



August 9, 2006

**VIA U.S. MAIL**

Office of Civil Rights and Civil Liberties  
Department of Homeland Security  
Mail Stop #0800  
Office for Civil Rights and Civil Liberties  
Washington, DC 20528

Re: Complaint: Detention of United States Citizens By Virtue of Placement on "No-Fly" List;  
Muhammad and Jaber Ismail

Attention:

The American Civil Liberties of Northern California represents Muhammad and Jaber Ismail, two United States citizens who have been denied clearance to board an airplane to return to the United States and have thereby been effectively detained in Pakistan without charges or notice as to any legitimate reason for their detention. This action—carried out by the U.S. Department of State in conjunction with the Federal Bureau of Investigation—violates the civil rights and civil liberties of the Ismails by, *inter alia*, infringing on their rights to travel and to enter and reside in their home country without due process of law.

**Factual Background**

Muhammad Ismail, born June 15, 1961 in Pakistan, is a naturalized United States citizen. Jaber Ismail, born September 29, 1987 in Lodi, California, is a United States citizen by birth.

For some time prior to April 21, 2006, Muhammad Ismail and his family (wife, son Jaber, daughter, and younger son) had been living in Pakistan in the village where Muhammad Ismail was born. On April 21, 2006, the family left Pakistan and intended to return to their longtime home in Lodi, California. After they were permitted to board an airplane without incident in Islamabad, Pakistan, they were stopped in Hong Kong prior to the second leg of their journey to the United States. In Hong Kong, airport officials inspected their passports and told the family that Muhammad and Jaber Ismail could not fly to the United States but that the remaining members of the family could return. The family was given no explanation except that there was "no record" of Muhammad and Jaber Ismail in the U.S. and that their passports did not "come

M. QUINN DELANEY, CHAIRPERSON | ROBERT CAPISTRANO, SUSAN FREIWALD, LISA HONIG, ROBERTA SPIECKERMAN, VICE CHAIRPERSONS | NANCY PEMBERTON, SECRETARY/TREASURER  
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STEPHEN V. BOMSE, GENERAL COUNSEL

on” to the computer. Despite the family’s unwillingness to separate, Muhammad and Jaber Ismail were forced to pay \$700 and 6,000 Pakistani rupees to return to Pakistan. The mother and other children continued on the United States because the family could not afford return flights to Pakistan—or to waste the airfare they had already purchased to the United States—for the remainder of the family.

Upon their return to Pakistan, Muhammad and Jaber Ismail contacted the U.S. Embassy in Islamabad. A consular officer suggested to the Ismails that they should book a direct flight from Islamabad to the New York or Chicago and indicated that other families had encountered similar problems with connecting flights.

After waiting about two weeks for their lost luggage to appear, the Ismails booked a direct flight from Islamabad to Chicago, with a connecting flight to San Francisco. At the airport, an Pakistan International Airline employee told the Ismails that they could not board because they were on the “No-Fly” list. An airport employee told the Ismails that they had to get clearance from the U.S. Embassy in order to fly. The Ismails’ tickets were refunded in part, but they lost about 2,500 rupees as a result of the late cancellation of their tickets.

The following Monday, the Ismails went to the U.S. Embassy. The consular officer they spoke to told them he would contact them with information about how to proceed. Later that week, the Ismails were instructed to return to the Embassy. When they returned, Jaber was interrogated by two FBI agents. The FBI agents told him that he would need to submit to a polygraph test before he would be permitted to return to the United States. At the end of the interrogation, the Ismails were told to return the next day. However, the next morning one of the FBI agents called and cancelled the appointment. She said that she would call again for an interview. After three weeks, Jaber Ismail contacted the FBI agent to find out what was going on. After several more weeks passed, the FBI agent called Jaber Ismail and told him that he needed to submit to further interrogation in order to “clear up” the situation before he would be permitted to return to the United States. The Ismails declined to participate in additional FBI interrogations without counsel.

### **Complaint and Requested Remedy**

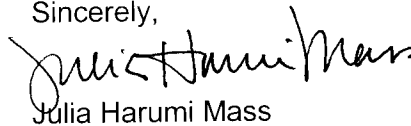
The Ismails have been given no valid reason for the Embassy’s refusal to provide clearance for their return flight home. The only reason given by the FBI agent who spoke to Jaber Ismail was that Jaber had listed his uncle, Umer Hayat, as an emergency contact on his passport application and that Mr. Hayat had been arrested on terrorism-related charges. The fact of being related to a person accused of a crime does not justify such a detention and denial of rights. If the government has any reason to charge or investigate the Ismails, it may do so. It may not, however, keep the Ismails from their home country of the United States, effectively detaining them in Pakistan, separating them from their family and preventing them from aiding in the financial support of their family in California without due process of law. It may not prevent the Ismails from returning home without notice of any charges against them and an opportunity to be heard regarding such charges.

We request:

- 1) that the Office of Civil Rights and Civil Liberties immediately conduct an expedited investigation of these facts;
- 2) that the Ismails be given clearance to fly home to the United States;
- 3) that the Ismails be removed from the No-Fly List;
- 4) that the Office of Civil Rights and Civil Liberties inform the undersigned representative of the Ismails of any and all charges, bases and justifications for the government's action with respect to the Ismails, including but not limited to: any allegations against the Ismails and the legal authority upon which the government has taken these actions; and
- 5) that the Ismails be made whole for the damages they have incurred as a result of this detainer.

Thank you for your consideration of this complaint. Please expedite this investigation as much as possible, as every day the Ismails are prevented from returning home is a great hardship to them and their family and a great infringement of their civil and constitutional rights. Please contact me at your earliest convenience with any additional information I can share with the family and do not hesitate to contact me if you have any questions. The Ismails have completed Privacy Act waivers which are on file with the Embassy in Islamabad, which authorize the government to contact me about their case.

Sincerely,

A handwritten signature in black ink, appearing to read "Julia Harumi Mass", written in a cursive style.

Julia Harumi Mass