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U.S. Agency Tries to Fix No-Fly List Mistakes

False Positives Still Cause Travel Delays

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Every time Kiernan O'Dwyer arrived at the airport after traveling overseas in recent years, he was flagged as a potential terrorist. But his uniform was a dead giveaway to his true identity: He is a veteran pilot for American Airlines.

U.S. customs agents have stopped him about 80 times since 2003, apparently because his name and birth date nearly match those of an Irish Republican Army leader, one of at least 300,000 names on the U.S. government's watch lists. O'Dwyer falls under an unenviable category of false positives, people who are wrongly detained because some of their personal information matches that of a terrorist or other suspect.

The number of misidentifications is unknown, according to government auditors, but it has caused headaches for a cross-section of travelers, including nuns, infants and members of Congress. The U.S. Customs and Border Protection agency, under the jurisdiction of the Homeland Security Department, said it was trying to remedy the problem with a system to prevent unwarranted detentions on international flights.

An agency official said in an interview that the system, launched in February 2006, has eliminated about 17,500 detentions involving people entering the country at airports, seaports and at land borders. It is part of what the government says is an effort to prevent terrorism while not inconveniencing travelers or violating their privacy and civil liberties, though it is not yet applied to domestic flights.

The challenge is complicated by the vast and growing databases of electronically stored personal information that draw on different agencies' records, which must be continually updated to be accurate. Federal agencies and airlines are using computer-driven algorithms to compare travelers' names against watch lists.

Under the new system, which overrides Customs and Border Protection's main database, people continue to be stopped if their name appears on a watch list. But if the follow-up screening clears them, customs agents make note of that so the next time they travel, those people should not be detained.

"It is certainly not in our interests to continually stop people when we have a system in place that can stop that," said John P. Wagner, the agency's director of passenger automation programs. "It's a waste of their time. A waste of our time."

The agency has another terrorist screening tool, the "automated targeting system" for passengers, that can potentially do the same thing, said Brian C. Goebel, former senior policy adviser to the U.S. Customs and Border Protection commissioner. "ATS is designed really to identify the red flags associated with potential risks -- terrorist indicators," he said. But it should also identify passengers who do not merit follow-up screening, Goebel said.

O'Dwyer, 51, of Pittsboro, N.C., is not convinced that the problem has been fixed. "I've been told that everything is fine before," he said. Even after Customs and Border Protection introduced the system to prevent

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misidentifications, O'Dwyer said he was detained about 30 times.

All his problems began in 2003, after O'Dwyer returned from a trip to Europe. Reaching the customs desk at John F. Kennedy International Airport, he was stunned when officials pulled him aside for further screening. He showed them his passport. He had no criminal record. Ninety minutes later, he was cleared.

But he kept getting detained -- so often that customs agents took to greeting him by his first name.

"They'd look at their screen and know I'd been screened and say, 'Oh boy, you've been through here a bunch,' " he recalled.

O'Dwyer even carried a letter from the Customs and Border Protection Office of Field Operations saying, "(Y)ou are not, nor have you ever been, on record as a criminal suspect."

But, he said, customs officers told him the letter could have been forged. He said he offered to submit to fingerprints, just as foreign flight crews do, but to no avail.

O'Dwyer became so frustrated that he gave up flying internationally in May, a move that he said cost him \$10,000 a year in salary and expenses. He said he is still stopped when he reaches the domestic gate, and a supervisor must help him get cleared.

Christopher White, a spokesman for the Transportation Security Administration, which handles domestic passengers, declined to comment on O'Dwyer's case, saying that the agency does not publicly verify names on its watch lists. About 15,000 people per week apply for redress, saying they have been mistakenly placed on the TSA's rolls. About 33,000 have applied to be removed from those lists as of April, the most recent date available. Soon, TSA's no-fly list will be pared of names erroneously included, officials said.

The FBI also declined to discuss specific cases. FBI spokesman Paul Bresson noted that the agencies are "refining" their watch lists, "removing names when they're cleared."

Wagner, the customs official, said that though the system for eliminating false positives applies only to international flights, eventually it will extend to domestic travelers. And the Homeland Security Department, which houses both Customs and Border Protection and the TSA, will soon begin a Traveler Redress Inquiry Program for people who believe they have been wrongfully subjected to additional screening or denied permission to board flights to or from the United States.

O'Dwyer, for one, still does not know why he was detained, gleaned only through "offhand" comments from customs agents that his name nearly matched that of an IRA operative. One IRA leader with whom he could be confused is Ciaran O'Dwyer, according to World-Check, a British firm that maintains a global database of terrorists, high-risk individuals and political figures. The IRA leader, born about 1955, was convicted in June 2005 and sentenced to five years and nine months.

O'Dwyer, the pilot, who also was born in 1955, has not lost all hope. In the spring, he intends to test the customs screening system when he goes on holiday to Italy.

Staff researcher Richard Drezen contributed to this report.

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