



**STATEMENT OF  
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**HEARING ON: "PROTECTING U.S. CITIZENS' CONSTITUTIONAL  
RIGHTS DURING THE WAR ON TERROR"  
HOUSE COMMITTEE ON JUDICIARY  
UNITED STATES HOUSE OF REPRESENTATIVES**

**May 22, 2013**

Chairman Goodlatte, Ranking Member Conyers, and members of the Committee: I am honored to submit this testimony for the record on behalf of the Arab American Institute.

As a non-partisan non-profit organization, the Arab American Institute conducts research and policy analysis on issues of importance to the Arab American community. For nearly 40 years, we have nurtured and encouraged the direct participation of Arab Americans in U.S. civic and political life.

The horrific terrorist attacks of September 11 were a profound and painful tragedy for all Americans. The attacks were a dual tragedy for Arab Americans. We are Americans and it was our country that was attacked. Arab Americans died in the attacks. Arab Americans were also part of the rescue effort. Dozens of New York City Police and rescue workers who bravely toiled at Ground Zero were Arab American.

Sadly, however, many Arab Americans were torn away from mourning with our fellow Americans because we became the targets of hate crimes and discrimination. Some assumed our collective guilt because the terrorists were Arabs. Arab Americans and Muslims and others perceived to be Arab and Muslim were the victims of hundreds of incidents of bias.

My office worked with federal, state, and local law enforcement to assist efforts to protect the homeland. We also helped to recruit Arab Americans with needed language skills and served as a bridge to connect law enforcement with our community.

At the same time that positive developments were occurring, an entirely different message was being sent as a result of initiatives launched by then Attorney General Ashcroft. Of special concern were the 2003 Racial Profiling Guidelines that created a loophole allowing ethnic, religious, and racial profiling that led to widespread singling out of Arabs and Muslims by Customs and Border Patrol (CBP), TSA, and FBI officials.

These Ashcroft-era guidelines were enlarged upon in 2008 by Attorney General Mukasey, whose new guidelines for the FBI opened the door to even greater abuses. These are, of course, deeply troubling because as law enforcement profiles Arabs and Muslims and as officials carry out practices and issue statements

conflating Arab and Muslim immigrants and visitors with terrorism, a cloud of suspicion is cast over the entire community which only contributes to increasing discrimination.

This problem of profiling, and the dangerous conflation of immigration policy and national security policy, took many forms in the post-9/11 era. In the immediate aftermath of the terror attacks, there was a roundup of over 1,200 Arab and Muslim immigrants. They were imprisoned and deported. This was followed by two highly publicized “call-ups” of 5,000 and then 3,000 young male Arab immigrants and visitors. Finally, there was the NSEERS program, a badly conceived, poorly planned and arbitrarily implemented program that resulted in the issuance of thousands of deportation orders – oftentimes without justification. Add to this the “October Plan” launched in the lead up to the 2004 election. Not only did officials once again profile Arab and Muslim immigrant communities, but the way the program was announced and implemented had a chilling effect on the participation of some Arab Americans in the electoral process itself. The net result of all these programs has been to create fear and to break trust with the recent immigrant Arab community.

As disturbing as these behaviors are, even more troubling is the fact that these profiling initiatives have made no contribution to making our country more secure. The FBI and other officials with whom I have spoken question the usefulness of these programs in national security efforts. They told me that these initiatives have involved a significant waste of time and resources, have produced little useful information, and have damaged community outreach efforts, alienating communities whose cooperation law enforcement needs. As such, they run counter to basic principles of community policing, which rejects the use of racial and ethnic profiling and focuses instead on building trust and respect by working cooperatively with community members.

In recent years, we had hopes that we would see an end to many of these abusive practices, but this has not been the case. Policies we had believed would change have not changed – in some cases, they have become worse. The Justice Department profiling guidelines remain in place and continue to be used by a number of agencies to the detriment of my community. We also hoped to see a sunset of the more controversial provisions of the Patriot Act. This, too, did not happen. We were also deeply disturbed to have learned details of the NYPD/CIA surveillance program – a shocking violation of our community’s rights. As the details of this NYPD program came to light, we were horrified by its use of coerced informants, wide-spread “ethnic mapping,” and spying and reporting on innocent people going about their daily routines. We were troubled by reports from the ACLU establishing that the FBI used the community outreach programs to “collect and illegally store intelligence information on Americans’ political and religious beliefs” – a clear violation of trust.

And finally, we are deeply disappointed by the Justice Department and FBI’s failure to take decisive action in dealing with the scandal over the FBI’s use of bigoted anti-Arab and anti-Muslim training materials. We have asked for greater transparency and full disclosure in explaining how these materials were developed in the first place and how many agents have been trained with them. We have also offered to assist in crafting new training materials and we have asked the FBI to apologize. Our argument is that “educational programs” or “cultural proficiency training” should not be shrouded in secrecy. It is not about “methods and sources.” It is about educating agents about our community’s history, culture, and religions. For the DOJ and the FBI to not understand the damage they have done, the hurt they have created, and the trust they have broken, is incomprehensible.

I have long argued that Arabs and Muslims were the weak link in America’s civil liberty chain. When the rights of vulnerable minority groups are threatened, we recognize the need to demand a halt to abuse, because we have learned that when the rights of any group are compromised, the rights of all are at risk. It is worrisome that in the post-9/11 era the challenge to constitutional rights has all too often been met with silence – because it was Arabs and Muslims who were the targets. What we have failed to recognize is that if

the rights to assemble, to speak freely, to be secure from unwarranted search, and to be guaranteed due process are put at risk by the FBI, CBP, ICE, NYPD, and CIA, then these rights may ultimately be threatened for all Americans.

Thank you.