

THE ASSOCIATIONS BEHIND FBI'S NO FLY INFORMANT COERCION

Before I disappeared on my trip last week, the WaPo and others reported on a new suit against the FBI for using the No Fly list to coerce Muslims to become informants, one of whom, Naveed Shinwari, talked about it with Democracy Now as well.

WaPo included a quote from a former senior FBI official dismissing the notion that someone might be added to the No Fly lists to coerce them to inform.

A former senior FBI official said that there are criteria for putting people on the list and that refusing to work as a confidential informant is not one of them.

“That’s not a reason,” the former official said. “It has nothing to do with potential threats to aviation.”

That is, FSFBIO claims there are criteria that must be met before placing someone on the No Fly list.

Let’s take the FSFBIO at his (or her) word, and imagine that the FBI singled out the four plaintiffs in this suit for some reason, and only then used the No Fly status as leverage to try to coerce an informant. Because the sort of things that appear to have gotten the FBI interested in these plaintiffs is just as telling as that, after learning the men weren’t threats, the FBI then tried to use their No Fly status to flip them.

At least according to the complaint, the FBI seems to have focused on these men because of who they knew or what they may have done online.

Naveed Shinwari

Naveed Shinwari, whom Amy Goodman interviewed above, was first questioned in Dubai on his way back from his wedding in Afghanistan in February 2012. At that point, they asked general questions about his trip to Afghanistan, including whether he had visited any training camps on his trip.

But a month later, the FBI asked about videos he had watched online.

Agents Dun and Langenberg began the meeting by asking Mr. Shinwari to think about the reasons why he may have been placed on a watch list. Mr. Shinwari said that he did not know. The agents then asked Mr. Shinwari about videos of religious sermons that he had watched on the internet. Mr. Shinwari responded that he watched the videos to educate himself about his faith.

Last December though, in response to Shinwari's second TRIP complaint (DHS' ineffective recourse process), DHS suggested the whole thing had been a mistake.

The letter stated, in part, that Mr. Shinwari's experience "was most likely caused by a misidentification against a government record or by random selection," and that the United States government had "made updates" to its records.

Since then, Shinwari has flown domestically once, but says he has become reluctant to share his religious and political views with others.

Awais Sajjad

Like Shinwari, Awais Sajjad may have first come to attention of FBI because of a trip to a wedding – that of his brother – in Pakistan.

He was first prevented from flying when trying

to visit his father and grandmother in Pakistan in September 2012. In that interrogation, he was asked about his friends in the US. But in a follow-up interrogation a month later, the FBI asked for specifics about a trip he had made the previous year.

Once inside Mr. Sajjad's home, the agents asked Mr. Sajjad many questions, including questions about his last trip to Pakistan in 2011, why he went and which cities he visited on that trip. Mr. Sajjad replied that he went to Pakistan to attend his brother's wedding.

But then, as part of the same interrogation, they asked if he watched bomb-making videos on YouTube.

On the way, they asked Sajjad whether he had watched bomb-making videos on YouTube, to which he replied that he had not, that he only watches movies and music videos.

More recently, in an interview without the presence of his counsel, the FBI asked what Sajjad would do if his family members were involved in a terrorist attack.

They asked him hypothetical questions regarding what he would do if he were to find out that any of his relatives or friends were involved in a terrorist attack.

At that same interview, however, one of the FBI Agents told Sajjad he was not a threat to America.

Agent John Doe #13 told Mr. Sajjad that he had been watching Mr. Sajjad for the last two years and knew that Mr. Sajjad did not do anything wrong and was not a "terrorist" or a threat to America.

As far as Sajjad knows, he remains on the No Fly list.

Muhammad Tanvir

The FBI first approached Muhammad Tanvir back in 2007, when out of the blue they came to his workplace to interview him. At that very first interview, they asked about "an old acquaintance" who apparently had tried to enter the US illegally.

They asked him about an old acquaintance whom the FBI agents believed had attempted to enter the United States illegally.

Then, as he returned from a 2008 trip to visit his wife in Pakistan, agents (possibly DHS) interrogated him for 5 hours and confiscated his passport. Just before he was supposed to go back to DHS to get it back, the FBI showed up to his workplace again. This time, they asked questions about Taliban training camps, but also his rappelling skills.(!)

The FBI agents asked Mr. Tanvir about terrorist training camps near the village where he was raised, and whether he had any Taliban training. The agents also referred to the fact that at his previous job as a construction worker, Tanvir would rappel from higher floors while other workers would cheer him on. They asked him where he learned how to climb ropes. Mr. Tanvir responded that he never attended any training camps and did not know the whereabouts of any such camps. He also explained to the FBI agents that he grew up in a rural area, where he regularly climbed trees and developed rope-climbing skills.

Immediately after that interview, DHS returned Tanvir's passport, saying he had been cleared. But he was prevented from flying after that

point – in 2010 domestically, and twice in 2011 and once in 2012 to Pakistan – because he had gotten placed on the No Fly List. All that time, the FBI continued to pressure him to inform.

Then, last March, after his lawyer got involved and just at the point where DHS would have to start turning over “releasable” information about why he appeared on the list, DHS decided it had all been a mistake.

The letter stated, in part, that Mr. Tanvir’s experience “was most likely caused by a misidentification against a government record or by random selection,” and that the United States government had “made updates” to its records.

Last June, Tanvir succeeded in flying to Pakistan.

Jameel Algibhah

On December 17, 2009 (so during the period between the Nidal Hasan attack and the UndieBomb attack, when scrutiny on Anwar al-Awlaki and therefore Yemen was increasing), when he was roughly 27, Yemeni-American Jameel Algibhah was first approached and asked specifics about Muslims he knew in college, in addition to general questions (such as about his place of worship) asked the others.

[T]hey proceeded to ask him questions about his friends, his acquaintances, other Muslim students who attended his college, and the names of Muslim friends with whom he worked at a hospital library, one of several jobs he held as a college student. The agents also asked Mr. Algibhah where he worships on Fridays, and asked for additional personal information

After refusing to become an informant after this interrogation, Algibhah was twice prevented from

visiting his wife and daughters in Yemen in 2010. In 2012, after seeking help from Congressman Jose Serrano and Senator Chuck Schumer, the FBI came to him and told him, "the Congressmen can't do shit for you; we're the only ones who can take you off the list."

So Algibhah answered the questions they posed, including whether he knew people from Hadhramut in Yemen.

As far as he knows, Algibhah remains on the No Fly list. He has not been able to see his wife or three daughters since 2009.

The Associational No Fly Triggers

So to sum up, here's what the complaint reveals may have led to these men being put on the No Fly list:

Naveed Shinwari: A wedding trip to Afghanistan and some sermons he watched online

Awais Sajjad: A wedding trip to Pakistan, potentially some YouTube viewing, and potentially something a family member had done

Muhammad Tanvir: An old tie to someone who tried to enter the country illegally, and unusual dexterity climbing

Jameel Algibhah: Possibly ties to people from his college, and ties to Yemen (at a time when everything tied to Yemen became suspect)

All of these men appear to have had some kind of associations (not actions) that led to their placement on the No Fly list, though those associations were potentially mapped, in two cases, to online activity. Associations and First Amendment activities (as well as great dexterity in climbing!). And – at least as far as the complaint reflects what the FBI told them and in turn reflects the real reasons they got targeted – that's it.

I raise all this because we know the government has twice told the FISC that one benefit of the phone (and therefore presumably

the Internet) dragnet is finding potential informants. This suggests they might use the networks identified by queries on people in whom they have suspicions – such as Tanvir’s old acquaintance who tried to illegally enter the US – and then troll those networks for people who might be of use (and potentially of use to inform on their own community, not to explain the original RAS-related person).

Only Tanvir and Algibhah appear possibly to have come from that kind of communication-based network analysis (unless Shinwari and Sajjad’s communications in relation to the weddings produced some such tie), and it might well be FBI’s network analysis, not NSA’s. Though all might be data mining-driven assessments, particularly when you throw in travel records.

But it certainly does seem possible that these No Fly designations primarily arise out of mappings (which would be no surprise, really). And then, once those mappings end up being false positives, the FBI instead uses them to coerce informants.