

Denied the Right to Return Home: The Extrajudicial Exile of American Citizens

For the past several years, the Council on American-Islamic Relations (CAIR) has dealt with an increased number of cases concerning the extrajudicial exile of American citizens traveling abroad. CAIR defines extrajudicial exile as intentional actions by the federal government that prevents a U.S. citizen from returning to the United States without any judicial process. This paper seeks to clarify the circumstances surrounding known cases of extrajudicial exile as well as to highlight several recent cases that received national prominence in the media.

In the past year, Americans have seen the no-fly list, the federal watchlist of persons banned from flying, double to 21,000 including 500 U.S. citizens. Last year *The Associated Press* reported that the standard for placing someone on the watchlist had been lowered. “[A] person doesn’t have to be considered only [a] threat to aviation,” but can also be included if they “are considered a broader threat to domestic or international security,” an imprecise and undefined status.

Many of these U.S. citizens pose no security risk and are victims of unwarranted or incorrect placement on the government’s no-fly list or other federal watchlists. Most often, when attempting to return home while abroad, these U.S. citizens are informed at the airport that they have been barred from flying or placed on the no-fly list, often by the FBI. They are often coerced into submitting to interviews with FBI agents or foreign law enforcement while being denied legal counsel. At times they are put into situations of extreme duress and are asked to spy on their religious communities in exchange for being allowed to travel home.

Prior to being placed on the no-fly list, no person mentioned in this paper faced any criminal charges in their destination country or the U.S. or knew of any outstanding allegations of wrongdoing. In all cases, these Americans were able to return home to the U.S. or their country of residence only after intense public appeals, media coverage, and legal challenges. Presumably, all but a few of these individuals remain on the no-fly list.

While there have been courageous American Muslim travelers that who sought to challenge their placement on the no-fly list publicly, even more have suffered silently. CAIR has received more than 35 reports of individuals being placed on the no-fly list since 2010. Because disclosing that one is on a government watchlist stigmatizes that person in their community, there are undoubtedly more who have kept their placement on the no-fly list secret.

CAIR believes that the FBI, U.S. Customs and Border Protection (CBP), the Transportation Security Administration (TSA), and other federal law enforcement agencies are depriving these citizens of one of the most basic rights of American citizenship: The right to be in the United States. The Fourteenth Amendment’s protection of citizenship restricts the government from any action that curtails the citizenship rights of Americans. This protection extends to citizens living in the U.S. and returning home after traveling.

Furthermore, CAIR believes that placement on a federal watchlist amounts to a denial of the Fifth Amendment right to due process. This deprivation includes lengthy detentions, interrogations, and sometimes an inability to travel at all. Additionally, listed individuals are stigmatized as suspected terrorists insofar as federal watchlists are disseminated to hundreds of thousands of federal agents, local police, and private airlines.

While Congress established the DHS Traveler Redress Inquiry Program (TRIP) to redress wrongful or incorrect placement on federal watchlists, in reality DHS TRIP primarily resolves issues of misidentification or false-positive matches. DHS TRIP's inability to redress claims of wrongful or incorrect placement stems from DHS's own lack of control over watchlists, which are compiled and managed by the Terrorist Screening Center, a division of the National Security Branch of the FBI. As such, individuals who utilize DHS TRIP can languish for months or years without a change in their status unless the FBI decides to act. This difficulty is compounded by the expansive interpretation by some courts of a jurisdictional statute that has prevented individuals from even being heard in federal district court.

If any of these citizens was truly a threat to national security so that the government was forced to place them on a federal watchlist, why are they allowed to freely travel on ships, trains, buses or to walk through densely crowded areas? According to our research, CAIR maintains most of these citizens do not pose a threat to aviation and have never been charged, indicted, or convicted with a crime. If the government believed they posed a threat and wanted to question or arrest these citizens they could do so at any time.

Summary of Recent Extrajudicial Exile Cases of American Citizens

Saadiq Long

In the fall of 2012, Saadiq Long, an American citizen and U.S. Air Force veteran, was twice prevented by the FBI from flying to Oklahoma from Qatar to visit his gravely ill mother. It was only after a flurry of media attention, a petition with thousands of signatures, and the intervention of Department of Justice officials that the FBI relented.

However, Mr. Long's trip to Oklahoma only marked the beginning of a campaign of FBI harassment. While visiting his sick mother, unmarked vehicles followed him. FBI agents approached him and his family in intimidating fashion. On one occasion, the FBI misled Oklahoma authorities into believing that Mr. Long and his sister were felons evading arrest, a false claim. Predictably, Mr. Long and his sister were pulled from their vehicle by local law enforcement at gunpoint, handcuffed and tossed to the ground.

In February 2013, Mr. Long was twice prevented by the FBI from returning home to Qatar where he permanently resides with his wife and family. Mr. Long was finally able to return home to Qatar after a several months of publicly challenging his no-fly list status in local and national press. While Mr. Long only wanted to return home to Qatar, he could not because the FBI would not let him board a plane. Mr. Long was finally able to return to Qatar after he took a bus from Oklahoma City to Mexico, then boarded flights in three different countries.

(For more information, refer to the March 9, 2013 *Oklahoman* article “Oklahoma native returns to Middle East” by Carla Hinton. Click [here](#).)

Kevin Iraniha

In June 2012, Kevin Iraniha, after completing his master's degree in international law at a United Nations-affiliated Peace University in Costa Rica, found himself placed on the no-fly list and barred from returning home to the U.S. After he was barred from his flight, Mr. Iraniha, accompanied by his Iranian-born U.S. citizen father, visited the U.S. Embassy in Costa Rica where they were interrogated by FBI agents for six hours. Two hours of the interrogation focused on Mr. Iraniha's religious beliefs and practices, his travels to Muslim-majority countries, and overseas conflicts in Muslim countries. During the interrogation, Mr. Iraniha was told he would be taken off the no-fly list if he agreed to become an FBI informant.

Even after the interrogation, Mr. Iraniha was forced to take a roundabout route home. He had to fly to Mexico, drive from Tijuana and walk across the U.S.-Mexico border.

(For more information, refer to the June 7, 2012 NBC News article “California student takes the long way home to US after 'no-fly' designation” by Kari Huus. Click [here](#).)

Mustafa Elogbi

In January 2012, Mustafa Elogbi traveled to visit relatives in Libya. On January 8, during a stopover in London while returning to the U.S., he was detained by U.K. authorities at the behest of the FBI. He was interrogated about his religious beliefs and practices before being sent to Tunisia. When he arrived in Tunisia, the FBI told him that he would have to submit to an interrogation if he wanted to get off the no-fly list.

After three weeks of national and international media attention to his plight, Mr. Elogbi, accompanied by his lawyer, was allowed to fly home to Portland, Oregon on February 20. Upon landing, Mr. Elogbi endured an hour-long secondary screening without his lawyer present and had his cell phone and camera confiscated by CBP agents. He later picked up his electronics from the local FBI office. Mr. Elogbi remains on the no-fly list.

For more information, refer to the February 20, 2012 *Oregonian* article “Portland man Mustafa Elogbi home safe, but his family wants to know why the FBI blocked his return from Libya” by Helen Jung. Click [here](#).)

Jamal Tarhuni

In January 2012, Jamal Tarhuni traveled to Tunisia to speak about his experiences working with humanitarian aid projects in recently liberated Libya. On January 18, a U.S. Embassy official called Mr. Tarhuni to notify him that agents from an undisclosed federal agency wanted to interview him. Mr. Tarhuni later met with agents from the FBI and State Department at the U.S. embassy, where he was informed that he had been placed on the no-fly list. For three-and-a-half hours he was questioned about his religious views and practices.

Mr. Tarhuni was then asked to take a polygraph test to confirm that “everything he said was true, in order to return to his family.” While initially agreeing to take the test, he refused when being presented with a partially obstructed form requesting that he waive his constitutional rights. After three weeks of national and international media attention to his case, Mr. Tarhuni, accompanied by his lawyer, was allowed to fly home to Oregon on February 14. When his flight landed, CBP officials confiscated his cell phone, camera, and work files to copy his data. The devices and documents were later returned. Mr. Tarhuni remains on the no-fly list.

(For more information, refer to the January 11, 2013 *Oregonian* article “Tigard man on FBI's no-fly list sues government over blocking his return from Middle East” by Bryan Denson. Click [here](#).)

Jamal Rizk

In June 2012, after visiting family in Lebanon, Jamal Rizk was prevented from returning home to the U.S. for two months after being placed on the no-fly list. After contacting the American-Arab Anti-Discrimination Committee, who in turned worked with the FBI and several other federal agencies, he was eventually allowed back into the country. However, he remained on the no-fly list.

Paralyzed after being shot in a robbery in in 2004, Mr. Rizk wanted to fly to Lebanon to receive a stem cell treatment not provided in the U.S., but found he barred from flying in September and November 2012. Only recently, on March 21, 2013 was Mr. Rizk removed from the no-fly list two-and-a-half months after suing the U.S. Department of Justice, the FBI, and its Terrorist Screening Center in federal court.

(For more information, refer to the November 25, 2012 *Detroit Free Press* article “Mich. man sues over being placed on no-fly list” by Niraj Warikoo. Click [here](#).)

Michael Migliore

In fall 2012, Michael Migliore was barred from a flight from Portland, Oregon to Italy to live with his mother because of no-fly list restrictions. While on the no fly-list Mr. Migliore, a dual citizen of the United States and Italy, was previously barred from a similar flight. He believes that he was placed on the no-fly list because he was an acquaintance of accused bomber Mohamed Osman Mohamud and would only agree to be interviewed by the FBI with an attorney present.

Because of these restrictions, Mr. Migliore purchased a train ticket from Portland to New York City and a ticket for travel by sea from New York City to Southampton. On September 1, he left Oregon and arrived in the United Kingdom. Mr. Migliore was detained by British Authorities without legal counsel and questioned about his religion, religious practices, political beliefs and associations for eight to ten hours under British anti-terrorism law. After his interrogation he was sent on to Italy.

(For more information, see the September 13, 2011 *Associated Press* article “Britain detains Portland man after trans-Atlantic boat trip” by Matthew Barakat. Click [here](#).)

Amr Abualrub

In August 2011, Amr Abualrub, an 18 year-old U.S. citizen living in Jordan, was denied access to an EgyptAir flight to New York after being placed on the no-fly list. Mr. Abualrub had planned to lead Ramadan prayers at a Connecticut mosque.

According to NBC News, “The U.S. government had instructed EgyptAir to cancel his ticket. U.S. embassy officials in Amman... subsequently told Abulrub he [could] travel under certain restrictions, including a requirement that his flight to the U.S. be booked on an American airline. But Abulrub is leery of traveling at all for fear that he won't be allowed to go back to Jordan.”

(For more information, refer to the August 15, 2011 *Associated Press* article “Muslims often put on no-fly list without explanation” by Matthew Barakat. Click [here](#).)

Gulet Mohamed

In December 2010, 18-year-old U.S. citizen Gulet Mohamed was placed on the no-fly list while abroad in Kuwait. While attempting to return to the U.S., he was placed into Kuwaiti custody and reportedly tortured and interrogated by Kuwaiti security agents on behalf of the U.S. government. Afterwards, he was coerced to answer questions under duress by Americans presumed to be FBI agents, who violated his civil rights by ignoring his repeated pleas for legal representation.

After the Kuwaiti government failed in its attempt to deport Mr. Mohamed on a flight to the United States, on January 18, 2011, CAIR filed a lawsuit in the U.S. District Court in Alexandria seeking his return home. The U.S. government allowed Mr. Mohamed to return home on January 20, 2011, and he landed at the Washington Dulles International Airport on January 21. Upon arrival, Mr. Mohamed was interrogated by federal agents for two hours without legal representation despite his requests for legal counsel.

(For more information, refer to the January 21, 2011 *Washington Post* article “Va. teen detained in Kuwait returns to U.S., reunites with family” by Kafia A. Hosh and Peter Finn. Click [here](#).)