



## Taking on Secret Laws

*By Andy Sternberg*

Internet and free software advocate John Gilmore's life took its most recent turn after he was denied entry to an Oakland to Baltimore flight in 2002 for not having identification. Since then, he's been challenging the government on the secrecy of laws requiring identification for travel and just last week he filed a case with the U.S. Supreme Court.

Despite having made millions as a computer software developer, Gilmore has not traveled via plane or train in nearly 5 years.

"I'm living without identification sort of as a canary in a coalmine trying to figure what rights we still have and what rights have been abridged," he said.

Gilmore has already taken great measures to make the details of this secret law public – from airline ticket counters to Transportation Security Agency offices to courts of law.



"A fundamental right was being taken away was being blacklisted," said Gilmore. "If the government just throws your name on a list – a totally secret, unaccountable list – they can say 'oh that person's not permitted to move around in his own country,' he has no way to challenge it, it's all done on secret evidence without any court proceedings and it's all done on secret evidence without any court proceedings."

Earlier this year, Gilmore and other activists launched the Identity Project, which included a survey that discovered that nearly 80% of the people who tried to go through airports without ID still got on the airplane.

I recently asked airline officials and federal security guards what would happen if I didn't have identification and received inconsistent and vague responses. I did learn that it is indeed possible to board a plane, as the majority in the Identity Project study had, however, not without paying a price.

Should you forget a photo ID or even mistakenly send it through with checked luggage, Transportation Security Agency officials will send you back to the ticket counter, where the airline that sold you your ticket can mark it with 4 S's in the lower right-hand corner. This automatically entails a secondary screening, where all of your belongings are subject to a search. On top of that, your name is added to a list that mandates secondary screenings for the next year.

Most expert lawyers think Gilmore's case is not likely to be heard by the Supreme Court. As it is, the Court agrees to consider no more than about 150 of the 6,000 or so cases filed each year. Additionally, the case was already dismissed in District Court, and was thrown out unanimously by the United States 9<sup>th</sup> Circuit Court of Appeals.

"The Supreme Court usually waits until 2, 3, or 4 circuits have ruled, so if they all rule the same way they don't feel the need to get involved because the law is clear, said Jon Hauck, a Constitutional lawyer based in Chicago.

No matter the outcome, Gilmore intends to continue fighting for the civil liberties of all Americans.

"I can't do anything about 9/11 I can't do anything about Iraq I can't do anything about the patriot act but I can do something about this --- and so I am," he said.

Gilmore versus Gonzales may never be heard by the nation's highest court but John Gilmore says it's a minimal price to pay to bring more attention to, what he calls "an Administration that has been able to get away with murder on secrecy."