

**Statement from Thomas R. Burke, Partner at the San Francisco Offices  
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This is a lawsuit brought to vindicate the public's right to oversee the government's creation of a secret and flawed "no fly" list to screen airline passengers. It is being brought under the federal Freedom of Information Act ("FOIA") and the federal Privacy Act. FOIA was born in the decades earlier in an era of extraordinary secrecy by federal agencies. With its passage, every individual gained a statutory right of access to inspect records maintained by federal agencies.

This lawsuit is being filed because the federal government has, on several occasions, refused to even *acknowledge* that it even *has* a "no fly list" or a "watch" list to screen airline passengers. Yet, records attached to plaintiffs' Complaint document that the FBI, the Transportation Safety Administration ("TSA") and other law enforcement agencies have been using such lists since at least September 11, 2001. Numerous press accounts document the government's activities

Requests by plaintiffs for access to records maintained by the FBI and TSA have been consistently met by blanket denials by the federal government. Denials that records were being maintained about them individually and denials that a "no fly" list is even being maintained at all.

This lawsuit is necessary because the government also refuses to confirm that that there exists, any protocols, procedures or guidelines as to how the "no fly" lists were created, are being maintained or corrected and importantly, how an individual who is mistakenly included on the list may have their name removed.

Is the "no fly" list so filled with errors that it should be scrapped as an ineffective tool against terrorism? Is the government using the "no fly" list, as it appears, with no safeguards or procedures to ensure that the lists are accurate? What procedures are available for ordinary citizens to have their names removed from a "no fly" list or "watchlist" after they discover they have been erroneously placed on

the list because of a mistake or because their name somehow resembles that of a suspected terrorist? What steps, if any, is the government taking to restrict or even monitor how private companies (including airlines, car rental agencies, hotels) have access or may use the "no fly" lists.

Moreover, how do individuals whose names appear on a government list know they are listed because they pose a legitimate security threat or are merely like Ms. Gordon and Ms. Adams, peace activists critical of the Bush Administration's "War on Terrorism." This information should be of interest to all Americans, since an inaccurate list filled with names of ordinary people will not make us any safer.

The government's blanket FOIA denials are illegitimate and counterproductive to the "national security" interests that the "no fly" lists were presumably created to advance. There can be no question that the events of September 11, 2001 were extraordinary. But the events of that day in no way diminished the public's right and need to provide meaningful oversight into the law enforcement activities of the federal government.