misused." Since airlines always had the right to decide whether someone can board a plane, she observes that providing such a list to an airline represents a "tremendous chilling of the First Amendment right to travel and speak freely."

This week, the CCR announced that it is considering a lawsuit against the TSA. A number of whose travel has been interfered with have signed on as possible plaintiffs, and CCR is inviting those with similar experiences to contact them. Meanwhile, the ACLU has posted a no-fly complaint form to fill out on its Web site for those who are harassed or prevented from flying.

Calling the existence of such travel blacklists "an obvious and egregious violation of the First Amendment, because it permits both discrimination against a particular viewpoint and because it is a prior restraint on Americans' right to travel," CCR Legal Director William Goodman says U.S. government appears to be targeting citizens because of their beliefs. ■

Dave Lindorff, a regular contributor to *In These Times*, is the author of *Killing Time*, a novel on the case of Mumia Abu-Jamal.

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Date: 10/23/2002

To: All Field Offices

Attn: ADICs  
SACs  
IT Program Manager  
DT Program Manager

All Legats

CJIS

UC [Redacted]

Counterterrorism

Section Chiefs

From: Counterterrorism  
NJSAWS/TWWU/Room 11303  
Contact: SSA [Redacted]

Approved By: D'Amuro Pasquale  
Pistole John S  
Miller Mark E  
Cummins Arthur

b7C

Drafted By: [Redacted] odh

b2

Case ID #: [Redacted] (Pending) Sec. 8

Title: TERRORISM WATCH LIST

b5

Synopsis: This communication summarizes the evolution of the FBI's Terrorism Watch List (TWL), sets forth criteria and protocols [Redacted]

Reference: [Redacted]

b2

Details: By EC dated 03/19/2002 (see referenced serial 37), all field offices, FBIHQ Divisions and Legats were advised of the creation of a permanent Terrorism Watch List (TWL). The purpose of the TWL was to serve as a centralized repository of names of investigative interest related to terrorism investigations [Redacted]

[Redacted]

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 9-10-03 BY UC60267 NLS/AG/CAL  
CA# 03-1779

b5

From:

[Redacted]

To:

Date:

Wed, Apr 23, 2003 2:19 PM

Subject:

Talking Points for the Director Concerning the TSA No Fly/Selectee Lists

[Redacted]

b7C

Attached are the talking points you requested for the Director concerning TSA's No Fly and Selectee List.

[Redacted]

CC:

[Redacted]

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DATE 8-7-03 BY UC60267 NLS/AG/CAL  
CA# 03-1779



From: [redacted]  
To: LEGAT VIENNA  
Date: Thu, Oct 10, 2002 12:35 PM  
Subject: [redacted]

[redacted]

[redacted]

b2  
b5  
b7C  
b7D  
b7E

However, you could direct them to one of the following persons who may be able for further assistance:

[redacted]

[redacted] TSA Intelligence Watch [redacted] distributes the lists to me)

Hope this helps somewhat. I've cc'd the TSA Detailee here, [redacted] as he surely might have other names to contact.

[redacted]

>>> Legat Vienna 10/7/02 4:45:23 AM >>>

[redacted]

Additionally, I have read many e-mails back and forth on the topic of dissemination and nothing seems clear. I assume the US military can have a copy of this list. If not, kindly advise.

Thank you  
[redacted]

b7C

CC: [redacted] TSA LIST PROCESS

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DATE 8-7-03 BY UC60267 NLS/AG/CSL  
CA# 03-1779

From: [redacted]  
To: ALL LEGAT GROUP; Aviation Field 17  
Date: Tue, Sep 17, 2002 8:05 PM  
Subject: [redacted] No Fly List

b2  
b7C  
b7D

I forward the attached for your information. Knowing this group, there will undoubtedly be some wise comments and observations, which I welcome.

Thanks.

CC: Aviation-CIRG&Training; Aviation-CTD; Aviation-D...

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DATE 8-7-03 BY UC60267 NLS/AG/CL  
CA# 03-1779

[Redacted]

From:

Sent: b7C

Wednesday, June 26, 2002 4:58 PM

To:

Cc:

Subject:

Re: Meet with TSA and FBI Counsel re TSA lists

Monday at 3 is fine with me. I may be bringing a TDY agent with me, as that is his first day here and he is an Airport Agent, so this will provide the field perspective, if any such questions arise.

b7C

>>> [Redacted] 6/26/02 4:45:26 PM >>>

[Redacted] et al: TSA Counsel called and suggested Monday afternoon at 3. Is that okay with you? I assume over here so I have reserved our OGC conference room, 7426. I'll clarify details and talk to you before that.

[Redacted]

>>> [Redacted] 06/26/02 10:50AM >>>

[Redacted] please set it up as soon as possible, Mon afternoon or Tues. thanks.

>>> [Redacted] 6/26/02 10:47:21 AM >>>

Just let me know when the meeting is going to be, and where.

b7C

Thanks

[Redacted]

b2

>>> [Redacted] 06/25/02 05:00PM >>>

b7E

[Redacted] are you available early next week to go over the No Fly and Selectee lists with the TSA Counsel? As I mentioned in a previous email, I spoke with [Redacted] yesterday about the list "basics", but I was not able to identify the criteria [Redacted]

[Redacted]

[Redacted]

>>> [Redacted] 6/25/02 1:41:21 PM >>>

[Redacted] I called the TSA counsel and he wants to meet w/me, you and [Redacted] to learn more about the watchlists and what we should all do about it. I think that's a good idea. What is your availability this week and next? and can you find out what [Redacted] is?

b7C

[Redacted] Ext [Redacted]

>>> [Redacted] 06/24/02 12:19PM >>>

Attached are two pieces which I've written or contributed to relative to the Watch lists. In [Redacted] wpd, the second "bullet" talks briefly about Project Lookout transitioning into the current Watch lists. [Redacted] wpd is more extensive, and is a combination of answers provided by [Redacted] and me about the TSA lists versus other lists, i.e., the FBI's Terrorism Watch List. Perhaps this will give you some additional info, maybe not....

[Redacted]

SSA [Redacted] (fax)  
Civil Aviation Security Program, Room 11795  
Domestic Terrorism Counterterrorism Planning Section  
Counterterrorism Division  
[Redacted]

b2

b7C

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HEREIN IS UNCLASSIFIED

DATE 8/5/03 BY 60262NLS/AS/JS

CPA# 03-1779

[Redacted]

b7C

From: [Redacted]  
Sent: Thursday, June 27, 2002 1:10 PM  
To: [Redacted]  
Cc:  
Subject: Re: Meet with TSA and FBI Counsel re TSA lists

[Redacted] if at all possible I will attempt to attend this. AMC

>>> [Redacted] 06/26 10:50 AM >>>

[Redacted] please set it up as soon as possible, Mon afternoon or Tues. thanks.

b7C

>>> [Redacted] 6/26/02 10:47:21 AM >>>

Just let me know when the meeting is going to be, and where.

Thanks

>>> [Redacted] 06/25/02 05:00PM >>>

[Redacted] are you available early next week to go over the No Fly and Selectee lists with the TSA Counsel? As I mentioned in a previous email, I spoke with [Redacted] yesterday about the list "basics", but I was not able to identify the criteria, for one, as to what makes one a "known" vs a "possible" threat to aviation, and other issues re interviewing passengers on the basis of the list, etc.

b7C

>>> [Redacted] 6/25/02 1:41:21 PM >>>

[Redacted] called the TSA counsel and he wants to meet w/me, you and [Redacted] to learn more about the watchlists and what we should all do about it. I think that's a good idea. What is your availability this week and next? and can you find out what [Redacted] is?

b7C

[Redacted] Ext [Redacted]

>>> [Redacted] 06/24/02 12:19PM >>>

Attached are two pieces which I've written or contributed to relative to the Watch lists. In [Redacted] wpd", the second "bullet" talks briefly about Project Lookout transitioning into the current Watch lists [Redacted] wpd" is more extensive, and is a combination of answers provided by [Redacted] and me about the TSA lists versus other lists, i.e., the FBI's Terrorism Watch List. Perhaps this will give you some additional info, maybe not....

[Redacted]

SSA [Redacted] (fax)  
Civil Aviation Security Program, Room 11795  
Domestic Terrorism Counterterrorism Planning Section  
Counterterrorism Division  
[Redacted]

b2

b7C

ALL INFORMATION CONTAINED  
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DATE 8/5/03 BY 60267 NLS/AG/KS  
CA# 03-1779

[redacted]  
From:

Sent:

Wednesday, August 07, 2002 1:49 PM

To: b7C

Cc:

Subject:

Re: Legat dissem of No Fly List

b2

b5

b7E

All, the No Fly and Selectee lists are controlled by the TSA and as such will be disseminated by that organization. The FBI watch list is not to be disseminated outside of the U.S. intelligence community if that far [redacted]

>>> [redacted] 08/05 6:52 PM >>>  
Hi [redacted]

b7C

This is probably a tricky question depending on to whom you wish to give it and why. If you have an FAA/TSA rep at your embassy, it might be best to discuss this with them and let me know what they say. I've been answering this question for other legats, but each legat's situation may be different.

I think it should be disseminable to liaison contacts responsible for aviation-security matters, meaning the police at the airport who will be interviewing potential matches to the list. You can't conduct the interviews... Beyond that, we have made no decisions as to putting these folks in NCIC, and what to do if they are stopped on a street corner. I am permitted, by TSA regulation now, to disseminate within my agency, and the carriers are permitted to disseminate locally to law enforcement, so if you give it to law enforcement, same thing.

Hopefully, you can look at the purpose of the list, and go from there. Thanks for your question. If you run into problems or other questions, please let me know.

>>> [redacted] 8/5/02 1:11:06 AM >>>

b7C

Can we disseminate this list to foreign liaison?

[redacted]  
>>> [redacted] 08/01/02 05:58AM >>>

I've received a couple of questions from Legats about the lists, such as whether the names are in other databases, etc. I'll answer as I can and cc everyone, and then try to compile a comprehensive info sheet at some point. For example, since the FBI is only one contributor to these lists, I cannot say what other databases may contain ALL the names. However, it is very likely that a lot, if not all, of the names are in TECS and Visa/Viper, because those agencies often receive the same info that the FBI receives, and those agencies input names whether they end up on the TSA lists or not. I am hoping that any FBI entity which adds a name to this list also sees to it that the name is added to all the other lists as well.

b2

Please forward this mail as appropriate within your offices and to CP/Duty Agent. Thank you.

\*\* Recipients of this mail have either been designated as Airport Liaison Agents or have duties and responsibilities which necessitate, or are enhanced by, awareness of Transportation Security Administration (TSA - formerly FAA) security information.

These lists and general guidance for FBI response to possible name matches on TSA lists may be found at [redacted] on the FBI Intranet, and also on LEO, Special Interest Groups, FBI, Member Area. The lists are sorted two ways, alphabetically and by SID (Subject ID) number.\*\*

SSA [redacted] (fax)  
Civil Aviation Security Program, Room 11795  
Domestic Terrorism Counterterrorism Planning Section  
Counterterrorism Division

b2

b7C

ALL INFORMATION CONTAINED  
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DATE 8/5/03 BY 60367NLS/AG/JS  
CAF 03-1779

[Redacted]

From: [Redacted]  
Sent: Thursday, February 13, 2003 2:46 PM  
To: b7C [Redacted]  
Cc: [Redacted]  
Subject: TSA No-Fly List

[Redacted] Another fine issue to put on your plate. Some time ago we got into a "discussion" with TSA general counsel about criteria to put people on the No-Fly List.

[Redacted]

[Redacted]

Haven't heard anymore from TSA on doing this but I believe we should start thinking about it [Redacted]

Do you know of any movement in this area from your vantage point [Redacted] do you? [Redacted]

Anyway, something more to think about.

[Redacted]

b7C

b2  
b5  
b7C  
b7E

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DATE 2/5/03 BY 60267NLS/AG/JS  
CA# 03-1779

[Redacted]

From: [Redacted]  
Sent: b7C Thursday, October 17, 2002 11:23 AM  
To: [Redacted]  
Cc:  
Subject: Fwd: Re: Terrorism Watch List, etc.

b7C

[Redacted] I have dealt with [Redacted] in DT (who disseminates the No-Fly list to field offices and provides them guidance on what to do in response to a "hit") and the TSA people on these concerns a few months ago but not the TWL people directly. Feel free to send it to [Redacted] although I realize the criminal law/procedure concerns are not really his job to tend to directly.

[Redacted]

b7C

>> [Redacted] 10/17/02 11:06AM >>>

[Redacted] I sent the information to you for the criminal law issues that you raised, and not the intel issues. I can't determine from your response whether you are dealing with TWL people regarding the issues you raised in your response to me. If not, I'll forward your response to [Redacted] unless you did so separately. Thanks.

>> [Redacted] 10/17/02 09:46AM >>>

Thanks

[Redacted]

[Redacted]

b7C

b2

>> [Redacted] 10/16/02 01:56PM >>>

b5

[Redacted] mentioned that you would be reviewing this for ILU.

b7C

[Redacted] this is fyi

b7E

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DATE 8/5/03 BY 60267NLS/AG/JS  
CAF 03-1779

[Redacted]

From: [Redacted]  
Sent: b7C Thursday, October 17, 2002 9:46 AM  
To: [Redacted]  
Cc:  
Subject: Fwd: Re: Terrorism Watch List, etc.

Thanks, [Redacted]

[Redacted]

[Redacted]

>>> [Redacted] 10/16/02 01:56PM >>>  
[Redacted] mentioned that you would be reviewing this for ILU.  
[Redacted] this is ty!

b2  
b5  
b7C  
b7E

b7C

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DATE 8/5/03 BY 60262 NLS/AG/JS  
CA# 03-1779



[Redacted]

From: [Redacted]  
Sent: Thursday, October 10, 2002 9:11 AM  
To: b7C [Redacted]  
Subject: Fwd: Re: Terrorism Watch List, etc.

[Redacted]

[Redacted]

>>> [Redacted] 10/10/02 07:53AM >>>  
How come you were not part of this e-mail? Are you aware of this? Please review and let me know what you think.

b2  
b5  
b7C  
b7E

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DATE 8/5/03 BY 60267NLS/JS/AG  
CAF# 03-1779

b7C

movement." A  
TOOL FOR TERROR

In his testimony before Congress, Mueller described the watch list as an necessary tool for tracking individuals who had not committed a crime but were suspected of terrorist links. "It is critically important," he said, "that we have state and locals (police) identify a person has been stopped, not necessarily detained, but get us the information that the person has been stopped at a particular place." None of this makes the peace activists feel any safer -- about flying or about their right to disagree with their government.

"It's probably bad for (airport) security," said Sister Virgine. "Stopping us took a lot of staff away from checking out what else was going on in that airport." Ultimately, she said, "To not have dissent in a country like this would be an attack on one of our most precious freedoms. This is the essence of being an American citizen -- the right to dissent."

CC: [REDACTED]

From: [redacted]  
To: [redacted]  
Date: 12/26/02 2:57:25 PM  
Subject: Re: No Fly List Issue

~~SECRET~~

Hi [redacted]

No, I have not heard anything, but I would be pleased if the SACs would talk to someone about it. As with everything else these days, there probably needs to be an MOU between the TSA and all the submitting agencies that no names will go on the list without associated gender, unless the reason is compelling. No one is really fully accountable to fix the problem you describe [redacted]

b1  
b2

[redacted] (S)

[redacted]

b2  
b7E

I'm sorry I can't help you further, except that I will send a copy of the below email directly to [redacted]

b7C

By the way, I'm retiring from the FBI on 12/31, and SSA [redacted] will be the Civil Aviation Security Program manager, if you have further questions or need additional help. Please give my best to SAC Knowlton.

Regards [redacted]

>>> [redacted] 12/26/02 12:10:14 PM >>>

Do you have any update on this matter?

Thanks,

b7C

>>> [redacted] 12/12 11:20 AM >>>

[redacted]

b1  
b2  
b7E

Please talk to [redacted] to see if TSA will require the submitting agencies to put gender into the information forwarded to TSA for inclusion on the list and to please [redacted]

b7C

[redacted] (S)

9-8-03  
CLASSIFIED BY: UCL60267 NLS/AG/CAL  
REASON: 1.5 (c)  
DECLASSIFY ON: X (1)  
CS# 03-1779

~~SECRET~~

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EXCEPT WHERE SHOWN  
OTHERWISE

b7C

~~SECRET~~

I'm sure an expeditious response will be most appreciated by all concerned. Thanks. [redacted]

SSA [redacted] (fax)  
Civil Aviation Security Program, Room 11795  
Domestic Terrorism Counterterrorism Planning Section  
Counterterrorism Division

b2  
b7C

>>> [redacted] 12/10/02 12:08:13 PM >>>

SAC Knowlton would like a resolution to a recurring problem we've encountered in LV regarding a No-Fly List (NFL) issue.

[redacted] (S)

b1

[redacted] This problem has occurred several times over the past few months and has not been rectified. (S)

Your attention in this matter is very much appreciated.

[redacted]

b7C

CC: Aviation-CAS Program; [redacted]

~~SECRET~~

-----Original Message-----

From: [redacted] (FBI) [redacted]  
Sent: July 06, 2002 2:51 PM  
To: [redacted]  
Cc: [redacted]  
Subject: Re: TSA No Fly List

[redacted]  
[redacted]  
[redacted]

----- Original Message -----

From: [redacted] (FBI) [redacted]  
To: [redacted]  
Cc: "[redacted]"  
(E-mail) [redacted]  
Sent: Friday, July 05, 2002 5:50 PM  
Subject: Re: TSA No Fly List

b2  
b7C  
b7D  
b7E

Hello [redacted]

[redacted]  
[redacted]  
[redacted]

[redacted]

[redacted] Supervisory Special Agent  
Civil Aviation Security Program  
Special Events Management Unit, Room 11795  
Domestic Terrorism Counterterrorism Planning Section  
Counterterrorism Division  
Federal Bureau of Investigation  
[redacted] (fax)

----- Original Message -----

From: [redacted]  
To: [redacted]  
Cc: [redacted]  
(E-mail) [redacted] (E-mail) [redacted]

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DATE 8-8-03 BY 4660267 NLS/AG/CL  
60403-1779

[Redacted]

From: [Redacted] (FBI) [Redacted]

To: [Redacted]

References: [Redacted]

Subject: Re: TSA No Fly List

Date: Tue, 18 Jun 2002 21:31:57 -0400

b2  
b7C  
b7D

Hi - I'm working late, which gives me time to answer. I have been =  
preaching the exact same problems here, but perhaps it will mean more to =  
my bosses coming from you. [Redacted]

[Redacted]

b2  
b5  
b7C  
b7D  
b7E

[Redacted]

[Redacted]

[Redacted]

[Redacted]

b7C

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FEDERAL BUREAU OF INVESTIGATION  
FOIPA  
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Serial Description ~ COVER SHEET

04/09/2003

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Page 58 ~ b2, b5, b7C, b7D  
Page 59 ~ b5, b7C, b7D

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Privacy Issues - Follow-up

Follow-up after 12-20-02 Mtg with Director on Privacy Issues

Racial Profiling - Check on OLP Guidance (Done-Nothing forthcoming)

Re: Watch Lists (TWL, No Fly List/Selectee List)

Talk to Larry Mefford about Protocols as to who goes on list, and how names can be removed, criteria for Terry category of detain for questioning by FBI [redacted]

Follow-up on MOU re: Tip-Off Terror names into NCIC [redacted]

b7C

Re: Investigations relating to Public Places and Events

CDC Conference scheduled for January, put it on agenda for discussion to determine whether it is being done, whether they have concerns [redacted]

Re: Schools/Libraries

Prepare EC or e-mail instructing that if making non-specific request for records in absence of predication, check with OGC [redacted] (TLU)

Technology Review Board

Move forward on design, formation [redacted] (TLU)

Designate OGC Attorney to monitor ongoing privacy issues [redacted]

Prepare Talking Points ( )

Prepare Briefings/Speeches ( )

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CA# 03-1779

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 11/19/02 WSJ A1  
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 2002 WL-WSJ 103126477

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Rank 5 of 274

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The Wall Street Journal  
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CA# 03-1779

Tuesday, November 19, 2002

Far Afield: FBI's Post-Sept. 11 'Watch List' Mutates, Acquires Life of Its Own

Bureau Gave It to Companies; Now, Out-of-Date Versions Dog Some People Named

Still Citing the Atta Brothers  
 By Ann Davis

LAS VEGAS -- When a patron at the New York-New York casino plugged his frequent-player card into a slot machine one day this summer, something strange happened: An alert warned the casino's surveillance officials that an associate of a suspected terrorist might be on the grounds.

How did a casino's computer make such a connection? Shortly after Sept. 11, th FBI had entrusted a quickly developed watch list to scores of corporations around the country.

Departing from its usual practice of closely guarding such lists, the FBI circulated the names of hundreds of people it wanted to question. Counterterrorism officials gave the list to car-rental companies. Then FBI field agents and other officials circulated it to big banks, travel-reservations systems, firms that collect consumer data, as well as casino operators such as MGM Mirage, the owner of New York-New York. Additional recipients included businesses thought vulnerable to terrorist intrusion, including truckers, chemical companies and power-plant operators. It was the largest intelligence-sharing experiment the bureau has ever undertaken with the private sector.

A year later, the list has taken on a life of its own, with multiplying -- and error-filled -- versions being passed around like bootleg music. Some companies fed a version of the list into their own databases and now use it to screen job applicants and customers. A water-utilities trade association used the list "in lieu of" standard background checks, says the New Jersey group's executive director.

The list included many people the FBI didn't suspect but just wanted to talk to. Yet a version on Segured.com, a South American security-oriented Web site that got a copy from a Venezuelan bank's security officer, is headed: "list of suspected terrorists sent by the FBI to financial institutions." (The site's editor says he may change the heading.) Meanwhile, a supermarket trade group use a version of the list to try to check whether terrorists were raising funds

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11/19/02 WSJ A1

through known shoplifting rings. The trade group won't disclose results.

The FBI credits the effort, dubbed Project Lookout, with helping it rapidly find some people with relevant information in the crisis atmosphere right after the terror attacks. MGM Mirage says it has tipped off the FBI at least six times since beginning to track hotel and casino guests against the list.

The FBI and other investigative agencies -- which were criticized after Sept. 11 for not sharing their information enough -- are exploring new ways to do so, including mining corporate data to find suspects or spot suspicious activity. The Pentagon is developing technology it can use to sweep up personal data from commercial transactions around the world. "Information sharing" has become a buzzword. But one significant step in this direction, Project Lookout, is in many ways a study in how not to share intelligence.

The watch list shared with companies -- one part of the FBI's massive counterterrorism database -- quickly became obsolete as the bureau worked its way through the names. The FBI's counterterrorism division quietly stopped updating the list more than a year ago. But it never informed most of the companies that had received a copy. FBI headquarters doesn't know who is still using the list because officials never kept track of who got it.

"We have now lost control of that list," says Art Cummings, head of the strategic analysis and warning section of the FBI's counterterrorism division. "We shouldn't have had those problems."

The bureau tried to cut off distribution after less than six weeks, partly from worry that suspects could too easily find out they had been tagged. Another concern has been misidentification, especially as multipart Middle Eastern names are degraded by typos when faxed and are fed into new databases.

Then there's the problem of getting off the list. At first the FBI frequently removed names of people it had cleared. But issuing updated lists, which the FBI once did as often as four times a day, didn't fix the older ones already in circulation. Three brothers in Texas named Atta -- long since exonerated, and no relation to the alleged lead hijacker -- are still trying to chase their names off copies of the list posted on Internet sites in at least five countries.

People who've asked the FBI for help getting off the bootleg lists say they've been told the bureau can't do anything to correct outdated lists still floating around. The FBI's Mr. Cummings says that "the most we can control is our official dissemination of that list." Once it left the law-enforcement community, "we have no jurisdiction to say, 'If you disseminate this further, we will prosecute you.'"

Despite the problems, Mr. Cummings and other proponents of information-sharing say the process should be improved, not abandoned. Software companies are rushing to help, trying to make information-sharing easier and more effective.

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Systems Research & Development in Las Vegas is among those working on ways to make exchanging law-enforcement and corporate information a two-way street without compromising privacy. "I believe there's probably 10 to 50 companies in America that across them touch 80% to 90% of the entire country," says SRD founder Jeff Jonas, citing credit-card companies, banks, airlines, hotel chains and rental-car companies. "There should be a protocol in place that corporate America could be plugged into that allows them to say, 'We'd like to help,' " he says.

But some officials at the U.S. Customs Service, the Office of Homeland Security and the FBI's own Criminal Justice Information Services Division doubt the wisdom of circulating watch lists widely, and some say they didn't even know about Project Lookout. Civil libertarians worry about enlisting companies to track innocent people for the government. Many companies say they need to be insulated from liability if they're expected to share data on people with the government.

"It's a tough, tough box to get into. You end up with legitimate concerns about moving into Orwell's '1984,'" says Henry Nocella, an official of Professional Security Bureau Ltd. in Nutley, N.J., and a former security director at Bestfoods. "Yet you know there's a need to collect and analyze information."

Before Sept. 11, the government rarely revealed the names of terrorism suspect to companies. The exception was when it had a subpoena for specific information the government believed a company had about a person under investigation. But after the attacks, counterterrorism officials were concerned that members of terrorist cells could have slipped undetected into companies or communities. They feared that by the time they figured out where to direct subpoenas, the suspects could get away or even stage another attack.

Holed up in a "strategic information and operations center" in Washington, a small circle of FBI officials decided on Sept. 15, 2001, to put out a broad heads-up to state and local police and to trusted companies. "We're not playing games here. This was real life. We wanted as many people as possible to know this is who we wanted to talk to," says Steven Berry, an FBI spokesman.

Agents cast a wide net that, by its nature, included scores of innocent people. They started by using record searches and interviews to identify "anybody who had contact" with the 19 hijackers, Mr. Cummings recalls. Kevin Giblin, chief of the terrorist warning unit, decided that car-rental companies and local police should be the first outside of the airlines to get the list. One firm that received it, Ford Motor Co.'s Hertz unit, says it checked the list against its records and told the FBI of any matches, but then basically let the list lie dormant.

Trade groups proved a quick way to spread the word. The FBI gave the list to the Transportation Department. It shared the names with the American Trucking Associations, which promptly e-mailed the list to nearly 3,000 trucking companies. The International Security Management Association, an elite group of executives at 350 companies, put the list on a password-protected part of its Web site, allowing members to scan it in private, members say.

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On their own, FBI field agents shared the list with some chemical, drug, security-guard, gambling and power-plant companies, according to interviews with companies. The FBI's Mr. Giblin says he hadn't realized how extensively field agents distributed the list. But he says agents have considerable autonomy and are expected to keep close ties to companies in their area.

One field agent, Daron Borst of the FBI's Las Vegas office, says, "I do remember very distinctly the attitude of the country was, 'Do something.' This was one way to get out there and develop an intelligence base. The other option was to sit in our offices and wait for the phones to ring."

Mr. Giblin says that by Oct. 23 of 2001, he had notified police agencies that the bureau was no longer looking for the people on the watch list. But he made arrangements to tell businesses. Indeed, Southern Co. didn't receive its list until November 2001, when FBI field agents in Alabama asked the power company to "see if any folks on the list . . . had [customer] accounts," says a company spokeswoman, Laura Varn. The FBI declines to comment on the timing.

Mr. Giblin says the bureau stressed to recipients that the people named weren't all suspects. "This wasn't a blacklist," he says.

Mark Deutch landed on the list. A financier from Boone, N.C., he works on deals for Middle Eastern investors. On Sept. 11, he was scheduled to begin a flight that would take him to Washington -- using a ticket purchased by a Saudi business partner. After interviewing Mr. Deutch, the FBI removed his name.

But even now, Mr. Deutch says, nearly every time he does a Google search of the Internet, he finds another version of the list that still has his name on it. He says he is searched so often at airports that he has curtailed his flying. He says it once took him nearly two hours to get a rental car from Budget in Florida. Budget Group Inc. had no comment about Mr. Deutch's experience except to say it gave the FBI historical reservations data right after Sept. 11 and "we have not been asked in recent months to assist the FBI in this manner." Mr. Deutch says his worst fear is "an unstable person getting hold of the name and wanting to take some sort of revenge."

The initial list also named Asem Atta. Mr. Atta, a Pakistani programmer who once worked for Enron Corp., wasn't hiding. He has his own Web site, which proclaims his affection for the rock band Red Hot Chili Peppers, his dislike for the color purple and his love of a special hummus recipe.

The FBI later removed Mr. Atta and two brothers from updated versions of the watch list. The brothers declined to comment, but Rhonda Atta, the U.S.-born wife of one of them, recently called the FBI to complain about several lists that still include the brothers. She cited an Italian Web site and one in Mexico. Ms. Atta says an FBI agent in Texas told her it didn't have control over those sites and she needed to write the sites a letter.

At DuPont Co., global security manager William Reiter says he ran the FBI watch

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list against all 97,000 DuPont employees. He also sent a printout to managers at hazardous-chemical plants and asked them to check the names of vendors' employees, warning: "If you find anybody, do not confront them. Go to your local terrorism task force." DuPont saw a few names it had questions about, but none turned out to be the people the FBI was interested in.

The absence of addresses, dates of birth and Social Security numbers for many names made some companies fret that the lists were an invitation to misidentify people. At Securitas Holdings Inc., a unit of Securitas AB that runs the Pinkerton and Burns security-guard businesses, Chairman Don Walker says he compared a watch list of about 150 to 175 names against his payrolls once, then told the FBI to take it back.

The few hits he got turned out to be the wrong person. Mr. Walker says he was uncomfortable participating in "a snitch system" based on possibly faulty data. "We didn't feel like it was information that was something you could make a decision about. You get a name and what are you going to do with it? Are you not going to hire anybody with that name?"

Airline Automation Inc., a Tucson, Ariz., company that helps airlines process reservations, says that early on, it was receiving four or five versions of the list a day from an airline client. Using a "fax of a fax," staffers furiously pecked names into a database. "Some of the names were so smudged it was difficult to see. . . . The 'o's blurred into 'e's," says Frank Arciuolo, an executive vice president. The FBI later sent some companies electronic versions.

Few companies had the skills to detect whether Middle Eastern names had errors or to check for common alternative spellings. Airline Automation called in Language Analysis Systems Inc., a name-recognition-software firm in Herndon, Va. A list reviewed by the language firm's chief executive, Jack Hermansen, for The Wall Street Journal contained a number of first names of Abdul, which Mr. Hermansen says is almost never a complete first name on its own. "The risk is that you'll match many, many Abduls. It's like looking for 'Mac' in the Scottish phone book," he says. Other entries looked as if they'd been transcribed by an optical scanning machine with some mistaken letters.

By the time the FBI tried to close out its list, at least 50 versions were floating around, say people who saw numbered ones. Some companies were asking software firms such as Systems Research & Development how to make better use of the lists. SRD, which is financed in part by a venture-capital arm of the Central Intelligence Agency, has a program called NORA, for Non-Obvious Relationship Awareness. It mines data to detect hard-to-see links between people, such as use of the same residence or phone number.

MGM Mirage -- which was already using NORA to check hotel and casino guests' names against a lot of lists, such as those of people whose assets have been frozen -- began using the software with the FBI watch list. This is how Patricia Fischer, an MGM surveillance executive, got a computer alert this summer about the gambler at the New York-New York casino. She decided the gambler's link to

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the watch list was too tenuous to pass on to the FBI: The man merely lived in an apartment building across the street from someone whose name had once had been on the list but had been removed. NORA software had made the link.

Though MGM's list is out of date, Alan Feldman, an MGM senior vice president, figures that "it's better to have the information than not, on the off chance that something might develop from one of the names even though it had been removed. . . . We don't see the harm in it." Mr. Feldman says "the beauty of the system is that we're getting advance information" such as a hotel reservation and "watch for you to come in."

The FBI's Mr. Giblin says when he fields tips nowadays from companies that have the watch list, he tells them it's obsolete. But not all field offices turn down such tips.

There are conflicting views in the government about how far to go in recruiting companies as law enforcement's eyes and ears. The Office of Homeland Security says it has no plan to share with companies a master list it's compiling that consolidates watch lists from various agencies. SRD, meanwhile, is trying to interest companies and the FBI in software that would allow them to query one another about possible matches without letting them see each other's data.

If the government does decide to disseminate watch lists in the future, it won't face high legal hurdles, says Daniel Ortiz, a law professor at the University of Virginia. He says someone who appears wrongly on a watch list could ask for a correction but couldn't prevent the list's circulation or sue the government for damages under current privacy laws. The government just has to be careful not to single people out solely on race or ethnicity.

Businesses face more jeopardy, however. Many industries, such as cable companies and banks, operate under special privacy laws preventing them from giving customer information to the government without a subpoena.

Galileo International, which processes millions of air, hotel and car-rental reservations, has discussed ways the government might link up to Galileo's system. The firm, a unit of Cendant Corp., hasn't gone forward in part because of both privacy and liability concerns, says Paul Quade, a vice president.

"If the government comes out with an indemnification or firewall or total privacy system, we'd be happy to participate in anything that serves homeland security," Mr. Quade says. "I don't think anybody's come up with a solution yet that we can use to identify dangerous people and at the same time protect real people."

---  
Question: Should companies be given the names of people the FBI wants to interview in its counter-terrorism efforts? Visit [WSJ.com/Question](http://WSJ.com/Question) to vote.

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Tough Call

Enlisting corporations to help terror investigators has benefits and pitfalls:

PROS

- Could help find terror suspects more quickly.
- Vastly increases information at law enforcement's disposal.
- May help vulnerable companies discover terrorist intruders before being attacked.

CONS

- Increases chance of mistreatment or misidentification of innocent people.
- List could fall into terrorists' hands, leading them to assume new identities.
- Raises fears that government will store corporate data for future, nonterror uses.

----- INDEX REFERENCES -----

COMPANY (TICKER): Mgm Grand Inc. (MGG)

NEWS SUBJECT: Executive Government; Law Enforcement; Justice Department; Treasury Department; September 11 Terrorist Attacks; Acts Of Terror; Newspapers' Section Fronts; Law Enforcement; Management Issues; Management Issues; Front-Page Stories; Page-One Story; Public Policy & Regulatory Issues; Regulation/Government Policy; Dow Jones Total Market Index; Wall Street Journal; English language content; Content Types; Corporate/Industrial News; Crime/Courts; Political/General News; Crime; Government Bodies; Domestic Politics (GVEXE GHOME GVJUS GVTRE 911 GTERR FRT LEN MNT C41 PAG NPAG PBP C

MARKET SECTOR: Consumer Cyclical; Newswire More Code; Newswire End Code (CYC MMR NND)

INDUSTRY: Casinos & Gambling; All Entertainment & Leisure (CNO ENT)

PRODUCT: Wall Street Journal Graphics (PIC)

GOVERNMENT: Executive Branch; Federal Bureau of Investigation (FBI); Justice Department; Treasury Department; U.S. Government Agencies (EXE FBI JUS TRE USG)

REGION: North America; Nevada; United States - Nevada; United States; United States; Western U.S.; North American Countries (NME NV USNV US USA USW NAMZ)

LAYOUT CODES: Page One Umbrella; Right Leader (PGO RGT)

Word Count: 2974  
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Serial Description ~ COVER SHEET

08/06/2003

Total Deleted Page(s) ~ 5

Page 2 ~ b5, b7C

Page 3 ~ b2, b5, b7C, b7E

Page 4 ~ b2, b5, b7C

Page 6 ~ b5, b7C

Page 7 ~ b5, b7C

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X Deleted Page(s) X  
X No Duplication Fee X  
X for this Page X  
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b7C

From: SIOC  
To: TMU, TRANSPORT, Watch  
Date: Tue, Apr 22, 2003 9:18 PM  
Subject: 4/22/03 NewsEdge Article re ACLU seeks government data regarding secret "no-fly" list

**ACLU seeks government data regarding secret "no-fly" list**

SAN FRANCISCO (AP) The American Civil Liberties Union sued the FBI and other government agencies Tuesday on behalf of two peace activists detained at an airport because their names popped up on a secret "no-fly" list.

The women were among 339 travelers briefly detained and questioned at San Francisco International Airport during the past two years after their names were found in the database, the ACLU said, citing government documents. Those travelers ultimately were allowed to continue on their journeys.

"Thousands of passengers are likely being subjected to the same sort of treatment at airports across the country," said Jayashri Srikantiah, an ACLU attorney.

The database was created after the Sept. 11 terrorist attacks as a way to prevent potential terrorists from boarding planes. The Transportation Security Administration gets names from law enforcement officials and gives the lists to airlines to screen passengers.

The ACLU is asking a federal judge to demand that the TSA, FBI or the Justice Department disclose who is on the list, how they got on it and how they can get off it.

The plaintiffs, Rebecca Gordon and Janet Adams, publish the San Francisco-based War Times. They were stopped in August while checking in for a flight to Boston.

"It was very distressing," Gordon said. The two invoked the Freedom of Information Act to demand that authorities reveal why they were stopped. The TSA did not respond to their request and the FBI said no files on the two existed, the ACLU said.

An FBI spokesman on Tuesday referred inquiries to the TSA. TSA spokesman Niko Melendez said those on the no-fly list pose, or are suspected of posing, a threat to civil aviation and national security. He added that the agency does "not confirm the presence of a particular name of an individual on a list."

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CAF-03-1779

[Redacted]

From: [Redacted]  
Sent: Friday, April 25, 2003 6:21 PM

To: [Redacted]

Cc: b7C

Subject: ACLU, et al. v. FBI, et al (N.D. Cal.)

b5  
b7C

[Large Redacted Block]

Thanks [Redacted]

b7C

-----Original Message-----

From: [Redacted]  
Sent: Wednesday, April 23, 2003 8:01 AM  
To: [Redacted]  
Subject: News?

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DATE 1/16/03 BY 60367 NLS/AG/JS  
CA#03-1779

### 'No Fly' List Is Challenged In A Lawsuit

The New York Times

By Eric Lichtblau

April 23, 2003

WASHINGTON, DC -- Civil rights advocates demanded today that the federal government explain how hundreds of people — some of them vocal critics of the Bush administration — have ended up on a list used to stop people suspected of having terrorist links from boarding commercial air flights.

In a lawsuit filed in San Francisco, the American Civil Liberties Union said government officials had improperly withheld information about how people wind up on the "no fly" list, what steps are taken to ensure its accuracy and how people who are erroneously detained at airports can get their names off the list. "Without even basic information about the no-fly list or other watch lists," the lawsuit said, "the public cannot evaluate the government's decision to use such lists." Since the attacks on Sept. 11, 2001, the **FBI** and federal transportation officials have generated secret lists of people suspected of having terrorist ties who should be stopped and questioned if they try to board an airplane.

Law enforcement officials say the policy is a necessary safeguard to prevent the type of security lapses that allowed two of the Sept. 11 hijackers to board a plane even though intelligence officials had reason to suspect they were terrorists. But the so-called no-fly lists have generated criticism. Many people have been mistakenly stopped, while others assert they were on the list in part because of their strong liberal politics. In a well-publicized incident last year, some two dozen members of a group called Peace Action of Wisconsin, including a priest, a nun and high school and college students, were detained in Milwaukee

en route to a "teach-in" and missed their flight.

In San Francisco, meanwhile, Rebecca Gordon and Janet Adams, two self-described peace activists who help run a publication called War Times that has been critical of the administration's terrorism policies, were detained on their way to Boston. An American Trans Air employee told them their names appeared on a no-fly list, according to the A.C.L.U. lawsuit, which includes both women as plaintiffs. Officials insisted they were not seeking to single out legitimate political critics. Ms. Adams's name may have been similar to that of another person on the no-fly list, they said. Ms. Adams said in an interview that "it strains my credulity" to think that her longtime role as a political advocate did not play a part in the incident. "It's bad enough that the government is stopping people in these vast quantities," she said.

"But then to learn that you can't even find out why they did it is just an additional injury." In its lawsuit, the civil liberties union said it had documented 339 cases since the Sept. 11 attacks in which people at San Francisco International Airport were stopped and questioned because they were thought to be on the no-fly list. While the group's investigation has focused on San Francisco because of complaints there, it said the situation there offers a window into what is happening at airports around the country, based on anecdotal evidence the group has collected. "There's every reason to believe this is happening at airports around the country," said Jayashri Srikantiah, staff lawyer for the A.C.L.U. of Northern California.

The civil liberties union brought the lawsuit under the Privacy Act and the Freedom of Information Act after federal officials turned down several months of requests for information on the passenger lists. The FBI told the group in a letter last December that it found "no records pertinent" to the no-fly issue. But A.C.L.U. officials said records from the San Francisco airport showed that the FBI was contacted about many of the airport detentions. Officials at the Transportation Security Administration, named as a defendant in the suit, did not return calls seeking comment. Officials at the FBI, also named as a defendant, said they could not comment because the lawsuit was pending.

But a law enforcement official, who would speak only if not named, acknowledged that there was confusion in the public about how the no-fly lists were created and executed. The official said the FBI provided intelligence on people suspected of links to terrorism, which was relayed to the transportation security agency. Transportation officials then provide airlines and airports with lists of people to look for at airports. The security agency "needs to do a better job of explaining what this list is," the official said. The official insisted that politics had nothing to do with who makes the list, saying that "people that are expressing their constitutional rights of free expression would not come to the attention of the FBI."

Subject: 4/22/03 NewsEdge Article re ACLU seeks government data  
regarding secret "no-fly" list

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THE WALL STREET JOURNAL.

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TO: [Redacted] FROM: Ann Davis  
 COMPANY: FBI DATE: 1/8/03  
 FAX NUMBER: [Redacted] TOTAL NO. OF PAGES INCLUDING COVER: 19 b2  
 PH: [Redacted] SENDER'S REFERENCE NUMBER: b7C  
 YOUR REFERENCE NUMBER: Phone: 212-416 3318  
 RE: "no fly" claims Fax: 212-416 2653; cell 917-797-8701

- URGENT     FOR REVIEW     PLEASE COMMENT     PLEASE REPLY     PLEASE RECYCLE

NOTES/COMMENTS

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THE LIBERTY STREET, 10TH FLOOR, NEW YORK, NY 10291

Davis, Ann

From: Davis, Ann  
Sent: Wednesday, January 08, 2003 2:26 PM  
To:   
Cc: Davis, Ann  
Subject: "No Fly" claims

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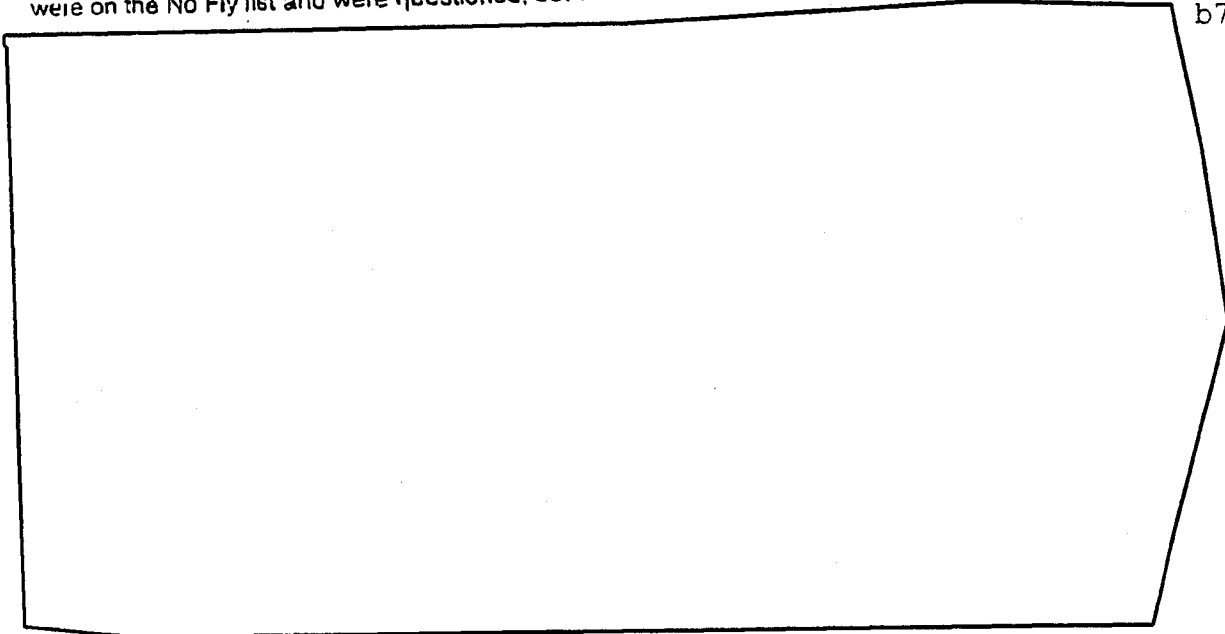
Dear

b7C

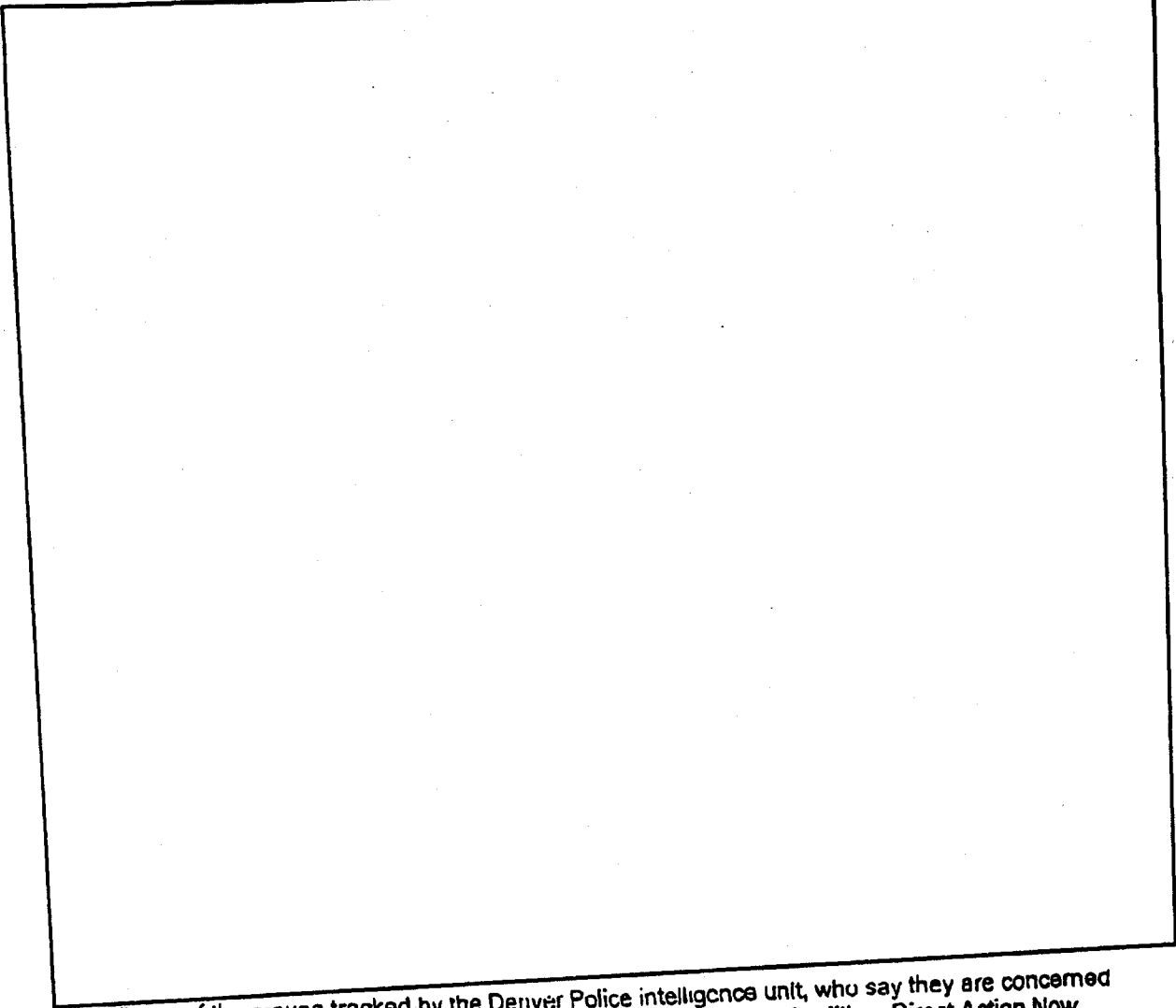
As promised, here is a more comprehensive list of some of the activists who claim to have been placed on the federal No Fly List or its companion, the Selectee list. I have also noted a few others who claim they have been placed on the VGTOFF list or are monitored by local police or federal investigators. Some of these individuals say they've been arrested over the years for what they call non-violent civil disobedience—such things as protesting without a permit, refusing to leave government offices/sites when police tried to break up demonstrations, or trespassing. Others say they have no criminal record at all. I may learn of additional claims while you're traveling, so if you'd like me to pass the new examples on to anyone before your return on 1/17, please just let me know. I'll also print this out and fax it with any articles that might help fill out these activists' versions of what they say happened. Since there are many possible reasons why these people were stopped, it will be very helpful to hear from you and work with you on this. I've listed contact information at the bottom of the email; don't hesitate to get in touch with me if you have a question. Also, I just need to add my standard request here: please don't relay my interest in this topic, or the examples I have compiled, to other news organizations. Thank you again for being so responsive.

Regards,  
Ann Davis

1) Jan Adams and Rebecca Gordon (already sent to you); in their 50s, stopped at San Francisco airport on 8/7/02; publishers of an anti-war publication called War Times; claim they were told they were on the No Fly list and were questioned, but then were allowed to fly.



b7C



b7C

10) Some of the groups tracked by the Denver Police intelligence unit, who say they are concerned they are being tracked statewide or nationwide, include the Chlapas Coalition, Direct Action Now, Pikes Peak Justice & Peace Commission, Citizens for Peace in Space, Justice for Mena, Amnesty International, American Friends Service Committee, End Politics of Cruelty, and the Colorado Coalition for Prevention of Nuclear War.

**Ann Davis**  
**The Wall Street Journal**  
Please note we have moved back to our original offices:  
200 Liberty Street, 10th Fl.  
New York, NY 10281  
Voice: 212.416.5318  
Fax: 212.416.2653  
Cell: 917.797.8701  
Email: ann.davis@wsj.com



Davis, Ann

From: Davis, Ann  
Sent: Wednesday, January 08, 2003 2:26 PM  
To: [Redacted]  
Cc: Davis, Ann  
Subject: "No Fly" claims

CA# 03-1779  
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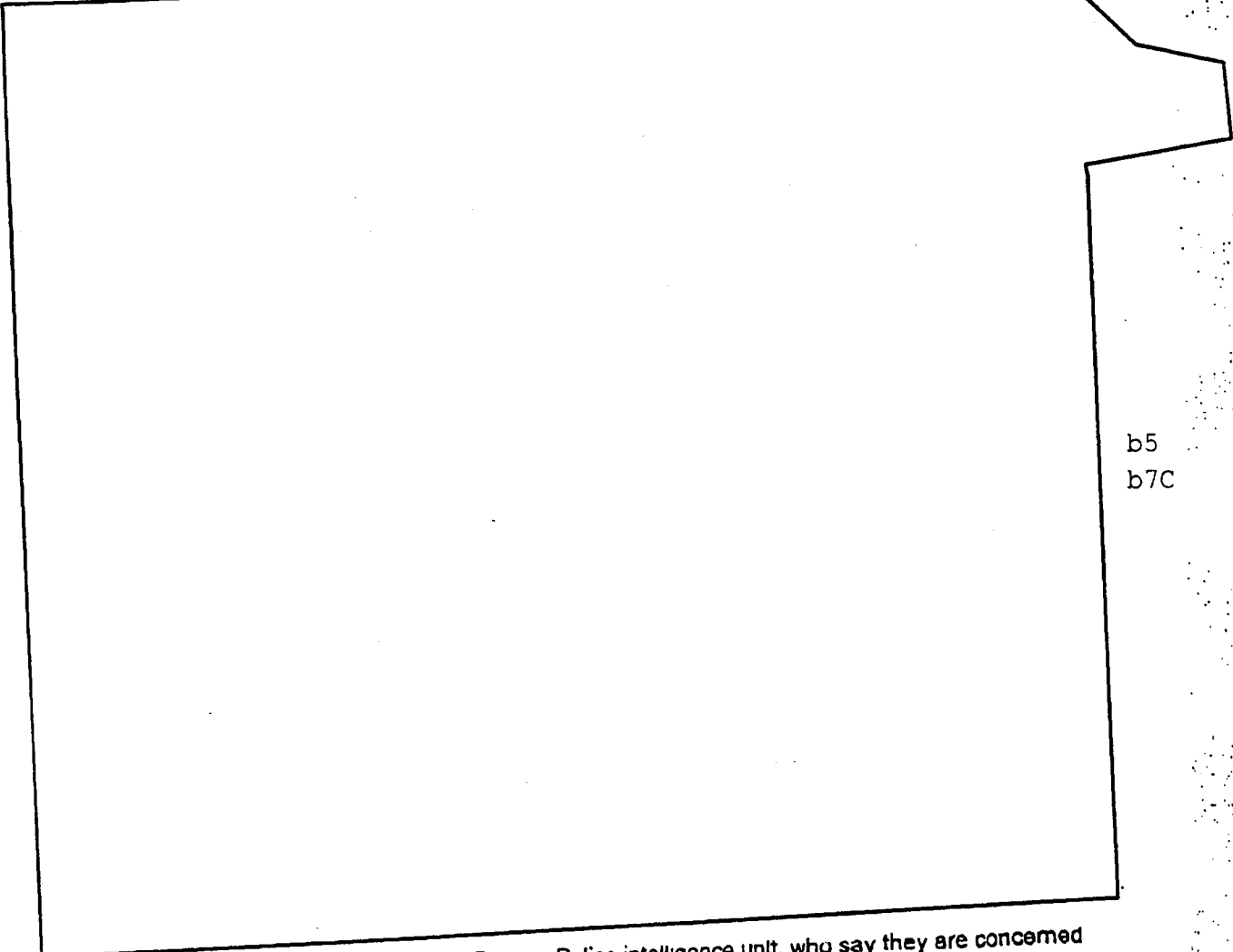
b7C

1) Jan Adams and Rebecca Gordon (already sent to you); in their 50s, stopped at San Francisco airport on 8/7/02; publishers of an anti-war publication called War Times; claim they were told they were on the No Fly list and were questioned, but then were allowed to fly.

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**Ann Davis**  
**The Wall Street Journal**  
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New York, NY 10281  
Voice: 212.416.3318  
Fax: 212.416.2653  
Cell: 917.797.8701  
Email: [ann.davis@wsj.com](mailto:ann.davis@wsj.com)

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FACSIMILE TRANSMITTAL SHEET

TO: [Redacted] FROM: Ann Davis b2  
 CC: [Redacted] DATE: 1/6/03 b7C  
 FAX NUMBER: [Redacted] TOTAL NO. OF PAGES INCLUDING COVER: 21  
 PHONE NUMBER: [Redacted] SENDER'S REFERENCE NUMBER: Phone 212 416 3318  
 RE: "no fly" YOUR REFERENCE NUMBER: ann.davis@wsj.com

URGENT  FOR REVIEW  PLEASE COMMENT  PLEASE REPLY  PLEASE RECYCLE

NOTES/COMMENTS:

re: our discussion today.

I will get you more specifics but here are 3 examples of activists with questions about how they were tracked —

① Jan Adams + Rebecca Gordon — stopped at San Francisco airport } 6 pp

② [Redacted] } 2 pp

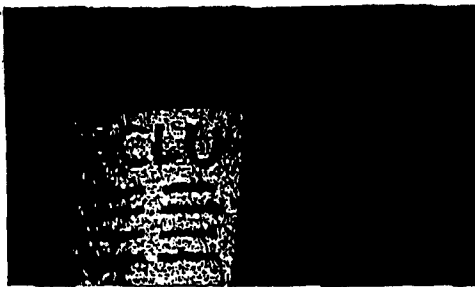
③ ACLU chronology of Denver } 12 pp

police case on intelligence files  
(I am providing this as background; the ACLU materials do not refer to the FBI)

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NEW YORK, N.Y. 10281

Speak with  
you soon  
— Thanks

CA# 03-1779

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## ACLU-NC Press Release

For Immediate Release:

December 12, 2002

Press Contact:

Stella Richardson ACLU-NC, 415-621-2493

### ACLU Seeks Government Accountability Regarding Federal "No Fly" List ACLU Files Request under the Freedom of Information Act and Privacy Act

**SAN FRANCISCO** – The ACLU of Northern California filed requests under the Freedom of Information Act (FOIA) and the Privacy Act seeking information about the government's "no fly list" and other government watch lists today. The requests were filed on behalf of Jan Adams and Rebecca Gordon, who were told by airline agents that their names appeared on a "no fly" list at San Francisco International Airport (SFO). The requests were filed with the Transportation Security Agency (TSA), the FBI in Washington D.C., and the FBI in San Francisco.

"We want to find out how a person's name gets on government watch lists like the "no fly" list, and how a person can get their name off such lists," said Jayashri Srikantiah, staff attorney with the ACLU of Northern California. "There should be public accountability as to government watch lists like the "no fly" list."

The requests also seek information on the number of names on the "no fly" list or other government watch lists, the number of times that individuals were incorrectly identified as being on such lists at SFO and other airports across the country, and whether individuals are targeted for such lists based on First Amendment activity.

On November 14, 2002, the ACLU-NC sent a request to SFO under the California Public Records Act asking for documents relating to the SFO incident involving Jan Adams and Rebecca Gordon. SFO responded by providing documentation confirming the existence of a "no-fly" list, and also confirming that Ms. Adams' and Ms. Gordons' names were checked against a master "FBI list."

Jan Adams and Rebecca Gordon were stopped at SFO on August 7, 2002 when they checked in for an American Trans Air (ATA) flight to Boston via Chicago. The ATA agents who checked them in told them that their

names appeared on a "no fly" list. San Francisco police arrived and informed Ms. Adams and Ms. Gordon that the police would have to check whether their names appeared on a "master list." Although they were eventually allowed to fly, their boarding passes were marked with a red "S," which subjected them to additional searches at SFO.

Download the following Freedom of Information Act and Privacy Act request letters by clicking on the links. Jan Adams: [FBI \(San Francisco\)](#), [FBI \(Washington, DC\)](#), [Transportation Security Administration](#). Rebecca Gordon: [FBI \(San Francisco\)](#), [FBI \(Washington, DC\)](#), [Transportation Security Administration](#). For more information about their story go to <http://www.aclunc.org/911/backlash/>

###

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The American Civil Liberties Union of Northern California  
1663 Mission Street, Suite 460, San Francisco, CA 94103  
(415) 621-2493

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San Francisco International Airport

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P.O. Box 2097  
San Francisco, CA 94128  
Tel 650.821.5000  
Fax 650.821.5005  
www.flysfo.com

November 22, 2002

American Civil Liberties Union  
Foundation of Northern California  
1663 Mission Street, Suite 460  
San Francisco, CA 94103

Attn: Jayashri Srikantiah

Re: Public Records Act Request Dated November 14, 2002  
Your Clients: Rebecca A. Gordon; Janet A. Adams  
Date of Incident: August 7, 2002

AIRPORT  
COMMISSION  
CITY AND COUNTY  
OF SAN FRANCISCO

WILLIE L. BROWN, JR.  
MAYOR

HENRY L. ULRMAN  
PRESIDENT

LARRY MAZZOLA  
VICE PRESIDENT

MICHAEL S. STRUNSKY

LINDA S. CRAYTON

CAROLITO

JOHN L. MARTIN  
AIRPORT DIRECTOR

Dear Ms. Srikantiah:

This is in response to your Public Records Act Request dated November 14, 2002, received in my office on November 15, 2002.

I enclose copies of all responsive documents you requested which are under the custody of the San Francisco International Airport and which are a matter of public record:

1. Calls for Service Report: Call ID: 02000060761 for 8/7/02 event;
2. Event Chronology for Event Number: P02000060761 for 8/7/02 event;
3. Unit Information for 8/7/02 event.

Your request for "protocols that were followed or consulted in relation to the August 7 incident" contains sensitive security information that is controlled under the provisions of 49 CFR Part 1520 and request for such protocols must be directed to the Under Secretary of Transportation for Security, Washington, DC 20590.

As you requested in your letter, I am providing copies of these documents to your office at no duplicating cost.

Very truly yours,

John L. Martin  
Airport Director

Enclosures

Calls For Service Report Call ID: 0200060761				Printed: November 18, 2002	
1. Agency SFPD	2. Person Received Complaint	3. Date/Time Received 08/07/2002 4. Time Dispatched 22:18	5. Time Arrived 22:28 6. Time Complete 22:36	7. Case # -	
8. Nature Of Incident	SUSP PERSON				
9. Location Of Incident	200, L2 CA				
10. Victim or Caller	[Redacted] b7C				
11. Classification	12. How Received	13. Disposition NO MERJT	14. Officer	15. Date Submitted 08/07/2002	

Notes: 2 PSGR ON NO FLY LIST. AWARE PD IS RESP & COOP MTF 1- REBBECA ALLISON GORDON WFA DOB 06-29-52A 5'2 110 BRN GRY SHT. GRY PNT 2-JANET AMILLIA ADAMS WFA DOB 07-06-47 5'10 155 WHT ALL GREY CORRECTION ON CLOTHING SUBJ ONE: PURPLE TOP & JEANS \*\* Recommended Unit(s): ADM ADM RICHARDSON COPY N4229784 WFA.....2ND N6485209 BOTH SUBJ NEG ON FBI LIST

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CAF-03-1779

R\_CSM  
VI/PIA

# Event Chronology

Event Number: P02000060761

b7C

Date	Time	Term	Operator	Action
08/07/02		position7	920246	EVENT CREATED: LOCATION: NUMBER: [200] AREA: [TD1] MUNICIPALITY: [L2] APARTMENT: [ATATC]
08/07/02		position7	920246	COMMENT: [ATA TIC] Event: [SUSP PERSON(STREET SIDE)] TYPE: [917(S)] CALLER INFORMATION:
08/07/02		position7	920246	NAME: [REDACTED] ADDRESS [ATA] PHONE NUMBER: [REDACTED]
08/07/02		position7	920246	Dispatch Group: [ALL] ETA: [0] beat: [TD1] Primary Unit: [6B40C] Primary Member: [204]
08/07/02		position7	920246	Priority: [1]
08/07/02		position7	920246	REMARK ADDED:2 PSGR ON NO FLY LIST, AWARE PD IS RESP & COOP
08/07/02		position7	920246	MIT
08/07/02		position5	920202	UNIT 6B40C DISPATCHED
08/07/02		position5	920202	UNIT 6B41C DISPATCHED
08/07/02		position7	920246	REMARK ADDED:1 - REBBECA ALLISON GORDON WFA DOB 06-29-52A 52 110 DRN GRY SH7. GRY PNT
08/07/02		position5	920202	UNIT 6B41C ENROUTED
08/07/02		position5	920202	UNIT 6B40C ENROUTED
08/07/02		position7	920246	REMARK ADDED:2 JANFT AMILLIA ADAMS WFA DOB 07-06-47 510 155 WHT ALL GRAY
08/07/02		position7	920246	REMARK ADDED:CORRECTION ON CLOTHING SUBJ ONE: PURPLE TOP & JEANS
08/07/02		position13	920222	REMARK ADDED.ADM RICHARDSON COPY
08/07/02		position5	920202	REMARK ADDED:4229784 WFA... 2ND N6433209
08/07/02		training15	920336	UNIT 6B40C ALARM ACTIVATED
08/07/02		training15	920336	UNIT 6B41C ALARM ACTIVATED
08/07/02		senior20	920221	UNIT 6B40C CONTACTED Comment: Alarm Timer Extended: 0
08/07/02		senior20	920221	UNIT 6B41C CONTACTED Comment: Alarm Timer Extended: 0
08/07/02		position5	920202	UNIT 6B40C ARRIVED
08/07/02		position5	920202	UNIT 6B41C ARRIVED
08/07/02		position5	920202	REMARK ADDED:BOTH SUBJ NEG ON FBI LIST
08/07/02		position5	920202	UNIT 6B40C AVAILABLE
08/07/02		position5	920202	Dispatch Group: [ALL] ETA: [0] beat: [TB1] Primary Unit: [6B40C] Primary Member: [204]
08/07/02		position5	920202	Priority: [1]
08/07/02		position5	920202	EVENT CLOSED: Disposition Code: [NOM]
08/07/02		position5	920202	UNIT 6B41C AVAILABLE

b2 per TSA  
b3 per TSA



# Unit Information

Unit ID	SE	Dispatch Num	Time	Emp1	Emp2	ID	Terminal	Location
6B40C	DP	[Redacted]	[Redacted]	204	ofc	92020	positions	200 TBI L2,ATATC:@ATA TC
6B40C	ER			204		92020	positions	200 TBI L2,ATATC:@ATA TC
6B40C	-			204	[Redacted]	92033	training15	200 TBI L2,ATATC:@ATA TC
6B40C	CU			204		92022	senior20	200 TBI L2,ATATC:@ATA TC
6B40C	AR			204	[Redacted]	92020	positions	200 TBI L2,ATATC:@ATA TC
6B40C	AV			204		92020	positions	200 TBI L2,ATATC:@ATA TC
6B41C	DP			4107	ofc	92020	positions	200 TBI L2,ATATC:@ATA TC
6B41C	ER			4107		92020	positions	200 TBI L2,ATATC:@ATA TC
6B41C	-			4107	[Redacted]	92033	training15	200 TBI L2,ATATC:@ATA TC
6B41C	CU			4107		92022	senior20	200 TBI L2,ATATC:@ATA TC
6B41C	AR			4107	[Redacted]	92020	positions	200 TBI L2,ATATC:@ATA TC
6B41C	AV			4107		92020	positions	200 TBI L2,ATATC:@ATA TC

b7C

b2 per TSA  
b3

3



# News

June 6 -12, 2002

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## Terrorism Is as Terrorism Does

Local peace activist may be on FBI list  
*by Terje Langeland*

Bill Sulzman has protested nonviolently against U.S. military policy for more than 30 years. That, he discovered last week, apparently makes him a "terrorist" in the eyes of the government.

Now, Sulzman, a veteran Colorado Springs peace activist, is concerned that he and others will be subjected to FBI surveillance under new rules that allow the agency to spy on domestic groups and individuals suspected of terrorism.

Last Thursday, May 29, Sulzman was arrested while participating in a political protest at the U.S. Air Force Academy. Between 15 and 20 activists demonstrated against the policies of U.S. Secretary of Defense Donald Rumsfeld, who was speaking at the Academy's graduation ceremony.

El Paso County sheriff's deputies broke up the demonstration at the request of Academy officials, who maintain the protesters were on Academy property without permission. Four protesters refused to leave, arguing that they were standing in the public right-of-way. The four, who included Sulzman, Peter Sprunger-Froese, Mary Sprunger-Froese and Mary Sheetz, were arrested for trespassing.

### Former priest and soldier

While the four were being held, deputies ran a routine criminal background check on each of them. That's when both Sulzman and Mary Sprunger-Froese who were in separate squad cars say they heard something over the police radio: Sulzman, a voice said, was listed by the FBI as belonging to a "terrorist organization."

Though Sulzman was held for about 30 minutes longer than the rest, all four activists eventually received court summonses and were released.

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Life to Count  
She Said, He Sa

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<http://www.csindy.com/csindy/2002-06-06/news.html>

1/6/03

FBI00090

Still, Sulzman says he wants to know why he's listed as a terrorist. A former soldier and Catholic priest, Sulzman estimates he's been arrested more than 20 times in the last 30 years, but always for non-violent protests, including various acts of civil disobedience.

So far, he's been unable to get answers from the sheriff's office or the FBI. The agencies also didn't offer the *Independent* much information.

A spokeswoman for the sheriff's office, Lt. Melissa Hartman, said she couldn't divulge what information the FBI provided on Sulzman, saying it would be "privileged criminal-justice information."

Ann Atanacio, a spokeswoman for the FBI's Denver office, refused to comment specifically on Sulzman's case, citing privacy concerns.

### Propensity to violate laws

However, Atanacio hypothesized that someone might be included on an FBI list of potential terrorists for "any number of things," and that such lists could include "persons who have propensity to violate laws at sensitive national security installations."

That would fit Sulzman, who has often been arrested for nonviolent actions at military bases.

A spokesman at FBI's national headquarters, meanwhile, said the agency "absolutely" does not maintain lists on peaceful protesters.

"The databases we have are on known violent [people], or those who have a propensity for violence, or who have threatened with violence in some way in the past," said the spokesman, Paul Bresson. "There's no 'peaceful demonstration list' anywhere within any FBI files."

Bresson also said he couldn't discuss Sulzman's case in specific.

Sulzman says he's determined to get to the bottom of the matter. Like many other political activists, he was concerned to learn last week that the FBI, in the wake of intelligence failures prior to Sept. 11, has received broad new powers to spy on domestic groups and individuals.

The FBI has said the new powers will only be used against suspected terrorists. But that no longer reassures Sulzman.

"That I'm labeled a 'terrorist' means a lot of people are labeled 'terrorists,'" Sulzman said.

**Terje Langeland**

#### RECENTLY:

- **Gay Discharges on the Rise** More gays booted from Fort Carson by *Terje Langeland (05-30-02)*
- **Ticket to Ride** Small transit businesses squeezed by rising insurance rates by *Terje Langeland (05-30-02)*



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### Grounded

A federal agency confirms that it maintains an air-travel blacklist of 1,000 people. Peace activists and civil libertarians fear they're on it.

By Dave Lindorff

Nov. 15, 2002 | Barbara Olshansky was at a Newark International Airport departure gate last May when an airline agent at the counter checking her boarding pass called airport security. Olshansky was subjected to a close search and then, though she was in view of other travelers, was ordered to pull her pants down. The Sept. 11 terrorist attacks may have created a new era in airport security, but even so, she was embarrassed and annoyed.

Perhaps one such incident might've been forgotten, but Olshansky, the assistant legal director for the left-leaning Center for Constitutional Rights, was pulled out of line for special attention the next time she flew. And the next time. And the next time. On one flight this past September from Newark to Washington, six members of the center's staff, including Olshansky, were stopped and subjected to intense scrutiny, even though they had purchased their tickets independently and had not checked in as a group. On that occasion, Olshansky got angry and demanded to know why she had been singled out.

"The computer spit you out," she recalls the agent saying. "I don't know why, and I don't have time to talk to you about it."

Olshansky and her colleagues are, apparently, not alone. For months, rumors and anecdotes have circulated among left-wing and other activist groups about people who have been barred from flying or delayed at security gates because they are "on a list."

But now, a spokesman for the new Transportation Security Administration has acknowledged for the first time that the government has a list of about 1,000 people who are deemed "threats to aviation" and not allowed on airplanes under any circumstances. And in an interview with Salon, the official suggested that Olshansky and other political activists may be on a separate list that subjects them to strict scrutiny but allows them to fly.

"We have a list of about 1,000 people," said David Steigman, the TSA spokesman. The agency was created a year ago by Congress to handle transportation safety during the war on terror. "This list is composed of names that are provided to us by various government organizations like the FBI, CIA and INS ... We don't ask how they decide who to list. Each agency decides on its own who is a 'threat to aviation.'"

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The agency has no guidelines to determine who gets on the list, Steigman says, and no procedures for getting off the list if someone is wrongfully on it.

Meanwhile, airport security personnel, citing lists that are provided by the agency and that appear to be on airline ticketing and check-in computers, seem to be netting mostly priests, elderly nuns, Green Party campaign operatives, left-wing journalists, right-wing activists and people affiliated with Arab or Arab-American groups.

- Virginia Lavinger, a nun in Milwaukee and an activist with Peace Action, a well-known grassroots advocacy group, was stopped from boarding a flight last spring to Washington, where she and 20 young students were planning to lobby the Wisconsin congressional delegation against U.S. military aid to the Colombian government. "We were all prevented from boarding, and some of us were taken to another room and questioned by airport security personnel and local sheriff's deputies," says Lavinger.

In that incident, an airline employee with Midwest Air and a local sheriff's deputy who had been called in during the incident to help airport security personnel detain and question the group, told some of them that their names were "on a list," and that they were being kept off their plane on instructions from the Transportation Security Administration in Washington. Lavinger has filed a freedom-of-information request with the Transportation Security Administration seeking to learn if she is on a "threat to aviation" list.

- Last month, Rebecca Gordon and Jan Adams, two journalists with a San Francisco-based antiwar magazine called War Times were stopped at the check-in counter of ATA Airlines, where an airline clerk told them that her computer showed they were on a "No Fly" list. The airline called the FBI, and local police held them for a while before telling them there had been a mistake and that they were free to go. The two made their plane, but not before the counter attendant placed a large S for "search" on their baggage, assuring that they got more close scrutiny at the boarding gate.

- Art dealer Doug Stuber, who ran Ralph Nader's Green Party presidential campaign in North Carolina in 2000, was barred last month from getting on a flight to Hamburg, Germany, where he was going on business, after he got engaged in a loud, though friendly, discussion with two other passengers in a security line. During the course of the debate, he shouted that "George Bush is as dumb as a rock," an unfortunate comment that provoked the Raleigh-Durham Airport security staff to call the local Secret Service bureau, which sent out two agents to interrogate Stuber.

"They took me into a room and questioned me all about my politics," Stuber recalls. "They were very up on Green Party politics, too." They fingerprinted him and took a digital eye scan. Particularly ominous, he says, was a loose-leaf binder held by the Secret Service agents. "It was open, and while they were questioning me, I discreetly looked at it," he says. "It had a long list of organizations, and I was able to recognize the Green Party, Greenpeace, Earth First and Amnesty International." Stuber was eventually released, but because he missed his flight, he had to pay almost \$2,000 more for a full-fare ticket to Hamburg so that he would not miss his business engagement. In the end, however, after trying several airports in the North Carolina area, he found he was barred from boarding any flights, and had to turn in his ticket and cancel his business trip.

A Secret Service agent at the agency's Washington headquarters confirmed that his agency had been called in to question Stuber. "We're not normally a part of the airport security operation," Agent Mark Connelly told Salon. "That's the FBI's job. But when one of our protection subjects gets threatened, we check it out." Asked about the list of organizations observed by Stuber, the Secret Service source speculated that those organizations might be on a list of organizations that the service, which is assigned the task of protecting the president, might need to monitor as part of its security responsibility.

Additional evidence suggests that Olshansky, Stuber and other left-leaning activists are also seen as a threat to aviation, though perhaps of a different grade. A top official for the Eagle Forum, an old-line conservative group led by anti-feminist icon Phyllis Schlafly, said several of the group's members have been delayed at security checkpoints for so long that they missed their flights. According to Pax Christi, a Catholic peace organization, an American member of the Falun Gong Chinese religious group was barred from getting back on a plane that had stopped in Iceland, reportedly based on information supplied to Icelandic customs by U.S. authorities. The person was reportedly permitted to fly onward on a later flight.

Hussein Ibish, communications director of the American Arab Anti-Discrimination Committee, says his group has documented over 80 cases -- involving 200 people -- in which fliers with Arabic names have been delayed at the airport, or barred altogether from flying. Some, he says, appear to involve people who have no political involvement at all, and he speculated that they suffered the misfortune of having the same name as someone "on the list" for legitimate security reasons.

Until Steigman's confirmation of the no-fly list, the government had never admitted its existence. While FBI spokesman Paul Bresson confirmed existence of the list, officials at the CIA and U.S. Immigration and Naturalization Service declined to comment and referred inquiries back to the TSA. Details of how it was assembled and how it is being used by the government, airports and airlines are largely kept secret.

A security officer at United Airlines, speaking on condition of anonymity, confirmed that the airlines receive no-fly lists from the Transportation Security Administration but declined further comment, saying it was a security matter. A USAir spokeswoman, however, declined to comment, saying that the airline's security relationship with the federal transit agency was a security matter and that discussing it could "jeopardize passenger safety."

Steigman declined to say who was on the no-fly list, but he conceded that people like Lawinger, Stuber, Gordon, Adams and Olshansky were not "threats to aviation," because they were being allowed to fly after being interrogated and searched. But then, in a Byzantine twist, he raised the possibility that the security agency might have more than one list. "I checked with our security people," he said, "and they said there is no [second] list," he said. "Of course, that could mean one of two things: Either there is no second list, or there is a list and they're not going to talk about it for security reasons."

In fact, most of those who have been stopped from boarding flights (like Lawinger, Stuber, Gordon and Adams) were able to fly later. Obviously, if the TSA thought someone was a genuine "threat to aviation" like those on the 1,000-name no-fly list, they would simply be

barred from flying. So does the agency have more than one list perhaps -- one for people who are totally barred from flying and another for people who are simply harassed and delayed?

Asked why the TSA would be barring a 74-year-old nun from flying, Steigman said: "I don't know. You could get on the list if you were arrested for a federal felony."

Sister Lawinger says she was arrested only once, back in the 1980s, for sitting down and refusing to leave the district office of a local congressman. And even then, she says, she was never officially charged or fined. But another person who was in the Peace Action delegation that day, Judith Williams, says she was arrested and spent three days in jail for a protest at the White House back in 1991. In that protest, Williams and other Catholic peace activists had scaled the White House perimeter fence and scattered baby dolls around the lawn to protest the bombing of Iraq. She says that the charge from that incident was a misdemeanor, an infraction that would not seem enough to establish her as a threat to aviation.

Inevitably, such questions about how one gets on a federal transit list creates questions about how to get off it. It is a classic -- and unnerving -- Catch 22: Because the Transportation Security Administration says it compiles the list from names provided by other agencies, it has no procedure for correcting a problem. Aggrieved parties would have to go to the agency that first reported their names, but for security reasons, the TSA won't disclose which agency put someone on the list.

Bresson, the FBI spokesperson, would not explain the criteria for classifying someone as a threat to aviation, but suggests that fliers who believe they're on the list improperly should "report to airport security and they should be able to contact the TSA or us and get it cleared up." He concedes that might mean missed flights or other inconveniences. His explanation: "Airline security has gotten very complicated."

Many critics of the security agency's methods accept the need for heightened air security, but remain troubled by the more Kafka-esque traits of the system. Waters, at the Eagle Forum, worries that the government has offered no explanation for how a "threat to aviation" is determined. "Maybe the people being stopped are already being profiled," she says. "If they're profiling people, what kind of things are they looking for? Whether you fit in in your neighborhood?"

"I agree that the government should be keeping known 'threats to aviation' off of planes," Toish says. "I certainly don't want those people on my plane! But there has to be a procedure for appealing this, and there isn't. There are no safeguards and there is no recourse."

Meanwhile, nobody in the federal government has explained why so many law abiding but mostly left-leaning political activists and antiwar activists are being harassed at check-in time at airports. "This all raises serious concerns about whether the government has made a decision to target Americans based on their political beliefs," says Katie Corrigan, an ACLU official. The ACLU has set up a No Fly List Complaint Form on its [Web site](#).

One particular concern about the government's threat to aviation list and any other possible lists of people to be subjected to extra security investigation at airports is that names are being made available to private companies -- the airlines and airport authorities -- charged with alerting security personnel. Unlike most other law enforcement watch lists, these lists are not being

closely held within the national security or law-enforcement files and computers, but are apparently being widely dispersed.

"It's bad enough when the federal government has lists like this with no guidelines on how they're compiled or how to use them," says Olshansky at the Center for Constitutional Rights. "But when these lists are then given to the private sector, there are even less controls over how they are used or misused." Noting that airlines have "a free hand" to decide whether someone can board a plane or not, she says the result is a "tremendous chilling of the First Amendment right to travel and speak freely."

But Olshansky, alarmed by her own experience and the number of others suffering apparent public harassment, is fighting back. She says now that the government has confirmed the existence of a blacklist, her center is planning a First Amendment lawsuit against the federal government. CCR has already signed up Lawinger, Stubbs, and several others from Washington's Peace Action group.

#### About the writer

Philadelphia-based journalist Dave Lindorff writes regularly for Salon

Editor's Note: This story has been corrected.

[http://www.salon.com/news/feature/2002/11/15/no\\_fly/index\\_np.html](http://www.salon.com/news/feature/2002/11/15/no_fly/index_np.html)

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**Correction:**

"Grounded", a story published on Nov. 15, incorrectly reported that attorney Barbara Olshansky of the Center for Constitutional Rights was attempting to board a JetBlue flight when she was stopped and strip-searched earlier this year. In fact, when she flew out of Newark, she was not taking JetBlue. The story also reported incorrectly that Green Party activist Doug Stuber, after being stopped from taking his planned flight from Raleigh-Durham, N.C., to Hamburg last month by U.S. Secret Service agents, was able to fly to his destination on a later flight. In fact, after trying for two days at various airports, Stuber found he was barred from boarding any flight and missed his business trip. The story also described Peace Action as a Roman Catholic organization. In fact, it is not affiliated with any religious group. The story has been corrected. Salon regrets the errors.

[Correction made 11/15/02]

And I'm optimistic that one can be said Glen Morgan, a Beaumont plaintiffs attorney involved in negotiations with Halliburton.

Separately, attorneys for Honeywell the court that the Morris Township company has reached agreements principle" with plaintiff attorneys

An agreement would be "an enormous positive for the company," said Honeywell general counsel Peter Kreiner, "bringing closure to a significant portion of the company's asbestos liability.

In recent weeks, both Halliburton and Honeywell have been working furiously to strike agreements that would bow them to channel hundreds of thousands of asbestos lawsuits, as well as pure claims, through trusts created through former subsidiaries that are operating under bankruptcy-law protection.

### Deal With Chile

Chile's wines first will be equalized at the lower U.S. levels, and then phased out altogether. Chile also agreed the U.S. could put in place special surge controls for imports of individual farm products

Not everything went Chile's way. "It's a great start, but we're a little disappointed, perhaps because we had such high expectations," said Ronald Brown, director of the Chilean Fruit Exporters Association. Chilean fruit exporters had hoped to gain immediate duty-free access.

Another tough issue was the U.S. insistence that any agreement contain provisions to protect environmental and labor standards, a core concern among many in Congress. In the end the two sides agreed the free-trade agreement would contain language stipulating that lines could be imposed, backed up if necessary by trade sanctions, and only in cases in which a country wasn't enforcing its own labor and environmental laws.

Joel Millman in Santiago, Chile, contributed to this article.

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## Lists That Bar Air Passengers Draw Scrutiny

By ANN DAVIS

Civil-liberties groups are trying to force the federal government to reveal its criteria for putting people on low-security watch lists that bar some from flying and subject others to extensive scrutiny.

The groups are seeking records under the Freedom of Information Act after political activists in environmental, peace and other groups complained they were detained at airports and told they are on a so-called no-fly list—but given no information about how they got on it.

The Electronic Privacy Information Center sued the Transportation Security Administration and the Transportation Department in U.S. District court in Washington, D.C., for exceeding the time limit to release information about the no-fly list under a two-month-old FOIA request. The advocacy group asked for information about the number of people on all aviation security watch lists, procedures for posting and removing names and all complaints from people who claim to have mistakenly been listed.

The American Civil Liberties Union of Northern California filed a lawsuit in federal court in San Francisco on behalf of two people on such lists. Staff attorney Jayashri Sankaran said she will file them today with the Federal Bureau of Investigation in Washington, the FBI field office in San Francisco and the TSA. If someone's "peace and activism activity is a justification for listing," she said, "that's definitely very troubling."

The TSA hadn't yet been served a copy of the EPIC suit, TSA spokesman Robert Johnson declined to describe how his agency's list is compiled. "We're not going to give the terrorists the opportunity to game the system," he said, but added "you don't get on that list by expressing political views." The suit called for comment.

The Aviation Security and Transportation Act, passed in the months following the Sept. 11, 2001, attacks, authorized the TSA to maintain watch lists and notify law enforcement, aviation and airline officials of the names of people suspected of posing a risk of hijacking or terrorism or a threat to airline or passenger safety. The TSA's Mr. Johnson said the government used aviation watch lists prior to Sept. 11, but the law expanded their use. He said intelligence agencies, including the FBI, provide the names and the TSA merely maintains the data. During the past several months, several activists—including a nun and longtime political protesters—have complained of being singled out at airports.

The ACLU filed its FOIA request on behalf of San Francisco Bay-area peace activists Jan Adams and Rebecca Gordon. The women, both in their 60s, founded a war-protest publication, War Times, shortly after Sept. 11. The women were stopped while checking into an Aug. 7 American Trans Air flight in San Francisco. They were told they were on the "no-fly" list and local police detained them. The ACLU subsequently obtained a record of a "suspicious person" report generated on the incident by San Francisco International Airport. It said the women were allowed to board after police officials checked another FBI list, and their names weren't on it.

... Mr. Johnson said the government used aviation watch lists prior to Sept. 11, but the law expanded their use. He said intelligence agencies, including the FBI, provide the names and the TSA merely maintains the data. During the past several months, several activists—including a nun and longtime political protesters—have complained of being singled out at airports.

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Serial Description ~ COVER SHEET

04/22/2003

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Page 9 ~ b5, b7C

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[Redacted]

From:

[Redacted]

Sent:

Monday, July 29, 2002 3:32 PM

To:

[Redacted]

Cc:

b7C

Subject:

No Fly List re [Redacted]

[Redacted]

[Large Redacted Area]

Thanks. [Redacted]

Lastly,

b7C

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CA# 03-1779

b2  
b5  
b7C  
b7E

[Redacted]

From:

[Redacted]

Sent:

Monday, August 05, 2002 7:25 PM

To:

[Redacted]

Cc:

b7C

Subject:

No Fly Name & Frozen Money

[Redacted]

b7C

[Redacted]

This is the best info I have at the present time

[Redacted]

b7C

SSA

[Redacted]

(fax)

Civil Aviation Security Program, Room 11795  
Domestic Terrorism Counterterrorism Planning Section  
Counterterrorism Division

b2

b7C

[Redacted]

>>>

[Redacted]

8/2/02 8:31:04 PM >>>

b7C

Hi

[Redacted]

b7C

[Redacted]

[Redacted]

[Redacted]

[Redacted] Are other offices reporting similar issues?

Just wondering if you had any advice...

b7C

Thanx

[Redacted]

b7C

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CA# 03-1779

[Redacted]

From:

Sent:

Tuesday, July 23, 2002 1:03 PM

To:

Cc: b7C

Subject:

Re: No-Fly List

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CA# 03-1779

b7C

I agree with your assessment of the needs, the rationale, the assistance OGC can provide, and hearing from [Redacted] (as to his perceptions and even to verify or confirm some of what we discussed yesterday, if he provides info that is at odds with my understanding of [Redacted])

b5

Thanks again.

b7C

b5

b7C

>>> [Redacted] 7/23/02 10:51:02 AM >>>

I would also add that OGC can help in the first category, establishing criteria, inasmuch as we can, on [Redacted] suggestion

[Redacted]

[Redacted]

b7C

b5

b7C

>>> [Redacted] 07/23/02 10:16AM >>>

[Redacted] et al: This is to confirm our understanding in OGC of yesterday's meeting. We all recognize the needs:

[Redacted]

From: [redacted]  
Sent: b7C  
To: [redacted]  
Cc: [redacted]

Wednesday, June 19, 2002 7:15 PM

b2  
b5  
b7C  
b7E

Subject: Re: USA PATRIOT Act Sec. 1009?

[redacted] boy, this is getting a bit complicated. Of course, I should have known that someone in the FBI was following the implementation requirements of various parts of all this legislation, and usually I will end up with aviation-related things like this, but not this time. So, not only is Congress wanting an update, but now DOJ is tracking it too. Just gets worse, doesn't it?

[redacted]

Thanks [redacted]

b7C

>>> [redacted] 6/19/02 9:55:49 AM >>>

[redacted] you may recall that back in November the FBI made a report to the AG on implementation responsibilities for various parts of the USA Patriot Act. IRD designated then-DAD Frank Sauer as the POC/ticket-holder for Section 1009. DOJ (OLP: [redacted]) is now calling for an update on implementation status (report was due to Congress months ago). Now that Frank's moved from IRD, can you advise who has this ticker?

b7C

[redacted] Section 1009 requires the FBI to study and report to Congress on the feasibility of providing to the airlines "via computer" the names of passengers who are suspected of terrorist activities by federal law enforcement officials.. So I've also addressed this to you on the chance that in pursuit of your other info-sharing efforts you might have picked this up???



Re: Overdue  
Patriot Act requir...

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CA# 03-1779

[Redacted]

From: [Redacted]  
Sent: Thursday, June 20, 2002 9:42 AM

To: [Redacted]  
Cc: b7C [Redacted]

Subject: Re: RE: USA PATRIOT Act Sec. 1009?

[Redacted] yes, I think so re coordinating and with [Redacted] as POC.

b7C

[Redacted] as I originally stated I think my draft letter is accurate, but should be coordinated/reviewed by others, which looks like CJIS and [Redacted]

[Redacted] If you want to meet on the response I drafted and/or for us to gain a common understanding of the legislative intent etc, just let me know. Obviously, I could be off base because I responded only based on my own observations of the current situation and what I know or think I know to be happening in other Bureau entities.

Thanks to all. [Redacted] b7C

>>> [Redacted] 6/20/02 9:24:14 AM >>>

Thanks [Redacted] From the threads on this message, sounds like CJIS and [Redacted] will want to get together on this.

>>> [Redacted] 06/20/02 09:14AM >>>

b7C

[Redacted] just talked to [Redacted] and we agree that he is best suited to take over this responsibility for now. if duties evolve into something else, then we may have to reassign later. for now [Redacted] is the man. ext. [Redacted]

[Redacted] b7C

-----Original Message-----

From: [Redacted]  
Sent: Wednesday, June 19, 2002 9:55 AM

To: [Redacted]  
Cc: [Redacted]

b7C

Subject: USA PATRIOT Act Sec. 1009?

[Redacted] you may recall that back in November the FBI made a report to the AG on implementation responsibilities for various parts of the USA Patriot Act. IRD designated then-DAD Frank Sauer as the POC/ticket-holder for Section 1009. DOJ (OLP's [Redacted] is now calling for an update on implementation status (report was dues to Congress months ago). Now that Frank's moved from IRD, can you advise who has this ticket?

b7C

[Redacted] Section 1009 requires the FBI to study and report to Congress on the feasibility of providing to the airlines "via computer" the names of passengers who are suspected of terrorist activities by federal law enforcement officials.. So I've also addressed this to you on the chance that in pursuit of your other info-sharing efforts you might have picked this up???



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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 08/23/2002

To: Criminal Investigative

Attn: VCMOS  
SC Gerald L. Buten  
MT/TCU  
UC [redacted]  
SSA [redacted]

Counter Terrorism

Attn: DT/CPS  
SC Tom Carey  
SEMU [redacted]  
SSA [redacted]  
ITOS-I/II  
SC Andrew Arena  
SC Charles Frahm

b7C

From: Office of the General Counsel  
Investigative Law Unit

Contact: [redacted] ext [redacted]

Approved By: Steele Charles M

Drafted By: [redacted]

Case ID #: [redacted] (Pending)

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CAF 03-1779

b2

Title: CRIMES INVOLVING CIVIL AVIATION;  
FBI INVESTIGATIVE JURISDICTION

Synopsis: To provide a legal opinion from the Office of the General Counsel (OGC) concerning the jurisdictional relationship between the FBI and the Transportation Security Administration.

Administrative: This document is a privileged FBI attorney communication and may not be disseminated outside the FBI without OGC approval. Also, to read the footnotes in this document, it may be required to download and print the document in WordPerfect.

Details: [redacted]

b5

To: Criminal Investigative From: Office of the General Counsel  
Re:  08/23/2002

b2

(1) Carrying out the provisions in Chapter 449 of Title 49 of the U.S. Code, relating to civil aviation security, and related research and development activities;

(2) Airport screening operations; and

(3) Receiving, assessing, and distributing intelligence information related to transportation security.

Chapter 449 of Title 49, entitled "Security," addresses all aspects of aviation security, including: screening passengers and cargo; receiving and evaluating threats to aviation; research and development of modern security systems and facilities; and regulation of security of foreign carriers and foreign airports that serve passengers bound for the U.S.

In addition, ATSA grants the Under Secretary permissive (as opposed to mandatory) authority to designate federal law enforcement officers (LEOs) and empowers these LEOs to exercise standard law enforcement powers when engaged in "official duties of the Administration as required to fulfill the responsibilities under [ATSA]." These powers include authority to carry firearms, make arrests without warrant for any federal offense committed in their presence or for which they have probable cause, and seek and execute federal warrants for arrest or search and seizure of evidence. ATSA also requires the Under Secretary to provide guidelines by which to exercise these law enforcement powers in consultation with the Attorney General. The proposed guidelines have been submitted to the Department of Justice for review.

Finally, ATSA continues the Federal Air Marshal (FAM) program (formerly part of the Federal Aviation Administration) by authorizing the TSA to deploy FAMs aboard aircraft for what are clearly reactive law enforcement functions.

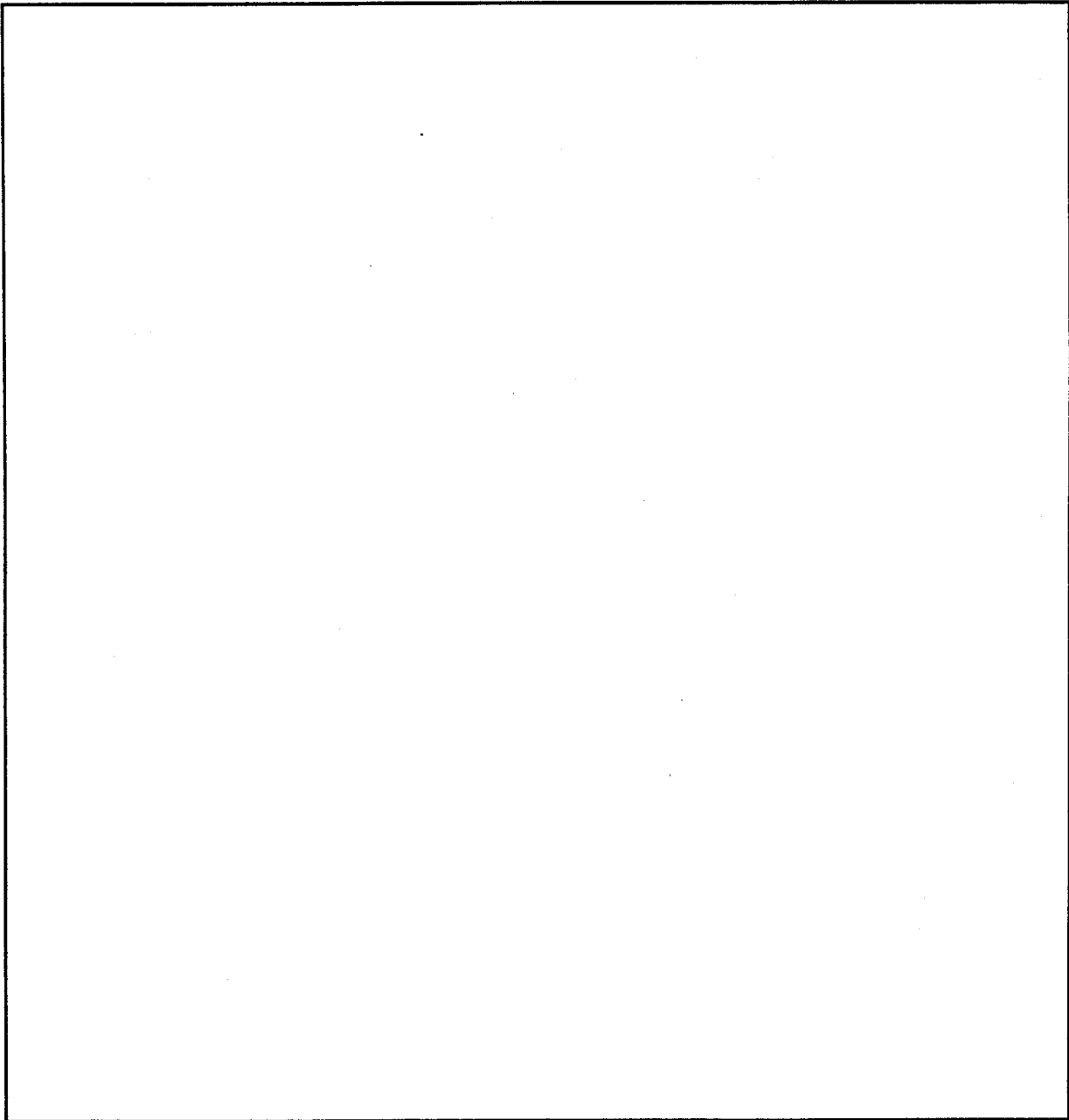
#### **FBI Statutory Authority**

The FBI's general enabling statute, 28 U.S.C. § 533, grants the agency the authority to investigate any violation of the criminal laws of the United States. As noted previously, 28 U.S.C. § 538 specifically empowers the FBI to investigate the primary crimes-aboard-aircraft violations in Title 49, which are set forth in Chapter 465, entitled: "Special Aircraft Jurisdiction of the United States." These include Section 46502, Aircraft piracy; Section 46504, Interference with flight crew members and attendants; Section 46505, Carrying a weapon or explosive on an aircraft; Section 46505 which lists a variety of common law crimes (e.g., murder, robbery) committed within the

To: Criminal Investigative From: Office of the General Counsel  
Re: [REDACTED] 08/23/2002

b2

for the TSA to serve as a "liaison" to law enforcement communities (Section 101(f)(5)); the use of information from other agencies to identify passengers who may be a threat to civil aviation and the requirement to notify appropriate law enforcement agencies upon identifying such an individual (Section 101(h)(3)); and the mandate to enter into memoranda of understanding with other agencies for information-sharing purposes (Section 101(h)(1)).



b5

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Page 54 ~ b2, b7C, b7D  
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Page 57 ~ b2, b7C, b7D

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From the Desk Of:

Date: 04/09/03

[Redacted]

Supervisory Special Agent

b7C

TO: [Redacted] Litigation RM 7097  
FROM: [Redacted]  
SUBJECT: ACLU - No Fly/Selectee List Request

ENCLOSURES: Copies of SSA [Redacted] Documentation re Above

[Redacted]

b7C

As promised, enclosed are photocopies of all records both myself and SSA [Redacted] had (filed) in our desks re the above. SSA [Redacted] and as you can see, kept many notes on this topic.

If you need anything else, please don't hesitate to email or call.

Please note that this information is law enforcement sensitive.

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b2  
b7C

Civil Aviation Security Program  
Special Events Management Unit, Room 11795  
Domestic Terrorism Counterterrorism Planning Section  
Counterterrorism Division, FBI Headquarters, Washington, DC 20535

[Redacted]

b7c

From: SIOC  
To: TMU, TRANSPORT, Watch  
Date: Tue, Apr 22, 2003 9:18 PM  
Subject: 4/22/03 NewsEdge Article re ACLU seeks government data regarding secret "no-fly" list

**ACLU seeks government data regarding secret "no-fly" list**

SAN FRANCISCO (AP) The American Civil Liberties Union sued the FBI and other government agencies Tuesday on behalf of two peace activists detained at an airport because their names popped up on a secret "no-fly" list.

The women were among 339 travelers briefly detained and questioned at San Francisco International Airport during the past two years after their names were found in the database, the ACLU said, citing government documents. Those travelers ultimately were allowed to continue on their journeys.

"Thousands of passengers are likely being subjected to the same sort of treatment at airports across the country," said Jayashri Srikantiah, an ACLU attorney.

The database was created after the Sept. 11 terrorist attacks as a way to prevent potential terrorists from boarding planes. The Transportation Security Administration gets names from law enforcement officials and gives the lists to airlines to screen passengers.

The ACLU is asking a federal judge to demand that the TSA, FBI or the Justice Department disclose who is on the list, how they got on it and how they can get off it.

The plaintiffs, Rebecca Gordon and Janet Adams, publish the San Francisco-based War Times. They were stopped in August while checking in for a flight to Boston.

"It was very distressing," Gordon said. The two invoked the Freedom of Information Act to demand that authorities reveal why they were stopped. The TSA did not respond to their request and the FBI said no files on the two existed, the ACLU said.

An FBI spokesman on Tuesday referred inquiries to the TSA. TSA spokesman Niko Melendez said those on the no-fly list pose, or are suspected of posing, a threat to civil aviation and national security. He added that the agency does "not confirm the presence of a particular name of an individual on a list."

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b7C

From: [Redacted]  
 To: [Redacted]  
 Date: 1/10/02 7:42:36 PM  
 Subject: FAA lists

I would again like to discuss the purpose of the FAA name lists and the actual situation that is transpiring out in the field. I'm ok with the No-Fly list - threat to aviation - if we identify you, you don't fly. period.

[Redacted]

b2  
b5  
b7C  
b7E

[Redacted]

This whole issue needs to be revisited.

SSA [Redacted] (fax)  
 Civil Aviation Security Program, Room 11795  
 Domestic Terrorism Counterterrorism Planning Section  
 Counterterrorism Division

b2  
b7C

[Redacted]

CC: [Redacted]

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 CR # 03-1779



From: [redacted]  
To: [redacted]  
Date: 9/17/02 8:01:50 PM  
Subject: [redacted] No Fly List

b2  
b7C  
b7D

Wow, that is the most interesting explanation I've heard yet. I'm not sure it's valid - it just doesn't sound right. However, I will forward this to the airport agents so they know why he is still on the list. thank you for your efforts.

>>> [redacted] 9/17/02 1:21:56 PM >>>

[redacted]

b2  
b5  
b7C

>>> [redacted] 08/21 1:05 PM >>>

[redacted]

b7D  
b7E

Anyway, can you and the Terrorist Watch List Unit and [redacted] revisit this matter and see if you can get [redacted] off the list?

Thanks.

SSA [redacted] (fax)  
Civil Aviation Security Program, Room 11795  
Domestic Terrorism Counterterrorism Planning Section  
Counterterrorism Division

b2  
b7C

[redacted]

>>> [redacted] 9/20/02 3:41:04 PM >>>

b7C

Aloha [redacted]

[redacted]

b2  
b5  
b7C  
b7D

Thanks,

SSA [redacted] Counterterrorism Squad, Honolulu

b7C

CC: [redacted]

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From: [REDACTED]  
To: [REDACTED]  
Date: 9/30/02 9:52:27 AM  
Subject: No-Fly Question

[REDACTED]  
Re the attached article. Who does "maintain" or is "responsible" for the no-fly list?

No-Fly Blacklist Snares Political Activists

The San Francisco Chronicle

By Alan Gathright

September 28, 2002

SAN FRANCISCO, CA -- A federal "No Fly" list, intended to keep terrorists from boarding planes, is snaring peace activists at San Francisco International and other U. S. airports, triggering complaints that civil liberties are being trampled.

And while several federal agencies acknowledge that they contribute names to the congressionally mandated list, none of them, when contacted by The Chronicle, could or would say which agency is responsible for managing the list. One detainee forced a group of 20 Wisconsin anti-war activists to miss their flight, delaying their trip to meet with congressional representatives by a day. That case and others are raising questions about the criteria federal authorities use to place people on the list -- and whether people who exercise their constitutional right to dissent are being lumped together with terrorists. "What's scariest to me is that there could be this gross interruption of civil rights and nobody is really in charge," said Sarah Backus, an organizer of the Wisconsin group. "That's really 1984-ish."

Federal law enforcement officials deny targeting dissidents. They suggested that the activists were stopped not because their names are on the list, but because their names resemble those of suspected criminals or terrorists. Congress mandated the list as part of last year's Aviation and Transportation Security Act, after two Sept. 11 hijackers on a federal "watch list" used their real names to board the jetliner that crashed into the Pentagon. The alerts about the two men, however, were not relayed to the airlines. The detaining of activists has stirred concern among members of Congress and civil liberties advocates. They want to know what safeguards exist to prevent innocent people from being branded "a threat to civil aviation or national security."

**NO ACCOUNTABILITY**

And they are troubled by the bureaucratic nightmare that people stumble into as they go from one government agency to another in a maddening search to find out who is the official keeper of the no-fly list. "The problem is that this list has no public accountability: People don't know why their names are put on or how to get their names off," said Jayashri Srikantiah, an attorney with the American Civil Liberties Union of Northern California. "We have heard complaints from people who triggered the list a first time and then were cleared by security to fly. But when they fly again, their name is triggered again."

Several federal agencies -- including the CIA, **FBI**, INS and State Department -- contribute names to the list. But no one at those agencies could say who is responsible for managing the list or who can remove names of people who have been cleared by authorities. Transportation Security Administration spokesman David Steigman initially said his agency did not have a no-fly list, but after conferring with colleagues, modified his response: His agency does not contribute to the no-fly list, he said, but simply relays names collected by other federal agencies to airlines and airports. "We are just a funnel," he said, estimating that fewer than 1,000 names are on the list. "TSA has access to it. We do not maintain it." He couldn't say who does.

Steigman added he cannot state the criteria for placing someone on the list, because it's "special security information not releasable (to the public)." However, **FBI** spokesman Bill Carter said the Transportation Security Administration oversees the no-fly list: "You're asking me about something TSA manages. You'd have to ask TSA their criteria as far as allowing individuals on an airplane or not." In addition to their alarm that no agency seems to be in charge of the list, critics are worried by the many agencies and airlines that can access it. "The fact that so many people potentially have access to the list," ACLU lawyer Srikantiah said, "creates a large potential for abuse."

At least two dozen activists who have been stopped -- none have been arrested -- say they support sensible steps to bolster aviation security. But they criticize the no-fly list as being, at worst, a Big Brother campaign to muzzle dissent and, at best, a bureaucratic exercise that distracts airport security from

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looking for real bad guys. "I think it's a combination of an attempt to silence dissent by scaring people and probably a lot of bumbling and inept implementation of some bad security protocols," said Rebecca Gordon, 50, a veteran San Francisco human rights activist and co-founder of War Times, a San Francisco publication distributed nationally and on the Internet.

Gordon and fellow War Times co-founder Jan Adams, 55, were briefly detained and questioned by police at San Francisco International Airport Aug. 7 after checking in at the American Trans Air counter for a flight to Boston. While they were eventually allowed to fly, their boarding passes were marked with a red "S" -- for "search" -- which subjected them to more scrutiny at SFO and during a layover in Chicago. Before Adams' return flight from Boston's Logan International, she was trailed to the gate by a police officer and an airline official and searched yet again. While Gordon, Adams and several of the detained activists acknowledged minor past arrests or citations for participating in nonviolent sit-in or other trespassing protests, **FBI** spokesman Carter said individuals would have to be "involved in criminal activity" -- not just civil disobedience -- to be banned from U.S. airlines.

#### DEFINING AN ACTIVIST

But, Carter added, "When you say 'activists,' what type of activity are they involved in? Are they involved in criminal activity to disrupt a particular meeting? . . . Do you plan on blowing up a building? Do you plan on breaking windows or throwing rocks? Some people consider that civil disobedience, some people consider that criminal activity." Critics question whether Sister Virgine Lawinger, a 74-year-old Catholic nun, is the kind of "air pirate" lawmakers had in mind when they passed the law. Lawinger, one of the Wisconsin activists stopped at the Milwaukee airport on April 19, said she didn't get upset when two sheriff's deputies escorted her for questioning.

"We didn't initially say too much about the detainment, because we do respect the need to be careful (about airline security)," the nun recounted. "They just said your name is flagged and we have to clear it. And from that moment on no one ever gave me any clarification of what that meant and why. I guess that was our frustration." Five months later, the 20 members of Peace Action Wisconsin still haven't been told why they were detained. Even local sheriff's deputies and airline officials admitted confusion about why the group was stopped, when only one member's name resembled one on the no-fly list.

At the time, a Midwest Express Airlines spokeswoman told a Wisconsin magazine, the Progressive, that a group member's name was similar to one on the list and "the (Transportation Security Administration) made the decision that since this was a group, we should rescreen all of them." At a congressional hearing in May, Wisconsin Sen. Russ Feingold pressed **FBI Director Robert Mueller** about the Milwaukee incident, asking him pointedly for an assurance that the agency was not including people on the list because they had expressed opinions contrary to the policies of the U.S. government. Mueller's response: "We would never put a person on the watch list solely because they sought to express their First Amendment rights and their views."

#### DATABASE OF SUSPICION

The law orders the head of the Transportation Security Administration to work with federal intelligence and law enforcement agencies to share database information on individuals "who may pose a risk to transportation or national security" and relay it to airlines, airports and local law enforcement. It also requires airlines to use the list to identify suspect passengers and "notify appropriate law enforcement agencies, prevent the individual from boarding an aircraft or take other appropriate action." In November, Nancy Oden, a Green Party USA official in Maine, wound up being a suspect passenger and was barred from flying out of the Bangor airport to Chicago, where she planned to attend a Green Party meeting and make a presentation about "pesticides as weapons of war."

Oden said a National Guardsman grabbed her arm when she tried to help a security screener searching her bags with a stuck zipper. The middle-aged woman, who said she was conservatively dressed and wore no anti-war buttons, said the guardsman seemed to know her activist background. "He started spouting this pro-war nonsense: 'Don't you understand that we have to get them before they get us? Don't you understand what happened on Sept. 11?'" Airport officials said at the time that Oden was barred from boarding because she was uncooperative with security procedures, which she denies.

Instead, Oden pointed out that the American Airlines ticket clerk -- who marked her boarding pass with an "S" -- had acknowledged she wasn't picked by random. "You were going to be searched no matter what. Your name was checked on the list," he said, according to Oden. "The only reason I could come up with is that the **FBI** is reactivating their old anti-war activists' files," said Oden, who protested the Vietnam War as a young office worker in Washington, D.C. "It is intimidation. It's just like years ago when the **FBI** built a file about me and they called my landlord and my co-workers. . . . They did that with everyone in the anti-war